

TRUST TERRITORY OF THE PACIFIC ISLANDS, Plaintiff

v.

BAJINJEA ABIJA, et al., Defendants

Criminal Action No. 8-78

Trial Division of the High Court

Marshall Islands District

May 9, 1979

Criminal appeal. Trial Division of the High Court, Hefner, Associate Justice, held that where defendants were not informed of their statutory rights upon arrest, evidence obtained as a result of this violation would not be admissible.

1. Criminal Law—Statutes

Statutes listing rights of arrested persons and effect of violations of those rights should be strictly interpreted. (12 TTC §§ 68, 70)

2. Constitutional Law—Exclusionary Rule

Evidence obtained by police in violation of rights of arrested persons, as set out by statute and judicial decision, shall not be admissible at trials. (12 TTC §§ 68, 70)

HEFNER, Associate Justice

At issue in this matter is the effect of 12 TTC § 70 when there is no compliance with 12 TTC § 68.

Various defendants were arrested and taken into custody. It is conceded that the defendants were not informed of their rights encompassed in section 68, subsections (1), (2) and (3). These subsections require the police to inform a defendant of his right to see his counsel, family, employer or representative of his employer; to inform a defendant of his right to send a message to his counsel, family, employer or representative of his employer; and to inform a defendant that he must be charged within twenty-four (24) hours.

Section 70 provides that any evidence obtained as a result of a violation of section 68 shall not be admissible.

[1, 2] This Court holds that a strict interpretation of sections 68 and 70 must be given and that until the police have complied with the guidelines set out in *Trust Territory v. Poll*, 3 T.T.R. 387 (Tr. Div. 1968) and 12 TTC § 68(1), (2) and (3), evidence obtained in violation thereof shall be excluded. See also *GNMI v. Fitial*, Northern Mariana Islands District Court Criminal Case No. 78-00011 (January 12, 1979) and *GNMI v. Norita*, Northern Mariana Islands District Court Criminal Case No. 78-00015 (February 2, 1979) which reach the same result.