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

COMMONWEALTH OF THE  
NORTHERN MARIANA ISLANDS,  
  
Plaintiff,  
  
vs.  
  
VINCENT B. LIZAMA,  
  
Defendant.

Traffic Case No: 01-02469

**JUDGMENT IN CONVICTION**

**I. PROCEDURAL BACKGROUND**

This matter came before the Court on August 8, 2001 at 1:30 p.m. in courtroom 223 A for a bench trial. Assistant Attorney General Steve Wadsworth, Esq., appeared on behalf of the Government. Vincent B. Lizama appeared on his own behalf. The Court, having heard the arguments of counsel and being fully informed of the proffered arguments now renders its written decision.

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**II. ISSUE PRESENTED FOR REVIEW**

The issue presented before this Court is whether Title 9, Division 5, Chapter 3, Article 1 § 5301 of the Commonwealth Code can be enforced as a strict liability offense.

**III. FACTS**

The relevant facts are undisputed. Defendant VINCENT B. LIZAMA (hereinafter LIZAMA) was driving his automobile around a sharp curve on April 15, 2001. According to LIZAMA, due to wet road conditions, his truck slid and entered the left side of the highway resulting in a collision with another vehicle. As a result of the collision, LIZAMA was cited for violating 9 CMC § 5301. The Commonwealth stated during trial that 9 CMC § 5301 is a strict liability offense that does not require a culpable state of mind, thus negating any defense offered by LIZAMA that he did not intend to enter the left-hand side of the road or that he was acting with due care.

The Court agrees with the Commonwealth’s interpretation of the statute.

**IV. ANALYSIS**

Our Supreme Court recently held that 9 CMC § 5303, a similar traffic offense, should not be enforced as a strict liability offense. Commonwealth v. Abuy, App. No. 2000-005 (N.M.I. Sup. Ct. July 2, 2001). Abuy involved a defendant whose vehicle slid backwards while attempting to make a right turn. As a result of the slide, the defendant’s vehicle struck another vehicle which resulted in damage to both vehicles. The defendant was charged with violating 9 CMC § 5303.

9 CMC § 5303 states that “[n]o person may start a vehicle stopped, standing, or parked on a highway, nor may any person back a vehicle on a highway unless and until the movement can be made with reasonable safety.” The court reasoned that the use of the words “with reasonable safety” evinced a legislative intent that a culpable mental state similar to civil negligence was an essential element of the statute. Commonwealth v. Abuy, App. No. 2000-005 (N.M.I. Sup. Ct.

1 July 2, 2001) (Opinion at 6).

2 In the present, 9 CMC § 5301 states, “Upon all highways of sufficient width a vehicle . . .  
3 *shall* (emphasis added) be operated upon the right half of the roadway . . .” Unlike the statute in  
4 Abuy, which requires the use of “reasonable safety,” the language of § 5301 does not contain  
5 words indicating a required mental state as an essential element of the charged offense. The  
6 statute only states that all vehicles “shall” be operated on the right half of the roadway. The  
7 omission of qualifying words describing the required mental state indicates that a statute should  
8 be enforced as a strict liability offense. Commonwealth v. Abuy, App. No. 2000-005 (N.M.I.  
9 Sup. Ct. July 2, 2001) (Opinion at 6). Therefore, this Court holds that 9 CMC §5301 must be  
10 enforced as a strict liability offense, subject only to the exceptions as set forth in the statute.

11 It should be noted that Defendant LIZAMA stated that he was driving the speed limit and  
12 exercising due care while driving. However, since the offense is a strict liability offense,  
13 LIZAMA’S degree of care is irrelevant. As harsh as this may seem, it is an issue that should be  
14 resolved by the legislature and not the court.

15  
16 **V. CONCLUSION**

17 For the foregoing reasons, Defendant LIZAMA is found GUILTY of violating 9 CMC  
18 §5301, and is ordered to pay a fine of twenty-five (\$25.00) dollars.

19  
20 So ORDERED this 9<sup>th</sup> day of August 2001.

21 /s/  
22 DAVID A. WISEMAN, Associate Judge