

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

IN THE MATTER OF) GENERAL ORDER 2011-ADM-0003-MSC
DECISIONS TO BE PUBLISHED)
IN THE NORTHERN MARIANA) 2004 MP 1 through 2004 MP 10;
ISLANDS REPORTER,) 2004 MP 12 through 2004 MP 26;
VOLUME SEVEN.) 2005 MP 2 through 2005 MP 4;
) 2005 MP 6 through 2005 MP 15;
) 2005 MP 17 through 2005 MP 20;
) 2006 MP 1 through 2006 MP 11;
) 2006 MP 13 through 2006 MP 26;
) 2007 MP 1 through 2007 MP 25

PER CURIAM:

I. DECISIONS REVISED BY THIS ORDER

The decisions listed below, all styled as opinions, are hereby revised by changes as set forth in section two of this order. Some decisions have previously been revised by amended opinions or errata orders. The published decisions will constitute the final versions of the decisions.

1. *Reyes v. Reyes*, 2004 MP 1
2. *Babauta v. Babauta*, 2004 MP 2
3. *Commonwealth v. Deleon Guerrero*, 2004 MP 3
4. *Island Leisure Corp. v. Rasa*, 2004 MP 4
5. *Commonwealth v. Jai Hoon Yoo*, 2004 MP 5
6. *Office of the Attorney Gen. v. Senido*, 2004 MP 6
7. *In re Estate of Roberto*, 2004 MP 7
8. *Commonwealth v. Repeki*, 2004 MP 8
9. *Flores v. Commonwealth*, 2004 MP 9
10. *Paulis v. Superior Court*, 2004 MP 10
11. *Commonwealth v. Rabauliman*, 2004 MP 12
12. *Commonwealth v. Mundo*, 2004 MP 13

- 1 13. *Commonwealth v. Superior Court (Ada)*, 2004 MP 14
- 2 14. *Bank of Saipan v. Superior Court*, 2004 MP 15
- 3 15. *Commonwealth v. Rabauliman*, 2004 MP 16
- 4 16. *Manglona v. Tenorio*, 2004 MP 17
- 5 17. *Teregeyo v. Fejeran*, 2004 MP 18
- 6 18. *Commonwealth v. Repeki*, 2004 MP 19
- 7 19. *Office of the Attorney General v. Estel*, 2004 MP 20
- 8 20. *Manglona v. Tenorio*, 2004 MP 21
- 9 21. *Commonwealth Development Authority v. Tenorio*, 2004 MP 22
- 10 22. *Commonwealth v. Palacios*, 2004 MP 23
- 11 23. *Office of the Attorney General v. Estel*, 2004 MP 24
- 12 24. *Health Professional Corporation v. Superior Court*, 2004 MP 25
- 13 25. *Commonwealth v. Blas*, 2004 MP 26
- 14 26. *Mendiola v. Commonwealth Utils. Corp.*, 2005 MP 2
- 15 27. *Bank of Saipan v. Atalig*, 2005 MP 3
- 16 28. *Santos v. STS Enterprises, Inc.*, 2005 MP 4
- 17 29. *Dept. of Public Safety v. Civil Svc. Comm'n (Chong)*, 2005 MP 6
- 18 30. *Falcon v. McCue*, 2005 MP 7
- 19 31. *Commonwealth v. Attao*, 2005 MP 8
- 20 32. *Commonwealth v. Taisacan*, 2005 MP 9
- 21 33. *Merci Corp. v. World International Corp.*, 2005 MP 10
- 22 34. *Pacific Amusement v. Villanueva*, 2005 MP 11
- 23 35. *Villanueva v. Tinian Shipping and Transp., Inc.*, 2005 MP 12
- 24 36. *In re Fleming*, 2005 MP 13
- 25 37. *Pacific Amusement v. Villanueva II*, 2005 MP 14
- 26 38. *Manglona v. Commonwealth*, 2005 MP 15
- 27 39. *Commonwealth v. Manila*, 2005 MP 17
- 28 40. *Commonwealth v. Crisostimo*, 2005 MP 18
41. *Commonwealth v. Jong Hun Lee*, 2005 MP 19
42. *Commonwealth v. Taitano*, 2005 MP 20
43. *Atalig v. Inos*, 2006 MP 1
44. *In Sik Chang v. Estate of Norita*, 2006 MP 2

- 1 45. *Kevin Int'l Corp. v. Superior Court*, 2006 MP 3
- 2 46. *Northern Marianas College v. Civil Service Comm'n*, 2006 MP 4
- 3 47. *Liu v. Commonwealth*, 2006 MP 5
- 4 48. *Sattler v. Mathis*, 2006 MP 6
- 5 49. *Tudela v. Superior Court*, 2006 MP 7
- 6 50. *Pacific Amusement v. Villanueva III*, 2006 MP 8
- 7 51. *Ishimatsu v. Royal Crown Ins. Corp.*, 2006 MP 9
- 8 52. *Century Ins. Co. Ltd. v. TAC Int'l Constructors, Inc.*, 2006 MP 10
- 9 53. *Sullivan v. Tarope*, 2006 MP 11
- 10 54. *Aplus Co. Ltd. v. Niizeki Int'l Saipan Co. Ltd.*, 2006 MP 13
- 11 55. *Commonwealth v. Chen*, 2006 MP 14
- 12 56. *Waibel v. Farber*, 2006 MP 15
- 13 57. *Demapan v. Bank of Guam*, 2006 MP 16
- 14 58. *Pacific Security Alarm, Inc. v. CPA*, 2006 MP 17
- 15 59. *Indalecio v. Yarofalir*, 2006 MP 18
- 16 60. *Commonwealth v. Pua*, 2006 MP 19
- 17 61. *Commonwealth v. Kumagai*, 2006 MP 20
- 18 62. *Villagomez v. MICO*, 2006 MP 21
- 19 63. *Tenorio Enterprises, Inc. v. Uddin*, 2006 MP 22
- 20 64. *NMHC v. Flores*, 2006 MP 23
- 21 65. *Commonwealth v. Perez*, 2006 MP 24
- 22 66. *Matsunaga v. Matsunaga*, 2006 MP 25
- 23 67. *Guerrero v. Tinian Dynasty Hotel*, 2006 MP 26
- 24 68. *Bank of Guam v. Mendiola et al.*, 2007 MP 1
- 25 69. *Aguon v. Aguon*, 2007 MP 2
- 26 70. *Malite v. Tudela et al.*, 2007 MP 3
- 27 71. *Chen's Corporation v. Hambros*, 2007 MP 4
- 28 72. *Bank of Saipan v. Martens*, 2007 MP 5
73. *Commonwealth v. Milliondaga*, 2007 MP 6
74. *Commonwealth v. Crisostomo*, 2007 MP 7
75. *Northern Marianas College v. Civil Service Comm'n II*, 2007 MP 8
76. *Commonwealth v. Castro*, 2007 MP 9

- 1 77. *N.M.I. Scholarship Board v. Superior Court*, 2007 MP 10
2 78. *Tan v. Younis*, 2007 MP 11
3 79. *Commonwealth v. Yao*, 2007 MP 12
4 80. *Park v. Kim*, 2007 MP 13
5 81. *In re Pangelinan*, 2007 MP 14
6 82. *Shaffer v. Superior Court*, 2007 MP 15
7 83. *Estate of Muna v. Commonwealth*, 2007 MP 16
8 84. *Commonwealth v. Blas*, 2007 MP 17
9 85. *Tudela et al. v. Superior Court*, 2007 MP 18
10 86. *Commonwealth v. Appleby*, 2007 MP 19
11 87. *Commonwealth v. Shoiter*, 2007 MP 20
12 88. *Commonwealth v. Li*, 2007 MP 21
13 89. *CPA v. Tinian Shipping Co.*, 2007 MP 22
14 90. *Triple J Saipan, Inc. v. Sanchez*, 2007 MP 23
15 91. *Marianas Ins. Co. v. CPA*, 2007 MP 24
16 92. *Commonwealth v. Andrew*, 2007 MP 25

17 II. GENERAL REVISIONS

18 Preparatory to publication, citation format and style of opinions have been revised in
19 accordance with the *Northern Mariana Island Supreme Court Style Manual for Judicial*
20 *Decisions*, attached to and incorporated into this order.

21 In addition, the following revisions have been made:

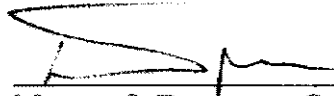
- 22 1. The date of issuance has been inserted after the case name and number
23 in the caption and deleted elsewhere in each decision.
- 24 2. For counsel listed in opinions, all address information except the name
25 of the attorney, the firm of the attorney, and the island have been
26 deleted.
- 27 3. All slip opinion citations to cases have been changed to the proper
28 citation, and page or paragraph number citations have been corrected.
Public domain (universal) citations and paragraph numbers have been
corrected and inserted in conformance with ABA recommendations
and the N.M.I. style manual for judicial decisions, where appropriate.

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4. Errors in other citations have been corrected and redundant full citations have been correctly shortened.
 5. Punctuation, spelling and minor grammatical errors have been corrected, unless the meaning could conceivably be altered by the correction.
 6. Names and signatures of justices or justices pro tempore at the end of each decision have been deleted, and surnames only of justices have been used in captioning.

8 SO ORDERED.

9 Entered this 25th day March of 2011.

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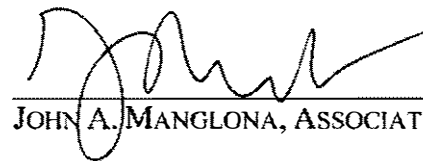
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MIGUEL S. DEMAPAN, CHIEF JUSTICE

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ALEXANDRO C. CASTRO, ASSOCIATE JUSTICE

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JOHN A. MANGLONA, ASSOCIATE JUSTICE

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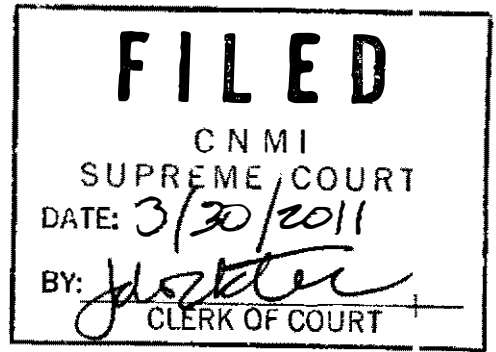
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IN THE SUPREME COURT
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IN THE MATTER OF)
DECISIONS TO BE PUBLISHED)
IN NORTHERN MARIANA)
ISLANDS REPORTER,)
VOLUME SEVEN.)
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ERRATA ORDER
2011-ADM-0003-MSC

PER CURIAM:

I. DECISIONS REVISED BY THIS ORDER

The decisions listed below, all styled as opinions, require substantive revision. They are hereby revised by changes as set forth in section two of this order. The published decisions containing all revisions shall constitute the final versions of the decisions.

1. *Commonwealth v. Taitano*, 2005 MP 20
2. *Kevin Int'l Corp. v. Superior Court*, 2006 MP 3
3. *Liu v. CNMI*, 2006 MP 5
4. *Sattler v. Mathis*, 2006 MP 6
5. *Commonwealth v. Pua*, 2006 MP 19
6. *Bank of Saipan v. Martens*, 2007 MP 5
7. *Commonwealth v. Milliondaga*, 2007 MP 6
8. *Tan v. Younis*, 2007 MP 11
9. *Estate of Muna v. Commonwealth*, 2007 MP 16

10. *Commonwealth v. Blas*, 2007 MP 17

II. REVISIONS

1. *Commonwealth v. Taitano*, 2005 MP 20 ¶ 28 shall read as follows:

¶28 ...the trial court must consider the factors set forth in *United States v. Cook*, 608 F.2d 1175, 1185 n. 9 (9th Cir. 1979) (en banc). (continuation omitted.)

2. *Kevin Int'l Corp. v. Superior Court*, 2006 MP 3 Supreme Court Original Action Number shall read as follows:

Supreme Court Original Action No. 06-0009-GA.

Attorneys of Record shall read as follows:

For Plaintiff-Petitioner: Viola Alepuyo, Saipan.

For Defendant-Real Party in Interest: Steven Carrara, Saipan.

3. *Liu v. CNMI*, 2006 MP 5 ¶ 27 shall read as follows:

¶27 ...The Petitioner cites *Unites States v. Fanfan*, 2004 WL 1723114, 2004 U.S. Dist. LEXIS 18593 (D.Me. June 28, 2004)...Petitioner likens the grant of certiorari in *Fanfan*, which sought to review the effects of the *Blakely v. Washington*, 542 U.S. 296 (2004)...the *Blakely* decision... (continuation omitted.)

4. *Sattler v. Mathis*, 2006 MP 6 ¶ 8 shall read as follows:

¶8 Looking beyond our own decisions, to those we have relief on in the past, is more helpful. Our precedent stems primarily from an Idaho case, *Krebs v. Krebs*, 759 P.2d 77 (1988) (discussed below), and from a Ninth Circuit decision, *U.S. v. McConney*, 728 F.2d 1195 (9th Cir. 1984). (continuation omitted.)

5. *Commonwealth v. Pua*, 2006 MP 19 ¶ 10 shall read as follows:

¶10 Aside from the fact that the Attorney General did not “certif[y] to the Superior Court that the appeal is not taken for purpose of delay and that the evidence is a substantial proof of

1 a fact material in the proceeding” – which will not necessarily defeat jurisdiction, *see U.S. v.*
2 *Becker*, 929 F.2d 442, 445 (9th Cir. 1991) (finding that failure to certify pursuant to
3 analogous federal statute is correctable at the court’s discretion) – this statute is clearly
4 inapplicable to the present case. (*continuation omitted.*)

5 **6. *Commonwealth v. Pua*, 2006 MP 19 ¶ 16 shall read as follows:**

6 ¶16 Furthermore, we are not the first court to find mandamus jurisdiction may be
7 accorded even when appellate jurisdiction is lacking. In *U.S. v. Barker*, 1 F.3d 957, 959 (9th
8 Cir. 1989), the Ninth Circuit held that where the Government had plead in the alternative for
9 1) jurisdiction pursuant to 18 U.S.C. § 3731 (the federal analog to our 6 CMC § 8101), or 2)
10 mandamus relief, even though no jurisdiction could be had under 18 U.S.C. § 3731,
11 mandamus relief was still available due to the gravity of issue. *See also U.S. v. Collamore*,
12 868 F.2d 24, 30 (1st Cir. 1989) (holding similarly that mandamus was proper when 18 U.S.C.
13 § 3731 jurisdiction was questionable.) (*continuation omitted.*)

14 **7. *Bank of Saipan v. Martens*, 2007 MP 5 ¶ 14 shall read as follows:**

15 ¶14 . . . The question in each case is whether under all the circumstances the remedy was
16 pursued with reasonable dispatch. *See McDaniel v. U.S. Dist. Court*, 127 F.3d 886, 890 n.1
17 (9th Cir. 1997) (Rymer, Circuit Judge, concurring, *citing United States v. Olds*, 426 F.2d 562
18 (3rd Cir. 1970)). (*continuation omitted.*)

19 **8. *Commonwealth v. Milliondaga*, 2007 MP 6 ¶ 6 shall read as follows:**

20 ¶6 . . . Two provisions are not the same offense if each contains an element not included
21 in the other. *Hudson v. United States*, 522 U.S. 93, 107 (1997) (Stevens, J. concurring).
22 (*continuation omitted.*)

23 **9. *Tan v. Younis*, 2007 MP 11 ¶ 36 shall read as follows:**

1 ¶36 So strong is the Constitutional protection of free expression that it even contemplates
2 and protects a degree of abuse. “[E]rroneous statement is inevitable in free debate, and . . . it
3 must be protected if the freedoms of expression are to have the ‘breathing space’ that they
4 ‘need to survive.’” *Brown v. Hartlage*, 456 U.S. 45, 60, 102 S. Ct. 1523, 71 L. Ed. 2d 732
5 (1982) (citations omitted). Indeed, “[s]ome degree of abuse is inseparable from the proper
6 use of every thing; and in no instance is this more true than in that of the press.” *New York*
7 *Times*, 376 U.S. at 271 (quoting James Madison, 4 *Elliot’s Debates on the Federal*
8 *Constitution* 571 (1856)).

10 **10. *Estate of Muna v. Commonwealth*, 2007 MP 16 ¶ 13 shall read as follows:**

11 ¶13 The Fifth Amendment of the United States Constitution and the Constitution of the
12 Commonwealth of the Northern Mariana Islands Constitution require that when private
13 property is taken for public use by eminent domain, “just compensation” must be provided to
14 the owner. *Kirby Forest Indus., Inc. v. United States*, 467 U.S. 1, 9 (1984).

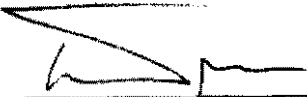
16 **11. *Commonwealth v. Blas*, 2007 MP 17 ¶ 3 shall read as follows:**

17 ¶3 The Commonwealth charged Blas with vehicular homicide, reckless driving, and
18 driving under the influence of alcohol. On October 18, 2004, the jury heard the vehicular
19 homicide charge, while the trial court heard the reckless driving and driving under the
20 influence charges. On November 2, 2004, the jury returned a verdict acquitting Blas on the
21 vehicular homicide charge, but the trial court found him guilty of reckless driving and
22 driving under the influence of alcohol. Blas timely appealed.
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26 SO ORDERED.

27 Entered this 30th day March of 2011.
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MIGUEL S. DEMAPAN, CHIEF JUSTICE



ALEXANDRO C. CASTRO, ASSOCIATE JUSTICE



JOHN A. MANGLONA, ASSOCIATE JUSTICE