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BY: L. Hofschneider
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IN THE SUPREME COURT OF THE
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS,
Plaintiff-Appellee

vs.

HEIDI L. CAJA,
Defendant-Appellant

Appeal No. 99-011
Criminal Action No. 99-040

MANDATE

Pursuant to Rule 41 of the Rules of Appellate Procedure, this mandate is issued in the above-caption matter. The Judgment of the Superior Court is hereby **AFFIRMED** in part and **REVERSED** in part.

Issued this 19th day of June, 2001.

CRISPIN M. KAIPAT
Clerk of Court
By: L. Hofschneider
Louise D/G. Hofschneider
Deputy Clerk

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CNMI SUPREME COURT
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BY: [Signature]
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**IN THE SUPREME COURT OF THE
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS,
Plaintiff/Appellee

v.

HEIDI L. CAJA,
Defendant/Appellant.

Cite as: *CNMI -v- Caja, 2001 MP 6*
Appeal No. 99-011/Criminal Action No. 99-040

JUDGMENT

¶ 1 Pursuant to Rule 36 of the Rules of Appellate Procedure, the opinion of this Court has been issued and judgment is hereby entered. The judgment of the Superior Court is hereby **AFFIRMED** in part and **REVERSED** in part.

Entered this 02nd day of May, 2001.

CRISPIN M. KAIPAT
Clerk of Court

By: _____
[Signature]
Charlene C. Teregeyo
Deputy Clerk

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DATE/TIME, 5/2/01 10:30 am
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FOR PUBLICATION
IN THE SUPREME COURT OF THE
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS,
Appellee

v.

HEIDI L. CAJA,
Appellant

OPINION

Cite as: *CNMI v. Caja*, 2001 MP 6
Appeal No.99-011/
Submitted On The Briefs May 4, 2000

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BEFORE: MIGUEL S. DEMAPAN, Chief Justice, ALEXANDRO C. CASTRO, Associate Justice, and MICHAEL A. WHITE, Special Judge

CASTRO, Associate Justice:

¶1 Defendant Heidi L. Caja, a.k.a. Eleanor F. Lacson (“Caja”), appeals her convictions for two counts of immigration fraud. Caja claims that, (1) the Superior Court abused its discretion in denying Caja’s motion to disqualify former Superior Court Judge John A. Manglona¹ from presiding over her criminal case given that Judge Manglona was married to a criminal prosecutor² in the same office as the prosecutor handling Caja’s case and (2) the Superior Court erred in denying Caja’s motions for judgment of acquittal. For the reasons set forth below, we **AFFIRM** the lower court’s denial of Caja’s motion to disqualify Judge Manglona and **REVERSE** the lower court’s denial of Caja’s motion for judgment of acquittal. We have jurisdiction pursuant to Article IV, Section 3 of the Commonwealth Constitution, as amended.³

ISSUES PRESENTED AND STANDARDS OF REVIEW

¶2 Caja’s appeal has presented two issues to this Court. The first is whether the Superior Court abused its discretion in denying Caja’s motion to disqualify former Superior Court Judge John A. Manglona from presiding over her criminal case given that Judge Manglona was married to a then criminal prosecutor in the same office as the prosecutor handling Caja’s case. We review the denial of a motion for a judge’s recusal under the abuse of discretion standard. *See Santos v. Santos*, 3 N.M.I. 39, 47 (1992); *Commonwealth v. Kaipat*, App. No. 95-006 (N.M.I. Sup. Ct. Sept. 27, 1996) (Opinion at 1-2).

¹ Subsequent to the filing of the instant appeal, Superior Court Judge John A. Manglona was appointed to the CNMI Supreme Court and currently serves as Associate Justice John A. Manglona.

² Since the filing of the instant appeal, the criminal prosecutor in question transferred to the Civil Division of the Office Of The Attorney General.

³ N.M.I. Const. art. IV, § 3 was amended by the passage of Legislative Initiative 10-3, ratified by the voters on November 1, 1997 and certified by the Board of Elections on December 13, 1997.

¶3 The second issue is whether the Superior Court erred in denying Caja’s motions for judgment of acquittal. Specifically, this Court must decide whether the evidence was sufficient to sustain Caja’s convictions based solely upon Caja’s written admission that she was working under a false name, or whether Caja’s admission needed to have been corroborated by independent evidence under the *corpus delicti* rule. We review a challenge to the sufficiency of evidence in a criminal case by considering the evidence in the light most favorable to the prosecution to determine whether any reasonable trier of fact could have found the essential elements of the crime beyond a reasonable doubt. See *Commonwealth v. Delos Reyes*, 4 N.M.I. 340, 342 (1996). Issues raising questions of law are reviewed *de novo*. See *Agulto v. Northern Marianas Inv. Group, Ltd.*, 4 N.M.I. 7, 9 (1993).

FACTUAL AND PROCEDURAL BACKGROUND

¶4 Caja is a non-resident worker from the Philippines who entered the Commonwealth in early 1994 under the name of Eleonor F. Lacson. The Philippine passport with which Caja entered bore the name Eleonor F. Lacson and Caja’s photograph. It is unclear who Caja originally worked for, but in June of 1998 Caja entered into an employment agreement with WDI Saipan, d.b.a. Tony Roma’s.

¶5 Sometime in February 1999, WDI Saipan reported to the Department of Labor and Immigration (“DOLI”) that its employee Eleonor F. Lacson had submitted a letter stating that her real name was Heidi Caja. After an investigation by DOLI, the Criminal Division of the Office of the Attorney General, on behalf of the Commonwealth (the “Prosecution”), filed an information in the Superior Court on February 4, 1999 charging Caja with two counts of immigration fraud. The first count alleged that Caja used false immigration or labor documents in violation of 3 CMC § 4363(a). The second count alleged that Caja used a false passport in violation of 3 CMC § 4363(b).

¶6 At the arraignment on February 22, 1999 before Presiding Judge Edward Manibusan, Caja was represented by the Office of the Public Defender. After waiving the reading of the Information and advisement of her personal and constitutional rights, Caja entered a plea of not guilty. The

Presiding Judge then assigned the case to Associate Judge John A. Manglona. At the status conference hearing on March 22, 1999, Caja, through counsel, moved to disqualify Judge Manglona based on the appearance of impropriety pursuant to 1 CMC § 3308(a). Specifically, Caja asserted that Judge Manglona should be disqualified from presiding over her criminal trial because he was married to prosecutor Ramona V. Manglona of the Criminal Division of the Office of the Attorney General.

¶7 Caja's motion to disqualify was heard by Associate Judge Virginia Sablan-Onerheim on April 14, 1999. The Superior Court denied the motion from the bench and subsequently issued a written opinion supporting its decision. *See Commonwealth v. Caja*, Crim. No. 99-0040 (N.M.I. Super. Ct. April 23, 1999) (Order Denying Defendant's Motion for Disqualification of Associate Judge John A. Manglona). The court noted that while the fact that Judge Manglona's wife worked in the same small office as the attorney prosecuting the instant case "could raise a reasonable question about the judge's impartiality, it is not legally sufficient in providing an objective, knowledgeable member of the public with a *reasonable basis* for doubting Judge Manglona's impartiality." *Id.* at 5. The court emphasized that due to the prevalence of familial relationships in our community, a marriage relationship, standing alone, cannot be used to determine a judge's partiality. *See id.* Finally, the court noted that Caja's position, if accepted, would require Judge Manglona to recuse himself in all proceedings in which a party is represented by the Attorney General's Office. *See id.* Accordingly, the court remanded the matter to Judge Manglona for trial.

¶8 A bench trial was held on May 7, 1999. At the close of the Prosecution's case-in-chief, Caja moved for judgment of acquittal, on the ground that the prosecution's only evidence that Caja committed a crime is her own statement, which, standing alone, cannot serve as the basis of a conviction. Relying on the *corpus delicti* rule, the defense argued that the government was required, but failed, to produce some other independent corroborating evidence that a crime was committed. Noting that Caja's passport was the corroborating evidence, the court denied the motion. At the close of the case, Caja again moved for acquittal on the same grounds. The court again denied the motion, and instead found Caja guilty of both counts of immigration fraud. Thereafter, the court

issued its judgment and commitment Order, among other things, sentencing Caja to one year imprisonment, all suspended except 15 days, with credit for time served. *See Commonwealth v. Caja*, Crim. No. 99-0040 (N.M.I. Super. Ct. May 13, 1999) (Judgment of Conviction and Commitment Order).

¶9 Caja timely appealed.

ANALYSIS

I. **The Superior Court Did Not Abuse Its Discretion In Properly Denying Caja's Motion to Disqualify Superior Court Judge John A. Manglona from Presiding over Her Criminal Case Given that Judge Manglona Was Married to a Criminal Prosecutor in the Same Office as the Prosecutor Handling Caja's Case.**

¶10 Caja has presented a number of arguments in support of her appeal of the trial court's decision to deny her motion to disqualify. Each of her arguments is described below.

¶11 First, Caja contends that the husband-wife relationship between Judge Manglona and criminal prosecutor Ramona Manglona would lead a reasonable person to question the judge's impartiality. Opening Brief For Appellant at 7-8. In her brief, Caja emphasizes that Ms. Manglona was a prosecutor in the same small office as the prosecutor who tried her case and that both prosecutors report to the same supervising Chief Prosecutor. *Id.* at 8.

¶12 Second, to support her contention regarding Judge Manglona's alleged bias, Caja relies primarily on a Colorado case, *Smith v. Beckman*, 683 P.2d 1214 (Colo. Ct. App. 1984), where the judge presiding over the defendant's criminal trial was required to disqualify himself solely on the basis that he was married to a deputy district attorney practicing in the same county as the deputy district attorney prosecuting the case. Although the judge's wife neither appeared in the case nor was involved in the case in any capacity, the Colorado Court of Appeals found that the close nature of the marriage relationship created an appearance of impropriety. *Id.* at 1216.

¶13 Third, Caja attacks the court's reliance on the case of *Perkins v. Spivey*, 911 F.2d 22 (8th Cir. 1990) as misplaced because the facts in that case are inapposite to Caja's case. Opening Brief For

Appellant at 12-13. In *Perkins*, the plaintiff moved to disqualify the judge from presiding over her Title VII case because the judge was married to an attorney specializing in labor law. *Perkins v. Spivey* at 33. The judge's spouse did not work for the defendant's defense firm, but the firm where the judge's spouse was a partner began merger discussions with the defendant's firm after the court had entered rulings against the plaintiff. *Id.* The Eighth Circuit Court of Appeals found that the judge did not abuse his discretion by refusing to recuse himself. *Id.*

specialized in labor law did not warrant his recusal in all labor cases. *Id.* Unlike in *Perkins* where the judge's wife was merely seen in the judge's courtroom on occasion, Caja maintains that Ms. Manglona's regular and active representation of the Commonwealth Government and appearance in criminal proceedings in the same Superior Court as Judge Manglona would cause a reasonable person to have serious questions about the judge's impartiality. Opening Brief For Appellant at 14.

¶14 Fourth, Caja argues that the Superior Court abused its discretion by improperly considering administrative concerns in denying the motion to disqualify. Opening Brief For Appellant at 18. The court's concern that granting Caja's motion would result in Judge Manglona having to disqualify himself in all cases in which the Office of the Attorney General was a party should not have been a factor in the court's decision since caseload management has never been interjected as part of the objective test for disqualification by a court. *Id.* at 19.

¶15 Fifth, Caja adds that it was also an abuse of discretion for the Superior Court to speculate as to future legal challenges that may be brought seeking Judge Manglona's disqualification in all cases, including civil cases, involving the Office of the Attorney General. Opening Brief For Appellant at 19. Any potential future disqualification of Judge Manglona in other matters should not have had any bearing on the objective standard for disqualification. *Id.* at 20.

¶16 We disagree with Caja and find that the lower court did not abuse its discretion and properly denied Caja's motion to disqualify. The basis of our holding is discussed below.

1. The Lower Court Correctly Applied Commonwealth and Federal Law On Judicial Disqualification In Determining Whether To Disqualify Judge Manglona.

¶17 A judge's disqualification may be mandated by statute, by the Code of Judicial Conduct, or constitutionally, under the Fifth and Fourteenth Amendments to the U.S. Constitution. *See Commonwealth v. Kaipat*, 4 N.M.I. 292 (1995) (citing *Aetna Life Ins. Co. v. Lavoie*, 475 U.S. 813, 106 S. Ct. 1580, 1584, 89 L. Ed. 2d 823 (1986)).

¶18 The Commonwealth's disqualification statute for judges states that "[a] justice or judge of the Commonwealth shall disqualify himself or herself in any proceeding in which his or her impartiality might reasonably be questioned." 1 CMC § 3308(a). The Code of Judicial Conduct for the Commonwealth Judiciary also reiterates that "[a] justice or judge of the Commonwealth shall disqualify himself or herself in any proceeding in which his or her impartiality might reasonably be questioned." Com. C. Judic. Cond. Canon 3(c)(1). This language is nearly identical to the federal disqualification statute which states that "[a]ny justice, judge, or magistrate of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned." 28 U.S.C. § 455(a). Accordingly, we look to the federal case law for guidance on this issue.

¶19 The standard under the federal statute is an objective one which focuses on whether a reasonable person with knowledge of all the circumstances would harbor doubts about the judge's impartiality. *See Potashnick v. Port City Const. Co.*, 609 F.2d 1101, 1111 (5th Cir. 1980). Thus, even if no actual bias or prejudice has been shown, disqualification is required if a reasonable person who knew the circumstances would question the judge's impartiality. *See Renteria v. Schellpeper*, 936 F. Supp. 691, 694 (D. Neb. 1996).

¶20 As the trial court noted, there is not an abundance of case law addressing judicial disqualification based on a judge's marital relationship with an attorney. In *Perkins v. Spivey*, 911 F.2d 22 (8th Cir. 1990), a district judge was not required to recuse himself from presiding over a labor case simply because he was married to an attorney specializing in labor law. Likewise in *Matter of*

Billedeaux, 972 F.2d 104 (5th Cir. 1992), a district judge did not need to recuse herself where her husband was a partner of a law firm which represented the defendant on various occasions in other matters. The court found that there was no reason to conclude that any action the judge might take would affect her husband's law firm. *See id.* at 106. Further, any interest of the judge was too "remote, contingent, or speculative" and therefore not one which would reasonably bring into question a judge's partiality. *Id.*

¶21 In *Renteria v. Schellpeper*, 936 F. Supp. 691, the plaintiff sought to disqualify a magistrate judge who was married to a deputy county prosecutor in Lincoln, Nebraska. The suit was based on a claim that plaintiff's decedent died while in the custody of Lincoln, Nebraska police officers due to their misconduct. *See id.* at 692. Although the judge normally dealt with the Omaha, Nebraska docket, she was assigned the Lincoln case after the magistrate judge residing in Lincoln recused himself. *See id.* at 693. The city of Lincoln is located in Lancaster County, and the Lancaster County Attorney's Office disqualified itself from the investigation of the death of plaintiff's decedent. *Id.* Moreover, a special prosecutor was appointed to handle the case. *Id.* Given that the judge's husband played no role in the case, the district court found that a reasonable person would not question the judge's impartiality. *See id.* at 695.

¶22 Caja has failed to cite any case under a statute like the Commonwealth's where a judge must recuse himself based on his marriage relationship to support her disqualification argument. As previously stated, the law under 28 U.S.C. § 455(a) is that a judge need not recuse himself when members of his family are attorneys for the litigants so long as that family member is not directly involved in the case. As an example, the Prosecution cites to *United States ex rel. Weinberger v. Equifax, Inc.*, 557 F.2d 456 (5th Cir. 1977), *cert denied*, 434 U.S. 1035 (1978), where a district court judge's son was an attorney for the firm representing one of the litigants, the judge was not required to recuse himself since the son did not actively participate in the case.

¶23 Caja has cited only one state case, *Smith v. Beckman*, 683 P.2d 1214 (Colo. Ct. App. 1984), that has required a judge's disqualification based upon his or her marital relationship to an attorney. In *Smith*, the judge presiding at defendant's trial was married to a deputy district attorney in the same

county as the deputy district attorney prosecuting the case. The Colorado Court of Appeals determined that the judge's recusal was required by Canons 2 and 3(C) of the Colorado Code of Judicial Conduct, "which provide that a judge should avoid the appearance of impropriety and disqualify himself in any case in which his impartiality might reasonably be questioned." *Id.* at 1215.

¶24 The language of Colorado's Code of Judicial Conduct is substantially the same as the language of Canon 3(c)(1) of the Commonwealth Code of Judicial Conduct and as Canon 3E(1) of the ABA Model Code of Judicial Conduct. Accordingly, we find it helpful to examine interpretations of the ABA Code. The commentary to ABA Canon 3E(1) states in relevant part:

The fact that a lawyer in a proceeding is affiliated with a law firm with which a relative of the judge is affiliated does not of itself disqualify the judge. Under appropriate circumstances, the fact that "the judge's impartiality might reasonably be questioned" under Section 3E(1) . . . may require the judge's disqualification.

MODEL CODE OF JUDICIAL CONDUCT Canon 3E(1), cmt. (1990). Thus, the commentary seems to suggest that each case must be reviewed on a case by case basis.

The very nature of these intangible considerations prevents the formulation of a bright line rule stating when such a conflict necessitates recusal. Thus, each case must undergo a fact specific and party specific analysis and be decided in accordance with those individual findings. That is, one must ask, given the facts of the case, the people involved and the potential issues relating to the facts and people involved, whether the interest of the judge's spouse and the involvement of that spouse are extensive enough to warrant the judge's recusal.

State v. Putnam, 675 A.2d 422 (Vt. 1996) (citing M. Brandsdorfer, *Lawyers Married to Judges: A Dilemma Facing State Judiciaries – A Case Study of the State of Texas*, 6 GEO. J. LEGAL ETHICS 635, 660 (1990)).

¶25 In light of the foregoing case law authority and the commentary cited above which requires each recusal request to be evaluated on a case-by-case basis, we find that the lower court did not abuse its discretion and properly denied Caja's motion to disqualify Judge Manglona based on the facts before the court in this matter.⁴

⁴ The foregoing authority on recusal clearly suggests that each case must be considered individually. Specifically, since there is no bright line rule stating when circumstances are such as to necessitate recusal, the facts of each instance must be considered on a case by case basis, without looking to administrative concerns or future legal challenges. As such, as a matter of law and policy, each request for recusal in the Commonwealth should be analyzed in terms of the facts for that specific request, rather than as part of a greater scheme. Therefore, while we uphold the

II. The Lower Court Erred Because The Evidence Was Insufficient to Sustain Caja's Convictions Based Solely Upon Caja's Written Admission That She Was Working Under a False Name Because Caja's Admission (1) Needed to Have Been Corroborated by Independent Evidence And (2) Needed To Be Shown As Trustworthy And Reliable, Under the Corpus Delicti Rule.

¶26 Caja relies on the *corpus delicti* rule which provides that an accused's confession or admission must be corroborated by independent evidence to serve as the basis for a conviction. *See United States v. Lopez-Alvarez*, 970 F.2d 583, 589 (9th Cir. 1992) (citing *Opper v. United States*, 348 U.S. 84, 75 S. Ct. 158, 99 L. Ed. 101 (1954)). The Ninth Circuit Court of Appeals in *Lopez-Alvarez* summarized the corroboration requirement as two-pronged: (1) the government must "introduce sufficient evidence to establish that the criminal conduct at the core of the offense has occurred", and (2) the government must "introduce independent evidence tending to establish the trustworthiness of the admissions, unless the confession is, by virtue of special circumstances, inherently reliable." *Id.* at 592.

¶27 Here, Caja contends that there was no independent evidence of fraud since it was established through testimony at trial that neither the Commonwealth labor and immigration documents nor the Philippine passport relating to Eleonor Lacson appeared to have been altered or tampered with. Opening Brief For Appellant at 24 - 26. Further, there was no independent evidence corroborating the Caja's admission of using another's name or identity to obtain the Commonwealth documents. *Id.* The investigation conducted by the Manila Liaison Office only produced a birth certificate relating to Eleonor Lacson, but none relating to Heidi Caja. *Id.* The investigation produced no evidence that the "real" Eleonor Lacson is a person different than Caja. *Id.*

¶28 According to Caja, the second prong of the *Lopez-Alvarez* test was also not met because there was no independent corroboration establishing the trustworthiness of Caja's admission. Opening Brief For Appellant at 26-28. Although the letter states that Caja's real name is Heidi Caja, the letter was signed by "Eleonor Lacson." *Id.* At trial, the Human Resources Manager, Noel Taisacan, testified on direct examination that when he questioned Caja about the letter, she told him that she

lower court's decision to deny Caja's motion to disqualify, we also find that administrative concerns and the implication for future legal challenges should not be considered when deciding whether to disqualify individual judges.

had written the letter. *Id.* However, on *voir dire* by defense counsel, Mr. Taisacan admitted that he could not recall whether Caja had told him that she wrote the letter, but rather admitted that her employer, Mr. Hough, had handed him the letter and told him it was written by Caja. *Id.* The trustworthiness of Caja's admission is therefore suspect. *Id.* Further, there were no special circumstances showing that the admission was inherently reliable. *Id.*

¶29 While we do not agree with Caja's interpretation of the *corpus delicti* rule as it relates to "identity," we do agree with Caja that the *corpus delicti* rule applies to the Commonwealth and that under the test for *corpus delicti* there was insufficient evidence to sustain Caja's conviction. As such, we find that the lower court erred in sustaining Caja's conviction.

1. The Corpus Delicti Rule Is Applicable In The Commonwealth.

¶30 The prosecution contends that the *corpus delicti* rule does not apply in the Commonwealth because it is merely a rule of evidence, and not mandated by the United States Constitution. Brief Of Appellee at 7 - 8. Alternatively, the prosecution contends that even if the *corpus delicti* rule applies in the Commonwealth, it does not apply in this case because identity is not a part of the corpus rule. *Id.* at 8 - 9. Specifically, the prosecution never need prove the identity of the criminal prior to being able to introduce the Caja's admission to prove its case. *Id.* To buttress their arguments, the prosecution cites Wigmore on Evidence who refers to the argument that identity should be a part of the corpus as "absurd." *Id.* at 9.

¶31 We disagree with the prosecution's assertion that the *corpus delicti* rule does not apply to the Commonwealth. However, we agree that identity should not be considered a part of the corpus. Our reasoning is explained below. In formulating our opinion on *corpus delicti*, we will be guided by existing federal authority and Trust Territory case law.

¶32 The *corpus delicti*, i.e., the body or substance of the offense, is commonly understood to involve two elements: (1) the fact of the injury, and (2) the unlawfulness or criminality of some person's conduct as the cause of the injury. *See* 4 CHARLES E. TORCIA, WHARTON'S CRIMINAL EVIDENCE § 648 (14th ed. 1987); 7 WIGMORE ON EVIDENCE § 2072 (3d ed. 1940). The accused's

identity, although necessary for a conviction, is not an element of the *corpus delicti*. See *id.*

¶33 The *corpus delicti* cannot be proved by an accused's confession or admission alone. See WHARTON'S CRIMINAL EVIDENCE, *supra* at § 648. In the United States, state and federal courts generally refuse to convict a criminal defendant based on testimony concerning confessions of the accused not made at trial. See *Opper v. United States*, 348 U.S. at 89, 75 S. Ct. at 162 (citing Wigmore, Evidence (3d ed.) § 2071; *Warszower v. United States*, 312 U.S. 342, 345 n.2, 61 S. Ct. 603, 606 n.2, 85 L. Ed. 876 (1941)). Admissions retold at trial are similar to hearsay in that they are statements not made at the pending trial. See *id.* at 162-63. Such statements have not had the benefit of "the compulsion of the oath nor the test of cross-examination." *Id.* at 163. Accordingly, some independent corroborating evidence must support a defendant's confession in order to serve as the basis for a conviction. See *United States v. Lopez-Alvarez*, 970 F.2d at 589.

The requirement of corroboration arises from the high incidence of false confessions and the resulting need to prevent "errors in convictions based upon untrue confessions alone." In *Opper*, the Supreme Court recognized that the same unreliability exists with respect to post-offense admissions, which therefore also require independent corroboration: "[A]n accused's admissions of essential facts or elements of the crime, subsequent to the crime, are of the same character as confessions and . . . corroboration should be required. Under *Opper*, the prosecution must introduce independent evidence "tend[ing] to establish the trustworthiness of [a] statement" before it may rely on the statement as evidence of an element of the offense.

Id. (internal citations omitted).

¶34 The *Lopez-Alvarez* court described the test for corroboration set forth in *Opper* as two-pronged: (1) the government must "introduce sufficient evidence to establish that the criminal conduct at the core of the offense has occurred", and (2) the government must "introduce independent evidence tending to establish the trustworthiness of the admissions, unless the confession is, by virtue of special circumstances, inherently reliable." *Id.* at 592. Although corroborative evidence need not be sufficient, independent of the confession or admission, to establish the entire *corpus delicti*, the evidence must support the "essential facts admitted sufficiently to justify a jury inference of their truth." *Opper*, 348 U.S. at 93, 75 S. Ct. at 164.

¶35 Although no Commonwealth cases seem to have addressed the *corpus delicti* rule, courts of the Trust Territory have applied the rule when considering the admissibility of confessions. See

Marbou v. Trust Territory of the Pacific Islands, 1 T.T.R. 269 (H.C.T.T. Tr. Div. 1955); *Bisente v. Trust Territory of the Pacific Islands*, 1 T.T.R. 327 (H.C.T.T. Tr. Div. 1957). In *Marbou v. Trust Territory*, the defendant appealed from his conviction of petit larceny of lumber, partly on the ground that the *corpus delicti* had not been sufficiently shown, aside from his voluntary admission. 1 T.T.R. at 271. The Trial Division of the High Court held that additional facts, which were established by agreement of counsel in open court at the hearing on appeal, corroborated the accused's admissions.

[I]t is not necessary for the prosecution to prove the *corpus delicti* or "body of the crime" beyond a reasonable doubt independent of an accused's confession outside of court, but that it is sufficient if the confession is corroborated by other substantial evidence and the court is satisfied beyond a reasonable doubt upon all the evidence, including the confession, that the accused committed the crime.

Marbou v. Trust Territory, 1 T.T.R. 269, 272-73. In addition, it is well settled that the *corpus delicti* may be proved by circumstantial evidence. See *Yamashiro v. Trust Territory of the Pacific Islands*, 2 T.T.R. 638, (H.C.T.T. App. Div. 1963).

¶36 Consistent with federal authority and Trust Territory case law, we adopt the *Opper* test as set out by *Lopez-Alvarez, supra*, as the standard for establishing *corpus delicti*. As such, in evaluating Caja's conviction, we must determine both whether there is independent evidence that the crimes actually occurred and whether the prosecution had demonstrated the trustworthiness of Caja's admission. Since the convictions are dependent on Caja's admission, we may affirm the convictions only if both requirements of the test are met.

2. Caja's Admission Was Not Corroborated By Sufficient Independent Evidence.

¶37 We agree with Caja that the prosecution failed to present sufficient independent evidence of Caja's alleged crimes.⁵ Specifically, no evidence, aside from Caja's admission, was produced to

⁵ Count I & II of the Information charged Caja with the following:

Count 1

On or about the period of time between January 1, 1995 and February 3, 1999, on Saipan, Commonwealth of the Northern Mariana Islands, the Defendant Heidi L. Caja, did manufacture, traffic in, import, export, sell, receive, possess without authorization or use any false, forged, counterfeit, altered or tampered-with official Commonwealth immigration or labor document, permit or identification card or any other official immigration document,

demonstrate that any of the documents in question were invalid by the prosecution. Additionally, the prosecution's made little effort to establish independent evidence of the crimes in question. Namely, as Caja pointed out, (1) no requests were made by the Prosecution to verify that there was a person in the Philippines by the name of Eleonor Lacson to whom the birth certificate related; (2) no inquiries were made to see if the Manila Office could find the parents of anyone named Heidi Caja in the Philippines; and (3) no follow-up on the case was made in the Philippines after the receipt of documents regarding Eleonor Lacson. Accordingly, we believe the admission was not supported by credible evidence and that it was therefore insufficiently reliable to support Caja's conviction. Having demonstrated that the prosecution failed the first part of the test as set out by *Lopez-Alvarez, supra*, we now turn to the second part of the test.

3. Caja's Admission Was Neither Trustworthy Nor Reliable.

¶38 The primary evidence supporting the two counts against Caja was Caja's written admission regarding the falsity of her immigration and working papers. The second prong of the test, as set out by *Lopez-Alvarez, supra*, calls for a demonstration of independent evidence which tends to establish the trustworthiness of the admissions, unless the confession is, by virtue of special circumstances, inherently reliable. However, we find that the trustworthiness and reliability of Caja's admission was not demonstrated by the prosecution and, therefore, that the second prong of the test was not met by the government.

including an official entry permit stamp, to wit: employment application and contract, when she knew or should have known that the document was false, forged, counterfeit, altered, or tampered-with, in violation of, and made punishable by, 3 CMC section 4363(a).

Count 2

On or about the period of time between January 1, 1995 and February 3, 1999, on Saipan, Commonwealth of the Northern Mariana Islands, the Defendant Heidi L. Caja, did manufacture, traffic in, import, export, sell, receive, possess without authorization or use any false, forged, counterfeit, altered, or tampered-with document, passport, identification card, visa, visa or entry stamp, license, permit entry permit, birth or health certificate or together document used or required to secure or support an application for any Commonwealth immigration or labor benefit, to wit: a passport, in violation of, and made punishable by, 3 CMC section 4363(b).

¶39 Specifically, as described by Caja, conflicting testimonial evidence was presented at trial by the prosecution in the form of the Human Resources Manager, Noel Taisacan, regarding whether Caja had written the admission letter. Additionally, we agree with Caja that it is significant to note that although the admission letter stated that Caja's real name is Heidi Caja, the letter was signed by "Eleonor Lacson." As such, we find the independent evidence presented to indicate the trustworthiness of Caja's admission is doubtful, at best. Finally, we agree with Caja that there were no special circumstances shown by the government that the admission was inherently reliable such as an indication that the admission was made under oath or that Caja signed the letter with a declaration that it was written under penalty of perjury.

¶40 As such, we find that the evidence was insufficient to uphold Caja's conviction.

CONCLUSION

The judgment of the Superior Court to deny Caja's motion to disqualify Judge Manglona is **AFFIRMED**. The judgment of the Superior Court to deny Caja's motion for judgment of acquittal is **REVERSED**.

DATED this 2nd day of May 2001.


MIGUEL S. DEMAPLAN, Chief Justice


ALEXANDRO C. CASTRO, Associate Justice


MICHAEL A. WHITE, Special Judge