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

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS,
Plaintiff-Appellee,

v.

CARLITO ELCANO EGUIA,
Defendant-Appellant.

SUPREME COURT NO. 06-0036-GA
SUPERIOR COURT NOS. 03-0220 & 00-0433

Cite as: 2008 MP 17

Decided August 20, 2008

Stephen C. Woodruff, Saipan, Northern Mariana Islands, for Defendant-Appellant.
Anne-Marie Roy, Assistant Attorney General, Saipan, Northern Mariana Islands, for Plaintiff-Appellee.

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

CASTRO, J.:

¶ 1 Defendant Carlito E. Eguia ("Eguia") appeals the trial court's reinstatement of his two criminal convictions. Because the convictions were entered pursuant to 6 CMC §4105 and not under 6 CMC §4113, we find that the trial court properly reinstated the convictions. We therefore AFFIRM.

I

¶ 2 In November 2000, Eguia pled guilty to criminal mischief and was sentenced to six months imprisonment. The trial court suspended the sentence and placed Eguia on probation. The sentence was suspended under a number of conditions, including that Eguia comply with all terms of his probation as set by the Office of Adult Probation, and that he pay a $100 fine, restitution, an assessment fee, and a probation service fee. Appellant's Excerpts of Record ("ER") at 2. Eguia completed all conditions successfully. In March 2005, Eguia pled guilty to assault and battery and was sentenced to one year imprisonment. The imprisonment was again suspended, and Eguia successfully completed all terms of his probation, including the payment of a court assessment fee, the payment of a probation assessment fee, the payment of a fine, performing forty hours of community service, and writing a letter of apology to the victim of his crime. ER at 5-6.

¶ 3 On April 26, 2006, Eguia filed an ex parte application for a court order vacating his 2000 criminal mischief and 2005 assault and battery convictions. In this application, Eguia argued that he had been sentenced under 6 CMC § 4113, which requires that his record of conviction be vacated following successful completion of probation. The trial court granted the application and vacated both convictions. On June 16, 2006, the Office of the Attorney General ("AGO") filed a motion seeking a reinstatement of the convictions. The AGO argued that Eguia had actually been sentenced under 6 CMC § 4105, which did not allow for the convictions to be vacated. The trial court thereafter reinstated the convictions. This appeal followed.

II

¶ 4 Eguia argues that 6 CMC § 4113 should control the disposition of his convictions. He contends that 6 CMC § 4113 need not need be specifically cited in a sentencing order for its provisions to apply. Consequently, he claims that 6 CMC § 4113 bars the trial court from reinstating the convictions following a motion by the AGO to reconsider the order vacating them. According to Eguia, the trial court's decision to reinstate the convictions after vacating them amounts to double jeopardy and violates his rights under both the Commonwealth and the United

States Constitution. Eguia also claims that he successfully completed his probation under 6 CMC § 4113, and is entitled to have his convictions vacated. Furthermore, Eguia argues that the AGO's motion for consideration failed to meet the necessary standard for the trial court to grant it. These are questions of law, which we review de novo. *Commonwealth v. Itibus*, 1997 MP 10 ¶ 2; *Commonwealth v. Sablan*, 1996 MP 22 ¶ 2.

¶ 5 We first address the question of whether 6 CMC § 4113 applies in this case. The amended judgment and conviction order in the criminal mischief case reads in pertinent part:

> After considering the facts of this case, the recommendations of counsel, and the agreement between the parties, the Court hereby sentences the Defendant to six (6) months imprisonment, all suspended under . . . [certain] conditions[.]
> …
> Defendant [i]s . . . advised that failure to comply with any of the [required] conditions shall constitute a violation of the terms and conditions of the suspended sentence and shall subject the Defendant to revocation proceedings.

ER at 16.[1] The assault and battery judgment and commitment order states that "[a]t the hearing, Defendant orally moved to suspend the imposition of Defendant's sentence pursuant to 6 CMC § 4113. Good cause appearing the Court *denied* Defendant's motion." ER at 4 (emphasis added). Neither sentencing order applied 6 CMC § 4113 to Eguia's convictions. In fact, as noted above, the assault and battery commitment order states the opposite through the trial court's denial of Eguia's motion to suspend his sentence through 6 CMC § 4113. In *Sablan*, we unequivocally mandated that "[a]ny consideration of a 6 CMC § 4113 disposition must be specifically agreed to in the plea agreement or it must be unambiguously specified by the Superior Court since it departs from normal sentencing procedures." *Id.* ¶ 9. We recently reaffirmed this holding in *Commonwealth v. Monton*, 2008 MP 14 ¶ 6. Because neither of the trial court's sentencing orders mentioned or even alluded to 6 CMC § 4113, we find that it does not apply to Eguia's sentences.

¶ 6 As *Monton* makes clear, 6 CMC § 4113 is used as "an exception to normal sentencing procedures." *Monton* ¶ 9. Without a "clear indication that this exception has been agreed to by the parties or prescribed by the trial judge, 6 CMC § 4105 must apply." As such, we find that 6 CMC § 4105 governs Eguia's convictions in the present case. Eguia is not entitled to have the convictions removed from his record under 6 CMC § 4113.[2]

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[1] The amended judgment and conviction order included in the Appellant's Excerpts of Record is titled "Amended Judgment of Conviction and Order as to Page 2, Paragraph '3.'" ER at 15.

[2] Since 6 CMC § 4113 does not control in this case, we need not explore Eguia's other arguments regarding its application.

¶ 7 Eguia's argument that the trial court improperly granted the motion to reconsider its order vacating the convictions is also without merit. This Court has previously held that the standard for approving a motion for reconsideration in the civil context is "an intervening change of controlling law, the availability of new evidence, or the need to correct a clear error or prevent manifest injustice." *Camacho v. J.C. Tenorio Enterprises, Inc.*, 2 NMI 408, 414 (1992). The same standard for approving a motion for reconsideration applies in criminal matters. *See United States v. Banks*, Criminal No. 04-176, 2007 WL 2476761 (W.D.Pa. Aug. 9, 2007); *see also United States v. Cooper*, Criminal Action No. 04-20105-01-CM, 2007 WL 1201460 (D. Kan. April 23, 2007). In the present case, the trial court had no authority to vacate Eguia's convictions because 6 CMC § 4113 does not apply. It was clear error for the trial court to vacate the convictions, which *Camacho* explicitly sets forth as grounds for granting a motion for reconsideration. As such, we find that the trial court correctly granted the motion to reconsider.

¶ 8 Eguia finally argues that double jeopardy prohibits the trial court from vacating his convictions once the court vacated the same. Because the Commonwealth Constitution's double jeopardy provision is based upon the federal double jeopardy clause, we turn to federal case law for guidance. *Commonwealth v. Camacho*, 2002 MP 6 ¶ 47; *Commonwealth v. Oden*, 3 NMI 186, 206 (1992). We have previously noted that "[t]he federal Double Jeopardy Clause has been construed to protect a person against (1) a second prosecution for the same offense after acquittal, (2) a second prosecution for the same offense after conviction, and (3) multiple punishments for the same offense." *Oden* at 186; s*ee also Commonwealth v. Cabrera*, 1997 MP 18 ¶ 7; *Commonwealth v. Aguon*, 1997 MP 22 ¶ 8. We find that none of these situations apply in Eguia's case. Eguia pled guilty in both cases before the trial court and was never acquitted of any offense, let alone retried for one. Eguia was also not prosecuted twice for the same offense after he was convicted. Finally, he was never punished twice for the same offense. The trial court merely made an error pertaining to the handling of Eguia's sentences and later corrected it. Accordingly, we find that the trial court's decision to reinstate Eguia's convictions which were erroneously vacated does not violate Eguia's double jeopardy rights.

III

¶ 9 For the foregoing reasons, the decision of the trial court to reinstate Eguia's 2000 criminal mischief conviction and his 2005 assault and battery conviction is AFFIRMED.

Concurred:
Demapan, C.J., Manglona, J.