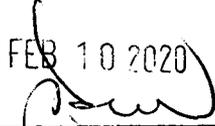


**Russell Kun, Esq.**  
Office of the Public Defender  
PO Box 88, Majuro, RMI  
Tel. 6254992 Fax. 6254991  
Email : [rkun2405@gmail.com](mailto:rkun2405@gmail.com)

**FILED**  
FEB 10 2020  
  
CLERK OF COURTS  
REPUBLIC OF THE MARSHALL ISLANDS

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

ANTOLOK ANTOLOK	)	Criminal Appeal No. 2018-011
Appellant	)	
	)	
	)	<b><u>REPLY BRIEF</u></b>
-v-	)	<u>Pursuant to Rule 28 (d)</u>
	)	<u>of the RMI Supreme Court</u>
	)	<u>Rules of Procedure</u>
	)	
REPUBLIC OF THE MARSHALL	)	
ISLANDS	)	
Appellee	)	
_____	)	

*COMES NOW*, the Appellant, **Mr. Antolok Antolok**, by and through his Counsel from the Office of the Public Defender, is filing its Reply Brief, pursuant to Rule 28 (d) of the RMI Supreme Court Rules of Proceedings (“the Rules”), in seeking this Supreme Court to set aside or quash the Trial Court’s Order of Conviction entered on September 21, 2018, and Sentence Order imposed on October 23, 2018, against him and direct a finding of not guilty and to be acquitted.

1. In its Reply, the Appellant concurs with the Appellee's paragraphs 1 to 4 in its Answer Brief.

2. As to the Appellee's answer in paragraph 5, although the Prosecution offered a slew of photographs as exhibits into evidence taken and compiled by Police Detective, including photographs of the alleged victim, especially a photo showing the alleged victim's bare neck and breasts, as shown in Government's Exhibits No.4 and 5, there was no other evidence whatsoever offered by the Prosecution that would establish their case beyond a reasonable doubt against the Appellant.

3. As argued by the Appellant in its Opening Brief that, during the trial, there was **no** evidence whatsoever offered by the Prosecution to show and prove beyond a reasonable doubt that, the Appellant did have forced sex with the alleged victim, **Ms. Tilber Hesa**, on that Sunday morning of September 24, 2017, because:

(i) Other than Dr. Nena's report on the alleged victim's mental deficiency, there was **no** medical report was offered into evidence to prove that the alleged victim's vagina had been forcefully penetrated by a penis and by strong compulsion; and

(ii) There was **no** medical report offered into evidence to show the alleged victim's underwear that she wore on that Sunday morning showed signs of any sexual assault or semen; and also

(iii) There was **no** medical report offered into evidence to prove that the kiss marks or "hickeys" shown in those exhibits or photographs of the alleged victim's neck and breast area were caused by the Appellant as alleged.

4. This is the reason of why the Appellant is pointing out and appealing that the Trial Court was erred to find the Appellant guilty of Sexual Assault in Second Degree so based on the evidence presented at trial, because the Defense had cast a doubt on the Prosecution's case who have seriously failed to establish and prove beyond a reasonable doubt that the Appellant did engage in "forced" sex with the alleged victim inside an abandoned house, located right next to the Appellant's house, on that Sunday morning between the hours of 10am and 12pm around September 24, 2017.

5. As to the Appellee's answer in paragraph 6, the Appellant reiterates that one its point in this appeal is that, the alleged incident happened around September 24, 2017, at around Utrikan Village (next to Demon Town) at broad daylight on a Sunday morning between the hours of 10am and 12pm, where:

*“The defendant, Antolok Antolok, threatened the victim, Tilber Hesa, a nineteen (19) year old female, **pulled the victim and tracked her into Junan's house** and while inside the said house covered the mouth of the victim with his strong hand while pulling up the victim's dress with other hand and took off the victim's underwear... then showed his penis to the victim and penetrated his penis into the vagina of the victim without the victim's consent while kissing her breast and neck leaving hickey on her breasts and neck.”*

This would seem improbable to be believed, because the area around Utrikan Village is densely crowded and no doubt to “*threatened the victim and pulled her into Junan's abandoned house*” at broad daylight between the hours of 10am and 12pm, would have certainly attracted a crowd of people and witness the whole incident as alleged in the Criminal Information.

6. As to the Appellee's answer in paragraph 8, the Appellant disagrees that it was not essential for the Prosecution to provide any medical evidence suggested of sexual assault, because this is what the allegations against the Appellant of “*pulling up the victim's dress with other hand and took off the victim's underwear... then showed his penis to the victim and penetrated his penis into the vagina of the victim*”.

Because without any of these medical reports offered into evidence to prove that the alleged victim's vagina had been forcefully penetrated by a penis and by strong compulsion; or signs of any sexual assault or semen; and or the kiss marks or “hickies” on the alleged victim's neck and breast area were caused by the Appellant, then this is not beyond a reasonable doubt.

7. As stated by the Appellant in its Opening Brief that, it was just strange that the complaint was made to the Police by the alleged victim's mother, **Mrs. Laila Hesa**, nearly two months later on November 6, 2017, rather than file a complaint to the Police

instant, especially for a very serious sexual assault such as this.

8. As to the Appellee's answer in paragraph 10, the Appellant chose to exercise his constitutional right to challenge the nature and cause of the accusations against him, to a speedy and public trial before a impartial tribunal; and to be confronted with the accusers and witnesses against him.

9. Further to the Appellee's answer in paragraph 10, the Appellant is not appealing to the sentence imposed by the Trial Court, but is appealing that the Trial Court was erred to find the Appellant guilty of Sexual Assault in Second Degree so based on the evidence presented at trial, because the Defense had cast a doubt on the Prosecution's case who have seriously failed to establish and prove beyond a reasonable doubt that the Appellant did engage in "forced" sex with the alleged victim.

10. That, the Appellant is currently incarcerated at the Majuro Jail, and by this appeal, the Appellant is seeking an Order from this Appellate Court to set aside the Trial Court's Order of Conviction entered on September 21, 2018, and the Sentence Order imposed on October 23, 2018, against him and direct a finding of not guilty and to be acquitted.

Proof of service of the Appellant's Reply Brief on all adverse Parties as prescribed by the Rules is attached.

Filed on this February 10, 2020.

With Highest Respect,



**Russell Kun, Esq.**

**Counsel for the Appellant**

## **CERTIFICATE OF SERVICE**

**Antolok Antolok -v- RMI**  
**Reply Brief**  
**Criminal Appeal No. 2018-011**

We, from the Office of the Public Defender, hereby certify that, upon filing at the Court, have duly served on the Office of the Attorney General, a true copy of the Appellant's **Reply Brief** on this February 10, 2020.

Komol tata,

  
Office of the Public Defender