

IN THE HIGH COURT
OF THE
REPUBLIC OF THE MARSHALL ISLANDS

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ISLANDS,

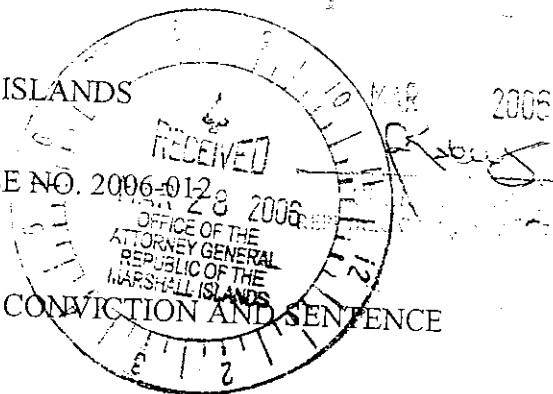
v.

PEARSON LEON,

Defendant.

CRIM. CASE NO. 2006-0128

ORDER OF CONVICTION AND SENTENCE



APPEARANCES : Assistant Attorney-General Tion Nabau, prosecutor
David Strauss, counsel for the defendant
Defendant Pearson Leon

JUDGE : Chief Justice Carl B. Ingram
CLERK : Assistant Clerk of the Courts Ingrid Kabua
REPORTER : Assistant Clerk of the Courts Lena Tiobech

On March 27, 2006, this matter came before the Court on the Republic's February 22, 2006 Criminal Information charging the defendant Pearson Leon with the following: Count 1, Attempt to Commit Sexual Assault in the First Degree, in violation of 31 MIRC 152(A)(1)(b); Count 2, Sexual Assault in the Third Degree, in violation of 31 MIRC 152(C)(1)(b); and Count 3, Sexual Assault in the Fourth Degree, in violation of 31 MIRC 152(D)(1)(a).

Defense counsel and counsel for the Republic advised the Court that the defendant wished to plead guilty to Count 2, Sexual Assault in the Third Degree, and the defendant did so plead under the following plea agreement between the Republic and the defendant:

1. the defendant pleads guilty to Count 2, Sexual Assault in the Third Degree;
2. the Republic dismisses Count 1, Attempt to Commit Sexual Assault in the First Degree, and Count 3, Sexual Assault in the Fourth Degree;
3. the defendant is sentenced to five years imprisonment commencing March 2, 2006; provided, all but the first year is suspended pursuant to 31 MIRC 189 for four years commencing March 2, 2007, and ending March 1, 2011, under the following conditions:
 - a. that while imprisoned the defendant comply with the rules and regulations of

whenever called upon to do so; and (d) that the defendant not leave Majuro Atoll without the permission of the Court.


The Court's purpose in giving this sentence is as follows: (1) to discourage the defendant from ever committing sexual assault again; (2) to discourage other residents of the Republic from committing sexual assault; (3) to confirm that the commission of sexual assault is not acceptable in the Republic; (4) to encourage the defendant to change his behavior; and (5) to vindicate the victim's rights.

The defendant waived his right to appeal errors to the Supreme Court, except that his right to appeal is preserved as to 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.

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.

The Court orders the Clerk of the Courts to serve copies of this Order of Conviction and Sentence on counsel for the parties, the defendant, and the Superintendent of Prisons.

Date: March 27, 2006.



Carl B. Ingram
Chief Justice

the place of confinement;

- b. that the defendant keep the peace and be of good behavior;
- c. that the defendant appear before the Court whenever called upon to do so; and
- d. that the defendant not leave Majuro Atoll without the permission of the Court.

The Court reviewed the Change of Plea form in open court with the defendant; the defendant confirmed his change of plea to Count 2 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. The Court also inquired of the prosecutor if the victim's family had any objections to the plea agreement; he stated that they did not.

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 of guilty to Count 2, Sexual Assault in the Third Degree.

The defendant having entered a plea of guilty to Count 2, 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 guilty and convicted of Count 2, Sexual Assault in the Third Degree. Pursuant to the plea agreement, the Court dismisses Count 1, Attempt to Commit Sexual Assault in the First Degree, and Count 3, Sexual Assault in the Fourth Degree, and sentences the defendant as follows: to five years imprisonment commencing March 2, 2006; provided, all but the first year is suspended pursuant to 31 MIRC 189 for four years commencing March 2, 2007, and ending March 1, 2011, under the following conditions: (a) that while imprisoned the defendant comply with the rules and regulations of the place of confinement; (b) that the defendant keep the peace and be of good behavior; (c) that the defendant appear before the Court