

Consented (RM) 03/07/09

FILED

IN THE HIGH COURT
OF THE
REPUBLIC OF THE MARSHALL ISLANDS

NOV 09 2005
Joash

ASST. CLERK OF COURTS
REPUBLIC OF MARSHALL ISLANDS

REPUBLIC OF THE MARSHALL ISLANDS,

v.

ARIEL ANEO,

defendant.

CRIMINAL CASE NO. 2005-033

ORDER OF CONVICTION AND SENTENCE

APPEARANCES : Assistant Attorney General Whitlam K. Togamae, prosecutor
Talafo Manase, Micronesian Legal Services attorney, counsel for the defendant
Defendant Ariel Aneo

CLERK : Ingrid Kabua
REPORTER : Sepe Joash

On November 9, 2005, this matter came before the Court on the Republic's July 26, 2005 Criminal Information charging the defendant Ariel Aneo with the following: Count 1, Unlawful Possession and Distribution of Narcotic Drugs, in violation of 7 MIRC 903(a) and 909(2)(a).

At the commencement of the proceedings, defense counsel submitted to the Court the defendant's November 7, 2005 Change of Plea form and advised the Court that the defendant desired to change his plea from not guilty to guilty to Count 1, Unlawful Possession and Distribution of Narcotic Drugs, under the following agreement between the Republic and the defendant:

1. the defendant pleads guilty to Count 1, Unlawful Possession and Distribution of Narcotic Drugs;
2. the defendant, who currently is in the custody of the Superintendent of Prisons at

the Majuro Jail, is sentenced to 5 years imprisonment at the jail, all of which is suspended under 31 MIRC 189 from today, November 9, 2005, with credit for time served (112 days) through July 18, 2009, under the following conditions: (a) that during the suspension period the defendant shall keep the peace and be of good behavior; (b) that the defendant shall appear before the Court whenever called upon to do so; (c) that the defendant shall not leave Majuro Atoll without the permission of the Court; (d) that the defendant shall obey all national laws and local government ordinances; (e) that the defendant shall not have any contact with Rodney Kibin or Dickerson Mathew until after the Republic's criminal cases against them are disposed of; (f) that the defendant shall appear and be a witness for the Republic in the Republic's criminal cases against Rodney Kibin and Dickerson Mathew; and (g) that when testifying in said cases the defendant shall tell the truth and furnish the truth about Rodney Kibin and Dickerson Mathew.

The Court reviewed the Change of Plea form in open court with the defendant, the defendant confirmed his change of plea to Count 1 from not guilty to guilty, and counsel confirmed their concurrence with the plea agreement. The Court afforded the defendant an opportunity to speak prior to sentencing; however, the defendant declined.

Having considered the above, the Court made the following findings:

1. the defendant understands and knowingly and intelligently waives his trial rights;
2. the defendant's waivers and plea are freely and voluntarily made;
3. the defendant understands the consequences of the plea; and
4. there is a factual basis for the plea.

The defendant having entered a plea of guilty to Unlawful Possession and Distribution of Narcotic Drugs knowingly and voluntarily, with full appreciation of the consequences of such

plea and the rights waived, and the Court having found a factual basis for the plea, the defendant's plea of guilty is accepted and the defendant is found, adjudged, and convicted of Unlawful Possession and Distribution of Narcotic Drugs. Pursuant to the plea agreement, the defendant, who currently is in the custody of the Superintendent of Prisons at the Majuro Jail, is sentenced to 5 years imprisonment at the jail, all of which is suspended under 31 MIRC 189 from today, November 9, 2005, with credit for time served (112 days) through July 18, 2009, under the following conditions: (a) that during the suspension period the defendant shall keep the peace and be of good behavior; (b) that the defendant shall appear before the Court whenever called upon to do so; (c) that the defendant shall not leave Majuro Atoll without the permission of the Court; (d) that the defendant shall obey all national laws and local government ordinances; (e) that the defendant shall not have any contact with Rodney Kibin or Dickerson Mathew until after the Republic's criminal cases against them are disposed of; (f) that the defendant shall appear and be a witness for the Republic in the Republic's criminal cases against Rodney Kibin and Dickerson Mathew; and (g) that when testifying in said cases the defendant shall tell the truth and furnish the truth about Rodney Kibin and Dickerson Mathew.

The defendant waived his right to appeal errors to the Supreme Court, except that his right to appeal is preserved as to issues of ineffectiveness or inadequacy of counsel and sentencing errors. If the defendant cannot afford the costs of the appeal, he may petition the Court to appeal *in forma pauperis*. Also, the defendant has the right to have an attorney represent him during the appeal process. If the defendant cannot afford an attorney, the Court will order that one be provided to him at no cost. If the defendant wishes to appeal, he must file a notice of appeal with the Court within 30 days of the date hereof.

Upon the successful completion of the suspension period, the defendant shall be

discharged from the suspended sentence. The defendant's failure to comply with any of the terms of suspension may result in the imposition of the unexecuted portion of the sentence less time spent on probation.

Copies of this Order of Conviction and Sentence shall be served on counsel for the parties, the defendant, and the Superintendent of Prisons.

Date: November 9, 2005.

A handwritten signature in black ink, appearing to read 'C. Ingram', written over a horizontal line.

Carl B. Ingram
Chief Justice