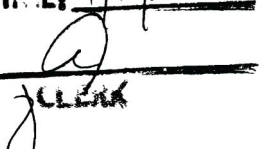


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CNMI SUPREME COURT
DATE/11. E. 7/11/01 3:21
BY: 
J. CLERK

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

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
Plaintiff-Appellant

v.

LUFO DON QUIAMBAO BABAUTA,
Defendant-Appellee

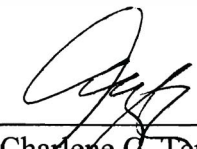
Cite as: *CNMI -v- Babauta, 2001 MP 10*

Appeal No. 2000-017
Traffic Case No. 00-2379

JUDGMENT

¶ 1 Pursuant to Rule 36 of the Rules of Appellate Procedure, judgment is hereby entered. The Superior Court's Order dismissing the underlying traffic case is **REVERSE** and **REMANDED** for further proceedings.

Entered this 11th day of July, 2001.

By: 
Charlene C. Teregeyo
Deputy Clerk

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FOR PUBLICATION

IN THE SUPREME COURT OF THE
COMMONWEAL

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS,

Plaintiff/ Appellant

v.

LUFO DON QUIAMBAO BABAUTA,

Defendant/ Appellee.

OPINION

Cite as: *CNMI v. Babauta*, 2001 MP 10

Appeal No. 2000-017

Traffic Case No. 00-2379

Argued and Submitted April 18, 2001

For Commonwealth:

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For Babauta

Pro Se

BEFORE: DEMAPAN, Chief Justice, MANGLONA, Associate Justice and BELLAS, Justice
Pro Tempore.

DEMAPAN, Chief Justice:

¶1 The Commonwealth of the Northern Mariana Islands (“Government”) appeals the Superior Court’s Order of April 13, 2000, dismissing the underlying traffic case at arraignment. We **REVERSE** the lower court and **REMAND** the case for trial.

ISSUE PRESENTED AND STANDARD OF REVIEW

¶2 Whether the Superior Court erred in dismissing the traffic case after finding that the case was brought by way of a criminal information instead of a traffic citation. The issue is a question of law and is reviewed *de novo*. *Commonwealth v. Ramangmau*, 4 N.M.I. 227, 237 (1995).

FACTUAL AND PROCEDURAL BACKGROUND

¶3 On February 29, 2000, Lufo Don Quiambao Babauta (“Babauta”) was involved in a three-car traffic accident on Beach Road. Babauta was not cited at the scene. The Department of Public Safety Traffic Investigation Unit conducted an investigation which concluded that Babauta was at fault and recommended that he be charged with violating 9 CMC § 5251(a)¹ and 9 CMC § 5251(b).

¶4 On March 15, 2000, the Criminal Division of the Office of the Attorney General received the traffic report for review. On March 22, 2000, the Attorney General filed an information charging Babauta with violating 9 CMC § 5251(a) and (b).

¹9 CMC § 5251 (a) and (b):

(a) All motor vehicles traveling upon the public highway shall be operated at a careful, prudent rate of speed not greater than nor less than is reasonable and proper, having due regard to the surface of the highway, the width of the highway and the condition of traffic upon the highway and all other restrictions and conditions then and there existing.

(b) In no event shall any motor vehicle be operated at a speed greater than will permit it to be stopped within the assured clear distance ahead.

¶5 On March 29, 2000, Babauta was served with the information and penal summons. On April 13, 2000, at Babauta’s arraignment, the trial court dismissed the case because Babauta was not served with a traffic citation at the time of the violation.

¶6 The Government timely appeals.

ANALYSIS

I. Information for Minor Offenses

¶7 This case involves interpretation of the traffic code. The Government argues that prosecution of traffic offenses or infractions can be brought either by issuing a traffic citation or its equivalent which would be the filing of a criminal information or complaint.

¶8 The rules that are implicated in this case are Traffic Rules 2 and 3. Com. R. Traf. P. 3 provides:

Form: In traffic cases the complaint or information and summons *shall be in the form* known as the “Traffic Ticket, Complaint/Citation and Summons” substantially the same set out in the appendix of forms here. The traffic ticket Complaint/Citation and Summons shall consist of four parts [separated by carbon paper].²

Com. R. Traf. P.3(a) (emphasis added). Until Traffic Rule 3(b) is read, it would seem that only a citation would be the means of issuing a traffic ticket. However, Com. R. Traf. P. 3(b) states:

² (1) the complaint or information, printed on white paper;
(2) the abstract of court record for the state licensing authority which shall be a copy of the complaint or information, printed on yellow paper;
(3) the police record, which shall be a copy of the complaint or information, printed on pink paper;
and
(4) the summons, printed on white stock.

Their reverse sides shall be as set out in the form, with such additions or deletions as are necessary to adapt the traffic ticket, Complaint/Citation and Summons to the court involved. The notice and appearance, plea of guilty and waiver shall be printed on the summons.

Com. R. Traf. P. 3(a)1-4.

When Used. The complaint or information form shall be used in traffic cases, whether the complaint is made by a peace officer or by any other person, *or the information is made by the prosecutor.*”

Com. R. Traf. P. 3(b)(emphasis added).

¶9 In addition, Traffic Rule 2 states that “[o]ther rules and laws which govern criminal procedure shall in so far as they are applicable, implement the rules prescribed by these Rules.”

Com.R.Traf.P.2. Rule 7 of the Commonwealth Rules of Criminal Procedure provides that all offenses except misdemeanors shall be prosecuted by information.

¶10 In *CNMI v. Ramangmau*, 4 N.M.I. 227 (1995), the rules of the traffic code were implicated.

In *Ramangmau*, an information was used to charge the traffic offenses, one of which included 9 CMC § 5251, the same offense Babauta is charged with. The Court did not directly address the interpretation of the traffic rules, however, as here, the information was filed a day after the accident, not at the scene of the accident. In *Ramangmau*, the minor traffic offenses were included with the felonies in the information. As the Government argues, there is no provision in Com. R. Traf. P.3 which distinguishes minor traffic offenses from misdemeanors or felonies for purposes of prosecution.³

¶11 In reading Traffic Rules 2, 3(a) and 3(b), we conclude that a citation is not the sole way of instituting a traffic case. Under Com. R. Traf. P. 3(b), traffic offenses, even minor offenses, can be brought by filing an information.

II. Notice of the Charges Is Sufficient

¶12 We find that Babauta was provided adequate notice of the charges against him as required

³The court has accepted jurisdiction over a minor infraction case brought by information. See *CNMI v. Diaz*, Traffic No. 00-02385 (N.M.I. Super. Ct. March 23, 2000) (information alleged two counts of failure to yield in violation of 9 CMC §§ 5351(c) and 5352(a)).


in the Sixth Amendment to the United States Constitution. The Sixth Amendment provides, in part, that “[i]n all criminal prosecutions, the accused shall enjoy the right . . . to be informed of the nature and cause of the accusation.” U.S. CONST. AMEND. VI. The charging document, the criminal information, acted as the equivalent of a traffic citation. *State v. Medearis*, 165 N.W.2d 688, 692 (N.D. 1969). The Sixth Amendment is satisfied when the information is specific enough to advise the defendant of the charge against him, to enable him to prepare for trial, and to plead the result in bar of a subsequent prosecution for the same offence. *Russell v. United States*, 369 U.S. 749, 763-764, 82 S. Ct. 1038, 1047, 8 L.Ed.2d 240 (1962).

¶13 Here, the information charges Babauta with what he is violating, namely, 9 CMC § 5251 (a) and 9 CMC § 5251 (b). In addition to the language of each statute, the information contains the date of the offense and where the violation occurred. Thus, the information is sufficiently specific to satisfy the Sixth Amendment.

CONCLUSION

¶14 Based on the foregoing, this Court will **REVERSE** the Superior Court’s Order dismissing the underlying traffic case and **REMAND** this case for further proceedings.


Dated this 11 day of July, 2001.



MIGUEL S. DEMAPAN
Chief Justice



JOHN A. MANGLONA
Associate Justice



TIMOTHY H. BELLAS
Justice Pro Tempore