

**In Re the Matter of Antono P.  
VILLANUEVA**

**Disciplinary Case No. 1-82  
Civil Action No. 83-9001  
District Court NMI  
Appellate Division**

**Decided April 2, 1984**

**As Amended on September 11,  
1984**

**1. Attorneys - Discipline**

Disciplinary matters for attorneys and trial assistants are unique proceedings within the inherent authority and control of the courts to regulate the practice of law, whether in or out of court.

**2. Appeal and Error - Jurisdiction of Appellate Division**

The Appellate Division of the District Court has jurisdiction of the decisions of the Disciplinary Panel of the Commonwealth Trial Court. 1 CMC §3301.

**3. Attorneys - Discipline**

While the Disciplinary Panel is free to interpret existing rules of practice on a case-by-case basis, it may not modify, redefine or expand those rules without following constitutionally mandated procedure.

**4. Attorneys - Discipline**

The Disciplinary Panel has broad discretion in prescribing terms of discipline.

**5. Attorneys - Discipline**

The Trial Court, to control the conduct of its own affairs and to maintain its own dignity, has the inherent power, independent of statute, to deal with any

alleged misconduct in a just and equitable manner.

**6. Attorneys - Discipline**

The exercise by the trial court of its inherent power to govern the practice of law within its jurisdiction will not be disturbed where the action taken has a rational connection to the public interest.

**7. Attorneys - Discipline**

Where trial assistant was placed on probation by District Court of Guam in connection with a criminal matter, trial court's discipline order suspending license to practice in the Commonwealth for period of probation was rationally related to public interest and would be upheld.

**8. Attorneys - Ethics**

Professional responsibility is the basic requirement for all attorneys, trial assistants, and other officers and administrators of the court in order to maintain the highest possible level of morality in the judicial system.

**9. Attorneys - Trial Assistants**

Trial assistant, even though not educated as a lawyer, is held to same standard of ethical competence.

**10. Attorneys - Discipline**

Order of Disciplinary panel requiring trial assistant to pass the Professional Responsibility Examination before suspension of license to practice is lifted was reasonable. [As Amended]

**11. Attorneys - Discipline - Trial Assistants**

Limitations in disciplinary order that clarify existing rules applicable to trial assistants were proper. NMI Const., Art. IV, §8; P.L. 1-5, §3.

**12. Attorneys - Trial Assistants -  
Limitations**

Limitation in disciplinary order that purported to restrict trial assistant to trial work and prevent him from conducting a general law practice was invalid under existing Rules of Criminal Procedure. NMI Const., Art. IV, §8; Trust Territory Rule Crim. Pro. 3(f).

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**FILED**  
Clerk  
District Court

**APR 02 1984**

IN THE DISTRICT COURT For The Northern Mariana Islands  
By \_\_\_\_\_  
(Secretary Clerk)  
FOR THE  
NORTHERN MARIANA ISLANDS  
APPELLATE DIVISION

IN RE THE MATTER OF ANTONIO P. ) DISCIPLINARY CASE NO. 1-82  
VILLANUEVA, ) DCA CASE NO. 83-9001  
)  
Trial Assistant/Appellant. ) OPINION

Appeal from the Disciplinary Panel of the  
Commonwealth Trial Court for the Northern Mariana Islands  
Argued and Submitted January 20, 1984

Judges Hefner, Soll, and Moore, Presiding

BEFORE: Judges LAURETA, KEEP and LANE.\*

LANE, Judge Designate:

The appellant has appealed from a three-judge Disciplinary Panel Order of the Trial Court of the Commonwealth of the Northern Mariana Islands.

\* Honorable Alan L. Lane, Associate Justice, Supreme Court of the Republic of Palau, designated by the Chief Judge of the Commonwealth Trial Court in accordance with P.L. 1-5 and sitting on this panel in compliance with the requirements of 48 USC §1694b.

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The Disciplinary Panel ordered among other things not subject to this appeal, that appellant be suspended from practicing law as a trial assistant in the Commonwealth for his conviction of 28 U.S.C., 952(a) and 960. The period of suspension follows the term of probation imposed in Criminal Case No. 83-00022, District Court, Guam. In addition to the foregoing, the Panel ordered that appellant take and pass the Professional Responsibility Examination administered by the Commonwealth Trial Court before he may again commence to practice as a trial assistant. The Panel also placed certain restrictions on appellant's practice of law after his term of suspension is lifted. Appellant's conduct leading to the disciplinary action taken by the Panel is not in issue.

The issues presented for review are:

1. Does the District Court of Appeals for the Northern Mariana Islands have jurisdiction in this matter?
2. Did the Disciplinary Panel err by placing restrictions on appellant's practice when and if he practices law as a trial assistant after his suspension is lifted?
3. Was appellant's term of suspension an abuse of discretion?
4. Was the requirement that appellant take and pass the Professional Responsibility Examination before his suspension will be lifted an abuse of discretion?

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APPELLATE JURISDICTION

Appellee challenges the jurisdiction of this Court to hear an appeal from the Disciplinary Panel Order of the Commonwealth Trial Court. It is argued that the Disciplinary Panel's action is an administrative proceeding, the results of which must be confirmed by the Commonwealth Trial Court before the issue may be appealed to this Court. Appellee contends that appellant must first file such an action with the Trial Court before any decision may be considered final for purposes of appellate review. We disagree.

[1] Disciplinary matters for attorneys and trial assistants are unique proceedings within the authority and control of the courts. The courts have the inherent power to regulate the practice of law, whether in or out of court. The question presented here is whether or not the Disciplinary Panel's Order is considered a final judgment of the Trial Court which may be appealed to this Court.

[2] The Commonwealth Trial Court, pursuant to Public Law No. 1-5 and the Constitution, along with its inherent power, has prescribed Rules of Court for disciplinary cases. These Rules create a procedure whereby the matter of discipline is heard and decided by a panel of three Commonwealth Trial Court judges. The Rules do not limit the Panel's scope of inquiry or power of enforcement.

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We are of the opinion that the Disciplinary Panel, in its Order, attempted to enhance and expand the limitations placed on trial assistants by the Trust Territory High Court. Article IV, § 8 of the Commonwealth Constitution provides:

"Section 8: Rule-Making Power. The judiciary of the Commonwealth may propose rules governing civil and criminal procedure, judicial ethics, admission to and governance of the bar of the Commonwealth, and other matters of judicial administration. A proposed rule shall be submitted promptly to the legislature and shall become effective sixty days after submission unless disapproved by a majority of the members of either house of the legislature. Until rules are established under this section, the rules of the High Court of the Trust Territory of the Pacific Islands shall apply in the Commonwealth courts."

To attempt an expansion of the existing Rules by Panel Order would circumvent the constitutional mandate of Article IV, § 8.

If it is necessary to further restrict and redefine the role of the trial assistant in the Commonwealth, the Trial Court should enact its own Rules of Admission and Practice in accordance with the Constitution and the laws of the Commonwealth. With respect to the instant case, the restrictions of practice placed on appellant after his suspension is lifted should be stricken from the Order.

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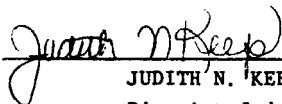
CONCLUSION

The Order of the Disciplinary Panel is modified by striking the restrictions of practice imposed on appellant after his term of suspension is satisfied. With this modification included, the Order of the Disciplinary Panel is affirmed.



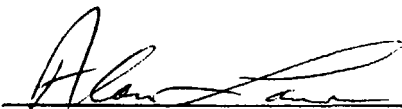
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ALFRED LAURETA  
District Judge



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JUDITH N. KEEP  
District Judge



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ALAN L. LANE  
Judge Designate

FILED  
Clerk  
District Court

SEP 11 1984

For The Northern Mariana Islands

By Alan L. Lane  
(Deputy Clerk)

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4 IN THE DISTRICT COURT  
5 FOR THE  
6 NORTHERN MARIANA ISLANDS  
7  
8 APPELLATE DIVISION

8 IN RE THE MATTER OF ANTONIO ) DISCIPLINARY CASE NO. 1-82  
9 P. VILLANUEVA, ) DCA CASE NO. 83-9001  
10 Trial Assistant/Appellant.) DECISION RE MOTION FOR  
REHEARING

11  
12 BEFORE: Judges LAURETA, KEEP and LANE\*

13 PER CURIAM:

14 We have considered the petition for rehearing and amend  
15 our opinion of April 2, 1983 as follows:

16 Page 1, line 11: Insert the word "AMENDED" before the  
17 word "OPINION".

18 Page 4: Delete the entire paragraph that commences with  
19 the word "Since" on line 1 and ends with the word "jurisdiction."  
20 on line 6, and substitute therefore the following paragraph:

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24 \*Honorable Alan L. Lane, Associate Justice, Supreme Court of the  
25 Republic of Palau, designated by the Chief Judge of the Common-  
26 wealth Trial Court in accordance with P.L. 1-5 and sitting on  
this panel in compliance with the requirements of 48 U.S.C.  
§ 1694b.

1           "The statute regarding the appellate jurisdiction of  
2 this Court (1 CMC § 3301) provides for jurisdiction of "all  
3 appeals from final judgments, final orders, and final decrees in  
4 criminal cases and civil cases and proceedings." On its face,  
5 the statute appears to be drafted as broadly as possible. There  
6 are no exceptions and no other appellate tribunals. To adopt  
7 appellees argument would be to deprive a class of persons such as  
8 appellant review of what is readily termed a "proceeding" of the  
9 trial court. There is no indication of such intent in the  
10 statute nor in the structure of the Commonwealth judicial system.  
11 Accordingly, this Court has proper jurisdiction to hear this  
12 appeal."

13           Page 5: Delete the entire paragraph that commences with  
14 the word "If" on line 16 and ends with the word "order." on line  
15 22, and substitute therefore the following six paragraphs:

16 [U]        "In its Order, the Disciplinary Panel attempts to  
17 define the existing rules applicable to the legal practice of  
18 trial assistants in several respects. We address each in turn in  
19 order to ensure the clarity of our opinion.

20           "First, the Panel orders that trial assistants are to  
21 be bound by the rules and regulations in existence at the time of  
22 the adoption of P.L. 1-5. That trial assistants are so bound is  
23 clearly indicated in Art. IV, § 8 of the Constitution and in  
24 Section 3 of P.L. 1-5 and is beyond dispute. The order is  
25 nothing more than a reiteration of existing rules.

26           "Second, the Order requires that trial assistants use

1 only the designation "Trial Assistant" in the performance of  
2 their functions. Under Rule 3(f) of the Rules of Criminal Proce-  
3 dure (reprinted in Trust Territory Code (1965 revision) at pre-  
4 face pages 73-74) "a person ... listed as a trial assistant shall  
5 not represent to anyone that he is a lawyer or an attorney-at-  
6 law, but may state that he is a duly authorized trial assistant."  
7 This limitation is applicable in civil proceedings as well under  
8 Rule 23 of the Rules of Civil Procedure (reprinted in Trust  
9 Territory Code (1965 revision) at preface pages 63-64). These  
10 rules of the High Court apply in the Commonwealth by way of the  
11 transitional provisions of Art. IV, § 8. Accordingly, the  
12 identical limitation reasserted in the Order is proper.

13 "Third, the Panel limits the criminal practice of trial  
14 assistants to misdemeanors. Under "Amendment No. 1 to Standards  
15 of Admission for Attorneys to Practice in the Courts of the Trust  
16 Territory", "no Trial Assistants will be permitted to prosecute  
17 or defend any criminal case in the Trial Division or Appellate  
18 Division of the High Court." This order limited the practice,  
19 then, of trial assistants to the Trust Territory district courts.  
20 By an Order of the High Court dated May 5, 1978 all felony cases  
21 were to be filed in the High Court. Thus, the practice of trial  
22 assistants was effectively limited to misdemeanor cases. The  
23 Panel's Order is a proper clarification.

24 [12] "Fourth, the Order allows a judge to remove a trial  
25 assistant from further participation in a case if it appears to  
26 the judge that a party cannot be adequately represented by a

1 trial assistant. Again, this limitation originally appeared in  
2 "Amendment No. 1", supra, and is appropriate.

3 "Lastly, the Panel's Order includes the following:

4 The very term "Trial Assistant"  
5 indicates that the services to be  
6 performed are trial oriented and he  
7 may not conduct a general law  
8 practice such as the drafting of  
9 wills, deeds, contracts, or the  
10 giving of legal advice.

11 However, the only existing rules state:

12 f. Trial Assistants. Any  
13 person who is not a lawyer and who  
14 wishes to act as counsel in more  
15 than one or two cases a year in the  
16 Trust Territory Courts, shall be  
17 examined personally by the Trial  
18 Division of the High Court, which  
19 shall make such investigations as  
20 it deems necessary of the person's  
21 character and training. If he is  
22 found suitable, the Trial Division  
23 of the High Court shall order him  
24 listed in the Clerk of Courts'  
25 office in the District in which he  
26 wishes to act principally as a  
"trial assistant," upon his signing  
and swearing to the oath set forth  
in the preceding paragraph. His  
signed oath, with the certificate  
of the official administering the  
oath, shall be filed in the Clerk's  
office where the trial assistant is  
listed, and no court having know-  
ledge of this shall require him to  
take the oath over again except for  
special cause. A person so listed  
as a trial assistant shall not  
represent to anyone that he is a  
lawyer or an attorney-at-law, but  
may state that he is a duly autho-  
rized trial assistant.

27 Rules of Criminal Procedure 3(f), supra. We are of the opinion  
28 that while the limitation sought to be imposed may well be a

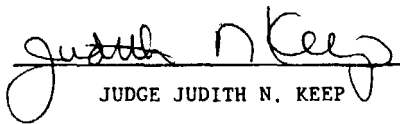
1 necessary and desirable regulation of the practice of trial  
2 assistants, it is nonetheless a limitation which exceeds any  
3 reasonable construction of existing rules. Thus, to be of legal  
4 effect, it must be promulgated in accordance with Art. IV, § 8 of  
5 the Constitution. Accordingly, this restriction on appellant is  
6 lifted and the general limitation is stricken from the Order."

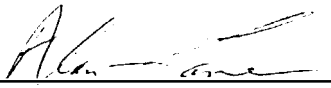
7 Page 8: Delete the paragraph commencing with the word  
8 "The" and ending with the word "affirmed." and substitute  
9 therefore the following paragraph:

10 "The Order of the Disciplinary Panel is affirmed with  
11 the modification set forth in this opinion."

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JUDGE ALFRED LAURETA

  
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JUDGE JUDITH N. KEEP

  
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JUDGE ALAN L. LANE