

A17-10/A17-4  
FFL2/60:cjs

UNITED STATES PACIFIC FLEET  
COMMANDER MARIANAS

Serial: 10508

2 April 1947.

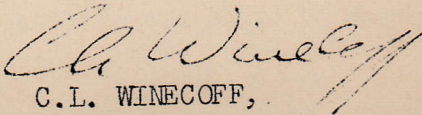
From: Commander Marianas.  
To : DISTRIBUTION LIST.

Subject: Saipan Court of Appeals - Establishment of.

Reference: (a) ComMarianas ltr ser 10422 dtd 1 April 1947.

Enclosure: (A) Copy of reference (a).

1. Enclosure (A) is forwarded herewith for information.
2. Attention is invited to paragraph 6 of enclosure (A) which downgrades to unclassified, Commander Marianas restricted letter serial 362 dated 10 January 1947.

  
C.L. WINECOFF,  
By direction.

DISTRIBUTION LIST:

ComMarshalls Sub-Area  
ComEastCarolines Sub-Area  
ComWestCarolines Sub-Area  
CO USNMGU Kwajalein  
CO USNMGU Lajuro  
CO USNMGU Yap  
CO USNMGU Palau Is. (Koror)  
CO USNMGU Truk  
CO USNMGU Ponape  
SMGO Rota  
SMGO Angaur  
SMGO Eniwetok  
AtCom Majuro  
AtCom Eniwetok  
SONA, Stanford Univ., Calif.  
CNO (Island Govt.)  
CinCPacFlt



UNITED STATES PACIFIC FLEET  
COMMANDER MARIANAS

Serial: 10422

1 April 1947.

From: Commander Marianas.  
To : Chief Military Government Officer, Saipan.  
Subject: Saipan Court of Appeals - Establishment of.  
Reference: (a) ComMarianas rest ltr ser 362 dtd 10 January 1947.

1. The Chief Military Government Officer, Saipan, is directed to establish and create as soon as practicable, a Court of Appeals in accordance with the following:

- (a) It shall be an appellate court for the Bonins-Marianas Island Groups (less Guam and Rota) to be known as "The Saipan Court of Appeals," for the hearing of appeals from final orders, judgements, or decrees of the local native court(s) already established, or which may be established hereafter.
- (b) The court shall adopt and have a seal, and shall be a court of record.
- (c) The court shall consist of three judges; one to be a commissioned officer of the U.S. Navy or U.S. Naval Reserve, attached to the Military Government Unit within the command, appointed by Military Government. The other judges shall be natives who may either be appointed by Military Government or elected by the inhabitants of the community as Military Government, after consultation with the people concerned, may deem advisable. The commissioned officer shall be designated as presiding judge and the other two as associate judges.
- (d) The Saipan Court of Appeals shall have appellate jurisdiction in all criminal and civil cases arising in the local native court(s).
- (e) Any party aggrieved by any final order, judgement, or decree of a local native court may appeal therefrom to the Saipan Court of Appeals; and upon such appeal the Saipan Court of Appeals shall review such order, judgement, or decree, and affirm, reverse, or modify the same as shall be just; or it may direct a new trial or further proceedings to be had where the interests of justice require. The Saipan Court of Appeals shall have the power to review both as to the facts and the law, but a judgement of the trial court shall not be set aside except for errors of law or unless it appears that the judgement is plainly wrong or without evidence to support it.



Serial: 10422

1 April 1947.

Subject: Saipan Court of Appeals - Establishment of.

-----

- (f) Any person desiring to appeal from any final order, judgement, or decree of the local native court, provided he has substantial grounds, either in fact or law, may file with the clerk of the local native court, a written notice stating that he appeals therefrom, setting forth concisely but clearly and distinctly, the nature of the proceeding, the trial and judgement therein, the grounds for appeal, and requesting that the complete record of the case be made up and transmitted to the Saipan Court of Appeals. Said notice must be filed within five days after notice of entry of final order, judgement, or decree, unless the local court for cause shown extends the time for filing. When the appealing party is not represented by counsel, it shall be the duty of the clerk to prepare the application in his behalf. The notice of appeal, the record, and all other papers filed in the case shall be promptly presented by the clerk to the presiding judge of the Saipan Court of Appeals.
- (g) Appeals or reviews in all cases shall be set and called for hearing for a date not later than ten days after the filing of the record in the Saipan Court of Appeals, unless this Court, for exceptional cause shown, shall grant a continuance.
- (h) The Saipan Court of Appeals shall have the power in any case appealed, to take new or additional evidence, under oath, either upon its own initiative, or upon motion of any party to the appeal; but in criminal cases, it shall not increase the punishment assigned by the lower court.
- (i) If any party appeals upon trivial or frivolous grounds, or if he appeals on the grounds of newly discovered evidence, and, is unable to present it upon the hearing, the appeal may be dismissed. The dismissal of an appeal is in effect an affirmation of the judgement or order appealed from.
- (j) The defendant in a criminal case may, as a matter of right, appeal from any judgement against him. This gives the right of appeal even where the judgement appealed from may have been entered upon a plea of guilty. Where, however, an appeal is taken from a judgement entered upon a plea of guilty, since the judgement entered is in effect a judgement by confession, no question as to the sufficiency of the evidence or the guilt of



Serial: 10422

1 April 1947.

Subject: Saipan Court of Appeals - Establishment of.

-----

the defendant can ordinarily be raised. Ordinarily, the only questions raised by an appeal from a judgement entered on a plea of guilty, are: whether or not the plea was voluntary and the accused of competent intelligence and understanding to enter his plea; his knowledge of his legal rights and the nature and consequences of his plea; the insufficiency of the charge; the jurisdiction of the court; and the legality and justice of the sentence.

- (k) An appeal to the Saipan Court of Appeals from a judgement stays the execution of the judgement in all cases until final disposition thereof by the said Saipan Court of Appeals.
- (l) When the judgement of the appellate court is given, it must be entered in the record, and a certified copy of the entry, with a copy of the opinion of the court attached thereto, forthwith remitted to the clerk of the court from which the appeal was taken.
- (m) Any judgement or order issued by the Saipan Court of Appeals in a case reviewed by it on appeal, shall be given immediate effect by the lower court, unless such judgement or order is changed in accordance with paragraph 4 below.
- (n) When no appeal is taken and perfected, the judgement of the local native court shall be final, and shall be executed, unless Military Government otherwise orders. Upon the establishment and creation of the Saipan Court of Appeals, the provisions of paragraph 13 of reference (a) shall cease to apply to local native court(s) in the Bonins-Marianas Island Groups (less Guam and Rota). Military Government, however, shall retain the right to change, if it so desires, any sentence or judgement of the local native court.
- (o) The Saipan Court of Appeals shall have the power to prescribe by rules what parts of the proceedings in the court below shall constitute the record on appeal; the practice and procedure; and generally, to regulate all matters relating to appeals, whether in the court below or in said Saipan Court of Appeals, provided they are not inconsistent with this directive.
- (p) Cases must be heard by all three judges and are to be determined by majority opinion.



AL7-10/AL7-4  
FF12/60:cjs

UNITED STATES PACIFIC FLEET  
COMMANDER MARIANAS

Serial: 10422

1 April 1947.

Subject: Saipan Court of Appeals - Establishment of.

-----  
3. The Saipan Court of Appeals shall also be a court of original jurisdiction as follows:

- (a) It shall be competent to try all civil and criminal cases within the area of the Military Government Unit, Saipan, which are beyond the jurisdiction of the local native court(s) and which involve natives only.
- (b) It may impose any lawful punishment other than death or imprisonment for more than ten years.

4. Any act or decision of the Saipan Court of Appeals may be changed by Military Government, but shall be given full force and effect unless and until so changed.

5. Inform Commander Marianas when the Saipan Court of Appeals has been officially established and created.

6. Reference (a) is hereby downgraded to unclassified.

/s/ C. H. Wright  
C. H. WRIGHT, R. Adm.,  
Deputy Commander Marianas.

Copy to: CO USNMGU Saipan