

**FILED**  
CNMI  
SUPREME COURT  
DATE: 3/30/2011  
BY: *J. Hester*  
CLERK OF COURT

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

IN THE MATTER OF )  
DECISIONS TO BE PUBLISHED )  
IN NORTHERN MARIANA )  
ISLANDS REPORTER, )  
VOLUME SEVEN. )  
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**ERRATA ORDER**  
**2011-ADM-0003-MSC**

PER CURIAM:

**I. DECISIONS REVISED BY THIS ORDER**

The decisions listed below, all styled as opinions, require substantive revision. They are hereby revised by changes as set forth in section two of this order. The published decisions containing all revisions shall constitute the final versions of the decisions.

1. *Commonwealth v. Taitano*, 2005 MP 20
2. *Kevin Int'l Corp. v. Superior Court*, 2006 MP 3
3. *Liu v. CNMI*, 2006 MP 5
4. *Sattler v. Mathis*, 2006 MP 6
5. *Commonwealth v. Pua*, 2006 MP 19
6. *Bank of Saipan v. Martens*, 2007 MP 5
7. *Commonwealth v. Milliondaga*, 2007 MP 6
8. *Tan v. Younis*, 2007 MP 11
9. *Estate of Muna v. Commonwealth*, 2007 MP 16

10. *Commonwealth v. Blas*, 2007 MP 17

## II. REVISIONS

1. *Commonwealth v. Taitano*, 2005 MP 20 ¶ 28 shall read as follows:

¶28 ...the trial court must consider the factors set forth in *United States v. Cook*, 608 F.2d 1175, 1185 n. 9 (9th Cir. 1979) (en banc). (*continuation omitted.*)

2. *Kevin Int'l Corp. v. Superior Court*, 2006 MP 3 Supreme Court Original Action Number shall read as follows:

Supreme Court Original Action No. 06-0009-GA.

Attorneys of Record shall read as follows:

For Plaintiff-Petitioner: Viola Alepuyo, Saipan.

For Defendant-Real Party in Interest: Steven Carrara, Saipan.

3. *Liu v. CNMI*, 2006 MP 5 ¶ 27 shall read as follows:

¶27 ...The Petitioner cites *Unites States v. Fanfan*, 2004 WL 1723114, 2004 U.S. Dist. LEXIS 18593 (D.Me. June 28, 2004)...Petitioner likens the grant of certiorari in *Fanfan*, which sought to review the effects of the *Blakely v. Washington*, 542 U.S. 296 (2004)...the *Blakely* decision... (*continuation omitted.*)

4. *Sattler v. Mathis*, 2006 MP 6 ¶ 8 shall read as follows:

¶8 Looking beyond our own decisions, to those we have relief on in the past, is more helpful. Our precedent stems primarily from an Idaho case, *Krebs v. Krebs*, 759 P.2d 77 (1988) (discussed below), and from a Ninth Circuit decision, *U.S. v. McConney*, 728 F.2d 1195 (9th Cir. 1984). (*continuation omitted.*)

5. *Commonwealth v. Pua*, 2006 MP 19 ¶ 10 shall read as follows:

¶10 Aside from the fact that the Attorney General did not “certif[y] to the Superior Court that the appeal is not taken for purpose of delay and that the evidence is a substantial proof of

1 a fact material in the proceeding” – which will not necessarily defeat jurisdiction, *see U.S. v.*  
2 *Becker*, 929 F.2d 442, 445 (9<sup>th</sup> Cir. 1991) (finding that failure to certify pursuant to  
3 analogous federal statute is correctable at the court’s discretion) – this statute is clearly  
4 inapplicable to the present case. (*continuation omitted.*)

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6 **6. *Commonwealth v. Pua*, 2006 MP 19 ¶ 16 shall read as follows:**

7 ¶16 Furthermore, we are not the first court to find mandamus jurisdiction may be  
8 accorded even when appellate jurisdiction is lacking. In *U.S. v. Barker*, 1 F.3d 957, 959 (9<sup>th</sup>  
9 Cir. 1989), the Ninth Circuit held that where the Government had plead in the alternative for  
10 1) jurisdiction pursuant to 18 U.S.C. § 3731 (the federal analog to our 6 CMC § 8101), or 2)  
11 mandamus relief, even though no jurisdiction could be had under 18 U.S.C. § 3731,  
12 mandamus relief was still available due to the gravity of issue. *See also U.S. v. Collamore*,  
13 868 F.2d 24, 30 (1st Cir. 1989) (holding similarly that mandamus was proper when 18 U.S.C.  
14 § 3731 jurisdiction was questionable.) (*continuation omitted.*)

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16 **7. *Bank of Saipan v. Martens*, 2007 MP 5 ¶ 14 shall read as follows:**

17 ¶14 . . . The question in each case is whether under all the circumstances the remedy was  
18 pursued with reasonable dispatch. *See McDaniel v. U.S. Dist. Court*, 127 F.3d 886, 890 n.1  
19 (9<sup>th</sup> Cir. 1997) (Rymer, Circuit Judge, concurring, *citing United States v. Olds*, 426 F.2d 562  
20 (3<sup>rd</sup> Cir. 1970)). (*continuation omitted.*)

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22 **8. *Commonwealth v. Milliondaga*, 2007 MP 6 ¶ 6 shall read as follows:**

23 ¶6 . . . Two provisions are not the same offense if each contains an element not included  
24 in the other. *Hudson v. United States*, 522 U.S. 93, 107 (1997) (Stevens, J. concurring).  
25 (*continuation omitted.*)

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27 **9. *Tan v. Younis*, 2007 MP 11 ¶ 36 shall read as follows:**

1 ¶36 So strong is the Constitutional protection of free expression that it even contemplates  
2 and protects a degree of abuse. “[E]rroneous statement is inevitable in free debate, and . . . it  
3 must be protected if the freedoms of expression are to have the ‘breathing space’ that they  
4 ‘need to survive.’” *Brown v. Hartlage*, 456 U.S. 45, 60, 102 S. Ct. 1523, 71 L. Ed. 2d 732  
5 (1982) (citations omitted). Indeed, “[s]ome degree of abuse is inseparable from the proper  
6 use of every thing; and in no instance is this more true than in that of the press.” *New York*  
7 *Times*, 376 U.S. at 271 (quoting James Madison, 4 *Elliot’s Debates on the Federal*  
8 *Constitution* 571 (1856)).

10 **10. *Estate of Muna v. Commonwealth*, 2007 MP 16 ¶ 13 shall read as follows:**

11 ¶13 The Fifth Amendment of the United States Constitution and the Constitution of the  
12 Commonwealth of the Northern Mariana Islands Constitution require that when private  
13 property is taken for public use by eminent domain, “just compensation” must be provided to  
14 the owner. *Kirby Forest Indus., Inc. v. United States*, 467 U.S. 1, 9 (1984).

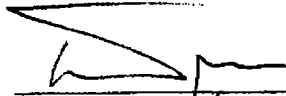
16 **11. *Commonwealth v. Blas*, 2007 MP 17 ¶ 3 shall read as follows:**


17 ¶3 The Commonwealth charged Blas with vehicular homicide, reckless driving, and  
18 driving under the influence of alcohol. On October 18, 2004, the jury heard the vehicular  
19 homicide charge, while the trial court heard the reckless driving and driving under the  
20 influence charges. On November 2, 2004, the jury returned a verdict acquitting Blas on the  
21 vehicular homicide charge, but the trial court found him guilty of reckless driving and  
22 driving under the influence of alcohol. Blas timely appealed.  
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25 SO ORDERED.

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27 Entered this 30<sup>th</sup> day March of 2011.  
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MIGUEL S. DEMAPAN, CHIEF JUSTICE

  
ALEXANDRO C. CASTRO, ASSOCIATE JUSTICE

  
JOHN A. MANGLONA, ASSOCIATE JUSTICE