

CLERK OF COURT  
SUPERIOR COURT  
FILED

2010 AUG 12 AM 11: 24

BY:   
DEPUTY CLERK OF COURT

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

COMMONWEALTH OF THE  
NORTHERN MARIANA ISLANDS,

Plaintiff,

vs.

IVAN JONES CASTRO,  
D.O.B. 03/03/1977  
ANGEL JESS SANTOS,  
D.O.B. 05/17/1989  
JOSEPH C. CAMACHO, JR., and  
D.O.B. 02/14/1979,  
ALFRED P. HOCOG,  
D.O.B. 08/30/1992

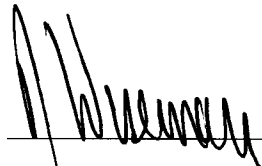
Defendants.

CRIMINAL CASE NO. 10-0132(E)  
DPS CASE NO. 10-005641

NOTICE FOR PUBLICATION/ORDER

The Court hereby give notice that the **Order as to Alfred P. Hocog** filed on **August 9, 2010**  
at **4:24 p.m.** is for **PUBLICATION**.

So **ORDERED** this 12<sup>th</sup> day of August, 2010.

  
David A. Wiseman, Associate Judge

CLERK OF COURT  
SUPERIOR COURT  
FILED

2010 AUG -9 PM 4: 24

BY: *[Signature]*  
DEPUTY CLERK OF COURT

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Defendants. )

CRIMINAL CASE NO. 10-0132(E)  
DPS CASE NO. 10-005641

ORDER AS TO ALFRED P. HOCO

THIS MATTER came before the Court on August 9, 2010 at 9:00 a.m. in Courtroom 223A for a Preliminary Hearing. Assistant Attorney Brian Gallagher appeared for the Commonwealth of the Northern Mariana Islands. Co-Defendant Alfred P. Hocog appeared in the custody of the Kagman Juvenile Detention Facility represented by Counsel Joaquin DLG. Torres.

The short history of this matter with respect to this Co-Defendant began as a Juvenile action where Defendant appeared in Court on August 3, 2010 for an initial appearance and pretrial release conditions were set. The Government at that time stated its intent to charge Defendant as an adult, and the Court set a Preliminary Hearing for August 9, 2010 along with another Co-Defendant, Joseph C. Camacho, Jr. At a bail modification hearing on August 6, 2010, the Court noted that the Government filed a Third Amended Information in Criminal Case No. 10-0132 charging Alfred P.

ENTERED  
DATE AUG 9 2010 *[Signature]*

1 Hocog as an adult. The Court *sua sponte* raised the issue of Public Law No. 16-47, referred to as  
2 the Juvenile Justice Act of 2008, and in particular, was concerned with Section 8 and 9 of said law.  
3 Section 8 has a procedure for a waiver of jurisdiction of the juvenile court and transfer to another  
4 Court for a juvenile to be tried as an adult, if the Court finds it appropriate after a hearing initiated,  
5 usually by a Motion filed by the Government.

6 The Court on August 6, 2010 opined that its initial review of said law requires the  
7 Government to take some procedural steps, such as filing a motion, before the Court could proceed  
8 against Defendant Hocog as an adult. The Government disagreed, and the Court instructed the  
9 Government to file something if they disagreed with the Court's position. The Government filed a  
10 Motion for Reconsideration. Based upon the Government's brief as well as a more detailed review  
11 of Public Law No. 16-47, the Court found that Defendant Alfred P. Hocog may be proceeded  
12 against as an adult.

13 The Court based its decision on a clear reading of the law at issue which is Section 9 thereof,  
14 stated below:

15 **Section 9. Violent offenses.**

- 16 (a) Any juvenile, age sixteen (16) years or age seventeen (17) years, who is alleged  
17 to have committed any of the crimes listed in subsection (b) of this section 9, or  
18 any person under age sixteen (16) years who is alleged to have committed any  
19 of the crimes listed in Subsection (b) of this section 9 and, pursuant to section  
20 8 of this Act, has been ordered by the court to be held for adult criminal  
21 proceedings shall be proceeded against as an adult. All other felonies or  
22 misdemeanors charged, which are based on the same act or transaction as the  
23 section 9(b) offense, shall similarly be charged and proceeded against as an  
24 adult. Any juvenile proceeded against pursuant to this section shall be accorded  
25 all constitutional and statutory rights, including bail and trial by jury, and  
26 procedural safeguards as if that juvenile were an adult defendant.
- 27 (b) The commission of the following crimes shall result in adult criminal proceeding  
28 pursuant to subsection (a) of this section 9.  
(1) Murder; or  
(2) Sexual assault as defined in 6 CMC § 1301 or 6 CMC § 1302.
- (c) Once a juvenile has been transferred for criminal prosecution as an adult  
pursuant to the waiver provisions of section 8 of this Act, or this section, the  
juvenile shall be held in the adult prison facility but separated from the adult  
prison population unless the court, after finding good cause, orders otherwise.
- (d) Upon the conviction of a juvenile pursuant to this section, the judge may, if a  
finding is made that adult sentencing measures would be inappropriate, sentence  
the convicted juvenile in accordance with the juvenile disposition options set  
forth in subsection 8(h).

1 Section 9(a) clearly separates those persons 16 or 17 years of age who have committed the  
2 crime of Murder or Sexual Assault, from those persons under the age of 16 who commit those same  
3 crimes. In addition, the Section 8 waiver proceedings are only for those persons under 16 years of  
4 age. In sum, the said law is clear that persons 16 or 17 years of age shall be proceeded against as  
5 adults if they are charged with murder or sexual assault, whereas a person younger than 16 must also  
6 meet the requirements for transfer pursuant to Section 8.

7 Section 9(b) states that,

8 (b) The commission of the following crimes shall result in adult criminal  
9 proceeding pursuant to subsection (a) of this section 9.

10 (1) Murder; or

11 (2) Sexual assault as defined in 6 CMC § 1301 aor 6 CMC § 1302.

12 The Court's foregoing conclusion is also consistent with the former Public Law No. 6 CMC  
13 § 5103 which provides in part that:

14 As used in this division, "delinquent child" includes any juvenile:

15 (a) Who violates any Commonwealth law, ordinance, or regulation while under  
16 the age of 18; **provided, that a juvenile 16 years of age or older accused of  
17 a traffic offense, murder, or rape shall be treated in the same manner as  
18 an adult;** (emphasis added)

19 **BASED ON THE FOREGOING,**

20 **IT IS HEREBY ORDERED AS FOLLOWS:**

21 That the criminal action filed against Alfred P. Hocog as a Co-Defendant in Criminal Case  
22 No. 10-0132 shall proceed against him as an adult;

23 That Juvenile Alfred P. Hocog shall be held in the adult prison facility and is to be separated  
24 from the adult prison population; and

25 That the **Preliminary Hearing** for Defendants **Joseph C. Camacho, Jr.** and **Alfred P.  
26 Hocog** for good cause is continued to **August 10, 2010 at 9:00 a.m.** in **Courtroom 223A.**

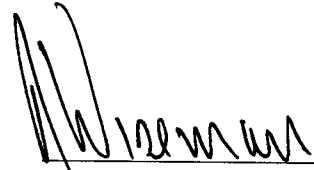
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So ORDERED this 9 day of August, 2010.



David A. Wiseman, Associate Judge