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FOR PUBLICATION

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

**COMMONWEALTH OF THE
NORTHERN MARIANA ISLANDS,**

Plaintiff,

v.

GREGORY FRANK TAITANO CASTRO

Defendant.

) **TRAFFIC CASE NO. 17-00814**
)
) **ORDER DENYING DEFENDANT'S**
) **MOTION TO RECONSIDER AS**
) **DEFENDANT FAILED TO ARTICULATE**
) **THE LEGAL GROUNDS FOR**
) **RECONSIDERATION**
)
)
)
)

I. INTRODUCTION

THIS MATTER came before the Court on July 10, 2017 in Courtroom 220A for a pre-trial conference and bench trial. The Defendant, Gregory Frank Taitano Castro, was present and represented by Attorney Rene Holmes. The Commonwealth was represented by Assistant Attorney General Jonathan Wilberscheid.

The Court hereby makes the following order.

II. BACKGROUND

The Defendant is charged with violations of 1 CMC § 7406, Restriction Upon Use of Government Vehicles. Specifically, the traffic citation charged four offenses: first, the citation charged that the Defendant violated 1 CMC § 7406(d), which requires that government vehicles “are only to be used for official government business”; second, the citation charged that the Defendant violated 1 CMC § 7406(e), which prohibits tinting the windows of some government vehicles; third, the citation charged that the Defendant violated 1 CMC § 7406(f), which requires

1 that government vehicles be marked; finally, the citation charged the Defendant with 1 CMC §
2 7406(g)(1).

3 On the morning of June 10, 2017, before the bench trial commenced, the Commonwealth
4 provided the Defendant with discovery. The Commonwealth also moved to amend the citation,
5 changing 1 CMC § 7406(g)(1) to 1 CMC § 7406(g)(2) that morning in pretrial house-keeping. The
6 Court granted the Commonwealth's motion over the Defendant's objection.

7 During the Commonwealth's case in chief,¹ the Defendant moved to dismiss the case,
8 arguing that the citation failed to put the Defendant on notice to the charges against him.² The
9 Defendant also moved that the Court reconsider its order allowing the Commonwealth to amend the
10 citation, changing 1 CMC § 7406(g)(1) to 1 CMC § 7406(g)(2).

11 On July 11, 2017, the Court heard additional arguments from the parties and ordered
12 supplemental briefing on the sufficiency of the citation and whether the Court should reconsider its
13 order allowing the Commonwealth to amend the citation.

14 The Commonwealth filed its Memorandum of Law in Opposition to Defendant's Motions to
15 Dismiss and Reconsider on July 31, 2017. The Defendant also filed his Supplemental Briefing on
16 Defendant's Motion to Reconsider and Motion to Dismiss the Citation on July 31, 2017.

17 III. LEGAL STANDARD

18 A court may reconsider its earlier ruling when there is "an intervening change of controlling
19 law, availability of new evidence, or the need to correct a clear error or prevent manifest
20 injustice." *Commonwealth v. Eguia*, 2008 MP 17 ¶ 7 (citing *Camacho v. J.C. Tenorio Enterprises,*
21 *Inc.*, 2 NMI 408, 414 (1992)). This standard applies in both civil and criminal
22 cases. *Id.* Reconsideration may not be used "to repeat old arguments previously considered and
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24 ¹ The first witness had been sworn in and direct examination had commenced.

² The Defendant's objection to the citation will be addressed in a separate order.

1 rejected, or to raise new legal theories that should have been raised earlier.” *National Metal*
2 *Finishing Co. v. BarclaysAmerican/Commercial, Inc.*, 899 F.2d 119, 123 (1st Cir. 1990).
3 Commonwealth law favors the finality of court decisions, to “maintain consistency and avoid
4 reconsideration of matters once decided during the course of a single continuing lawsuit.” *Cushnie*
5 *v. Arriola*, 2000 MP 7 ¶ 14. Motions to reconsider “[serve] the narrow purpose of allowing a party
6 to correct manifest errors of law or fact or to present newly discovered evidence.” *Templet v.*
7 *Hydrochem Inc.*, 367 F.3d 473, 479 (5th Cir. 2004) (quoting *Waltman v. Int’l Paper Co.*, 875 F.2d
8 468, 473 (5th Cir. 1989)).

9 “To be clearly erroneous...a decision must strike [the Court] as more than just maybe or
10 probably wrong; it must...strike us as wrong with the force of a five-week-old, unrefrigerated dead
11 fish.” *United States v. Bussell*, 504 F.3d 956, 962 (9th Cir. 2007) (citation and internal quotation
12 marks omitted).

13 IV. DISCUSSION

14 In Court on July 10, 2017 and July 11, 2017, the Defendant orally moved that the Court
15 reconsider its order allowing the Commonwealth to amend the citation, changing 1 CMC §
16 7406(g)(1) to 1 CMC § 7406(g)(2). The Defendant’s arguments in Court, however, focused on the
17 sufficiency of the citation.

18 In the Defendant’s supplemental briefing, he failed to articulate any standard related to
19 motions to reconsider. Instead, the Defendant argued that amending the citation “failed to create a
20 sufficient charging document,” and that, thus, the amendment should be denied. Def.’s Supp. Br. at
21 9.

22 The Defendant failed to argue that the Court’s order allowing the Commonwealth to amend
23 the citation was either in clear error or worked a manifest injustice, nor did the Defendant argue that
24 new evidence or a change in law required reconsideration. *See Commonwealth v. Eguia*, 2008 MP

1 17 ¶ 7. The movant bears the burden of correctly and properly articulating his motion, and the
2 Defendant failed to articulate the legal argument for his motion to reconsider. Accordingly, the
3 Defendant's motion to reconsider must be denied.

4 **V. CONCLUSION**

5 Accordingly, the Defendant's motion to reconsider is **DENIED**.

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7 **IT IS SO ORDERED** this 21st day of August, 2017.

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11 **JOSEPH N. CAMACHO**
12 **Associate Judge**

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