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FOR PUBLICATION

IN THE SUPERIOR COURT
OF THE
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

COMMONWEALTH OF THE
NORTHERN MARIANA ISLANDS,

TRAFFIC CASE NO. 18-00148

Plaintiff,

v.

JUDGMENT

CRISTOBAL INOS,

Defendant.

THIS MATTER came before the Court for a Bench Trial on August 27, 2019 at 9:00 a.m. at the Rota Courthouse. The Commonwealth was represented by Chief Prosecutor John Bradley. The Defendant represented himself *pro se*. The Court heard testimony from Officer Harvey Atalig and from the Defendant.

The Court heard testimony from Officer Atalig that when he was traveling east, he passed Defendant, who was driving west, and witnessed Defendant allegedly driving without his seatbelt. Specifically, he observed that the seatbelt was hanging straight down, as opposed to crossing above Defendant's shoulder and down across his chest.

In contrast, Defendant testified that he was wearing his seatbelt, but it was in a manner that did not agitate a pre-existing health condition; the left-side of his body is susceptible to great amount of pain. Defendant testified that he was experiencing excruciating pain so he had the seatbelt straight down his left side and then across his waist to the buckle on the other side of his body. His

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1 medical testimony was that at one time, the left-side of his body “died,” and further, the
2 accompanying pain would come and go.

3 The Court finds the testimony of both Officer Atalig and the Defendant to be credible: that
4 Officer Atalig believes he saw Defendant not wearing his seatbelt while driving and that Defendant
5 was wearing his seatbelt in a fashion that it may appear that he was not actually wearing it.

6 At trial, the Commonwealth has the burden of proving each and every element beyond a
7 reasonable doubt. Thus, the Commonwealth is required to present evidence that the Defendant 1)
8 during transit, 2) was in a passenger motor vehicle, and 3) was not wearing a passenger restraint
9 system as defined in 9 CMC § 1103(f). The first two elements are not at issue here. It is undisputed
10 that Defendant was driving a passenger motor vehicle at the time Officer Atalig first encountered
11 him.

12 The initial question is whether or not the Commonwealth proved Defendant was not
13 wearing a passenger restraint system as defined in 9 CMC § 1103(f). 9 CMC § 4108(d) requires
14 passengers to wear a passenger restraint system. As noted above, the Court finds that Defendant
15 was wearing a passenger restraint system when Officer Atalig observed him driving.

16 The next question is whether the seatbelt as positioned by the Defendant is in compliance
17 with 9 CMC § 4108(d). Title 9 of the Commonwealth Code, Section 4108(d) provides that “[e]very
18 person, during transit, in a passenger motor vehicle, except a motorcycle, moped, or motor bus,
19 shall wear a passenger restraint system as defined in 9 CMC § 1103(f).” 9 CMC § 1103(f) defines
20 “passenger restraint system” as:

21 the seat belt assembly required to be in the motor vehicle under the federal motor
22 vehicle safety standards issued pursuant to the federal National Traffic and Motor
23 Vehicle Safety Act of 1966, as amended [15 U.S.C. §§ 1381 *et seq.*], unless original
24 replacement seat belt assemblies are not readily available, in which case seat belts of

1 Here, Defendant did not present any evidence from his doctor regarding his medical
2 condition, such as a letter excusing him from wearing a seatbelt or providing documentary proof of
3 his medical condition. Further, Defendant did not present any correspondence with the Bureau of
4 Motor Vehicles or Department of Public Safety either inquiring about the existence of or requesting
5 a medical exemption to the requirements of 9 CMC § 4108(d). Because Defendant has not produced
6 any form of documentation or other information noted above, and since there is no currently
7 recognized medical exemption¹ to 9 CMC § 4108(d), Defendant's manner of wearing his seatbelt
8 under his arm was not in compliance with 9 CMC § 4108(d).

9 Thus, **BASED ON THE MATTERS ADDUCED**,² after hearing arguments and testimony,
10 the Court finds that Defendant's manner of wearing his seatbelt under his arm did not conform to
11 the manufacturer's design, and thus was not in compliance with 9 CMC § 4108(d). The Court enters
12 a verdict, pursuant to 6 CMC § 4113, of **GUILTY**. Defendant is ordered to pay the **twenty-five**
13 **dollar (\$25.00) fine** no later than **thirty days** from the issuance of this Order. Further, after **forty-**
14 **five days** from the issuance of this Order, the Court will set aside the conviction in this matter,
15 pursuant to 6 CMC § 4113(k), provided Defendant has paid the accompanying fine to Clerk of
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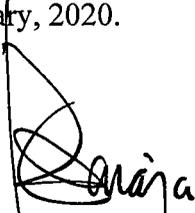
18 ¹ Currently, the Legislature has provided for the express exemption for cases "where a child, for medical or physical
19 reasons, is unable to utilize a child passenger restraint system." See 9 CMC § 4108(e)(3). In the absence of such an
20 exemption for the seatbelt requirement for adults, the Court presumes that the Legislature intended for a uniform
21 application of the seatbelt requirement for passenger vehicles.

22 ² At this time, the Court turns to the wisdom of the Office of the Attorney General ("OAG") to discuss with the Bureau
23 of Motor Vehicles ("BMV") a possible adult medical exemption to 9 CMC § 4108(d), similar to the child medical
24 exemption allowed by 9 CMC § 4108(e)(3). The Director of the Department of Public Safety may promulgate rules
and regulations to implement the provisions of this section. 9 CMC § 4108(i). In its supplemental briefing, the OAG
noted it may actually be the CNMI Legislature, and not the Director of the Department of Public Safety, that is the
proper body for creating a medical exemption. The Court is also unaware of what exemptions, if any, exist in other
jurisdictions regarding medical exemptions.

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Court staff.³ A separate Order will be entered setting aside this conviction upon confirmation from the Clerk of Court that the citation has been paid.

SO ORDERED THIS 14th day of January, 2020.



ROBERTO C. NARAÑA, Presiding Judge

³ The Court also highly encourages Defendant to write a letter to the BMV about his medical condition, and attach his doctor's diagnosis and accompanying description of the pain that results from wearing a seatbelt in a manner that complies with 9 CMC § 4108(d). Further, if Defendant elects to do so, the Court would be appreciative if Defendant submits the response he receives from the BMV, together with his letter to the BMV.