

FOR PUBLICATION

Appeal No. 01-012

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

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS,

Plaintiff-Appellee,

v.

LUIS DLG. CAMACHO,

Defendant-Appellant.

Opinion

Cite as: *Commonwealth v. Camacho*, 2002 MP 22

Hearing held March 19, 2002

Decided October 15, 2002

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BEFORE: MIGUEL S. DEMAPAN, Chief Justice; ALEXANDRO C. CASTRO, Associate Justice; JOHN A. MANGLONA, Associate Justice.

DEMAPAN, Chief Justice:

¶1 Appellant Luis Dlg. Camacho [hereinafter Camacho] appeals the trial court's decision not to order a competency hearing prior to conviction. Camacho also appeals the trial court's denial of Camacho's motion to disqualify the trial court judge. We have jurisdiction pursuant to Article IV, Section 3 of the Constitution of the Commonwealth of the Northern Mariana Islands and 1 CMC § 3102(a). We affirm.

ISSUES PRESENTED AND STANDARD OF REVIEW

¶2 The issues presented for our review are:

1. Whether the court violated Camacho's due process rights by not ordering a competency hearing prior to conviction. 6 CMC § 6603. The standard of review is abuse of discretion. *United States v. Clark*, 617 F.2d 180, 185 (9th Cir. 1980).
 2. Whether the trial court judge erred in not disqualifying himself. The standard of review is abuse of discretion. *Commonwealth v. Kaipat*, 1996 MP 20 ¶ 3, 5 N.M.I. 36, 37.
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FACTUAL AND PROCEDURAL BACKGROUND

¶3 On April 27, 2001, the trial court issued a judgment order finding Camacho guilty of two counts of Escape, a violation of 6 CMC § 3203.¹ Excerpts of Record [hereinafter E.R.] at 17.

¶4 During his trial, which was held in the Superior Court on April 16, 2001, Camacho admitted to both elements of Escape: that he was a prisoner and that he had left custody without permission on both occasions. Camacho argued that although he escaped from jail, he did so because he was suffering from untreated psychiatric conditions. E.R. at 59.

¶5 Camacho moved for the trial court judge's disqualification. This motion was denied from the bench. The motion is premised on Camacho's claim that in 1982, the trial court judge was overheard remarking that he hates and resents people who commit crimes against children. Camacho is a convicted pedophile. Camacho timely appeals.

ANALYSIS

I. The Court Did Not Violate Camacho's Due Process Rights by Not Ordering a Psychiatric Evaluation.

¶6 Camacho argues that the trial court violated his due process rights by failing to order, *sua sponte*, an evaluation of his competency to stand trial. We disagree.

¶7 Pursuant to 6 CMC § 6603,

(a) The standard for determining competency at trial and sentencing is

¹ This statute provides:

Every person who, being a law enforcement officer, or having lawful custody of a prisoner, unlawfully, willfully or negligently allows the prisoner to depart from custody, except by due process of law; or whosoever, being a prisoner, unlawfully and willfully departs from custody, is guilty of escape, and upon conviction thereof may be imprisoned for not more than three years.
6 CMC § 3203.

whether the defendant has sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding and whether he has a rational as well as a factual understanding of the proceedings against him.

(b) A person can neither be proceeded against nor sentenced after conviction while he is incompetent as defined in this section.

¶8 There are no Commonwealth cases interpreting this statute or whether the CNMI Constitution's Due Process Clause is violated by a failure of a trial judge to order a psychiatric evaluation. However, the U.S. Supreme Court and the Ninth Circuit have developed an extensive body of jurisprudence on this issue.

¶9 The trial court must order a hearing *sua sponte* whenever it doubts the defendant's competency to stand trial based on the evaluation of all available pertinent evidence. *United States v. Ives*, 574 F.2d 1002, 1004 (9th Cir. 1978). The pertinent standard is whether the evidence as a whole raises a "'bona fide doubt' as to a defendant's competence to stand trial." *Torres v. Prunty*, 223 F.3d 1103, 1106-07 (9th Cir. 2000).

¶10 A bona fide doubt exists when there is substantial evidence that the defendant lacks "sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding." *Dusky v. United States*, 362 U.S. 402, 402, 80 S. Ct. 788, 788, 4 L. Ed. 2d 824, 825, (1960) (per curiam); *see also Torres*, 223 F.3d at 1106; *Williams v. Cal. State Prison*, 2002 U.S. App. LEXIS 18527, at *81-82 (9th Cir. 2002).

¶11 In this case, the trial court did not abuse its discretion by failing to order a competency hearing, as the evidence would not have led a reasonable judge to have a bona fide doubt as to Camacho's competency to stand trial.

¶12 Camacho calls upon the testimony of Johanes R. Taimanao, for example, to support his claim that the judge was wrong not to order a competency hearing. Mr. Taimanao, who worked as a patrol officer at the Department of Corrections during a portion of Camacho's incarceration,

testified that Camacho “looks like he’s getting paranoid inside the cell or something like that.” E.R. at 34. Mr. Taimanao also testified as to Camacho’s “restlessness” inside his cell, and testified that Camacho at times requested that his cell remain unlocked in order to reduce the stress of incarceration (a request that was granted, according to Mr. Taimanao). E.R. at 34-36. This testimony, while clearly probative on the question of Camacho’s dislike for incarceration, says nothing at all about Camacho being incompetent to stand trial. Opp’n Br. [hereinafter O.B.] at 10-11.

¶13 Camacho’s other witnesses, Thomas Sablan Muna, Christopher Deleon Guerrero, and Gregory Frank Castro, similarly add nothing to the claim that the trial court should have ordered a competency hearing. O.B. at 11-12.

¶14 Mr. Muna, a Department of Corrections employee during Camacho’s incarceration, testified that he observed Camacho “complaining of chest pain and nausea” while inside his cell. E.R. at 40. Mr. Muna also testified that Camacho said “he feel like if he’s alone inside his cell, he will feel more like anxiety problem.” E.R. at 41. Mr. Guerrero, another Department of Corrections employee who worked at the correction facility during Camacho’s incarceration, also testified that Camacho seemed agitated and troubled by incarceration. E.R. at 47-48. Finally, Mr. Castro, Director of Corrections, testified that he was aware of Camacho’s negative feelings about incarceration, and was “concerned” about Camacho receiving proper treatment for whatever problems required medical attention. E.R. at 53.

¶15 Camacho’s own testimony shows that he did escape, twice, but that he believed his escapes to be justified because he was denied psychiatric treatment and other medical attention. Even were the factual basis of this proffered justification true, however, Camacho offered no testimony at all that would suggest that he was at any time lacking in sufficient present ability to

consult with his lawyer, or that he did not have a rational as well as a factual understanding of the proceedings against him.² E.R. 58-72.

¶16 In fact, the record is devoid of any indication whatsoever that Camacho could not rationally consult with his lawyer or understand the proceedings against him. Given the dearth of evidence supporting his claim, it is impossible for this Court to find that the trial court abused its discretion by not ordering a psychiatric evaluation of Camacho.

II. The Trial Judge Did Not Err in Failing to Disqualify Himself.

¶17 Camacho claims that in 1982, Judge Timothy H. Bellas was overheard saying at a sentencing hearing that he “resented and hated people who committed pedophile crimes.” O.B. at 17. Camacho argues that “[b]ecause the defendant in fact was found guilty of being [a] pedophile, there was an appearance of bias,” and therefore Judge Bellas should have recused himself pursuant to 1 CMC § 3308(a). O.B. at 18. We disagree.

¶18 Pursuant to 1 CMC § 3308(a), “[a] justice or judge of the Commonwealth shall disqualify himself or herself in any proceeding in which his or her impartiality might reasonably be questioned.” The standard for disqualification is an objective one which focuses on whether a person with knowledge of all the circumstances would doubt the judge’s impartiality. *Commonwealth v. Caja*, 2001 MP 6 ¶¶ 18-19.

¶19 In this case, the evidence is insufficient to find that Judge Bellas abused his discretion in failing to recuse himself. The alleged comment, if made at all, was made more than 20 years ago. E.R. at 22. Additionally, though Camacho claims that the comment was made in court

² In fact, from the record, it appears that Camacho was an intelligent and active participant in his defense. E.R. 58-72.

during a sentencing hearing, he has failed to substantiate his claim with any evidence. E.R. at 22. No reasonable person would question Judge Bellas's impartiality based on this scant evidence.

CONCLUSION

¶20 For the foregoing reasons, the judgment is hereby AFFIRMED.

SO ORDERED this 15th day of October 2002.

/s/ Miguel S. Demapan
MIGUEL S. DEMAPAN, Chief Justice

/s/ Alexandro C. Castro
ALEXANDRO C. CASTRO, Associate Justice

/s/ John A. Manglona
JOHN A. MANGLONA, Associate Justice
