

**Gregorio Sablan MENDIOLA and  
Magdalena King Mendiola,  
individually and as personal  
representatives of Brian King  
Mendiola, Deceased**

**vs.**

**GOVERNMENT OF THE  
NORTHERN MARIANA  
ISLANDS**

**Civil Appeal No. 80-9018  
Civil Action No. 79-026  
District Court NMI  
Appellate Division**

**Decided January 7, 1981**

**1. Appellate Procedure - Payment  
of Fees**

Where Commonwealth government was told by Clerk of the District Court that no docket fee was required, the appeal will not be dismissed for failure of the government to pay the fee. District Court R.App. Proc. 8.

**2. Appellate Procedure -  
Dismissal of Appeal**

"Oversight" on the part of government counsel and "the press of other urgent matters" do not constitute good cause for the failure timely to file a designation of the record and, accordingly, the government's appeal would be dismissed. District Court R.App.Proc. 11(b).

FILED  
Clerk  
District Court

JAN 07 1981

of the Northern Mariana Islands  
*[Signature]*

IN THE DISTRICT COURT  
FOR THE  
NORTHERN MARIANA ISLANDS

APPELLATE DIVISION

GREGORIO SABLAN MENDIOLA and )  
MAGDALENA KING MENDIOLA, )  
individually and as personal )  
representatives of BRIAN )  
KING MENDIOLA, Deceased, )

Plaintiffs-Appellees,

vs.

GOVERNMENT OF THE NORTHERN  
MARIANA ISLANDS,

Defendant-Appellant.

CIVIL APPEAL NO. 80-9018

Civil Action No. 79-026

O R D E R

ORDER

Appellees' motion to dismiss the Commonwealth's appeal came on for hearing before the Court on December 29, 1980. No motion or request for extension of time was made by appellant prior to the expiration of the applicable times set forth in the rules. The grounds for the motion are that:

1. The appellant failed to pay the \$25.00 docket fee as required by Rule 8 of the Rules of Appellate Procedure of the District Court for the Northern Mariana Islands (hereinafter "Appellate Rules").

2. The appellant did not order a transcript of the proceedings from the court reporter within 10 days after the filing of the notice of appeal as required by Rule 6(b) of the Appellate Rules.

3. The record on appeal was not transmitted to the District Court within 60 days after the filing of the notice of appeal as required by Rule 7(a) of the Appellate Rules.

## THE DOCKET FEE

[1] Rule 8 of the Appellate Rules is silent on whether the docket fee is required of the Commonwealth Government. The non-payment of the docket fee by the appellant in this case was the direct result of information received by the appellant from the Clerk's Office of the District Court wherein it was opined that the Commonwealth Government was exempt from payment of the docket fees. For this reason, the Court finds that the Commonwealth's appeal should not be dismissed on the basis of failure to pay the docket fee.

Now being informed that docket fees are not required of the United States upon appeal to the Court of Appeals for the Ninth Circuit, and in conformance thereof, the Court will cause to be filed an amendment to the Appellate Rules of the District Court exempting the governments of the United States, Commonwealth of the Northern Mariana Islands, and Trust Territory of the Pacific Islands from the payment of docket fees as presently required therein.

## THE TRANSCRIPT AND THE RECORD ON APPEAL

[2] In its affidavit filed on December 22, 1980, the appellant averred that it was "unable to file the designation (of record) because of demands made... by several other cases and related matters." Its failure to order the transcript in a timely fashion was, as stated in its memorandum of December 24, 1980, due to an "oversight on the part of appellant's counsel and the press of other urgent matters."

None of these reasons constitute the "good cause" required by Rule 11(b) of the Appellate Rules for an enlargement of time for the proceedings required of an appellant in perfecting an appeal. Nor are they sufficient to overcome the failure to comply with the above-cited rules requiring the processing of an appeal to the appellate division of this Court.

Appellant believes that the "interests of justice" would be best served by the Court's granting of relief in this matter. Upon review of the file in the above-captioned case, and considering the reasons for its failure to file cited by the Commonwealth in its affidavit and memorandum, the Court finds that justice in this case clearly lies in favor of granting appellees' motion.

Accordingly, it is ORDERED that the appellees' motion be, and the same hereby is, GRANTED, and it is further ORDERED that the appeal of the Commonwealth is hereby DISMISSED.

SO ORDERED.

Dated: Saipan, Northern Mariana Islands this 7<sup>th</sup> day  
of JANUARY, 1981.



ALFRED LAURETA  
Judge of the above-entitled Court