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FOR PUBLICATION

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

IN THE MATTER OF:)	CNMI JUVENILE CASE NO. 04-0015(T)
)	
)	ORDER DENYING JUVENILES'
)	MOTION TO PRECLUDE THE
)	GOVERNMENT'S CALLING OF WITNESS
)	AND USE OF DOCUMENTARY EXHIBITS
J.S.R. and J.U.S.,)	AT TRIAL
)	
Minor Children.)	
)	

THIS MATTER came before the Court for a Bench Trial on November 8, 2004, at 9:00 a.m at the Tinian Superior Court. The Commonwealth was represented by Assistant Attorney General Grant D. Sanders. The Juvenile, J.U.S., was represented by Lucy Blanco-Maratita, Esq. The Juvenile, J.S.R., was represented by Ramon K. Quichocho, Esq.

There were two separate trials scheduled for two juveniles in this one case. Neither the Court nor counsel knows of any reason to have two separate trials, and therefore vacates the trial date of November 9, 2004.

The Court received motions *in limine* from both Juveniles moving the Court to preclude the Government from calling any witnesses as a result of the Government's failure to provide its list of witnesses as required by the pretrial order in this case.

1 In addition, the motions also requested the Court to exclude the introduction of any exhibits
2 for the same non-compliance with the pretrial order.

3 The Court has reviewed the briefs filed and heard the oral arguments of the parties and finds
4 as follows: pretrial orders are necessary in order for the Court to manage its docket and to allow
5 counsel the preparatory information and documents necessary to proceed to trial, all necessary items
6 in providing a defendant the due process rights for a fair trial guaranteed under the Constitution.
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8 The Court, for good cause, can excuse non-compliance with a pretrial order, thus it is up to
9 the discretion of the Court to determine whether good cause exists. The Government presented
10 some unusual circumstances in this case that have, in previous proceedings, been placed on the
11 record, such as its office not being able to locate the file in this matter, as well as other problems
12 within the Attorney General's Office. The Court on several occasions has heard the excuse of
13 problems in the Attorney General's Office, which has interfered with the pretrial order schedules
14 for discovery. The Court is tiring of hearing these excuses. However, in this case, there were some
15 additional factors that have contributed to the Government's non-compliance with the pretrial order.
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18 If the Court were to grant the Defendant's motions the Government would have no case and
19 have to dismiss the case. Although it would be the Government's call to dismiss the case, the Court
20 would, by way of granting said motion, indirectly have caused the dismissal. Dismissal is a harsh
21 remedy and should be used for cases in sanctioning egregious conduct or circumstances. The Court
22 does not find that to be the case here.
23

24 The Court will exercise its discretion and find good cause for Government's non-compliance
25 in this case and deny Juveniles' motion to preclude Government's introduction of witnesses and
26 documents. However, Government is placed on notice that this Court, in its discretion, in all future
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1 cases, will be very unlikely to find good cause for discovery violations, that are not caused by an Act
2 of God or other calamity of severe character.

3 The Court, in deference to a fair trial for the Juveniles, will vacate this trial date and set a
4 new trial date in teleconference with counsel at 11 :00 a.m. on November 9, 2004.

5 The Government shall also provide any witness list and other items required by the pretrial
6 order on or before November 12, 2004.

7 **IT IS HEREBY ORDERED**, as follows:

- 8
- 9 1. Juveniles' motion to preclude testimony of witnesses of the Government and
10 introduction of documents or exhibits is denied.
 - 11 2. The trial date of November 8 and 9, 2004, is vacated and both Juveniles shall be tried
12 at one trial.
 - 13 3. Government shall also provide any witness list and other items required by the
14 pretrial order on or before November 12, 2004.
 - 15 4. Counsel for both Juveniles shall be available for a telephone conference on
16 November 9, 2004 at 11:00 a.m.

17 So **ORDERED** this 12th day of November 2004.

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