

**COMMONWEALTH OF THE
NORTHERN MARIANA
ISLANDS
vs.
Santiago IGUEL**

**Appellate No. 88-9016
District Court NMI
Appellate Division**

Decided April 15, 1989

**I. Drugs and Controlled
Substances - Manufacturing**

Where the only sensible construction of statute proscribing the manufacturing of marijuana is that the "personal use" exception applied to all six of the defined methods of manufacturing a controlled substance, and the evidence was clear that the confiscated plants had not yet been harvested, that defendant was only growing marijuana at the time the search warrant was executed, and in fact, the trial court specifically found that the marijuana was for defendant's personal use, defendant must be acquitted of the crime of manufacturing marijuana. 6 CMC §2141.

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN MARIANA ISLANDS

APPELLATE DIVISION

COMMONWEALTH OF THE NORTHERN)
MARIANA ISLANDS,)
)
Plaintiff/Appellee,)
)
v.)
)
SANTIAGO IGUEL,)
)
Defendant/Appellant)

DCA No. 88-9016
CTC No. 88-57

FILED
Clerk
District Court

OPINION

APR 16 1989

For The Northern Mariana Islands

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BEFORE: Judges MUNSON, and HILL,* District Judges, and HEFNER.**

HEFNER, Judge:

Defendant was convicted of manufacturing marijuana in violation of 6 CMC § 2141. For the reasons that follow, we reverse his conviction and remand for entry of a judgment of acquittal.

* The Honorable Irving Hill, Senior Judge, United States District Court for the Central District of California, sitting by designation.

** The Honorable Robert A. Hefner, Chief Judge, Commonwealth Trial Court, sitting by designation.

FACTS

1 Police officers executed a search warrant on defendant's
2 residence on April 13, 1988 and confiscated six growing marijuana
3 plants. A small amount of dried marijuana was found inside the
4 residence. Defendant was arrested and gave a statement to the
5 police in which he admitted that the seized marijuana belonged to
6 him but maintained that it was for his personal use.

7 Defendant was charged with a violation of 6 CMC § 2141,
8 which provides that "It shall be unlawful for any person
9 knowingly or intentionally . . . to manufacture, deliver or
10 possess with intent to manufacture, deliver or dispense, a
11 controlled substance." He was tried before the court, which
12 found that the marijuana confiscated was for the defendant's
13 personal use. The court nevertheless found the defendant guilty
14 of manufacturing marijuana and sentenced him to 18 months in
15 prison and 40 hours of community service. This appeal
16 followed.¹

DISCUSSION

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19 Section 2141(a)(1) of the Commonwealth Criminal Code
20 prohibits three offenses: manufacturing a controlled substance,
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23 ¹ In his papers, Iguel discusses at length the rebuttable
24 presumption of trafficking that is created from possession of 2.2
25 pounds of marijuana. It is not clear why Iguel raises
26 this issue, as he was charged with only possession of only 2
pounds of marijuana. In light of this court's disposition of the
matter, however, a discussion of the presumption issue is
unnecessary.

delivering a controlled substance, or possessing a controlled
1 substance with the intent to manufacture, deliver or dispense it.

2 6 CMC § 2141(a)(1) (1986). Defendant was convicted of
3 manufacturing marijuana in violation of this section.

4 "Manufacturing" is a defined term within the Criminal Code, and
5 is defined as

6 the production, preparation, propagation, compounding,
7 conversion or processing of a controlled substance,
8 either directly or indirectly by extraction from
9 substances of natural origin . . . except that this
term does not include the preparation or compounding of
a controlled substance by an individual for his or her
own use

10 6 CMC § 2102(m) (1986) (emphasis added). The trial judge
11 specifically found that the defendant possessed the marijuana for
12 his personal use; nevertheless, he convicted the defendant for
13 manufacturing marijuana.

14 In arguing that the conviction should be affirmed, the
15 government points out that the exemption for personal use
16 contained in § 2102(m) refers only to the acts of preparing or
17 compounding a controlled substance. The government further
18 points out that the term "manufacture" is defined as any of six
19 separate acts: producing, preparing, propagating, compounding,
20 converting, or processing a controlled substance. The government
21 concludes, and asks this court to conclude as well, that the
22 Legislature intended that only preparing or compounding a
23 controlled substance for personal use would be exempt from
24 punishment under the narcotics laws.

25 Taken to its logical extreme, the government's proposed
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1 construction of the statutes would require the conviction of a
2 person who merely grew marijuana for his personal use, but would
3 require the acquittal of a person who "prepared" the same
4 marijuana by cutting it down and leaving it to dry with the
5 intention of personally using the marijuana. Such an anomalous
6 result could not have been intended by the Legislature when it
7 created the personal use exemption, and the statute should not be
8 construed to produce such an anomalous result. E.g., Government
9 of the Virgin Islands v. Berry, 604 F.2d 221,225 (3d Cir. 1979)
10 ("All laws should receive a sensible construction.") (quoting
11 United States v. Kirby, 74 U.S. (7 Wall.) 482, 486-87 (1868)).

12 [1] The only sensible construction of the statute is that the
13 "personal use" exception applies to all six of the defined
14 methods of manufacturing a controlled substance. Applying this
15 definition to the facts of this case, Mr. Iguel's conviction must
16 be reversed. The evidence is clear that the confiscated plants
17 had not yet been harvested, and that Mr. Iguel was only growing
18 marijuana at the time the search warrant was executed. This
19 fact, in addition to the trial court's specific finding that the
20 marijuana was for Iguel's personal use, requires that Iguel be
21 acquitted of the crime with which he has been charged.

22 23 24 CONCLUSION

25 For the above-stated reasons, the defendant's conviction is
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REVERSED and the cause is REMANDED with instructions to enter a judgment of acquittal.

DATED:

April 15, 1989

Alex R. Munson
ALEX R. MUNSON, District Judge

Irving Hill
IRVING HILL, District Judge

Robert A. Hefner
ROBERT A. HEFNER, Judge