

TRUST TERRITORY OF THE PACIFIC ISLANDS,
Plaintiff-Appellee

v.

RILEY ALBERTTAR, Defendant-Appellant

Criminal Appeal No. 62

Appellate Division of the High Court

Marshall Islands District

May 20, 1977

Appeal claiming that information charging involuntary manslaughter was defective in that it did not contain sufficient allegations of fact to permit preparation of a defense. The Appellate Division of the High Court, Burnett, Chief Justice, reversed and remanded with directions to dismiss, subject to such permission to amend as the court deemed proper.

Criminal Law—Information—Sufficiency

Prosecution's confession of error and request for remand, in answer to appeal claiming that information charging involuntary manslaughter was defective in that it did not contain sufficient allegations of fact to permit preparation of a defense, was not binding on Appellate Division, but reversal and remand would be granted where it was concluded that the information was in fact defective.

BURNETT, *Chief Justice*, BROWN, *Associate Justice* and
WILLIAMS, *Associate Justice*.

PER CURIAM

Appellant was convicted, in Marshall Islands Criminal Case No. 8-76, of two counts of Involuntary Manslaughter, driving at an unsafe speed, and obstructing the view of the driver, and brought this appeal.

While the notice of appeal does not specify the error claimed, it is clear from Appellant's brief that he attacks only the conviction on those counts charging involuntary manslaughter. It is his contention, urged at time of trial, as well as on this appeal, that, as to these counts, the information is defective in that it did not contain sufficient allegations of fact to permit preparation of a defense.

Appellee filed no brief, but did file a "confession of error and request for remand". We note first that such a "confession" is not binding on this Court. We have concluded, however, that counts 1 and 2 of the Information are defective and that remand is appropriate.

It is Ordered:

1. The judgment of conviction is affirmed as to counts 3 and 5 of the Information.
2. The judgment is reversed as to counts 1 and 2 of the Information, and remanded to the Trial Division with directions to Dismiss, subject to such permission to amend as the Court deems proper.