

FOR PUBLICATION

Appeal No. 00-022

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

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS,
Plaintiff/Appellant

v.

DWAYNE SIBETANG,
Defendant/Appellee

OPINION and ORDER DISMISSING APPEAL

Cite as: *Commonwealth v. Sibetang*, 2002 MP 9

Argued and submitted March 28, 2001

Decided May 16, 2002

For Appellant:

James J. Benedetto
Assistant Attorney General
Office of the Attorney General
Capitol Hill Admin. Building
Saipan, MP 96950

For Appellee:

Robert T. Torres, Esq.
Sers Nicholas & Torres
P.O. Box 502876 CK
Saipan, MP 96950

BEFORE: MIGUEL S. DEMAPAN, Chief Justice; ALEXANDRO C. CASTRO, Associate Justice; and JUAN T. LIZAMA, Justice *Pro Tempore*

CASTRO, Associate Justice:

INTRODUCTION

¶1 The Commonwealth of the Northern Mariana Islands [hereinafter COMMONWEALTH] timely appeals two rulings by the trial court, the first holding that individuals detained as criminal suspects are entitled to the protections of the Patient’s Rights Act [hereinafter PRA], 3 CMC §§ 2551-2564, the second mandating that COMMONWEALTH provide detainees with adequate treatment in a facility which complies with the requirements of PRA and the Involuntary Commitment Act of 1993 [hereinafter ICA], 6 CMC §§ 6601-6612.

¶2 We have jurisdiction in accordance with Article IV, Section 3 of the Constitution of the Commonwealth of the Northern Mariana Islands and 1 CMC § 3102(a).¹ We find that, under 6 CMC § 8101, COMMONWEALTH has no right to pursue this appeal. The trial court’s orders are, therefore, reinstated.

¹ In the absence of a writ of mandamus, the “final judgment rule” normally denies this Court appellate jurisdiction over interlocutory orders. *See* 1 CMC § 3102(a)-(b). We have, however, recognized the “collateral order exception” to the final judgment rule. *See Commonwealth v. Guerrero*, 3 N.M.I. 479, 481-82 (1993). Under the collateral order exception, a party may appeal “an order which (1) conclusively determines the disputed question, (2) resolves an important issue completely separate from the merits of the action, and (3) is effectively unreviewable on appeal from a final judgment.” *Id.* at 482. Notwithstanding the narrowness and stringency with which courts apply the collateral order exception, we consider this case to be quintessentially within its purview.

FACTUAL AND PROCEDURAL BACKGROUND

¶3 Appellee Dwayne Sibetang [hereinafter SIBETANG] was arrested on March 16, 2000, on various charges, including first degree murder. He was held without bail in the Division of Corrections' central male detention facility [hereinafter Detention].

¶4 On April 13, 2000, SIBETANG alleged by motion that Detention did not comport with PRA and ICA, and asked that he be transferred to the psychiatric ward of the Commonwealth Health Center [hereinafter CHC] for treatment. In opposition to the motion, COMMONWEALTH argued that CHC is insufficiently secure to protect the community from SIBETANG. COMMONWEALTH further argued that PRA applies only to involuntary civil commitments, and not to persons properly detained in a correctional facility.

¶5 In its order of May 4, 2000, the trial court denied SIBETANG'S motion, but found that he was entitled to the specific rights and protections accorded by PRA and ICA.

¶6 On May 30, 2000, SIBETANG moved for an emergency protective order precluding his transfer to CHC and compelling COMMONWEALTH to provide him with adequate treatment pursuant to PRA and ICA.

¶7 On June 29, 2000, the trial court ordered COMMONWEALTH to certify, within 14 days, that SIBETANG was being detained in a facility comporting with the requirements of ICA, and that he was being treated under an individualized written plan pursuant to PRA.

¶8 COMMONWEALTH then filed its notice of appeal and, after a similar motion was denied by the trial court, petitioned this Court for a stay of the trial court’s orders. On September 15, 2000, the stay was granted solely with respect to the perceived requirement that COMMONWEALTH modify, renovate or reconfigure an existing facility for SIBETANG. *See infra* ¶ 14 and note 2.

DISCUSSION

¶9 COMMONWEALTH’S appeal presents the question of whether PRA applies to persons detained on criminal charges. This is an issue of statutory construction and, as such, would be subject to *de novo* review. *See Commonwealth v. Saburo*, 2002 MP 3, ¶ 2.

¶10 However, as a threshold matter, we must consider whether COMMONWEALTH is entitled to appeal the trial court’s orders in this case. Because we find that COMMONWEALTH is not so entitled, we do not reach the substantive issue raised.

¶11 Under section 8101(a) of Title 6 of the Commonwealth Code, COMMONWEALTH, in a criminal matter, has a “right to appeal *only* when a written enactment intended to have the force and effect of law has been held invalid.” (emphasis added). COMMONWEALTH does not claim that any law has been invalidated.

¶12 COMMONWEALTH instead contends that this appeal does not fall under section 8101 because the disputed issue bears no relation to the adjudication of SIBETANG’S guilt. Rather, COMMONWEALTH urges, this appeal concerns the interpretation of PRA, which is civil in nature. However, the law makes no such distinction. This matter clearly arises “in a criminal case” and, thus, is squarely within the ambit of section 8101. Moreover, we have explicitly held that “[a] criminal statute

providing COMMONWEALTH with a limited right to appeal is to be strictly construed.”

Commonwealth v. Nethon, 1 N.M.I. 458, 461 (1990).

¶13 COMMONWEALTH alternatively maintains that the trial court’s orders modify the conditions of SIBETANG’S confinement, bringing them under an exception to the general rule of section 8101. However, the exception cited allows COMMONWEALTH to appeal a trial court’s denial of a motion to modify the conditions of a detainee or convict’s release. *See* 6 CMC § 8101(b) ¶ 3. The trial court could not possibly have denied a motion to modify the conditions of SIBETANG’S release since no release had been granted.

¶14 Because the trial court’s orders relating to PRA and ICA arose in the context of SIBETANG’S criminal prosecution, we find that COMMONWEALTH has no right to appeal in this case. Substantive questions as to the application and scope of PRA and ICA are, therefore, not properly before us.²

CONCLUSION

¶15 Based on the foregoing, this appeal is **DISMISSED** and the trial court’s orders are **REINSTATED**.³

² For the sake of clarification, we offer the following comment. The trial court ordered COMMONWEALTH to certify that the facility in which SIBETANG is detained comports with the requirements of ICA. Upon careful reading, we do not believe that the court dictated how such compliance must be accomplished. While the order says that “it is reasonable for the Commonwealth to modify, renovate, or reconfigure an existing facility . . . to insure [sic] that detainees and inmates with mental illness . . . will be managed appropriately,” we would not consider this a binding mandate. Rather, it is an observational remark. COMMONWEALTH may choose a different course of action, so long as its treatment of detainees and inmates conforms to the patient’s rights statutes.

³ This challenge should have been raised through a motion to dismiss, pursuant to Com. R. App. P. 27(a). Ideally, such a motion would have been made soon after COMMONWEALTH filed its appeal, sparing the parties and this Court from expending considerable human and financial resources on an untenable petition. A motion to dismiss also would have served SIBETANG’S interests by expediting the delivery of suitable medical treatment.

SO ORDERED THIS 16TH DAY OF MAY, 2002.

/s/ _____
MIGUEL S. DEMAPAN, Chief Justice

/s/ _____
ALEXANDRO C. CASTRO, Associate Justice

/s/ _____
JUAN T. LIZAMA, Justice *Pro Tempore*