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SUPERIOR COURT
OF GUAM



IN THE SUPERIOR COURT OF GUAM

PEOPLE OF GUAM,

vs.

DOMINIC KOMLUL,
DOB: 01/14/2001

Defendant.

) CRIMINAL CASE NO. **CF0698-25**
) GPD Report No. 25-24642

) **DECISION AND ORDER RE. PEOPLE'S**
) **MOTION TO DISMISS WITHOUT**
) **PREJUDICE**

This matter came before the Honorable Alberto E. Tolentino on November 19, 2025 for a Pre-Trial Conference. Defendant Dominic Komlul was present with counsel, Assistant Public Defender Ramiro Orozco. Assistant Attorney General Christine Santos Tenorio was present for the People of Guam. The court addressed People's Motion to Dismiss Without Prejudice. Following the hearing, the court took the matter under advisement pursuant to Supreme Court of Guam Administrative Rule 06-001, CVR 7.1(e)(6)(B), and CR1.1 of the Local Rules of the Superior Court of Guam. Having duly considered the parties' briefings, oral arguments, and the applicable law, the court now issues this Decision and Order **GRANTING** the People's Motion to Dismiss Without Prejudice.

BACKGROUND

Defendant was indicted for THIRD DEGREE CRIMINAL SEXUAL CONDUCT (As a Second Degree Felony) on October 10, 2025. *See* Indictment (Oct. 10, 2025). He filed a written assertion of speedy trial rights on October 14, 2025. Trial was scheduled for November 24, 2025.

1 At a Pre-Trial Conference held on November 19, 2025, the People orally moved the court to
2 dismiss the matter without prejudice due to unavailability of a key witness. Defendant orally
3 objected and filed a written opposition the following day.
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5 The People stated that the victim in this case, who was pregnant at the time of the offense,
6 has since given birth and that the baby required off-island medical care. Hr’g Mins. 9:58:30–
7 9:58:53 A.M. (Nov. 19, 2025). According to the People, the victim was in a “very emotional
8 state” and would be unable to focus on testifying even if she was physically present on Guam due
9 to the strain of caring for a sick newborn. *Id.* at 9:59:13–9:59:27 A.M.
10

11 Defendant argued that the People’s reasons were not a sufficient basis for dismissal and
12 that allowing dismissal without prejudice would risk violating his speedy trial rights. *See*
13 *generally* Opp’n to Gov’t’s Mot. Dismiss Without Prejudice (“Opp’n”) (Nov. 20, 2025). He
14 challenged the People’s reliance on temporary unavailability, specifically relating to the victim’s
15 pregnancy and the stress of caring for her sick child. *Id.*
16

17 The court dismissed the case at the Pre-Trial Conference on November 19, 2025 and took
18 the issue of whether dismissal should be with or without prejudice under advisement. For the
19 reasons discussed below, the court finds that the People acted in good faith and that dismissal
20 without prejudice is therefore appropriate.
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22 DISCUSSION

23 Guam law provides the procedure for a prosecutor to dismiss an indictment:

24 The prosecuting attorney may with leave of court file a dismissal of an indictment,
25 information or complaint and the prosecution shall thereupon terminate. Such a dismissal
26 may not be filed during the trial without the consent of the defendant. The prosecuting
27 attorney shall file a statement of his reasons for seeking dismissal when he applies for
28 leave to file a dismissal and where leave is granted the court's order shall set forth the
reasons for granting such leave.

1 8 G.C.A. § 80.70(a). The criminal procedure code does not distinguish between dismissal
2 with prejudice and dismissal without prejudice. The Guam Supreme Court, in examining a motion
3 to dismiss under § 80.70(a), has stated that “the prosecution is entitled to a presumption of good
4 faith when bringing a [motion to dismiss], and the motion should generally be granted as a matter
5 of course.” *People v. Gutierrez*, 2005 Guam 19 ¶ 52. That presumption is rebutted upon a showing
6 of lack of good faith. *Id.* ¶ 53. Even where the presumption is overcome by a showing of bad
7 faith, the court cannot *sua sponte* dismiss with prejudice. *Id.* ¶ 69. In such a case, the only options
8 available to the court are either to grant or deny the motion to dismiss without prejudice. *Id.* ¶ 74–
9 75. “It is undisputed that a trial court’s evaluation of dismissals pursuant to [Federal] Rule 48(a)
10 is narrow.” *Id.* ¶ 57. In assessing a prosecutor’s motion to dismiss, courts are “limited to assessing
11 whether the government’s motion is contrary to manifest public interest because it is not based
12 on the prosecutor’s good faith discharge of her duties.” *Id.* (quoting *United States v. Jacobo-*
13 *Zavala*, 241 F.3d 1009, 1013 (8th Cir. 2001)).

14 Section 80.70(a) permits prosecutors to move for dismissal but requires them to provide
15 their reasons for doing so. At the November 19, 2025 Pre-Trial Conference, the People sought
16 dismissal without prejudice because a material witness was unavailable. Hr’g Mins. 9:58:30–
17 9:59:27 A.M. (Nov. 19, 2025).

18 The burden then shifted to Defendant to show lack of good faith. *Gutierrez*, 2005 Guam
19 19 ¶ 53. Defendant alleges that witness unavailability is not sufficient grounds for dismissal and
20 urges the court to consider “procedural tools” such as evaluation of witness competency instead
21 of dismissal. Opp’n at 2–4. His argument challenges dismissal as a violation of his right to a
22 speedy trial under 8 G.C.A. § 80.60; however, the time on his speedy trial clock had not run when
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1 the People moved for dismissal. To challenge dismissal under § 80.70(a), Defendant must allege
2 that the People acted in bad faith.

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4 To find that a prosecutor acted in bad faith, the court must find that dismissal was not
5 within the public interest. *Gutierrez*, 2005 Guam 19 ¶ 54. Defendant does not offer factual
6 allegations to rebut the People’s presumption of good faith, nor does he claim that the People’s
7 reason for seeking dismissal—witness unavailability—is not within the public interest. The court
8 determines that the unavailability of a key witness for the People is a good-faith basis to dismiss
9 the indictment without prejudice under § 80.70(a). *People v. Tedtaotao*, 2015 Guam 31 ¶ 43 (“The
10 unavailability of a witness is a valid reason for delay.”). The People have discretion to determine
11 whether the evidence available to them is capable of proving Defendant’s guilt beyond a
12 reasonable doubt. Allowing the People to move for dismissal if they determine that their case
13 cannot be proven beyond a reasonable doubt is within the public interest.
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1 **CONCLUSION**

2 For the reasons set forth above, the court hereby **GRANTS** the People's Motion to
3 Dismiss Without Prejudice. The court further orders this case **DISMISSED WITHOUT**
4 **PREJUDICE.**

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6 **SO ORDERED** this FEB 24 2026

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11 **HONORABLE ALBERTO E. TOLENTINO**
12 Judge, Superior Court of Guam

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24 **SERVICE VIA EMAIL**

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

25
26 OAG & PDSC

27 Date: 2/24/20 Time: 11:53

28 **Reinita M. Lindlau**

Deputy Clerk, Superior Court of Guam