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FILED

MAR 02 2018


ASST. CLERK OF COURTS
REPUBLIC OF THE MARSHALL ISLANDS

IN THE HIGH COURT
OF THE
REPUBLIC OF THE MARSHALL ISLANDS

ALEE PHILLIP)	S/C Criminal Case No. 2018- <u>003</u>
Plaintiff / Appellant Juvenile)	Juvenile Criminal Case No. 2017- <u>001</u>
)	
)	
)	NOTICE OF APPEAL
)	TO THE SUPREME COURT
-v-)	UNDER RULE 3(a) AND 4(b)
)	OF THE RMI SUPREME COURT
)	RULES OF PROCEDURE
REPUBLIC OF THE MARSHALL)	
ISLANDS)	
Defendant / Appellee)	
_____)	

NOTICE IS HEREBY GIVEN that, **ALEE PHILLIP**, the Appellant Juvenile, who is a Delinquent Child, and assisted by his Counsel of Record from the Office of the Public Defender, appeals to the Supreme Court of the Republic of the Marshall Islands and praying this Appellate Court to review two decisions of the High Court of the Republic of the Marshall Islands (“**Trial Court**”) contained in the **Adjudication** and **Disposition** Orders so entered and filed respectively on January 22, 2018, and February 5, 2018, in re: **RMI v. ALEE PHILLIP** – and copies of which are attached with this notice.

The following is a concise statement of the questions presented by the appeal:

1. That, the Appellant Juvenile, of who was charged for alleged Murder and other alleged offences by the Republic on July 27, 2017, was 15 years of age at the time and a citizen of the RMI, and a first-time offender without any prior criminal records, especially felonies, filed in any RMI Courts.
2. That, at its **Adjudication** on January 22, 2018, the Trial Court found, beyond a reasonable doubt, that the Appellant Juvenile committed the offences of Murder; First Degree Sexual Assault; and Burglary, and also found the Appellant Juvenile is a Delinquent Child.
3. The Appellant Juvenile appeals that the Trial Court erred in entering its guilty verdict based on his assumed confession obtained from Police Detectives.
4. That, at its **Disposition** hearing on February 2, 2018, after the Trial Court duly reviewed, considered and weighed the circumstances before it, so Ordered that;- on Count-1: Murder, a first degree felony, the Appellant Juvenile is sentenced to 25 years imprisonment with 0 years suspended and no fine imposed; and on Count-2: Sexual Assault in the First Degree, a first degree felony, the Appellant Juvenile is sentenced to 25 years imprisonment with 0 years suspended and no fine imposed; and on Count-4: Burglary, a second degree felony, the Appellant Juvenile is sentenced to 10 years imprisonment with 0 years suspended and no fine imposed.

The imprisonment terms for Counts-1 and 2 are to run consecutively to each other, while Count-4 will run concurrently with Counts-1 and 2.

5. That, the Appellant Juvenile is appealing the imprisonment sentence imposed by the Trial Court of 25 years imprisonment sentence to serve with 0 years suspended for both, Murder and First Degree Sexual Assault, to run consecutively to each other and thus amounting to 50 years imprisonment sentence to serve with 0 years suspended, did not serve the best interest of the Appellant Juvenile, especially after finding that the Appellant Juvenile is a Delinquent Child.
6. And the Appellant Juvenile, who is now 16 years of age, will be 66 years old when released (if still alive) and therefore, appeals that this imprisonment sentence imposed by the Trial Court, was not only harsh and excessive, but was subjected to a cruel and unusual punishment, and in violation of Section 6 of Article II of the RMI Constitution.

That, this criminal case is appealed from the Adjudication and Disposition Orders imposed by the Trial Court respectively on January 22, 2018, and February 5, 2018.

Proof of service of this Notice of Appeal on all adverse Parties as prescribed by the SCRP is attached.

So filed this March 2, 2018.



Russell Kun, Esq.

Counsel for Appellant Juvenile

IN THE HIGH COURT
OF THE
REPUBLIC OF THE MARSHALL ISLANDS

FILED

JAN 22 2018

[Signature]
ASST. CLERK OF COURTS
REPUBLIC OF THE MARSHALL ISLANDS

REPUBLIC OF THE MARSHALL ISLANDS, Plaintiff, v. ALEE PHILLIP, Alleged Juvenile Offender.	JUVENILE CASE NO. 2017-001 ADJUDICATION
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Falai Taafaki, counsel for the Republic
Russell Kun, counsel for alleged juvenile offender

This matter was tried to the Court on the following dates: November 20, 2017; November 21, 2017; November 22, 2017; January 15, 2018; and January 16, 2018. The Republic was at all times represented by Assistant Attorneys General Falai Taafaki and Meuton Laiden. The alleged juvenile offender ("AJO") was at all times represented by counsel Russell Kun.

But for the morning of November 21, AJO was present for all proceedings. On that morning, AJO was taken to the hospital for an unknown illness. With the consent of Mr. Kun, two witnesses testified in AJO's absence. I then postponed the proceedings until the following day.

AJO's mother was present for most of the proceedings. On those occasions when she was not present, the proceedings continued pursuant to the consent of Mr. Kun.

After the Republic closed its evidence on January 16, Mr. Kun made a motion for acquittal pursuant to MIRCrP 29(a). After counsel argued the motion, I denied the motion as to Counts 1, 2 and 4, but reserved ruling as to Count 3 until the conclusion of the evidence.

The defense elected not to present evidence.

I dismissed Count 3 (Manslaughter) because there is insufficient evidence to support a conviction of that offense.

Closing arguments were held on January 19, 2018.

Having heard the testimony presented at trial, and having reviewed the exhibits introduced at trial, and having heard the arguments of counsel, and having duly considered the testimony, exhibits and arguments, I now therefore enter the following:

FINDINGS OF FACT

1. I find, beyond a reasonable doubt, that AJO committed the offense of murder, as charged in Count 1 of the Amended Information.
2. I find, beyond a reasonable doubt, that AJO committed the offense of sexual assault in the first degree, as charged in Count 2 of the Amended Information.
3. I find, beyond a reasonable doubt, that AJO committed the offense of burglary, as charged in Count 4 of the Amended Information.
4. Having found that AJO committed the offenses charged in Counts 1, 2 and 4, I find that AJO is a delinquent child.

ORDER

1. AJO is remanded to the custody of MIPD pending further proceedings in this matter. For the present, he shall continue to be detained apart from the adult prisoner population.
2. A sentencing/disposition hearing will be held at 3:00 p.m. on February 2, 2019.
3. Counsel are encouraged, but are not required, to submit written recommendations prior to the sentencing/disposition hearing.

DATED this 22nd day of January, 2018.

BY THE COURT:



COLIN R. WINCHESTER
Associate Justice

FILED

FEB 02 2018

[Signature]
ASST. CLERK OF COURTS
REPUBLIC OF THE MARSHALL ISLANDS

**IN THE TRADITIONAL RIGHTS COURT
OF THE
REPUBLIC OF THE MARSHALL ISLANDS**

JACK ,)
)
)
Plaintiff,)
)
vs)
)
LODGE-LOBJU and LOFDGE-NED)
)
)
Defendants)

HC CIVIL ACTION NO. 2017-013

NOTICE OF PRE-TRIAL STATUS
CONFERENCE

TO; Alanso Elbon, counsel for plaintiff
Russel Kun, Chief Public Defender, counsel for defendants
Grace Leban, Presideing Judge
Nixon David, Associate Judge, TRC
Caious Lucky, Pro-tem Judge, TRC

Notice is hereby given that a pre-trial status conference to set a trial date for the above captioned matter is scheduled for February 12, 2018 at 10:00 a.m. at the Majauro courthouse.

Dated: 02/2/18

[Signature]
Walter K. Elbon
Chief Judge, TRC

FILED

FEB 05 2018

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

**ASST. CLERK OF COURTS
REPUBLIC OF THE MARSHALL ISLANDS**

REPUBLIC OF THE MARSHALL ISLANDS, Plaintiff, v. ALEE PHILLIP, Alleged Juvenile Offender.	JUVENILE CASE NO. 2017-001 DISPOSITION
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Falai Taafaki, counsel for the Republic
Russell Kun, counsel for alleged juvenile offender

This matter came before the Court for disposition on February 2, 2018. The Republic was represented by Assistant Attorney Generals Falai Taafaki and Meuton Laiden. The alleged juvenile offender (“AJO”) was present and was represented by counsel Russell Kun.

AJO’s mother was not present but the proceedings continued pursuant to the consent of Mr. Kun.

Tilla Marquez, wife of victim Robert Marquez and mother of victim Ashley Marquez, was present.¹

¹ Ms. Marquez was also present, over AJO’s objection, at the closing arguments and announcement of adjudication on January 19, 2018. I neglected to indicate her presence in the adjudication order.

Prior to the disposition hearing, counsel submitted written recommendations. Counsel supplemented those recommendations at the hearing.² Mrs. Marquez recommended that AJO be imprisoned for life. AJO was given the opportunity to address the Court but declined to do so.

I have duly reviewed, considered and weighed the requirements of the applicable statutes and court rules, AJO's best interests, the gravity of the offenses, the public safety, the recommendations of counsel and Mrs. Marquez, and AJO's lack of displayed remorse.

BASED ON THE FOREGOING, IT IS HEREBY ORDERED AS FOLLOWS:

1. On count 1, murder, a first degree felony, AJO is sentenced to imprisonment for a term of 25 years with 0 years suspended. No fine is imposed.
2. On count 2, sexual assault in the first degree, a first degree felony, AJO is sentenced to imprisonment for a term of 25 years with 0 years suspended. No fine is imposed.
3. On count 4, burglary, a second degree felony, AJO is sentenced to imprisonment for a term of 10 years with 0 years suspended. No fine is imposed.
4. The terms of imprisonment imposed for counts 1 and 2 shall run consecutively to each other. The term of imprisonment for count 4 shall run concurrently with the terms of imprisonment for counts 1 and 2.
5. AJO is given credit for 215 days served prior to disposition.

² The Republic recommended life in prison, which is the mandatory statutory sentence for "murder in the first degree." I conclude that there is no crime of "murder in the first degree" in the Republic.

6. AJO is immediately committed to the Superintendent of the Majuro Jail to begin serving his terms of imprisonment. AJO shall be confined separately from the jail's adult population until at least his 18th birthday.

7. Right to Appeal. AJO has the right to appeal. If he cannot afford the costs of appeal, he may petition the Court to waive those costs. He has the right to have an attorney represent him during the appeal process. If he cannot afford an attorney, the Court will order that an attorney be provided to him at no cost. *If AJO wishes to appeal, he must file a notice of appeal with the Court within 30 days of date hereof.*

DATED this 5th day of February, 2018.

BY THE COURT:



COLIN R. WINCHESTER
Associate Justice

CERTIFICATE OF SERVICE

NOTICE OF APPEAL

Juvenile Case No. 2017-001

I hereby certify that, upon filing at the High Court Registry, I have served via electronic mail, copies of the Appellant Juvenile's **Notice of Appeal**, to the Republic through the Prosecutor, Falai Taafaki, Esq., at the Office of the Attorney General as the Appellee.

Served on this March 2, 2018.

Komol Tata,

Ruta Lingsi 3/2/18
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Office of the Public Defender

FILED

MAR 02 2018

[Signature]
ASST. CLERK OF COURTS
REPUBLIC OF THE MARSHALL ISLANDS