

**FILED**

AUG 09 2019

ASST. CLERK OF COURTS  
REPUBLIC OF THE MARSHALL ISLANDS

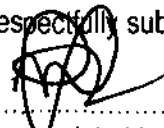
*Meuton I. Laiden, Esq.*  
Counsel for Plaintiff  
Office of the Attorney General  
P.O. Box 890  
Majuro  
Republic of the Marshall Islands  
Phone 692-3244  
Email: [meutonlaiden@gmail.com](mailto:meutonlaiden@gmail.com)

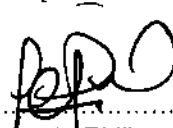
*Lometo Philippo, Esq.*  
Counsel for Apellee  
Office of the Attorney General  
P.O. Box 890  
Majuro  
Republic of the Marshall Islands  
Phone: 625-3244  
Email: [lometophilippo@gmail.com](mailto:lometophilippo@gmail.com)

**IN THE SUPREME COURT  
OF THE  
REPUBLIC OF THE MARSHALL ISLANDS**

REPUBLIC OF THE MARSHALL ISLANDS	)	Criminal Case No. 2017 - 001
APPELLEE/PLAINTIFF,	)	Supreme Court Case No. 2018 - 003
Vs.	)	Appellee's Answer Brief to Appellant's Opening
ALEE PHILLIP	)	Brief Pursuant to Rule 28 (b) of the RMI Supreme
APELLANT/DEFENDANT	)	Court;

COMES NOW, the Appellee, the Republic of the Marshall Islands, by and through Assistant Attorneys-General Meuton Laiden and Lometo Philippo, from the Office of the Attorney General, hereby submits its answering brief.

Respectfully submitted,  
  
.....  
*Meuton I. Laiden*  
Counsel for the Appellee  
Republic of the Marshall Islands.

  
.....  
*Lometo Philippo*  
Counsel for the Apellee  
Republic of the Marshall Islands

SUBJECT INDEX

Subject	Page No.
i. Table of Authorities .....	3
ii. ....	4
iii. Statement of Jurisdiction .....	4
iv. Issues on Appeal .....	4
v. Record on Appeal .....	4
vi. Statement of the Case .....	4
vii. Arguments .....	5

I. TABLE OF AUTHORITIES

a) Statues

- i. Constitution of the Republic of the Marshall Islands
- ii. Judiciary Act [27 MIRC 2]
- iii. Juvenile Procedure Act [26 MIRC 3]
- iv. Marshall Islands Criminal Code [31 MIRC 1]

b) Case Law:

- i. Colorado v. Connelly 478 US 157 (1986)
- ii. Haley v Ohio 332 45 596 (1948)
- iii. Muller v. Alabama 132 S.C 2455
- iv. People v. Collins (1895)
- v. *People v. Bolyard* (1975), 61III. 2d583, 589
- vi. *People v. Bonner*(1967), 37III. 2d553, 563.)
- vii. *People v. Burbank* (1972), 53III. 2d261, 275
- viii. *People v. Butler* (1976), 64III. 2d485, 490
- ix. *People v. Burbank* (1972), 53III. 2d261, 275

- x. *People v. Pack*(1976), 34Ill. App. 3d894
- xi. *People v. Perruquet* (1977), 68Ill. 2d149, 154, 11Ill. Dec.274, 368N.E.2d882
- xii. *People v. Taylor* (1965)
- xiii. *People v. Thomas* (1976), 38Ill. App. 3d689
- xiv. *People v. Ray* 21 Cal. 4<sup>th</sup> 464 (1999)
- xv. *People v. Young* (1975), 30Ill. App. 3d176
- xvi. *RMI v. Kijiner*, 1 MILR 123, 125 (2010)
- xvii. *RMI v. Misaki Elanzo*, S.CT. Case No. 2016-009
- xviii. *RMI v. Sakaio*, 1 MILR (Rev.) 182, 186 (1989)
- xix. *RMI v. Teen Langley*, S.CT. Criminal No. 85-01
- xx. *RMI v. Timothy*, 1 MILR (Rev.) 270, 273 (1992)
- xxi. *TTPi vs. Macaranas*, 7 TTR 350 (App. Div. 1976)

**c) Court Order:**

- i. Court Order/Adjudication entered January 19, 2018.
- ii. Court Order/Disposition entered February 2<sup>th</sup> 2018.

**II. STATEMENT OF JURISDICTION**

This Court has jurisdiction pursuant to Article VI, Section 2 (2) of the Constitution of the Republic of the Marshall Islands and 27 MIRC 2, § 2017.

**III. ISSUES ON APPEAL**

That the issues on appeal to the Supreme Court of the Republic of the Marshall Islands consist of two (2) decisions of the RMI High Court (Trial Court) as contained in the Adjudication and Disposition orders which were filed respectfully on January 19<sup>nd</sup>, 2018 and February 2<sup>th</sup>, 2018.

#### IV. RECORD ON APPEAL.

This constitutes the entire record and material pertaining to this case RMI v. Alee Phillip.

#### V. STATEMENT OF REVIEW.

Finding of fact, are reviewed under the “clearly erroneous” standard. Conclusion of law are reviewed under “de novo” standard and Sentencing is reviewed under “Abuse of Discretion standard”.

#### VI. ARGUMENT.

1. The Republic concurs with appellant paragraph one (1) of this brief.
2. The Republic concurs but with stipulation that appellant was 15 years and 6 months. The Republic agrees that the Appellant was charged, by the Republic, with six offenses of Count 1: First Degree Murder in violation of 31 MIRC 1, section 210.2 (1)(a); Count 2: First Degree Sexual Assault, in violation of 31 MIRC 1, section 213.3 (1)(a); and Count 3: Manslaughter, in violation of 31 MIRC 1, section 221.1 (1); and Count 5: Aggravated Assault, in violation of 31 MIRC 1, section 221.3; and Count 6: Robbery, in violation of 31 MIRC 1, section 222.1(1)(a).
3. The Republic asserted that the appellant made a motion asking the trial court to allow the appellant to exercise all his right he would have as an adult and the trial court granted the motion (Transcript, Line 6, 7, 10 & 11, page 7). The appellant also opted to have the trial conducted as though he was an adult which in fact requires the trial court to find beyond a reasonable doubt that the offenses had been committed, as opposes to the standard under the Juvenile Rule of Procedure – which is a fair weight of the evidence standard, which is significantly less then proof beyond a reasonable doubt and the trial court approved the request therefore the Trial Court applied the beyond a reasonable doubt standard in weighting the evidence in the trial (Transcript, page 26, paragraph 2). The Republic concurs that Count (5): Aggravated Assault and Count (6) Robbery, were dismissed in the preliminary hearing by the trial court.
4. The Republic concurs with paragraph 4 of the appellant’s brief. Further the Republic asserts that after the closing of its case, the appellant made an oral motion under rule 29 (a) of the RMI Rule of Criminal Procedure, asking the trial court to dismiss Count 1: Murder in the First Degree; Count (2) Sexual Assault and Count (3) Manslaughter, for insufficient of evidence to sustain conviction (transcript, page 36, line 8 – 13). However the trial court

found there was sufficient evidence for Count (1). Murder in the First Degree; (Count 2): Sexual Assault and Count (4) Burglary (Transcript, page 40, line 3 & 4) therefore dismissing the motion. The trial court preserved its ruling on Count (3) Manslaughter, leaving the option for the appellant if he wishes to convince the court that Manslaughter is more appropriate than Murder in the First Degree. After the closing argument in this case, the Court dismissed manslaughter.

5. The Republic concurs with the appellant that the trial court, based on the evidence presented and admitted in trial, found, beyond a reasonable doubt, that he committed Count (1) Murder in the first degree; Count (2): Sexual Assault in the First Degree; and Count (4) Burglary. The Appellant failed to explain what he mentioned by assumed confession, because this assertion is baseless. Court Order filed December 18, 2017 explained in clearest terms the “totality of the circumstances” upon which his decision against the Appellant’s motion to suppress was based. Republic therefore concurs with the Trial Court Order denying Motion to Suppress and all the pertinent reasons provided in the Order. In Court Order filed December 18, 2017 the Trial Judge was satisfied in light of the evidence provided by the police officers attending the interview and in consideration of the “totality of the circumstances”, that the manner in which the interview was conducted, and the interaction between the police officers, the appellant and his mother, did not qualify to be considered as coercive. Citing legal precedents involving the test to determine whether or not a juvenile offender knowingly and intelligently waives his rights, the trial judge determined that the appellant failed to show in specific terms how the will of the appellant was overborne by the manner in which the interview was conducted. Additionally, both *Colorado v. Connelly* 479 US 157 (1986) and *People v. Ray* 21 Cal. 4<sup>th</sup> 464 (1999) held that the connection between the confession and coercive must be clearly established for confession to be considered involuntary. There is no indication in the evidence given by leading and interviewing police officer, detective Royal Ceaser, Detective Lieutenant Joy Jack and Sergeant Marilyn that the appellant was subjected to a form of coercive interview. In *Haley v. Ohio* 332 US 596 (1948) describes the extent of “extreme” and “substantial” police brutality as well as omitting to read the juvenile his Miranda Rights falls under “excessive coercive” and “unreasonable force”. The interview conducted by Detective Royal Ceaser nowhere near approached this level of coerciveness. The appellant counsel asserts that the interview was conducted without

legal representative even if the appellant and his mother waived their right to a counsel. Trial Court ruled in its Order Denying Motion to Suppress entered on December 18, 2017 that both the appellant and his mother have consented to and indicated it so to detective Ceaser that they would not need any legal representative. Testimonies of various government witnesses consistently provided that the appellant and his mother resisted on legal representation during the interview and choice to provide a confession to the police. The appellant should be barred from making argument about the confession at this stage for failing to include transcripts from the hearing concerning the Order denying his motion to suppress his confession, as part of his appeal. Consequently, the appellant is arguing alleged claims which are not part of the records on appeal, contrary to the RMI Supreme Court Rule<sup>1</sup>.

6. The Republic disagrees with the appellant on paragraph 5 of his brief that the trial Judge did enter the guilty verdict based on appellant Alee Phillip's admitted confession alone. Detective Royal Ceaser, testified in the trial, based on confession obtained from the appellant and admitted into evidence that the appellant entered the victim's home on the night of the incident by, (1) scaling up the wall, (2) entered the ceiling through a hole, (3) lowered himself through another hole leading up to the living room, (4) landed on a freezer inside the living room, (5) entered the store inside the victim's house, (6) stole cigarettes, vodka, grizzly and money (7) left the victim's house with the stolen items (8) went to the house he lives in and hid the stolen items (9) and went back to the victim's house (Transcript, page 22, paragraph 2) (8) went back to the victim's house, (9) went straight to the table and picked up a knife, (10) went into the living room where the victim's Robert and his daughter Ashley were sleeping at, (11) with the knife slit Robert's throat and face him down (12), with the same knife, slit Ashley's throat, (13) taped Ashley's hand and mouth (14) took Ashley's lifeless body (14) dumped Ashley lifeless body inside the freezer (Transcript, page 22, second to the last paragraph and last paragraph). Sergeant Merilynn Peter, one of the witnessing officers during the interview, testified in the trial of what she recalled from the interview that the appellant admitted to the followings: [transcript, page 29 and 30] that he: (1) entered the victim's house; (2) stole cigarettes, vodkas, grizzly and money from the victim's store; (3) took the stolen items and hid them at the house he lives in; (4) went back

---

<sup>1</sup> RMI Supreme Court Rule of Procedure, Rule 10, (b)(2), "if the appellant intends to urge on appeal that a finding or conclusion is unsupported by the evidence or is contrary to the evidence, the appellant must including the records a transcript of all the evidence relevant to such finding or conclusion".

to the victims' house; (5) grabbed a knife on a table; (6) slit Robert's throat with the knife; (7) slit Ashley throat with the knife (8) taped her hand and mouth; (9) cut off her green dress (10) dragged her body and dumped her in inside the freezer (transcript, pages 29 and 30). The admitted confession statement was corroborated with relevant photographs which were admitted into evidence, testimonies of witnesses, who first went to the crime scene and one of them saw appellant burning some of the stolen goods and reported to the police, two medical physicians from Division of Human Service, Ministry of Health, scientific results of the determination by the FBI agents. All of these fully independent evidences produced and admitted in trial pointed to only one person and one person only, and he is the appellant. The appellant confessed to the police that he first went to the brick house attached to the victim house and photograph of that area was introduced and not objected by the appellant, and therefore was admitted into evidence (transcript, page 33). The appellant confessed that he first scaled up the wall through the window. The Republic introduced a photograph and the Court received it into evidence showing a brown bag and a window above it, with soil prints on them (transcript, page 33 and 34). The appellant confessed to scaled up the wall and went through a hole at the ceiling area, the Republic introduced it and the court received it into evidence a photograph showing a hole, measuring approximately 3 – 4 feet, enough for the appellant to gain entry, and it is right above the same window (transcript, page 34). The appellant confessed that he crawled across the ceiling of the house, lowered himself on top of the freezer and took a look at the victims' bedroom where they were sleeping. The Trial Court received a photograph into evidence, showing the living room area, the victim's bedroom, a freezer in the living room with footprint on it, and a hole at the ceiling right up the freezer (transcript, page 35 and 36). The appellant confessed that he went into the victim's store which is part of the house, took cigarettes, vodkas, grizzly and money. One of the Republic witnesses, Mateo Jake, who was working as a cashier at the victim store, said in the trail that she did her inventory of all the items in the store and found missing items and they were cigarettes, one-man vodkas, grizzlies and money and these were similar to the items taken by the appellant in his confession (transcript, pages 63 – 70). The Republic introduced into evidence a photograph, showing an empty space inside the store where the stolen items were taken from. The appellant confessed to taking the stolen items and hid them at the house where he lives in. It was corroborated by the testimonies of Kiton Laibwuj,

who testified that he and the appellant were making firewood for the funeral of the victims, and Mr. Laibwijn told the appellant that the FBI are at the crime scene investigating the incident, the appellant left with the wheelbarrow and never came back (transcript, page 102). Mr. Laibwijn said in his testimony that he sent his boys to look for the appellant at the house where he lives in, they went but could not find him. In the evening hours, Mr. Laibwijn's daughter told him that she found the appellant near the house where he lives in, burning something. Mr. Laibwijn went and found covers of grizzlies, one-man bottle and some cigarettes (transcript, page 103). Mr. Laibwijn identified the haft-burn items, confirmed their identity and they were received into evidence. Mr. Laibwijn further testified that he checked around the house and found other unopened package of cigarettes and grizzlies underneath plywood similar to the items reported missing from Robert's store and he called the police, the police went, recovered the items which were introduced, identified and received into evidence (transcript, 105 and 107). The appellant, accompanied by his mother, was transferred to the police custody for his own protection. The appellant, accompanied by his mother, understood his rights explained to him and his mother waived his rights and gave his confession to the police. The appellant confessed to killing victims, Robert and his daughter Ashley (transcript, page 22). And he killed them with a knife, with an orange/brown handle. The photograph of the knife was offered into evidence and with no objection from the appellant the Trial Court received it into evidence (transcript, pages 40 and 41).

7. According to the appellant, he went back to victim's house through the same door which he went out, picked up a knife from a table, and went into the victims' bedroom, slashed Robert's throat and turned Robert's body upside down. If the appellant were to deny these facts in his statement of confession, how one of the Republic's witnesses, Jeffery Basin, who first went into the victims house and found them dead, stated that the only door that was left open was the same door appellant said he opened (transcript, page 78). The appellant confessed that he turned deceased Robert's body upside down after he killed him, that statement was corroborated by one of the Government witnesses, Murphy Mubbun, who testified that when he first saw Robert, Robert's body was facing down and he was the one who turned him over to check whether he was still alive, but Robert was already dead (transcript, page 87). This piece of evidence consistently supports the confession of the appellant that after he slashed Robert's throat, he turned him upside down. Again testimonies



of Murphy explained the laceration on Robert's throat and it exactly matches the confession of the appellant that he slashed Robert in his throat. Consistent to appellant confession the Republic introduced into evidence a photograph, showing laceration on Robert neck and with no objection from appellant the Court received it into evidence (transcript, page 39, line 2). Dr. Marybeth, who first examined both deceased upon arrival at Majuro Emergency, testified that they were dead upon arrival (transcript, page 10). Dr. Marybeth testified that, "*in the case of Robert, the cause of death was exsanguinations secondary to the lacerated wound on the neck causing near decapitation on the head; that such injury could only be caused by a sharp highly object that was applied forcefully on the affect area*" (transcript, page 11). Mr. Murphy testified that he saw a knife with red handle, covered with bloods, inside Robert bedroom, which matches the appellant confession that he slashed Robert's throat with a knife (transcript, page 89). Similar to Robert, appellant confessed to killing Ashley, by slashing her throat with a knife. The statement matches the testimonies of Dr. Marybeth who examined Ashley, who was three years old, upon arrival at the hospital. Dr. Marybeth testified that "*there was a gapping lacerated wound on the whole length of the interior neck and the cause of dead were exsanguinations and damage to vital organs, resulting from near decapitation of the head*" (transcript, page 13). Appellant told the police that he slid Ashley's throat, taped Ashley mouth and hands but not her legs and dragged her lifeless body and dumped her inside the icebox. Corroborating appellant statement, photograph, showing trail of blood stain, leading from the Robert's bedroom to the freezer in the living room, was introduced in the trial, and without objection from the appellant the court entered it into evidence (transcript, page 42). Consistent with appellant confession, Dr. Marybeth testified that "*there was a gapping lacerated wound on the whole length of the interior neck and the cause of dead were exsanguinations and damage to vital organs, resulting from near decapitation of the head*" (transcript, page 38). Murphy Mubbun testified that when he first entered Robert's house, he found Robert dead inside his bed room; he did not find her daughter, but he saw a trail of blood stain, leading from Robert's room to the freezer in the living room, so he followed the trail of blood and when he opened the freezer, he saw Ashley, who was dead already (transcript, page 87). The Government witnesses testified that when they found Ashley dead body inside the freezer, she was naked, her hand and mouth were taped but not her leg and she was frozen. The Republic introduced into evidence photograph of Ashley

inside the freezer dead and naked, with her mouth and hand taped and without objection from the appellant the court entered it into evidence (transcript, page 39). The appellant admitted dumped Ashley inside the freezer. If the appellant considered changing his confession, FBI finger printer examiner Nicole Cover testified she tested the latent prints from item 29, lifted from the top of the freezer, and compared it with items 47 and 61, known prints collected from the appellant. According to Ms. Cover *“the latent palm print that I detected on the lift as indicated coming from the top of the freezer in room B was identified to the right palm print on the known palm print card bearing the name of Alee Phillip”* (transcript, lines 11 – 14, page 30). The confession of the appellant, relevant photographs of the crime scene which were admitted into evidence, testimonies of witnesses, including polices and physicians and FBI, establishes highly credible, reliable, and sufficient evidence for the trial court to correctly find the appellant guilty beyond a reasonable doubt that he intentionally or knowingly under circumstances manifesting extreme indifference to the value of human life cause the death of Robert Marquez and his three-year-old daughter Ashley Marquez. In its order, the trail judge said *“the evidence is complete and I have made my decision based on the evidence presented”* and went on by saying *“under the juvenile rule of procedure, the government burden of proof is fair weight of the evidence, which is significantly less then beyond a reasonable doubt, Mr. Kun asked me to use the beyond a reasonable doubt standard and I approved that request and the government must prove its case beyond reasonable doubt”* (transcript, paragraph one, 26). *The trial judge went on by saying that “there is NO DOUBT that Robert Marquez and Ashely Marquez were brutally and intentionally murdered as they slept; NO DOUBT IN MY MIND that Ashley was sexually assaulted...; NO DOUBT that someone committed burglary... these tragic events did not happened by accident and someone did these things and the only question is, is there sufficient evidence, is there evidence beyond a reasonable doubt for me to conclude that Alee Phillip committed these offenses”* (transcript, page 27). The trial judge went on by saying *“the evidence is complete, and I have made my decision based on the evidence presented”* (transcript, page 26)

8. The Republic agreed with the appellant on first part of paragraph 4 of his opening brief that the trial court found beyond a reasonable doubt that the appellant also committed Sexual Assault in the First degree and Burglary. However, the appellant also made a serious

misrepresentation on second part of paragraph 4 of his opening brief, saying “*the trial court entered its guilty verdict so based on the Appellant Juvenile’s assumed confession....*” The Republic respectfully argues that this statement by the appellant misrepresented what actually transpired during the trial and should be disregarded. In its order, the trial court noted “*the Republic has elected to base its case significantly on the confession of Alee Phillip, and it so eloquently pointed out by Mr. Taafaki this morning the evidence that they introduced was evidence to corroborate that confession*” (transcript, page 25). The trial judge acknowledges the supporting evidences which were admitted into evidence. In supporting the confession statement of the appellant which was admitted into evidence the prosecution also introduced other forensic evidence from the FBI to support its case. The appellant admitted that he was present at the crime on the night of the incident, by scaling up the wall, crawling through the ceiling, lowered himself on top of a freezer (same freezer he dumped deceased Asley body inside), and dumped Asley lifeless body inside the same freezer. To support the evidence, the prosecution called FBI Special Agent Brent Dana who examined the crime scene, collected the evidences and sent them to the FBI Laboratory in Quantico, USA for testing. In his testimony Special Agent Dana referred to Exhibit Number 34, chain of custody for an item of evidence, containing the item of evidence refers to a latent print that he lifted from top of the freezer in Robert’s home (transcript, pages 21, line 27 and 28 and page 22, line 1 and 2). The appellant did not object or challenge the chain of custody and did not cross-examined Agent Dana by saying “nothing from defense” (transcript, page 23, and line 14). To provide testimonies about the examination of the evidence collected by Agent Dana from top of the freezer, the Republic called Nicole Cover, physical scientist forensic examiner in the latent print operation unit at the FBI laboratory, who testified that she received item 29 as the latent print lifted from the top of the freezer inside Robert living room (transcript, page 29, line 13). Cover also described items 47 and 61 as the known finger prints and palm prints varying the name Alee Phillip, the appellant (transcript, page 30, line 1) and according to Cover items 47 and 61 were submitted to the FBI laboratory for comparison to any latent prints (transcript, page 30, lines 4-10). Cover concluded in her sworn testimony saying, “*the latent palm print that I detected on the lift as indicated coming from the top on the freezer in room B was indentified to the right palm print on the known palm print card bearing the name Alee Phillip*” (transcript, page 30, lines

12 – 14). The trial judge, during the Adjudication hearing, stated that **“if this were a jury trial, we would now send the jury out to discuss this evidence for several hours or days, but because this is a bench trial however I had the benefit of thinking about the evidence since we began the trial back in November, so I will not need several hours to announce my decision”** (transcript, pages 23, and 24). The appellant admitted that he taped Ashley’s mouth and hands but not her legs and dumped her in the freezer in the living room. In his confession he did not deny sexually assaulted Ashley. Dr. Claire Ivy, an Optratician gynecologist at Majuro Hospital, who examined Ashley upon arrival at Majuro Hospital, testified to her admitted medical report (government exhibit number 9) and concluded that *“there must have been forceful entry or vaginal penetration that have caused the laceration bleeding in the vaginal area”* (transcript, page 17, line 24 – 26). Another independent expert and profession evidence was provided from the Lara Adam, forensic examiner in DNA at the FBI laboratory in Quantico, Virginia, who testified that she received and performed serological and DNA testing on item fifty, a vaginal swap taken from Ashley Marquez (transcript, page 11, lines 21 – 23) and noted semen present on item 45 (transcript, page 12, lines 25 – 27). During the extraction process, Lara testified that another *“DNA profile unlike Ashley Marquez .....consistent with a male individual with regards to comparison to Mr. Phillip the likelihood in ratio is **four hundred and seventy septillion**, that provides **support for identification of Mr. Phillip as the contributor to the DNA profile for the item 45 vaginal swap**”* (transcript, page 13, lines 9 – 13). Lara explained in her testimony that four hundred and seventy septillion falls under the highest category which is support for identification. Lara confirmed in her testimony that four hundred and seventy septillions is the highest level for identification (transcript, page 14, lines 19 – 20). The trial judge made a statement in his order that **“NO DOUBT IN MY MIND that Ashley was sexually assaulted and is there is evidence beyond a reasonable doubt that Alee committed it”** (transcript, page 27). The Appellant DNA was found inside Ashley’s vagina, with a match of four -hundred and seventy septillion which is the highest level for identification (transcript, page 14, lines 19 – 20). Combined with other supporting evidences admitted into trial that establish sufficient evidence beyond a reasonable doubt, the trial judge concluded as he stated **“the evidence is complete and I have made my decision based on the evidence presented”** (transcript, page 26) therefore the appellant was found guilty on First Degree Sexual Assault. According to

*RMI v. Teen Langley, S.C.T. Criminal No. 85-01*, “If there is any evidence to support the jury’s findings, the verdict must stand, in short, an appellate court does not weight the evidence”. The appellant also admitted in his confession that he entered Robert Marquez house, stole goods, left the house to the house where he lives in, hid the stolen goods, went back to Robert Marquez house and killed both Robert and his daughter Ashley Marquez and the Republic introduced into evidence corroborating evidence to support its case. All of these evidences pointed out to the appellant, that he unlawfully entered Robert’s house with an intention to commit a crime therein and in this case the appellant entered the house twice and committed multiple crimes inside the same house but he was only charged with one count of burglary. These all come to one solid conclusion that the Republic in the trial provided relevant and strong evidences to support the confession by the appellant. And these corroborating evidences gathered during the investigation, tested and examined by the FBI experts, and admitted into evidence during trial including the confession statement by the appellant, all come to one firm conclusion beyond a reasonable doubt that the appellant committed not only First Degree Murder, but also First Degree Sexual Assault and Burglary. At the end of the prosecution’s case the appellant moved for Rule 29a of the Marshall Islands Rule of Criminal Procedures to acquit him on all charges, claiming that the evidence is insufficient to sustain conviction (transcript, page 36). The trial judge ruled accordingly “I do not find that there is insufficient evidence to sustain a conviction” and further stated that “**the evidence is complete, and I have made my decision based on the evidence presented**” (transcript, page 26). The decision of the trial court was correct and consistent with *RMI v. Teen Langley, S.C.T. Criminal No. 85-01*, where the appellant Langley after convicted on all three counts brought an appeal from a jury verdict, claiming there was insufficient evidence for the jury to return a guilty verdict. The Supreme Court in *Langley* dismissed the appeal and ruled that “If there is any evidence to support the jury’s findings, the verdict must stand, in short, an appellate court does not weight the evidence”<sup>2</sup>. The same principle in *re Teen Langley* is also well established in *TTPI v. Macaranas, 7 TTR 350 (App. Div. 1976)* that, where the evidence is in substantial conflict, the finding of the judge on issues of fact will not be disturbed. Therefore, the appellant claim should be disregarded for the same reasoning and ruling in *Teen Langley* case.

---

<sup>2</sup> *RMI v. Teen Langley, S.C.T. Criminal No. 85-01*

9. The Republic contends that the Appellant had failed to substantiate in specific terms reasons in light of all the evidence admitted in trial why the verdict was unreasonable. The Appellant is selectively quoting part of the transcript favorable to his side only and failed to consider all overwhelming evidences, relevant to the elements of the offenses charged, which were basis for the decision of the trial court was made and the comment of the trial judge when he made his decision. Republic respectfully argues that such assertion by the appellant cannot be substantiated in specific terms because the prosecution introduced convincing evidences to support its case and the trial court made its decision in light of all the evidences presented.
10. Again, after Republic closed its case the Appellant moved 29a of the MICrP for the trial court to dismiss all charges against him and his motion was dismissed. In specific term the trial judge stated, "I do not find that there is insufficient evidence to sustain a conviction" (transcript, page 40 and lines 4-5) and counsel for the appellant was present and should be aware of this ruling. The trial judge during the hearing on the motion by the appellant decided to dismiss Manslaughter for insufficient of evidence however he preserved his ruling to the end of the case, allowing the appellant, who promised to take the stand, to introduce evidence and convince the court that Manslaughter was more appropriate than First Degree Murder. The appellant did not take the stand, nor called witness, nor introduced evidence to support his case. In the adjudication hearing, the trial judge stated the following "*if this were a jury trial, we would now send the jury out to discuss this evidence for several hours or days, and because this is a bench trial however I HAD THE BENEFIT OF THINKING ABOUT THE EVIDENCE since we began the trial back in November*" (transcript, pages 23 and 24). The trial judge made his decision based on sufficient of evidences therefore his Judgment is not clearly erroneous, RMI v. Timothy, 1 MILR (Rev.) 270, 273 (1992). In *re Timothy* the RMI Supreme Court rules that "*Judgment of trial court will not be reversed for paucity of evidence unless said judgment is clearly erroneous*" and that there was amply of evidence to support the Judgment of the High Court and the Judgment is not clearly erroneous". Applying the ruling in *Timothy* to this present case, because the trial court made its decision based on the evidences presented (overwhelming evidence), the Judgment is not clearly erroneous, therefore the Judgment should not be reversed.
11. The Republic strongly disagrees with the assertion by the appellant in paragraph 7 of his opening brief, by citing one-sided statement by the trial judge. The confession statement of

the appellant was admitted into trial. Relevant photographs of the crime scene and testimonies of the witnesses were admitted into evidence. Both photographs and testimonies of the witnesses corroborated the confession statement. Evidences of the stolen goods and place of recovery matched the appellant confession statement, were introduced and admitted into trial. Testimonies of medical doctors matched the confession statement, were also admitted into trial. The appellant confession corroborated the evidences obtained from the crime scenes. The FBI fingerprint and DNA examiners confirmed that the appellant committed the offenses charged. In light of all the evidence adduced in the trial, any rational trier of fact could come to the same conclusion as the trial judge in this case. The trial judge was correct in his decision and consistent with ruling in *RMI v. Kijiner*, 1 MILR 123, 125 (2010) that “conviction is supported by the sufficiency of the evidence when, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt” and in *People v. Collins* (1895) “A conviction will not be reversed where, after viewing the evidence in the light most favorable to the State, any rational trier of fact could find the essential elements of the crime beyond a reasonable doubt”. As in this case, the trial judge stated in his order “**the evidence is complete and I have made my decision based on the evidence presented**” (transcript, page 26). Therefore, the trial court did not error in finding the appellant guilty base on the evidence presented. As it discussed in *re Teen Langley* “if there is any evidence to support the jury’s findings, the verdict must stand”, there were convincing evidence to support the trial court findings, the assertion by the appellant **which is baseless** should be disregarded and the decision of the trial court must stand.

12. The assertion by appellant in paragraph 8 is not true and should be disregarded. The assertion by the appellant is broad, fake and misleading, failing to state in specific term to substantiate his assertion. The assertion lacks substantial factual basis because there is none – the trial court made its decision based on the evidence admitted into trial, therefore the trial court did not error. The appellant also claimed, on second part of paragraph 8 of his opening brief, that “he cast a lot of doubt in the prosecution’s case”. Again, this statement is broad, fake and misleading and should be disregarded. The prosecution proved its case beyond a reasonable doubt and the trial court made its decision solely based on the evidence presented in the trial

and its decision is consistent with the RMI Supreme Court rulings in *Teen Langley* and in *Timothy*<sup>3</sup>.

13. The Republic strongly disagrees with the appellant on paragraph 8 of his opening brief. The prosecution introduced photographs collected from the crime scene and offered to admit them into evidence – THE APPELLANT DID NOT OBJECT TO THE PHOTOGRPAHs, on the ground of relevance, because such objection would have been denied on the basis that all photographs were relevant to the crimes, carrying substantial amount of weight, and they matches the confession statement of the appellant as it specifically described on paragraphs 5 and 6 of the Republic Answering Brief which are explained in *specific term* supported with factual basis. The appellant admitted in his confession and his confession was admitted into evidence that he killed Robert and his daughter using a knife with an orange/brownish handle (Government Admitted Exhibit Number 5 and transcript pages and 23). Consistent with the appellant confession statement, detective Carney testified that he found, photographed, retrieved and sent to the FBI for examination, a knife (15 inches long with a yellowish orange handle), covered with bloods, on the bed where Robert was at (transcript, page 38). Photographs of the same knife (Government Exhibits 37 and 39) were introduced into evidence and without objection from the appellant; the court received them into evidence. The appellant also admitted to the police that he taped Ashley’s mouth and hands but not her legs before dragging her lifeless body and dumped it inside a freezer. Photographs of the stolen goods including the recovered stolen goods were admitted into evidence. Gynecologist report was admitted into evidence which explained why the DNA of the appellant was found inside Ashley’s vagina.
14. The Republic strongly disagrees with the appellant assertion on paragraph 10 of his opening brief for the same reasons explained in the preceding paragraphs. The assertion is one-sided, baseless and misleading, failing to include in full details other evidences which were admitted in the trial. The Appellant asserted that “not one of these proposed exhibits were offered into evidence by the Prosecution during the trial the appellant juvenile was the perpetrator of these offense”. First of all, the appellant is incorrect by mistakenly stated that

---

<sup>3</sup> *Judgment of trial court will not be reversed for paucity of evidence unless said judgment is clearly erroneous” and that there was amply of evidence to support the Judgment of the High Court and the Judgment is not clearly erroneous”*



not one of these *proposed exhibit were offered into evidence by the prosecution*. These exhibits were offered by the prosecution and the appellant did not object to any of these exhibits and the court received them into evidence. In simply term, these exhibits were admitted into evidence. Secondly, the appellant claims that none of these admitted exhibits pointed at him as the perpetrator. The *appellant knowingly fails* to also include in his assertion that there was *one exhibit, among other evidences*, offered by the prosecution and received by the court which independently *pointed at him (Alee Phillip)* as the perpetrator in this case and it was his *confession statement* which was offered and admitted into evidence. The Republic further respectfully argues that photographic exhibits were admitted to corroborate the appellant confession statement.

15. The Republic strongly disagrees with appellant's assertion on paragraph 11 of his brief saying, "most vital problem during ... prosecution failure to establish a proper chain of custody". The Republic respectfully argues that the *vital failure* was on the appellant because he never challenged all evidences by the FBI and their chain of custody. The Republic questioned FBI Special Agent Brent, who examines the crime scene, collected the evidences, and transferred them to the FBI Labs, over the chain of custody of all the items collected for testing or analysis at FBI Lab, including all the items identified by the appellant in paragraph 10, 11 and 12. At the end of prosecution questions to witness FBI Special Agent Brent Dana, trial judge asked counsel for the appellant for cross examination, counsel for the appellant responded by saying *"Nothing from defense"* (transcript, page 23, lines 14 and 15)", and repeated this position even after the trial judge had asked him again, causing the trial judge to stated, *"Can I see counsel in my chamber"* and from the meeting in chamber, the appellant's counsel came to learnt that he should have challenged the chain of custody which was established through testimonies of the Agent Brent Dana, Lara Adam and Nicole Cover. As he offered no objection, the appellant had, therefore, effectively waived his right to raise this question as ground for appeal. Republic respectfully requests this Court to deny the appeal from the appellant. In the first part of the trial the actual knives were not admitted to court because they were collected as specimen for testing at the FBI labs, however they were offered into evidence by way of photographs. And again, counsel for the appellant did not object to the photographs. FBI witness, Nicole Covers, a fingerprint expert, explained in her testimony that "it is possible that if you touch or handle an item you may not leave a latent

print behind, for different factors” (transcript, page 30, lines 17 - 20) and one of them is texture, environment and others. In addition, the handles of the knife were of texture that prevent the print impression to continuity uninterrupted (transcript, page 31, lines 7 – 12). Additionally, evidence of appellant’s fingerprints was found on the cover of the freezer into which the body of one of the deceases Ashley was dumped. The manner of killing, the description of the knives, and the appellant’s contact with the freezer corroborated substantially with the admitted confession of appellant as well as the testimonies of other witnesses. The confession statement of the appellant pointed out that he killed Robert and his daughter using a knife.

16. The Republic strongly disagrees with the assertion by the appellant on paragraph 12 of this brief, by asserting that “*there is no real evidence tendered by the prosecution .... to provide his guilty*”. This statement is misleading and baseless and not true - the confession statement of the appellant was admitted into evidence and he pointed to nobody but himself that he committed murder. Independent evidences by the prosecution were introduced to corroborate the confession statement of the appellant. Therefore, trial court correctly find the appellant guilty beyond a reasonable doubt that he committed Murder as it based its decision on evidence which were admitted into trial. Again, in *RMI v. Teen Langley*, if there is any evidence to support the jury’s finding, the verdict must stand.
17. The appellant on second part of paragraph 12 of his brief asserted that the “*appellant fingerprint were not detected on the two knives in order to show and prove beyond a reasonable doubt that, the appellant did commit Murder*”. However, FBI witness, Nicole Covers, a fingerprint expert, explained in her testimony that “it is possible that if you touch or handle an item you may not leave a latent print behind, for different factors” (transcript, page 30, lines 17 - 20) and one of them is texture, environment and others. In addition, the handles of knives were of a texture that prevent the print impression to continuity uninterrupted (transcript, page 31, lines 7 – 12). The Republic argues that in the absence of appellant’s prints on the knife (which such explanation was provided by FBI witness Cover) there were still overwhelming evidences admitted into evidence that he committed First Degree Murder including his confession statement, relevant photographs, and testimonies of both witnesses including the expert witnesses because all of these evidences pointed at him. The trial judge therefore did not error because he made his decision based on the evidences

presented by saying *“the evidence is completed, and I have made my decision based on the evidence presented”* and found the appellant guilty on First Degree Murder.

18. The Republic agrees with the decision of the trial court in finding the appellant guilty on Sexual Assault in the First Degree because there were overwhelming evidences for the decision. Again, as it previously mentioned in the preceding paragraphs testimony of Dr. Ivy Claire provided a medical/professional assessment of her examination of Ashley Marquez which confirmed medically that Ashley had been sexually assaulted through the use of physical force. The appellant is providing a misleading statement on second part of paragraph 13 of his brief, that Dr. Ivy Claire alleged in her testimony that baby’s girl torn dress (Ashley) had semen on it. There is nowhere in the trial that Dr. Claire made such allegation. The Republic respectfully submits that the appellant is using this misrepresented statement to discredit testimony of Dr. Claire with the finding of the FBI witness Lara Adams about the absence of the appellant’s semen on the dress. Even if there was no semen on the dress the evidence is conclusive after Republic witness Lara Adams of the FBI testified that the results of the laboratory test of the DNA found in the semen swaps collected from Ashley’s vagina and the DNA collected from the appellant’s mouth swaps and hair resulted in an extremely high match of about 470 septillion, leaving no doubt that the appellant had sexually assault Ashley. Again, there is overwhelming evidence for the decision therefore the finding of trial court is correct and should stand (*RMI v. Teen Langey*).
19. The Republic strongly disagrees with appellant assertion on paragraph 14 of his brief that the trial court was error to find him guilty on Burglary. However the appellant confessed to scaling the wall, lowered himself down the hold in the ceiling of Robert’s house, landed on freezer in the living room area, stole certain specific items from Robert’s store, hid them at his place, returned to Robert’s house and killed Robert, then raped and killed Ashley. Independent evidence entered into evidence by witnesses: Mateo Jaik; Jeffery Basin; Murphy and Gideon provided exact corroboration testimonies that appellant committed burglary on the night of the incident. The prosecution proved beyond a reasonable doubt that the appellant committed Burglary by knowingly or intentionally trespassed inside Robert’s house with an intention to commit a crime therein. Therefore, the finding of the trial court should stand because it was based on strong and convincing evidence (*RMI v. Teen Langey*).

## SENTENCING

**1. The 50-year imprisonment sentence imposed for crimes Phillip committed by juvenile did not violate the constitutional prohibition against cruel and unusual punishment.**

Phillip claims that the 50-year imprisonment sentence imposed on him by the trial court violated his rights against cruel and unusual punishment under Article II, Section 6(1) and (2) of the Constitution<sup>4</sup>. Article II, Section 6(1) provides that “no crime under the law of the Republic of the Marshall Islands may be punished by death”. And Article II, Section 6(2) states “no person shall be subjected to torture or to inhuman and degrading treatment, to cruel and unusual punishment, or to excessive fines or deprivations”.

Phillip argues that the decision in *Miller*<sup>5</sup> supports his claim that his sentence was imposed in violation of the constitutional prohibition against cruel and unusual punishment. To prevail on a claim under *Miller*, a defendant sentenced for an offense committed while a juvenile must show that (i) the he was subject to a mandatory life sentence, and (ii) the sentencing court failed to consider his youth and its attendant characteristics in imposing the sentence<sup>6</sup>. If these requirements are satisfied, the court should hold that a sentencing scheme that mandates life in prison without possibility of parole for juvenile offenders is forbidden and thus unconstitutional<sup>7</sup>.

### **A. The trial court did not impose a mandatory life sentence on Phillip.**

Phillip claims that the “life span for most men in the Marshall Islands is between 40-50 years” and therefore, the 50-year imprisonment sentence imposed on him is equivalent to “life

---

<sup>4</sup> Constitution of the Republic of the Marshall Islands.

<sup>5</sup> *Miller v. Alabama*, 567 U.S. 460 (2012).

<sup>6</sup> *Ibid.*

<sup>7</sup> *Ibid.*

imprisonment” or “capital punishment”. (Appellant’s *Opening Brief*, C.A. No. 2018-003, page 7 hereinafter the “*appellant’s opening brief*”). Phillip provides no factual or evidentiary basis whatsoever to support this claim. He makes no specific reference to where the record indicates that the trial judge sentenced him to a mandatory life imprisonment, capital punishment, or death.

Prior to sentencing, the Republic recommended that on the murder charge, the trial court imposes on Phillip life imprisonment sentence, which is the mandatory statutory sentence for “murder in the first degree”<sup>8</sup>. Mrs. Marquez, wife of the deceased victim [Mr. Maquez] spoke during the disposition hearing. She asked the court to incarcerate Phillip “for the rest of his life”. (*Transcript of Disposition Proceedings* dated February 2, 2018, page 4, hereinafter “*disposition transcript*”). But at the trial judge concluded that there is no crime of “murder in the first degree” in the Republic. He rejected the recommendation and refused to impose a life imprisonment sentence on Phillip. The judge stated “... the problem is that there is no [indiscernible] for murder in the first degree – there is only crime for murder ... the most I can sentence Mr. Phillip for murder is twenty-five years in prison ...”<sup>9</sup>. On this basis, the sentence imposed was discretionary, not mandatory. Accordingly, the trial judge sentenced Phillip to 25 years imprisonment on the murder charge. (See Disposition order, dated February 2, 2018, at page 2, hereinafter “*disposition order*”) (See also judge’s footnote aton page 2).

In addition to the murder sentence, the trial judge sentenced Phillip to 25 years for sexual assault in the first degree, which runs consecutively with the murder sentence. On the charge of burglary, the trial judge sentenced Phillip to 10 years, which runs concurrently with the murder

---

<sup>8</sup> 31 MIRC 6.06(1), RMI Criminal Code Act 2011.

<sup>9</sup> RMI v. Alee Phillip, Juvenile Case No. 2017-001, *Transcript of Disposition Proceedings*, page 9.

and sexual assault sentences. This brought up Phillip’s sentence to a total 50-year imprisonment term. But this does not support Phillip’s claims that the sentence imposed was a mandatory life imprisonment, capital punishment, or a death sentence.

The Republic therefore submits that Phillip failed to establish that the trial court imposed on him a mandatory life imprisonment for a crime he committed as a juvenile. It should also follow that he was never sentenced to capital punishment or death. Although a mandatory life imprisonment was recommended by the Republic, the trial judge correctly refused to impose it. The trial judge also properly imposed the sentence in exercise of his discretion.

**B. The trial court considered Phillip’s youth and attendant circumstances before imposing the sentence.**

Phillip claims that the trial court “seriously failed to consider [his] unique circumstances, rights and interests” before imposing his sentence. This claim misstates what transpired at the trial level. Before imposing a sentence, a trial judge must provide the opportunity for the defense to speak or present any information to mitigate his sentence<sup>10</sup>. The trial judge went further and encouraged both parties to provide written submissions to support their sentencing recommendations, even if this was not required. (*Adjudication Order*). These opportunities were provided prior to sentencing, but Phillip did not define these “unique circumstances, rights and interests” that he now raises on appeal, yet again without any clear explanation of what they are.

Phillip also claims that the trial court “seriously overlooked that the Appellant juvenile [Phillip] was a first-time offender” (Appellant’s Opening Brief, page 8). The record does indicate that Phillip asked the trial court to mitigate his sentence based on his claim that he is a first-time

---

<sup>10</sup> Rules of Criminal Procedure, Title VII, Rule 32 (4)(a).

offender. But this claim was disputed through findings arising from the Republic's sentencing recommendation. The Republic states that Phillip was twice arrested for driving without a valid driver's license, while under legal age, and for wrongful parking (Republic's Sentencing Recommendation, page 6). Phillip was also given the opportunity to supplement his first-time offender claim through oral arguments during disposition hearing, but he failed to do so.

Additionally, Phillip was given the opportunity to speak during the disposition but chose not to. He did not apologize to the wife of the deceased victims, who was also present at the hearing. He appeared to have not accepted responsibility for crimes he committed. He did not express any sense of remorse to the family of the deceased victims.

Phillip claims that his 50-year imprisonment sentence has "literally closed the door for any second chance or rehabilitation in life" (Appellant's Opening Brief, at page 7). But at the disposition hearing he recommended that the trial court sentence him to 20 years in prison (Appellant's Sentencing Recommendation, page 5). Phillip does not explain how a 20-year jail term provides an avenue for rehabilitation, as opposed to a 50-year jail term. He did not recommend that his sentence be suspended, and that he is placed under supervised counseling, rehab, community service, or other alternative measures that would have rehabilitated him. Phillip's own recommendation for sentence at trial does not support his claim for rehabilitation and should fail.

The Republic argues that the trial judge considered not only Phillip's circumstances, but also relevant factors before arriving at his sentencing decision. The adjudication order shows that the trial judge "duly reviewed, considered and weighed the requirements of the applicable statutes ... court rules, AJO's [Phillip's] best interests, gravity of the offenses, the public interest

and safety, the recommendations of counsel and Mrs. Marquez, and AJO's [appellant] lack of displayed remorse" (Disposition order, page 2).

During the disposition hearing, the trial judge characterized the offenses committed by Phillip to be some of the "... most vicious offenses ..." ever made. He described how Phillip entered the house and killed Mr. Marcus [deceased victim] while asleep. Then Phillip taped the hands and mouth of Ashley Marcus [Mr. Marcus's deceased 3-year old daughter] and inserted his penis in her vagina. After he raped her, he put her inside a freezer and left.

The trial judge did also consider the age of Phillip and the attendant circumstances that would arise if he is either released or imprisoned. During disposition hearing the trial judge stated, "Mr. Phillip is 16 years of age and will be [66] by the time he serves all these sentences if I decide to set it" (Transcript of Disposition hearing, at page 9). Because of the nature and gravity of the offenses he committed, the trial judge determined that he will pose a grave danger to the community if he is not incarcerated. He stated "I'm not interested in [punishing] Mr. Phillip. I am interest[ed] in protecting the people who live in this island and the only way I can do that is to incarcerate Mr. Phillip for [a] lengthy period of time" (page 8). He further reassured the wife of the deceased victim "Mrs. Marcus I'm sorry I can't bring your husband back and I can't bring your child back, but I can protect the public for 50 years" (page 9). As such, the trial judge did consider Phillip youth and the attendant circumstances before imposing the sentence.

The Republic submits that Phillip's claim under *Miller* fails in its entirety, because he was not subjected to a mandatory life imprisonment and the trial judge did consider his youth and the attendant circumstances before imposing the sentence. Accordingly, the Republic urges



this Court to reject Phillip's claim, and to hold that the sentence imposed did not violate the constitutional prohibition against cruel and unusual punishment.

**2. The trial court did not abuse its discretion by imposing an unreasonable sentence.**

The appellant fails to consider the standard of review (abuse of discretion) that the Supreme Court must apply in determining appeals of criminal sentences in the RMI. By this standard, this Court must determine whether the trial court abused its discretion by imposing an unreasonable sentence<sup>11</sup>. An appeal against a criminal sentence will fail if this Court finds that (i) the sentence imposed was within the statutory range of the offense committed; and (ii) the sentencing decision was not arbitrary or capricious<sup>12</sup>. If these requirements are met, the Court gives great deference and weight to the trial judge's decision and will not substitute its judgment for that of the trial judge because it could have balanced the factors differently and thus arrive at a lesser sentence. (*People v. Pack* (1976), 34 Ill. App. 3d 894; *People v. Young* (1975), 30 Ill. App. 3d 176).

The appellant does not ask this Court to apply this standard. Instead, he asks this Court to set aside the decision of the High Court and to acquit the appellant merely because a 50-year imprisonment term has never been handed down in RMI's history, and that it is unconstitutional under *Miller*.

Nevertheless, the appellee asks this Court to decide this appeal based on the abuse of discretion standard. As such, the appellee submits that the trial court did not abuse its discretion in sentencing 16-year old Phillip to 50 years of imprisonment.

---

<sup>11</sup>*RMI v. Elanzo*, 3 MILR 51, 53 (2008).

<sup>12</sup>*Ibid.*

**A. The sentences imposed on the appellant are within the statutory range of punishment for the offenses he is convicted of.**

In its “Adjudication” order of January 22, 2018 the trial court found, beyond a reasonable doubt, that Phillip committed the offenses of murder, sexual assault in the first degree, and burglary. The trial court may impose imprisonment sentences for an offense, provided it is within the permissible statutory range. The statutory ranges for each offense committed by the appellant are as follows:

- i. Murder – a maximum imprisonment term of not more than 25 years<sup>13</sup>;
- ii. Sexual Assault in the First Degree – a maximum term of not more than 25 years<sup>14</sup>;
- iii. Burglary – a maximum term of not more than 10 years<sup>15</sup>.

In its “Disposition” order of February 2, 2018 the trial court sentenced the appellant to an imprisonment term of 50 years. This 50-year imprisonment sentence consists of 25 years of imprisonment for murder, 25 years for sexual assault in the first degree, and 10 years for burglary. The imprisonment terms imposed for both murder and sexual assault run consecutively to each other. The imprisonment term imposed for burglary runs concurrently with those of murder and sexual assault in the first degree. This gave a total of 50 years imprisonment term for the appellant, minus 215 days as credit for time served prior to the disposition.

The sentences impose did not exceed the maximum terms permitted by law. To this end, they were all imposed within the statutory range under each offense for which the appellant was

---

<sup>13</sup>31 MIRC Ch.1,§6.06(1).

<sup>14</sup> 31 MIRC Ch.1,§6.06(2)(a).

<sup>15</sup> 31 MIRC Ch.1,§6.06(2)(b).

convicted. The appellant failed to identify where in the record indicates that the sentences were imposed in violation of the RMI Criminal Code.

Because the sentences imposed were within the statutory limits of the offenses, the question now becomes whether the trial judge abuse its discretion by acting arbitrarily or capriciously. Appellee's argument on this issue shall be addressed in the next section.

**B. The sentencing decision by the trial judge is not arbitrary or capricious.**

A trial judge is in a superior position from which to determine an appropriate sentence. (*People v. Butler* (1976), 64Ill. 2d485, 490; *People v. Burbank* (1972), 53Ill. 2d261, 275; *People v. Taylor* (1965)). He has the first opportunity to consider relevant factors from which an appropriate sentence can be deduced, such the defendant's credibility, demeanor, general moral character, mentality, social environment, habits and age (*RMI v. Elanzo*, 3 MILR 51, 53 (2008)). A trial judge is also able to consider factors relevant to the selection of an appropriate sentence tailored to the specifics of each crime, such as the defendant's individual circumstances, the impact on the victim, as well as the needs of the society. (*RMI v. Elanzo*, 3 MILR 51, 53 (2008) (*People v. Bolyard* (1975), 61Ill. 2d583, 589).

As stated earlier, the record indicates that the trial judge considered a broad range of circumstances and relevant factors before arriving at his sentencing decision. The *adjudication order* shows that the trial judge "duly reviewed, considered and weighed the requirements of the applicable statutes ... court rules, AJO's [Phillip's] best interests, gravity of the offenses, the public safety, the recommendations of counsel and Mrs. Marquez, and AJO's [appellant] lack of displayed remorse" (page 2).

The trial judge considered the individual circumstances in Phillip's case, characterizing the offenses to as the "most vicious offenses" ever made. He described the manner in which Phillip entered the house, killed Mr. Marquez while asleep, then rape his 3-year old daughter, and stuffed her body inside the freezer. He considered that these acts pose a grave danger to all parents and safety of their children at home.

As also stated earlier, Phillip was given an opportunity to speak at the disposition hearing, but he remained silent. He did not apologize to the family of the victim. He did not show that he was remorseful. He did not acknowledge that he accepts responsibility for the offenses he committed. For these reasons, the trial judge imposed an imprisonment sentence of 50 years to protect the community from future harm.

The Republic therefore submits that the trial judge did not abuse his discretion in sentencing Phillip to 50 years imprisonment. The sentences imposed were within the statutory limits of the offenses Phillip was convicted of. And the judge considered all relevant factors before imposing the sentence.

**20.**

## **CONCLUSION**

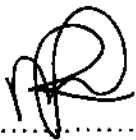
The Republic respectfully argues that the trial court did not error to find the appellant guilty on First Degree Murder, Sexual Assault in the First Degree and Burglary. The Republic, during trial introduced overwhelming evidences to prove its case beyond a reasonable doubt. The trial judge made its decision based on sufficient evidences adduced in the trial as he stated, the evidence is completed, and I have made my decision based on the evidence presented. The decision was based on ample of evidences, the Judgment is not erroneous therefore Judgment must stand, and the appeal must fail.

The Republic submits that this appeal is without merit and that the trial court did not impose the sentence in violation of the constitutional prohibition against cruel and unusual punishment. The trial court did not impose a mandatory life imprisonment sentence for crimes Phillip committed as a juvenile. It did not impose a capital punishment or death sentence for Phillip. And before imposing the sentence, the trial court did consider Phillip's youth and the attendant circumstances. As such, this Court should deny Phillip's claim that the sentence was imposed in violation of the Constitution.

It is also submitted that the trial judge did not abuse its discretion in imposing a 50-year imprisonment sentence. The sentence imposed was within the statutory limits of the offenses Phillip was convicted of. The trial court considered a variety of relevant factors before imposing the sentence. Because the trial court considered these factors, this Court should conclude that the trial judge did not abuse his discretion.

Proof of service of this Appellant's Answering Brief on all parties as prescribed by the SCRP is attached.

Respectfully submitted,



.....  
*Meuton Laiden*  
Assistant Attorney General  
Counsel for the Appellee.



.....  
*Loretta Philippo*  
Assistant Attorney General  
Counsel for the Appellee.

FILED

AUG 09 2019

ASST. CLERK OF COURTS  
REPUBLIC OF THE MARSHALL ISLANDS

Meuton Laiden  
Assistant Attorney-General  
Office of the Attorney-General  
P.O. Box 892  
Majuro, MH 96960  
Phone: 625/3244/8245  
Email: [meutonlaiden@gmail.com](mailto:meutonlaiden@gmail.com)


Lometo Philippo  
Assistant Attorney-General  
Office of the Attorney-General  
P.O. Box 892  
Majuro, MH 96960  
Phone: 625/3244/8245  
Email: [lometophilippo@gmail.com](mailto:lometophilippo@gmail.com)

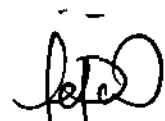
IN THE SUPREME COURT  
OF THE  
REPUBLIC OF THE MARSHALL ISLANDS

ALEE PHILLIP	)	Criminal Appeal Case No.: 2018 - 003
	)	
Plaintiff/Appellant	)	
	)	
v.	)	
	)	<b><u>CERTIFICATE OF SERVICE.</u></b>
REPUBLIC OF THE MARSHALL ISLANDS	)	
	)	
Defendant/Appellee	)	

The undersigned(s) hereby certify that a copy of defendant/appellee's Answering Brief was served upon Russel Kun, Chief Public Defender and counsel for plaintiff/appellant by hand-delivery to his office on 9, 2019.

Dated: August 9, 2019.

  
\_\_\_\_\_  
Meuton Laiden  
Assistant Attorney-General  
Counsel for defendant/appellee

  
\_\_\_\_\_  
Lometo Philippo  
Assistant Attorney-General  
Co-counsel for defendant/appellee