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SUPERIOR COURT

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FOR PUBLICATION

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

COMMONWEALTH OF THE NORTHERN)
MARIANA ISLANDS,)

Plaintiff,)

v.)

RHINER AGUON TIBERKE,)
D.O.B. 02/08/1975)

Defendant.)

CRIMINAL CASE NO. 11-0173E
DPS CASE NO. 11-004915

**ORDER RE: CHANGE OF PLEA
AND NOTICE ON PRETRIAL ORDERS**

This matter is set for Jury Trial on January 9, 2012 at 9:00 a.m. in Courtroom 223A. On December 27th, 2011, Matthew Meyer, Assistant Public Defender, attorney in this case, requested to address the Court on this case which was not scheduled at that time. Russell Lorfing, Assistant Attorney General who was present, did not object, and the Court allowed his request. Mr. Meyer expressed to the Court that Defendant now wishes to change his plea in lieu of proceeding to trial. The Court expressed its concerns regarding this untimely request and took the matter under advisement.

The Court believes this case would be a good one to set forth the policy of enforcement that this Court will follow with respect to it's pretrial orders hence forth.

This case first came on for a change of plea on October 19, 2011 and Defendant declined to go forward with the change of plea after the colloquy was given. As a result, the Court set the matter for Jury Trial on January 9, 2012 with a pretrial conference on December 13, 2011 which was continued for one reason or another to December 27, 2011.

1 At the time of Defendant's request on December 27, jury summons had already issued
2 serving people to report on January 9, 2012. Those persons served face the hardship of making
3 significant changes, plans and accommodations to their daily life in order to try to meet the jury
4 summons demand. Witnesses have been subpoenaed and other pretrial preparation of the Court and
5 presumably by the lawyers for the parties have been made. Notwithstanding such major activities
6 taking place, Defendant now wants to deviate from the pretrial order and have a change of plea in
7 lieu of the trial for which such activities are and have been prepared for.

8 The pretrial order was issued on October 12, 2011 and a pretrial conference was scheduled.

9 Mr. Meyer did not attend the pretrial conference as required. The pretrial order states in part,

10 this pre trial conference shall be attended by the attorney who will
11 take the case to trial. In the event an attorney fails to appear at this
12 conference, unless excused by the Court at least five (5) days in
advance of the conference, the Court shall impose penalties, as
appropriate.

13 In addition, two other provisions that are applicable to this order are that the Court will not
14 accept any negotiated plea after the conference unless there are some **exigent circumstances** and the
15 parties must confirm to the Court that they are prepared to go to trial. At said hearing, there was no
16 indication that the matter would not go to trial nor that the parties were not ready to proceed.

17 The parties have not cited any exigent circumstances that would warrant a deviation from the
18 pretrial order of not accepting a negotiated plea after the pretrial conference.

19 For sometime now, counsel, in general, proceeding before this Court have been very lax with
20 respect to compliance with the Court's pretrial order. The Court on many occasions has raised this
21 concern when there were several attorneys present in the Court. However, the Court has seen little
22 to no improvement in counsel's lax treatment of the Court's pretrial orders. There are of course,
23 exceptions, however, the Court's message is directed to the majority of counsel practicing before this
24 Court who the Court believes this message is applicable to.

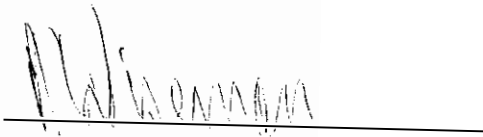
25 **IT IS HEREBY ORDERED** that the change of plea in this matter requested, without any
26 written motion or exigent circumstances to justify a negotiated change of plea at this time, shall not
27 be accommodated.

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1 Defendant, of course, can change his plea at any time, however, at this stage of the
2 proceeding it would not be with a plea agreement that the Court would consider.

3 **IT IS FURTHER ORDERED** that the parties hereto and all counsel practicing before this
4 Court shall comply with all terms of the pretrial order issued by this Court and shall be on notice that
5 the Court will consider imposing sanctions for violation thereof beginning with the New Year.
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7 **IT IS SO ORDERED** this 30 day of December, 2011.



David A. Wiseman, Associate Judge

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