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IN THE SUPERIOR COURT OF GUAM

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OF GUAM

PEOPLE OF GUAM,

Criminal Case No. CF0063-25
GPD Report No. 25-02361

v.

NATHANIEL FONTANAVILES
(aka NAHTANIEL FONTAN AVILES),
DOB: 10/17/1985

DECISION AND ORDER
GRANTING
DEFENDANT'S MOTION TO DISMISS

Defendant.

INTRODUCTION

This matter came before the Honorable Alberto C. Lamorena, III on January 7, 2026 for hearing on Nathaniel Fontanviles's (aka Nahtaniel Fontan Aviles's) ("Defendant's") Motion to Dismiss ("Motion"). Assistant Attorney General Lucas Wood represents the People, and Attorney Joaquin Arriolva Jr. represents Defendant. Having duly considered the parties' briefs, oral arguments, and the applicable law, the Court now issues the following Decision and Order and **GRANTS** Defendant's Motion.

BACKGROUND

Defendant is indicted on the following: Charge One: Family Violence (as a 3rd Degree Felony), Charge Two: Strangulation (as a 3rd Degree Felony), and Charge Three: Family Violence (as a Misdemeanor). See Indictment (Feb. 14, 2025). The charges stem from an alleged incident on January 27, 2025, in which Cindy Fenol ("Victim") claims Defendant (her boyfriend) struck her face multiple times and blocked her airway by pressuring her neck. Id.

On November 6, 2025, Defendant filed his Motion to Dismiss. Defendant claims dismissal is appropriate because the Victim filed a statement with the Office of the Attorney General requesting that charges be dropped and stating that Defendant never struck her. See Motion at Exhibit A (Nov. 6, 2025). Furthermore, Defendant claims Victim is currently residing in Bahrain, and is unlikely to return to Guam to testify against Defendant. Id. at 2. Therefore, Defendant claims dismissal is proper because the People will be unable to prove the elements of the offenses

1 charged. Id. at 4. Furthermore, Defendant believes the dismissal should be made with prejudice
2 alleging bad faith on the People’s failure to dismiss the case themselves. Id. at 4.

3 The People never filed a formal opposition to Defendant’s Motion to Dismiss. However, the
4 People did indicate their opposition to the Motion in court. See Minute Entry (Jan. 7, 2026). The
5 People also indicated they have been unable to contact or locate the Victim. Id.

6 The Court held a hearing on January 7, 2026. After hearing the arguments of the parties, the
7 Court took the matter under advisement.

8 **DISCUSSION**

9 Under Guam law, “no person may be convicted of an offense unless each element of the
10 offense is proved beyond a reasonable doubt.” See 8 G.C.A. § 90.21.

11 In order to secure a conviction under their burden, the People must prove beyond a
12 reasonable doubt each of the following elements of the offenses charged:

- 13 • Family Violence (as a 3rd Degree Felony / as a Misdemeanor):
 - 14 ○ On or about January 27, 2025;
 - 15 ○ In Guam;
 - 16 ○ Defendant did recklessly;
 - 17 ○ Cause or attempt to cause bodily injury to another family or household
 - 18 member, that is, Victim.
- 19 • Strangulation (as a 3rd Degree Felony)
 - 20 ○ On or about January 27, 2025;
 - 21 ○ In Guam;
 - 22 ○ Defendant did knowingly or intentionally;
 - 23 ○ Against the will of another, impede the normal breathing or circulation of
 - 24 the blood of another by applying pressure to the throat or neck or by
 - 25 blocking the nose or mouth of another, that is, Victim.

26 See 9 G.C.A. §§ 30.10(a)(1) & 19.80(a).

27 Here, the Victim’s testimony is necessary for the People to meet their burden because there
28 are no other witnesses to the alleged incident. It is clear the People cannot currently meet their

1 burden because they have been unable to contact or locate the Victim. Therefore, dismissal is
2 appropriate.

3 However, the dismissal should be made *without prejudice* because nothing indicates the
4 People's failure to dismiss the case on their own accord was done in bad faith. If the People are able
5 to recontact the Victim and secure her cooperation, they may refile the case before the applicable
6 statute of limitations runs out (January 27, 2028). See 8 G.C.A. § 10.20(c) ("a prosecution for any
7 ... felony shall be commenced within three (3) years after it is committed.").

8 **CONCLUSION**

9 For the reasons stated above, the Court **GRANTS** Defendant's Motion. The case shall be
10 dismissed because the People are currently unable to prove the elements of the offenses charged.
11 This dismissal shall be without prejudice because no bad faith was shown on the part of the People.

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13 **IT IS SO ORDERED** this March 20, 2026

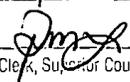


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17 **HONORABLE ALBERTO C. LAMORENA, III**
18 **Presiding Judge, Superior Court of Guam**

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25 SERITE V. HERNANDEZ
I acknowledge that an electronic
copy of the original was e-mailed to:

26 OAG & J. Arriola

27 Date: 3/20/26 Time: 10:16

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Deputy Clerk, Superior Court of Guam