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**SUPERIOR COURT
OF GUAM**

IN THE SUPERIOR COURT OF GUAM

THE PEOPLE OF GUAM,

CRIMINAL CASE NO. CF0337-25

Plaintiff,

V.

ERICK GABRIEL RAMOS,

DECISION AND ORDER

Defendant.

INTRODUCTION

This motion asks the Court to decide a narrow but consequential question: whether the prosecution against Defendant for importing and possessing a Schedule II controlled substance must be dismissed under 9 GCA § 7.67. Defendant argues that, even assuming probable cause, the charged conduct did not meaningfully threaten the harm sought to be prevented by Guam's controlled-substance laws and therefore falls within the statute's limited authorization for dismissal. The People disagree, contending that § 7.67 does not apply where the alleged conduct lies at the core of the Legislature's criminal prohibitions and that dismissal would improperly intrude upon prosecutorial discretion. The statute directs the Court to assess the nature of the conduct and the attendant circumstances, but only within carefully bounded categories: customary tolerance, trivial harm, or extenuations not reasonably contemplated by the legislature. The question before the Court is therefore not whether probable cause exists or how the evidence may ultimately be resolved at trial, but whether the charged conduct importing and

1 possessing a Schedule II controlled substance upon arrival in Guam—falls within any category
2 requiring dismissal. For the reasons explained below, it does not.

3 **BACKGROUND**

4 On May 16, 2025, the People of Guam filed a Magistrate's Complaint charging
5 Defendant with: (1) Importation of a Schedule II Controlled Substance, as a First Degree Felony,
6 in violation of 9 GCA §§ 67.601(a), 67.205, and Appendix B of Chapter 67; and (2) Possession
7 of a Schedule II Controlled Substance on Board an Aircraft Arriving in Guam, as a First Degree
8 Felony, in violation of 9 GCA §§ 67.604(a), 67.205, and Appendix B of Chapter 67. *See*,
9 Magistrate's Compl., (May 16, 2025).

10 On June 3, 2025, a Grand Jury returned an Indictment charging Defendant with the same
11 two offenses alleged in the Magistrate's Complaint. *See*, Indictment, (Jun. 3, 2025).

12 On October 11, 2025, Defendant moved to dismiss the Indictment pursuant to 9 GCA §
13 7.67, arguing that the charged conduct was de minimis and did not cause or threaten the harm the
14 statutes seek to prevent. *See*, Defendant's Mot. to Dis., (Oct. 14, 2025).

15 The People opposed the motion, asserting that § 7.67 does not permit dismissal where
16 probable cause exists and that application of the de minimis statute would improperly intrude
17 upon prosecutorial discretion. *See*, People's Opp'n to Def.'s Mot. to Dismiss Indictment Due to
18 the De Minimis Nature of the Alleged Offense, (Oct. 29, 2025).

19 Defendant thereafter filed a reply, maintaining that § 7.67 expressly applies post-
20 charging, requires judicial evaluation of the nature of the conduct and attendant circumstances,
21 and does not foreclose prosecution but authorizes dismissal where continued prosecution would
22 be inappropriate. *See*, Def.'s Reply to People's Opp'n to Mot. to Dismiss, (Nov. 5, 2025).

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27 The matter is now before the Court for resolution.
28

DISCUSSION

The Court begins by outlining the governing framework of 9 GCA § 7.67 and the limited circumstances under which dismissal is authorized. It then examines the nature of the conduct charged and the attendant circumstances, as required by the statute and Guam Supreme Court precedent. Applying that framework, the Court addresses each statutory category in turn. First, it explains why the alleged importation and possession of a Schedule II controlled substance does not fall within any customary license or tolerance. Next, it considers whether the conduct failed to cause or threaten the harm the statute was designed to prevent and concludes that it did not. Finally, the Court addresses whether the charged conduct presents extenuations not reasonably contemplated by *ILiheslatura* and determines that it does not. Because Defendant's conduct falls squarely outside the narrow bounds of § 7.67, dismissal is unwarranted.

I. Nature of The Charged Conduct.

Title 9 GCA § 7.67 authorizes dismissal of a prosecution only where the charged conduct, considered in light of the attendant circumstances, falls within one of three narrow categories: conduct tolerated by custom, conduct that did not cause or meaningfully threaten the harm the statute seeks to prevent, or conduct presenting extenuations not reasonably contemplated by *ILiheslatura*. 9 GCA § 7.67(a)–(c). Any dismissal under the statute must be supported by a written statement of reasons. *Id.* § 7.67(c).

The Guam Supreme Court explained that a court addressing a motion under § 7.67 must first determine the nature of the conduct charged and the surrounding circumstances, and then decide—within the confines of the statute—whether dismissal is required. *People v. Perez*, 2004 Guam 4 ¶¶ 6–10. When dismissal is sought under subsection (b), the dispositive inquiry is whether the defendant's conduct actually caused or threatened the harm the statute was designed

1 to prevent, or whether any such harm was too trivial to warrant the condemnation of a criminal
2 conviction. *Id.* at 10–11.

3 **II. Defendant's Conduct Not Within A Customary License or Tolerance**

4 Section 7.67(a) directs dismissal only where the defendant's conduct falls within a
5 customary license or tolerance that is neither expressly negated by the person whose interest was
6 infringed nor inconsistent with the purpose of the law defining the offense. 9 GCA § 7.67(a). The
7 provision is narrow. It does not encompass conduct that is merely common, understandable, or
8 lacking in aggravating features; it applies only to conduct society has affirmatively tolerated
9 notwithstanding the statute.

10
11 Here, Defendant's alleged conduct—importing and possessing a Schedule II controlled
12 substance upon arrival in Guam—does not fall within any recognized customary license or
13 tolerance. Guam's controlled substance laws reflect a clear legislative choice to prohibit
14 possession and importation of Schedule II substances, including in the context of commercial air
15 travel. The statutory scheme leaves no room for informal or implied tolerance of such conduct,
16 whether based on quantity, convenience, or personal use.

17
18 Nor is there any indication that the interest protected by the statute—the public's health
19 and safety—was waived or affirmatively tolerated in this context. To the contrary, the regulatory
20 framework governing air travel and controlled substances reinforces that such conduct is
21 expressly proscribed and inconsistent with the statute's purpose.

22
23 Accordingly, Defendant's conduct does not satisfy § 7.67(a), and dismissal on the ground
24 of customary license or tolerance is unwarranted.

25
26 **III. No Showing That the Conduct Failed to Cause or Threaten the Harm Sought To
27 Be Prevented.**

Under § 7.67(b), dismissal is appropriate only where the defendant's conduct did not cause or threaten the harm or evil sought to be prevented by the statute, or did so only to an extent too trivial to warrant condemnation of conviction. 9 GCA § 7.67(b).

The Guam Supreme Court has emphasized that this inquiry focuses on the risk of harm to which society is exposed by the defendant's conduct, not whether harm ultimately materialized. *Id.* at 18–19. A prosecution is inappropriate under subsection (b) only where the conduct, though technically unlawful, does not implicate the interests the statute was designed to protect. *Id.* at 10–11.

Here, Defendant's alleged conduct directly implicates those interests. The importation and possession of Schedule II controlled substances are precisely the harms the statutory scheme seeks to prevent. Defendant's conduct falls squarely within the core concern of Guam's controlled substance laws. The Court therefore cannot conclude that the threat of harm was trivial within the meaning of § 7.67(b).

IV. The Charged Conduct Falls Within the Conduct Envisaged by *I Liheslatura*.

Section 7.67(c) authorizes dismissal where the conduct presents extenuations such that it cannot reasonably be regarded as envisaged by *I Liheslatura* in forbidding the offense. 9 GCA § 7.67(c). This provision functions as a narrow safety valve. It guards against prosecutions that would extend the criminal law beyond what the Legislature could reasonably have anticipated, not as a vehicle to carve out exceptions to offenses that the Legislature deliberately defined in broad terms.

Here, the Legislature expressly criminalized the importation and possession of Schedule II controlled substances and did so without creating a quantity threshold, travel-context exception, or personal-use allowance. Conduct involving possession of such substances upon

1 entry into Guam is therefore not an unusual or marginal scenario that falls outside the
2 Legislature's contemplation — it is a straightforward application of the statutory prohibition.
3 The absence of additional aggravating facts does not place the conduct beyond what I Liheslatura
4 intended the statute to reach.

5 Accordingly, dismissal is not warranted under § 7.67(c).
6

7 CONCLUSION

8 Section 7.67 requires dismissal only where its statutory criteria are satisfied. Having
9 considered the nature of the charged conduct and the attendant circumstances, the Court finds
10 that Defendant's conduct does not fall within § 7.67(a), (b), or (c). The statute therefore does not
11 require dismissal, and the motion is denied.
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14 SO ORDERED FEB 19 2026

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16 HONORABLE ARTHUR R. BARCINAS
17 Judge, Superior Court of Guam
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23 SERVICE VIA E-MAIL

24 I acknowledge that an electronic
copy of the original was e-mailed to:

25 AGr, APO

26 Date: 2/19/26 Time: 2:04 pm

27 Antonio J. Cruz

28 Deputy Clerk, Superior Court of Guam