

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

IN RE THE MATTER OF	)	FCD-JU CIVIL ACTION NO. 97-0179
	)	
N. T. M.,	)	<b>WRITTEN ORDER</b>
	)	<b>FOLLOWING ORAL RULING</b>
A Minor Child.	)	<b>DENYING JUVENILE'S MOTION</b>
	)	<b>TO DISMISS FOR LACK</b>
<hr style="width:40%; margin-left:0;"/>	)	<b>OF JURISDICTION</b>

THIS MATTER came on for a hearing at 9:00 a.m., April 3, 1998, at Courtroom D, on the Juvenile's Motion to Dismiss. The Juvenile, N. T. M., and his attorney, Reynaldo O. Yana, Esq. were present. Assistant Attorney General Aaron Williams appeared on behalf of the Commonwealth. The Juvenile's mother and the staff of the Family Court Division ("FCD") were also present. At the conclusion of the hearing, the Court issued an oral ruling denying the motion. The grounds for denial are set forth below.

**A. FACTUAL AND PROCEDURAL HISTORY**

On November 28, 1997, the Office of the Attorney General ("AG") filed a Complaint of Delinquency ("Complaint") against the Juvenile charging him with delinquency for armed robbery [p. 2] and auto theft allegedly committed on November 27, 1997. A bail hearing was held on November 28, 1997, in which the Court set bail at \$2,000. Then on December 1, 1997, a Gerstein hearing was held

FOR PUBLICATION

in which the Court found probable cause for the arrest of the Juvenile for armed robbery and set bail at \$2,000.<sup>1</sup> After the hearing, the Juvenile posted bail on December 1, 1997. A first amended complaint was filed on December 5, 1997, this time charging the Juvenile with delinquency for armed robbery only. The Juvenile turned 18 on December 10, 1997.<sup>2</sup>

The Juvenile was arraigned on December 18, 1997 and entered a plea of not guilty. A status conference was held on January 20, 1998 and continued to February 18, 1998. At the February 18 hearing, the Juvenile moved the Court to dismiss the Complaint for lack of jurisdiction due to the Juvenile having reached the age of 18. The Court ordered the Juvenile to file a memorandum of law supporting his motion, the AG to file its response, and the Juvenile to file his rebuttal. The hearing on the motion was held on April 3, 1998.

## **B. ISSUE**

Whether the Family Court, sitting as the juvenile court, loses jurisdiction upon the juvenile reaching the age of 18 years, where the juvenile allegedly committed acts of delinquency 13 days before reaching the age of 18 years, a complaint of delinquency was filed 12 days before reaching the age of 18 years, and the case has not been fully adjudicated. [p. 3]

## **C. ANALYSIS**

The issue presented by the Juvenile's motion is one of first impression in the Commonwealth. The Juvenile contends that the juvenile court loses jurisdiction once the person reaches the age of 18

---

<sup>1</sup> The Order pursuant to the hearing filed on December 2, 1997 contains an error on line 16. The phrase "assault and battery" should read as "armed robbery." This error was corrected in an amended order entered on April 8, 1998.

<sup>2</sup> The error on the complaint and the first amended complaint regarding the Juvenile's date of birth was brought to the court's attention at the Juvenile's arraignment on December 18, 1997. Likewise, the Order, filed on February 23, 1998, contains an error on line 19. The date "December 10, 1980" was amended by interlineation to "December 10, 1979". Court records will reflect the Juvenile's date of birth to be December 10, 1979.

years, and the case must be dismissed accordingly. At oral argument, the Juvenile points out, however, that this does not mean that the AG, on behalf of the Commonwealth, is not free to file a criminal complaint in Superior Court against the Juvenile who is now an adult.

Juvenile delinquency proceedings, including jurisdiction, are principally governed by 6 CMC §§ 5101 *et seq.* and the Rules of Juvenile Delinquency Procedure (“the rules,” “Com.R.Juv.Del.P.”). However, there is no express provision under the code or the rules terminating the juvenile court’s jurisdiction once the juvenile reaches the age of 18 years.

The Family Court, sitting as a juvenile court, has jurisdiction over “proceedings against a person as a delinquent child.” 6 CMC § 5101. *See* Public Law 9-51 and Order Establishing Jurisdiction of Family Court Division dated June 13, 1997. In addition, “[p]roceedings against a person under 18 years of age as a delinquent child shall be conducted in accordance with the provisions of [6 CMC §§ 5101 *et seq.*].” 6 CMC § 5104. In part, a delinquent child is any juvenile:

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

6 CMC § 5103. Furthermore, a “juvenile” is defined as any person under the age of 18 years. 1 CMC §2373(f). There is no question that proceedings under 6 CMC § 5101 *et seq.* can be [p. 4] commenced only if the person is under 18 years of age. The issue at bar is, once the case is commenced, does the juvenile court lose jurisdiction by virtue of the juvenile reaching the age of 18 years, and the case has not been adjudicated. This is a case of first impression. The juvenile case In

Re The Matter Sintoshi S. Suda, 3 CR 15 (N.M.I. Trial Ct. 1986)<sup>3</sup> provides some guidance.

In Suda, the juvenile, Sintoshi, allegedly committed three counts of burglary, criminal mischief, and theft while under the age of 18 years. *Id.* at 16. However, a complaint of juvenile delinquency was not filed until Sintoshi was over 18 years old. *Id.* at 16. Thus, the issue in Suda was whether the court, sitting as a juvenile court, had jurisdiction over a case where the alleged offense occurred while the offender was under the age of 18, but where the juvenile charges were filed after he reached that age. *Id.* at 17. In construing 6 CMC § 5104, the court stated that “the age of the person at the time of commencement of proceedings governs, so that once a person reaches 18 years of age, the juvenile court loses jurisdiction over that person. *Id.* at 18. The court dismissed the case without prejudice because the juvenile court had no jurisdiction over Sintoshi by virtue of the fact that he was over the age of 18 at the time proceedings against him were commenced. *Id.* at 18.

The Suda case is distinguishable in that in this case, the Juvenile allegedly committed armed burglary, was arrested and charged with delinquency while under the age of 18 years. Therefore, in light of the court’s construction of section 5104 and the dismissal of the action without prejudice in Suda, this Court concludes that jurisdiction in the juvenile court is proper [p. 5] because the Juvenile was still under 18 years of age when delinquency charges were filed.

In addition, as a general rule, jurisdiction once acquired is not lost or divested by subsequent events.

*See, e.g.,* Bailey v. Mars, 87 A.2d 388 (Conn. 1952) (withdrawal of the plaintiff’s consent to adoption after the application and agreement had been filed did not divest court of jurisdiction to adjudicate the best interest of the child); Highway Const. Co. v. McClelland, 15 F.2d 187 (8<sup>th</sup> Cir. 1926) (stating as

---

<sup>3</sup> This case, in addition to counsels’ legal memoranda and oral arguments, adequately discusses the split of authorities on the issue of juvenile court jurisdiction upon the juvenile reaching the age of 18 years. Accordingly, to the extent relevant, the discussion in Suda is herein incorporated by reference.

a general rule that jurisdiction, once having attached, will not be divested by subsequent events, except if the plaintiff so changes his pleading so that the court will no longer have jurisdiction on the face of the pleading); Madsen v. Madsen, 209 A.2d 728 (N.H. 1965) (change in domicile of parties or other circumstances does not destroy jurisdiction to renew decree for another three-year period); 20 Am Jur 2d, Courts, § 111. Thus, in the absence of express, unambiguous statutory language or evidence of legislative intent terminating the juvenile court's jurisdiction upon the juvenile reaching the age of 18 years, this Court concludes that once jurisdiction in the juvenile court is acquired, it does not divest, merely upon the Juvenile reaching the age 18 years.

The Court now addresses the Juvenile's contention that this Court is not authorized to order the filing of the case with the Criminal Division of the Commonwealth Superior Court and his suggestion that if the case is dismissed in juvenile court that the AG is free to pursue the case in the Criminal Division of the Commonwealth Superior Court. The Court agrees with the Juvenile's contentions. The AG has prosecutorial discretion under 6 CMC § 5102 to decide whether or not to seek court certification of a juvenile 16 years or older as an adult. Because the juvenile court has jurisdiction and the prosecutor properly exercised his discretion in choosing to proceed in juvenile court rather than in the Criminal Division of the Superior Court, the Court must respect [p. 6] the valid exercise of such discretion.

Furthermore, the policy behind juvenile delinquency matters dictate that the Juvenile's motion to dismiss must be denied. The flexible procedures attendant to juvenile delinquency proceedings exist "to assist the child to become a wholesome member of the community," Com.R.Juv.Del.P. 1, and to protect victims' rights under Article I, Section 11 of the Commonwealth Constitution. The Court also has broad sentencing discretion under 6 CMC § 5107 based on the best interests of the child, so that

the Court can impose a sentence appropriate for the offense given the age of the offender and other relevant factors. The Juvenile does not show how the more rigid criminal process for adults would be to his advantage and benefit over juvenile delinquency proceedings. *See* 6 CMC § 5102; Com.R.Juv.Del.P.

Finally, given the seriousness of the acts giving rise to the charge of delinquency, the best interest of the Juvenile and the public interest is not served by dismissing the case as requested by the Juvenile. To do so and, if the case is not pursued in adult criminal court, would render the Juvenile unaccountable for the alleged offenses simply because the Juvenile is too old to be prosecuted as a delinquent child. Other juveniles, therefore, who allegedly commit acts of delinquency immediately prior to becoming 18 years of age would also enjoy the prospect of having their case dismissed from juvenile court because they are no longer prosecutable as delinquent children. This dangerous precedent neither safeguards the interests of the public and the victims of the alleged acts of delinquency nor rehabilitates the juvenile to become a wholesome, nonviolent member of the community.

#### **D. CONCLUSION**

Based on the foregoing reasons, the jurisdiction of the Court, sitting as a juvenile court, is [p. 7] proper in this case, despite the fact that the Juvenile has reached the age of 18 after proceedings against him were commenced. Accordingly, the Juvenile's motion to dismiss is **DENIED**.

SO ORDERED this 9<sup>th</sup> day of June, 1998.

/s/ Virginia Sablan Onerheim  
VIRGINIA SABLAN ONERHEIM  
Associate Judge