



By order of the Court, Presiding Judge Roberto C. Naraja

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FOR PUBLICATION



E-FILED  
CNMI SUPERIOR COURT  
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N/A

IN THE SUPERIOR COURT  
OF THE  
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

COMMONWEALTH OF THE  
NORTHERN MARIANA ISLANDS,

Plaintiff,

v.

LYNN FITIAL and STACEY LANI  
LANIYO,

Defendants.

CRIMINAL CASE NO. 20-0119

ORDER GRANTING MOTION  
TO SEVER

INTRODUCTION

THIS MATTER came before the Court on September 29, 2020 at 9:00 a.m. in the Supreme Court Courtroom for Defendant LYNN FITIAL's Motion to Sever. Defendant STACEY LANI LANIYO joined the Motion to Sever. The Government was represented by Assistant Attorney General Erin Toolan. Defendant Fitial appeared and was represented by her counsel, Assistant Public Defender Vina Seelam. Defendant Laniyo appeared and was represented by her counsel, Mark A. Scoggins, Esq.

Based on the reasons stated below, Defendants' Motion to Sever is GRANTED.

BACKGROUND

On July 23, 2020, the Office of the Attorney General filed the above-captioned information. The information charged Defendant Stacey Laniyo with Child Abuse in violation of 6 CMC § 5312(a)(1), and made punishable by 6 CMC § 5312(c). The alleged abuse happened on or about March 12, 2020 when Ms. Laniyo struck J.K.F. with a tree branch, a broom, or her hand or by biting him. The information also charges Defendant Lynn Fitial with Child Abuse in violation of 6 CMC 5312(a)(2), made punishable by 6 CMC

1 5312(c). Allegedly, on or about March 13, 2020, Ms. Fitial failed to provide medical care for  
2 J.K.F, resulting in his death.

### 3 LEGAL STANDARD

4 Rule 8 (b) of the NMI Rules of Criminal Procedure govern joinder. It states “two or  
5 more defendants may be charged in the information if they are alleged to have participated  
6 in the same act or transaction or in the same series of acts or transactions constituting an  
7 offense or offenses”. NMI R. Crim. P. 8 (b). Because the NMI Rules of Criminal Procedure  
8 is modeled after Federal Rule of Criminal Procedure, it is appropriate to consult the federal  
9 rules and its interpretations. *Commonwealth v. Attao*, 2005 MP 8 ¶9, n. 7.

10  
11 Under the federal rule, “when multiple defendants are involved, joinder is improper  
12 unless all offenses arise out of the same series of acts or transactions”. *United States v.*  
13 *Martin*, 567 F.2d 849, 853 (9th Cir. 1977) (citing *United States v. Roselli*, 432 F.2d 879 (9th  
14 Cir. 1970); *United States v. Satterfield*, 548 F.2d 1341 (9th Cir. 1977)). “The purpose of rule  
15 8(b) is to balance the need to avoid the potential prejudice that may result from joining  
16 multiple defendants for trial with the need to attain trial efficiency”. *Martin*, 567 F.2d at 853.  
17 When looking at whether a set of events constitutes a “series of acts or transactions”, the  
18 term “transactions” has a flexible meaning and the “existence of a “series” depends upon the  
19 degree to which the events are related”. *United States v. Ford*, 632 F.2d 1354, 1371 (9th Cir.  
20 1980) (citing. *Satterfield*, 548 F.2d at 1344; *United States v. Friedman*, 445 F.2d 1076, 1083  
21 (9th Cir.), cert. denied, 404 U.S. 958 (1971).

22  
23 “Factual similarity of events will not suffice.” *Ford*, 632 F.2d at 1372. (citing *United*  
24 *States v. Adams*, 581 F.2d 193, 197 (9th Cir.), cert. denied, 439 U.S. 1006, (1978);  
25 *Satterfield*, 548 F.2d at 1344-45; *Roselli*, 432 F.2d at 898). Instead, “there must be some  
26 greater "logical relationship" between the occurrences”. *Id.* (citing *Satterfield*, 548 F.2d at  
1344; *Friedman*, 445 F.2d at 1083). “A logical relationship may be shown by the existence

1 of a common plan, scheme, or conspiracy”. *Id.* (citing *Adams*, 581 F.2d at 197; *United States*  
2 *v. Kennedy*, 564 F.2d 1329, 1333 (9th Cir. 1977), cert. denied sub nom 435 U.S. 944 (1978);  
3 8 Moore's Federal Practice P 8.06(2) at 8-37).

#### 4 **DISCUSSION**

5 The Defendants argue that they are not accused to have committed offenses arising  
6 out of common acts or transactions, and the only similarity is the alleged victim in this case.  
7 Additionally, Defendants argue that even if joinder is proper, the Motion to Sever should  
8 still be granted under Rule 14 of NMI Rules of Criminal Procedure for prejudice. The  
9 Government did not file an opposition and leaves the matter to the discretion of the Court.  
10 The Court is persuaded by the Defendants’ arguments.  
11

12 The Government does not allege any connection between the two alleged incidents.  
13 Each Defendant is charged under two separate subsections of 6 CMC § 5312, and does not  
14 allege a common scheme, plan, or conspiracy. The Government does not allege that Ms.  
15 Laniyo’s strike/bite caused the death of the victim and that Ms. Fitial failed to provide  
16 adequate treatment of such death based on Ms. Laniyo’s alleged strike/bite. There also isn’t  
17 an allegation that the two Defendants planned to hurt the victim. There seems to be no  
18 logical relationship between the two events besides having the same victim.  
19

20 With this in mind, the Court has no choice, but to **GRANT** the Motion to Sever. The  
21 Court does not reach the merits of Defendants’ Motion to Sever under Rule 14 of NMI  
22 Rules of Criminal Procedure since the Court grants under Rule 8(b).

23 **IT IS SO ORDERED** this 29th day of October, 2020.  
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25  
26 /s/  
**ROBERTO C. NARAJA**, Presiding Judge