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IN THE SUPERIOR COURT OF GUAM SUPERIOR COURT
OF GUAM

PEOPLE OF GUAM,

v.

PIERRE TIMOTHY AGUON,
DOB: 01/17/1967

Defendant.

Criminal Case No. CF0484-25
GPD Report No. 25-16996

DECISION AND ORDER
DENYING
DEFENDANT'S MOTION TO DISMISS

INTRODUCTION

This matter came before the Honorable Alberto C. Lamorena, III on January 9, 2026 for hearing on Pierre Timothy Aguon's ("Defendant's") Motion to Dismiss ("Motion"). Assistant Attorney General Lucas Wood represents the People, and Attorney George Valdes represents Defendant. Having duly considered the parties' briefs, oral arguments, and the applicable law, the Court now issues the following Decision and Order and **DENIES** Defendant's Motion.

BACKGROUND

Defendant is indicted on the following charges: Attempted Strangulation (as a 3rd Degree Felony), Terrorizing (as a 3rd Degree Felony), Assault (as a Misdemeanor), and Family Violence (as a Misdemeanor). See Indictment (Jul. 29, 2025). The charges stem from allegations that on June 7, 2025, Defendant grabbed Mikela Shustine Calvo Aguon's ("Victim's") throat, held her against a wall, and made verbal threats against her life. Id.

On October 31, 2025, Defendant filed his Motion to Dismiss Indictment. Defendant seeks to dismiss the charges of Attempted Strangulation and Terrorizing on grounds that insufficient evidence was presented to the grand jury to support their finding of reasonable cause. See Motion at 6-8, 10-12 (Oct. 31, 2025). Defendant also seeks to dismiss the entire indictment on grounds that the People failed to present numerous pieces of exculpatory evidence to the grand jury, including photos of Victim showing a lack of injuries, text messages Victim sent to Defendant's brother describing the event, and Victim's written statement to police given one month after the event in question. Id. at 8-9, 12. Lastly, Defendant requests dismissal of the entire indictment on grounds

1 that the People inflamed the grand jury by: (i) improperly painting him as a drug user, and (ii)
2 referencing a photo of a gun that he allegedly sent to Victim several days after the incident in
3 question. Id. at 13-15.

4 On November 25, 2025, the People filed their Opposition to Defendant’s Motion
5 (“Opposition”). The People contend that sufficient evidence was presented to the grand jury to
6 support their findings of reasonable cause on both the charges of Attempted Strangulation and
7 Terrorizing. See Opposition at 3-4 (Nov. 25, 2025). The People also claim the evidence they failed
8 to present to the grand jury (including photos of Victim showing a lack of injuries, text messages
9 Victim sent to Defendant’s brother, and Victim’s written statement to police) were not required
10 exculpatory disclosures. Id. at 4-5. Lastly, the People argue any reference to Defendant’s drug use
11 or threatening photos sent to Victim did not prejudice Defendant because there was sufficient
12 competent evidence to support the indictment. Id. at 5.

13 On December 15, 2025, Defendant filed his Reply to Opposition (“Reply”). Defendant
14 reiterated many of his same arguments, including: (i) that the grand jury lacked reasonable cause to
15 indict on the charges of Attempted Strangulation and Terrorizing, (ii) that the People withheld
16 material exculpatory evidence from the grand jury, and (iii) that the People prejudiced Defendant
17 by improperly referencing his alleged drug use and other threats supposedly sent to Victim. See
18 Reply at 2-4 (Dec. 15, 2025).

19 The Court held a hearing on January 9, 2026. After hearing the arguments of the parties, the
20 Court took the matter under advisement.

21 DISCUSSION

22 **I. The charges of Attempted Strangulation and Terrorizing should not be dismissed** 23 **because they are based on reasonable cause.**

24 During a grand jury proceeding, the prosecuting attorney presents evidence for the grand jury
25 to determine whether “there is *reasonable cause* to believe that an indictable offense has been
26 committed and that the defendant committed it.” See 8 G.C.A. § 50.54(b) (emphasis added).
27 “Reasonable cause amounts to evidence such that a man of ordinary caution or prudence would be
28

1 led to believe and conscientiously entertain a strong suspicion of the guilt of the accused.” See
2 *People of Guam v. Grajo*, 1987 WL 109393 at 2 (D. Guam App. Div. 1987).

3 When determining reasonable cause, the grand jury may consider competent evidence,
4 defined as “evidence that a reasonable person would rely upon in conducting his or her daily
5 affairs.” See *People v. Quidachay*, 815 F.2d 1311, 1313 (9th Cir. 1987). Competency is a low
6 standard of reliability, and allows presentation of evidence to a grand jury that may be inadmissible
7 if objected to at trial. Id. at 1313. Under this standard, the grand jury may rely on police reports and
8 victim statements even if they qualify as hearsay.

9 “A reviewing court should uphold an indictment if there is some rational ground for
10 assuming the *possibility* that an offense has been committed and the accused is guilty of it.” Id. at 2
11 (emphasis in original). This is a relatively forgiving standard, which indicates how “dismissing an
12 indictment is a disfavored remedy.” See *U.S. v. Rodgers*, 751 F.2d 1074, 1076 (9th Cir. 1985).

13 Defendant first contends that insufficient evidence was presented to the Grand Jury to
14 support their finding of reasonable cause on the charge of Attempted Strangulation. See Motion at
15 6-8 (Oct. 31, 2025). Attempted Strangulation is a violation of 9 G.C.A. §§ 19.80 and 13.10. These
16 statutes provide as follows:

17 9 G.C.A. § 19.80(a). Strangulation; Defined

18 A person is guilty of strangulation if he knowingly or intentionally, against
19 the will of another, impedes the normal breathing or circulation of the blood
20 of another by applying pressure to the throat or neck or by blocking the nose
21 or mouth of another.

21 9 G.C.A. Attempt: Defined

22 A person is guilty of an attempt to commit a crime when, with intent to
23 engage in conduct which would constitute such crime were the circumstances
24 as he believes them to be, he performs or omits to perform an act which
25 constitutes a substantial step towards commission of the crime.

26 Here, there was competent evidence presented to the grand jury to support their finding of
27 reasonable cause on the charge of Attempted Strangulation. Guam Police Department (“GPD”)
28 Officers Kevin Marquez and Isaiah Ibanez read and made reference to several pages of the police
reports containing statements of both Victim and Defendant. Those statements tell a story of Victim

1 and Defendant arguing over an item that Victim found in Defendant's vehicle. A physical struggle
2 ensued, and according to Victim's statements, Defendant forcefully placed his hand on her throat
3 and then tightened his grip while pushing her against a wall. Because evidence was presented that
4 Victim was still able to breath during this ordeal, there is no reasonable cause to find a successful
5 strangulation. However, there is reasonable cause to find an attempted strangulation. "Intent may
6 be inferred from the circumstances of the offense." See *People v. Jordan Rachulap*, 2022 Guam 9 ¶
7 21. Under the circumstances presented, a reasonable person could believe that Defendant
8 specifically intended to perform a strangulation of Victim, and made a substantial step towards
9 doing so when he grabbed her neck and subsequently tightened his grip. Therefore, it is improper to
10 dismiss the charge of Attempted Strangulation on grounds of the grand jury's reasonable cause
11 determination.

12 Defendant next contends that insufficient evidence was presented to the Grand Jury to
13 support a finding of reasonable cause on the charge of Terrorizing. See Motion at 10-12 (Oct. 31,
14 2025). Terrorizing is a violation of 9 G.C.A. § 19.60. That statute provides as follows:

15 9 G.C.A. § 19.60(a). Terrorizing; Defined

16 A person is guilty of terrorizing if he communicates to any person a threat to
17 commit or to cause to be committed a crime of violence dangerous to human
18 life, against the person to whom the communication is made or another, and
19 the natural and probable consequence of such a threat, is to place the person
20 to whom the threat is communicated or the person threatened in reasonable
21 fear that crime will be committed.

22 Here, there was competent evidence presented to the grand jury to support their finding of
23 reasonable cause on the charge of Terrorizing. Specifically, evidence from the police report was
24 presented that Defendant communicated to Victim "You will go down. I can make people
25 disappear!" The natural and probable consequence of such a threat would place Victim in reasonable
26 fear for her safety.

27 Defendant points out that the evidence presented in the police report differs slightly from the
28 Victim's written statement. See Motion at 11-12 (Oct. 31, 2025). In her written statement, Victim
alleges only that Defendant communicated "You will go down." However, even that threat alone is
sufficient to support the charge of Terrorizing. Guam courts have upheld Terrorizing convictions

1 based on ambiguous or contextual threats. See *People v. Tfung*, 2021 Guam 13 ¶ 22 (“the offense of
2 terrorizing ... does not require that the threat communicated be imminent or even actual.”). Clearly
3 the threat “You will go down” would still naturally and probably place Victim in reasonable fear of
4 her safety.

5 Regardless, the threat “You will go down. I can make people disappear!” that was presented
6 could lead a person of ordinary prudence to believe that Defendant committed the crime of
7 Terrorizing. Therefore, it is improper to dismiss the charge of Terrorizing on grounds of the grand
8 jury’s reasonable cause determination.

9 **II. The People’s failure to disclose: (i) photos of Victim showing a lack of injuries, (ii) text**
10 **messages Victim sent to Defendant’s brother, and (iii) Victim’s written statement to**
11 **police, does not warrant dismissal of the indictment because none of these are**
12 **mandated exculpatory disclosures.**

13 During grand jury proceedings, “the prosecuting attorney shall submit any evidence in his
14 possession which would tend to negate guilt and the grand jury shall weigh all the evidence
15 submitted.” See 8 G.C.A. § 50.46. This duty to disclose covers “all substantial material evidence
16 favorable to an accused” and “extends to matters relevant to punishment, including any evidence
17 that goes to special circumstances”. See *People v. Sablan*, 1986 WL 68900 at 3 (D. Guam. App.
18 Div. 1986). Favorable evidence is substantially material and must be disclosed if it operates “to
19 negate the guilt of the accused and explain away the charge”. Id. at 3. Prosecuting attorneys are
20 obligated to submit such exculpatory evidence because grand jury proceedings are unilateral and
21 defendants are neither present nor able to submit any such evidence on their own. See 8 G.C.A. §
22 50.26.

23 If the People fail to present material exculpatory evidence to a grand jury, dismissal of the
24 charges within the indictment, without prejudice, is the appropriate remedy. See *Johnson v.*
25 *Superior Court*, 539 P.2d 792, 796 (Cal. 1975).

26 Here, Defendant claims three instances of mandated exculpatory evidence that the People
27 failed to disclose to the grand jury. The first instance concerns photos that Victim took of her wrist,
28 neck, and arms showing a lack of visible injuries. See Motion at 8-9 (Oct. 31, 2025). However, it

1 cannot be said that these photos are mandated disclosures because a mere lack of visible injuries
2 does not negate Defendant's guilt or explain away the charge of Attempted Strangulation.
3 Defendant is charged with Attempted Strangulation because his alleged actions fell short of a
4 successful strangulation. Because his actions fell short, a lack of visible injuries is expected and
5 does not explain away an Attempted Strangulation charge. Therefore, the photos were not required
6 exculpatory disclosures, and the People's failure to present them to the grand jury does not warrant
7 dismissal of the indictment.

8 Defendant's next claimed instance of failed exculpatory disclosure concerns text messages
9 Victim sent to Defendant's brother the day of the alleged incident. Id. at 9. In those text messages,
10 Victim told the recipient "He started yelling at me ... and was pushing me and then put his hand on
11 my throat and told me if I told anyone it's the end of us... I was yelling for Oliver and that's what
12 made him stop." See Declaration of George Valdes in Support of Motion, Exhibit E (Oct. 31,
13 2025). Defendant contends this text is exculpatory because it does not mention Defendant
14 tightening his grip on Victim's throat or strangling her. See Motion at 9 (Oct. 31, 2025).

15 However, Victim's failure to precisely articulate every single detail does not make the text
16 messages exculpatory. The texts remain incriminating because they tell a story of Defendant
17 grabbing Victim by her throat and pushing her against a wall. Omitting specific details such as
18 Defendant tightening his grip does not negate Defendant's guilt as to the charge because these
19 specifics would naturally be left out in a retelling of the story through text messages. Victim cannot
20 be expected to carefully articulate every detail of the event over text message like she might through
21 sworn testimony, so her failure to do so does not turn this incriminating evidence exculpatory.

22 The last claimed instance of failed exculpatory disclosure concerns a discrepancy between
23 Victim's written statement to police and GPD Officer Kevin Marquez's police report. In her written
24 statement to police, Victim wrote that Defendant "said to me after he placed his hands on my throat
25 that 'I will go down'. *He's said in the past* that he can make people disappear." See Declaration of
26 George Valdes, Exhibit C (emphasis added) (Oct. 31, 2025). This differs from GPD Officer Kevin
27 Marquez's police report, which says that Defendant stated "You will go down. I can make people
28

1 disappear!". Id. at Exhibit A. The police report was presented to the grand jury, but Victim's
2 written statement was not.

3 Defendant claims this discrepancy is exculpatory because Victim's written statement
4 explains that Defendant's threats to make people disappear occurred sometime else. See Motion at
5 12 (Oct. 31, 2025). However, this discrepancy does not negate Defendant's guilt as to the
6 Terrorizing charge. As previously explained, the statement "You will go down" is itself sufficient to
7 support the charge of Terrorizing. See *People v. Tfung*, 2021 Guam 13 ¶ 22 ("the offense of
8 terrorizing ... does not require that the threat communicated be imminent or even actual.").
9 Previous threats to "make people disappear" do not change the fact that a person of ordinary
10 prudence could believe that Victim would naturally and probably fear for her safety after hearing the
11 threat "You will go down". Therefore, Victim's written statement that the threat to "make people
12 disappear" occurred in the past, does not qualify as material exculpatory evidence requiring
13 disclosure to the grand jury.

14 **III. The People's reference to Defendant's alleged drug use and distribution of threatening**
15 **photos to Victim did not prejudice Defendant because the Court lacks grave doubt**
16 **that this evidence substantially influenced the grand jury's otherwise reasonable**
17 **decision to indict.**

18 "All that is required of an indictment is that it be 'returned by a legally constituted and
19 unbiased grand jury.'" See *U.S. v. Udziela*, 671 F.2d 995, 1000 (7th Cir. 1982) (internal citations
20 omitted). Bias can take many forms. See *U.S. v. Gallo*, 394 F.Supp. 310, 314 (D. Conn. 1975) (bias
21 when prosecutor makes "prejudicial remarks to sway the grand jury"); See also *Udziela*, 671 F.2d at
22 1001 (bias when perjured testimony introduced to grand jury).

23 However, the existence of bias or errors in a grand jury proceeding does not automatically
24 necessitate the "harsh remedy" of dismissal of the indictment. See *U.S. v. Al Mudarris*, 695 F.2d
25 1182, 1185 (9th Cir. 1983). A "court may not dismiss an indictment for errors in grand jury
26 proceedings unless such errors prejudiced the defendants." See *Bank of Nova Scotia v. U.S.*, 487
27 U.S. 250, 254 (1988).

28

1 Prejudice may be presumed if “the structural protections of the grand jury have been so
2 compromised as to render the proceedings fundamentally unfair.” *Id.* at 257. There is a
3 presumption of prejudice in errors of constitutional magnitude. *See Vasquez v. Hillery*, 474 U.S.
4 254, 260-264 (1986) (presumption of prejudice when selection of grand jurors involves racial
5 discrimination).

6 In cases involving nonconstitutional errors, prejudice occurs “only ‘if it is established that
7 the violation substantially influenced the grand jury’s decision to indict,’ or if there is ‘grave doubt’
8 that the decision to indict was free from the substantial influence of such violations.” *See Bank of*
9 *Nova Scotia*, 487 U.S. at 256 (internal citations omitted). This reflects the idea that “grand jury
10 proceedings need not be perfect.” *See Udziela*, 671 F.2d at 1000. Prejudice will not be found “if
11 other, sufficient evidence is present so that the grand jury may have indicted without giving any
12 weight to” the claimed error. *Id.* at 1001. The “one challenging an indictment carries a difficult
13 burden” and “must demonstrate that the prosecutor engaged in flagrant misconduct that deceived the
14 grand jury or significantly impaired its ability to exercise independent judgment.” *See Al Mudarris*,
15 695 F.2d at 1185.

16 Defendant’s first claimed instance of prejudice is the People’s reference to Defendant’s
17 alleged drug use. *See* Motion at 13-14 (Oct. 31, 2025). Throughout the grand jury proceeding, the
18 People made several references to Defendant’s drug use, including: (i) that the physical argument
19 started over drug paraphernalia Victim found in Defendant’s car, (ii) that Defendant had “sketchy”
20 friends, and (iii) that Defendant previously used cocaine.

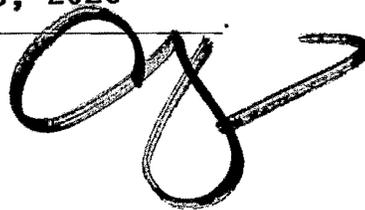
21 However, the People’s reference to Defendant’s drug use did not prejudice Defendant.
22 There is no presumption of prejudice because the admission of evidence does not compromise the
23 structural protections of a grand jury. Defendant also failed to establish grave doubt whether this
24 evidence significantly impaired the grand jury’s decision to indict. As mentioned, sufficient
25 evidence was presented to support the grand jury’s finding of reasonable cause on all charges, even
26 without giving any weight to the drug references. Therefore, it cannot be said that this claimed error
27 substantially influenced the grand jury’s decision to indict.

1 Defendant's next claimed instance of prejudice is the People's reference to a photo of a gun
2 that Defendant allegedly sent to Victim several days after the incident in question. Id. at 14-15.
3 Again, there is no presumption of prejudice because the admission of evidence does not compromise
4 the structural protections of a grand jury. Furthermore, Defendant failed to establish that this
5 claimed error substantially influenced the grand jury's decision to indict because sufficient evidence
6 beyond the gun references was presented to support the grand jury's finding of reasonable cause on
7 all charges. Therefore, there is no prejudice resulting from either the drug or gun references to
8 warrant dismissing the indictment.

9 **CONCLUSION**

10 For the reasons stated above, the Court **DENIES** Defendant's Motion. There was sufficient
11 evidence presented to support the grand jury's reasonable cause determinations on the charges of
12 Attempted Strangulation and Terrorizing. Furthermore, the People were not required to disclose to
13 the grand jury the existence of: (i) photos of Victim showing a lack of injuries, (ii) text messages
14 Victim sent to Defendant's brother, or (iii) Victim's written statement to police, because none of
15 these are substantially material exculpatory evidence. Lastly, the People's reference to Defendant's
16 alleged drug use and distribution of threatening photos to Victim did not prejudice Defendant
17 because the grand jury's decision to indict was supported by reasonable cause even without giving
18 any weight to these references. Therefore, the indictment will not be dismissed.

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21 **IT IS SO ORDERED** this March 23, 2026



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24 **SERVICE VIA E-MAIL**

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

26 AG, G. Valdes

27 **HONORABLE ALBERTO C. LAMORENA, III**
28 **Presiding Judge, Superior Court of Guam**

27 Date: 3/23/26 Time: 1:04 pm

28 Antonio A. Cruz
Deputy Clerk, Superior Court of Guam