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Supreme Court of Guam, Clerk of Court

IN THE SUPREME COURT OF GUAM

PEOPLE OF GUAM,
Plaintiff-Appellee,

v.

COLLEEN SHERISE CASTILLON YURKO,
Defendant-Appellant.

Supreme Court Case No. CRA25-011
Superior Court Case No. CF0208-23

OPINION

Cite as: 2026 Guam 9

Appeal from the Superior Court of Guam
Argued and submitted on January 23, 2026
Hagåtña, Guam

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BEFORE: KATHERINE A. MARAMAN, Chief Justice; F. PHILIP CARBULLIDO, Associate Justice; ROBERT J. TORRES, Associate Justice.

TORRES, J.:

[1] This case comes before the court on Defendant-Appellant Colleen Sherise Castillon Yurko’s appeal from a three-year sentence imposed for first-time possession of methamphetamine. Yurko was convicted by a jury and sentenced to the statutory maximum of three years’ incarceration, with a recommendation to participate in the Department of Corrections’ (“DOC”) Residential Substance Abuse Treatment (“RSAT”) program, “if available.” Yurko argued that her sentence did not comply with 9 GCA § 67.401.12 (2005), which mandates that sentences for first-time methamphetamine offenders “must also include . . . mandatory enrollment and attendance in a drug rehabilitation program.” We agree.

[2] During the sentencing proceedings, both parties identified alternative drug rehabilitation programs, including New Beginnings and Lighthouse Recovery Center, as options the sentencing court could order, which would have complied with the statute. Although the plain language of section 67.401.12 states that any sentence “must also include . . . mandatory enrollment and attendance in a drug rehabilitation program at the Guam Behavioral Health and Wellness Center or any other drug rehabilitation program approved by the Superior Court,” the sentencing court ultimately imposed the maximum sentence with only a conditional recommendation for drug rehabilitation. This conditional recommendation resulted in an illegal sentence.

[3] In an earlier order, we reversed Yurko’s entire sentence and remanded for resentencing. Order at 1–12 (Mar. 4, 2026). We retained jurisdiction to issue a written opinion consistent with our order. *Id.*

I. FACTUAL AND PROCEDURAL BACKGROUND

[4] Yurko, approximately 38 years of age, is a lifelong resident of Guam and a high school graduate. Before her arrest in this case, she had not been involved with the criminal justice system and had previously worked at a bank.

[5] One evening at around 10:00 p.m., Guam Police Department (“GPD”) Officer Aaron Lee Fabila stopped Yurko for driving without headlights or taillights. Yurko complied with the traffic stop and consented to a search of her vehicle, leading to the discovery of drug paraphernalia in the center console, including a glass pipe with residue. Yurko cooperated and pointed out another glass pipe under the passenger seat. Field tests and lab analysis confirmed the presence of methamphetamine.

[6] A grand jury returned an indictment charging Yurko with possession of a Schedule II controlled substance (an amphetamine-based substance) as a third-degree felony in violation of 9 GCA § 67.401.2(a) and (b). Yurko was apparently offered the opportunity to participate in Adult Drug Court (“ADC”) but went to trial instead. The jury found Yurko guilty of possession of a Schedule II controlled substance.

[7] The sentencing court held multiple continued sentencing hearings over several months. The court continued the initial hearings due to illnesses affecting counsel for both parties. At the initial hearings, probation reported that Yurko was testing positive for drugs and failing to report.

[8] At the third continued sentencing hearing, the People asked for the maximum penalty of three years’ incarceration. Yurko’s defense counsel asked the court “to take judicial notice of the conditions [at] the [DOC], specifically the female unit, where over half of the women being held are being held only because they have an addiction issue.” Transcript (“Tr.”) at 12–13 (Cont’d Sent’g Hr’g, Jan. 8, 2024) (explaining that, routinely, four women are forced to occupy cells

designed for two people). Defense counsel explained that the female unit does not have an RSAT program, stating, “[I]t’s all just a male program.” *Id.* at 13. Defense counsel argued, “[I]t’ll take three years of jail time for her to get any kind of treatment because it’s not really treatment, it’s just abstinence.” *Id.* Even then, defense counsel explained that “clients are coming back positive from DOC time-after-time.” *Id.* at 14.

[9] The People responded by offering the option of a “warm hand-off” where, when a bed becomes available at a women’s inpatient drug rehabilitation facility and all assessments are done, Yurko would move from DOC to the inpatient facility at the court’s order. *Id.* at 14–15. The People argued that a female RSAT program “hasn’t been tried” and that “[t]here hasn’t been a female who [as] part of her plea agreement was put into DOC to enter RSAT.” *Id.* at 15.

[10] The court noted that, at the inpatient drug rehabilitation facilities the People suggested for a warm hand-off, Yurko could leave, even if it violated a court order. It explained, “[I]f RSAT was available, she’s got nowhere else to go but RSAT. But if there’s no RSAT, all I’m doing is sticking her in for three years and, yes, forcing abstinence in that regard.” *Id.* at 16.

[11] The court noted, “[T]he goals to incarceration include rehabilitation.” *Id.* at 23. The court asked the parties to submit supplemental factual materials regarding the inpatient rehabilitation programs available to Yurko, explaining, “I just need something that has facts, documentation, something . . . that shows that there is no availability.” *Id.* Defense counsel submitted a document, as requested by the court, but included no facts about whether RSAT was available to women. *See* Record on Appeal (“RA”), tab 69 at 1–2 (Suppl. Sent’g Mem., Jan. 22, 2024) (arguing that statute for first-time offenders—9 GCA § 67.401.12—applied in this case, which was undisputed). The People did not submit a responsive document. The court did not address either party’s failure to comply with its request to submit documentation.

[12] Yurko violated her post-verdict release conditions ten times by testing positive or failing to attend check-ins. The court sanctioned Yurko for multiple violations with a ten-day suspended sentence, on the condition that she enter the Guam Behavioral Health and Wellness Center (“GBHWC”) detoxification program when a bed became available. Tr. at 28–29 (Cont’d Sent’g Hr’g, Jan. 8, 2024). After the court suspended Yurko’s sentence on the condition that she enter the GBHWC detoxification program, she entered detoxification and awaited placement in a treatment bed. Yurko later checked herself out of GBHWC and reportedly told staff that she did not intend to participate in the program. The court issued an arrest warrant for Yurko, and Guam police arrested her several months later.

[13] At the final sentencing hearing, Yurko’s new defense counsel requested a suspended sentence. Tr. at 4–5 (Cont’d Sent’g Hr’g, July 25, 2024). The People again asked for the statutory maximum of three years’ incarceration. *Id.* at 7.

[14] Yurko’s explanation for why she left the detoxification program at GBHWC was that she had a miscarriage while in detoxification and was grieving. RA, tab 77 (Info. Report Re. Abscondment, July 9, 2024), Ex. 1 (Yurko Decl., July 3, 2024). Before announcing Yurko’s sentence, the court remarked on Yurko’s miscarriage:

[M]y God, you were pregnant at the time. Did you ever stop to think of what your use of drugs is doing to that unborn child? It breaks my heart to read that you had a miscarriage. And there’s no one else to look at except yourself in the mirror for that. One life lost. What happens to you is you [sic] because you did it. But what happened to that unborn baby, that baby had no say. Didn’t even get a chance.

Tr. at 10 (Cont’d Sent’g Hr’g, July 25, 2024). The court stated that it did not think a suspended sentence was a good option because, if Yurko were caught with a controlled substance again, she would face worse charges for a felony-on-felony release. *Id.* at 10–11. The court then announced Yurko’s sentence:

Colleen Sherise Castillon Yurko, it is the judgment of this Court that you be sentenced to serve three years at the [DOC], none of that time will be suspended. You will be serving a . . . 3-year mandatory parole term upon your release. The Court will order that you -- upon your release you can work towards paying a fine of \$5,000.

While you are incarcerated, . . . if there is an RSAT program available to you, the Court will sign off on any orders . . . to have her participate in that. The Court already knows that . . . you have to be in the [DOC] for at least a year and a half before you can participate in an RSAT program. Whether or not that's available to females, I don't know. But at least . . . theoretically you're not going to be anywhere near the stuff that's out there.

Id. at 12; *see also* RA, tab 81 at 1–2 (Judgment of Conviction, Mar. 11, 2025) (including recommendation that Yurko complete RSAT programming “if available”). The court told Yurko to “take advantage of the ability to have some sort of treatment in there, even if it’s just being cold turkey because you’re in an environment that you’re not supposed to be able to have access.” Tr. at 13 (Cont’d Sent’g Hr’g, July 25, 2024).

[15] Yurko timely appealed.

II. JURISDICTION

[16] This court has jurisdiction over a criminal appeal from a final judgment of conviction. 48 U.S.C.A. § 1424-1(a)(2) (Westlaw through Pub. L. 119-102 (2026)); 7 GCA §§ 3107, 3108(a) (2005); 8 GCA §§ 130.10, 130.15(a) (2005).

III. STANDARD OF REVIEW

[17] “We review the legality of a sentence *de novo*.” *People v. Walliby*, 2024 Guam 13 ¶ 6 (quoting *People v. Robert*, 2019 Guam 2 ¶ 6). Whether 9 GCA § 67.401.12 mandates enrollment and attendance in a drug rehabilitation program “is an issue of statutory interpretation subject to *de novo* review.” *See id.*; *People v. Manila*, 2018 Guam 24 ¶ 7 (“Reviewing the imposed sentencing terms also requires statutory interpretation which we review *de novo*.” (quoting *People v. Manibusan*, 2016 Guam 40 ¶ 12)).

IV. ANALYSIS

[18] “We may correct an illegal sentence at any time.” *Walliby*, 2024 Guam 13 ¶ 6 (citing 8 GCA § 120.46 (2005)); accord *People v. Adriatico*, 2024 Guam 7 ¶ 18; *People v. McKinney*, 2018 Guam 10 ¶ 10. “An illegal sentence is ‘a sentence that is not authorized by the judgment of conviction or that is greater or less than the permissible statutory penalty for the crime.’” *Adriatico*, 2024 Guam 7 ¶ 19 (quoting *McKinney*, 2018 Guam 10 ¶ 10).

A. Yurko’s Sentence Was Illegal Because It Did Not Mandate Drug Rehabilitation

[19] Yurko was a first-time offender with no criminal history. *See, e.g.*, RA, tab 58 at 2 (People’s Sent’g Mem., Dec. 4, 2023) (applying statutory maximum for first-time offenders under 9 GCA § 67.401.12). Yurko argued that “[t]he trial court committed reversible error by treating mandatory treatment requirements as optional.” Appellant’s Br. at 8 (Sep. 8, 2025). The People argued that the sentence is legal and that “the statute presupposes the existence of an available and suitable treatment program.” Appellee’s Br. at 12–13 (Oct. 22, 2025). In deciding whether Yurko’s sentence was illegal, we examined: (1) whether the plain language of section 67.401.12 is ambiguous; (2) if unambiguous, whether it mandates drug rehabilitation in all cases; and (3) if mandatory, whether Yurko’s sentence complied with the mandate. We addressed each question and concluded: (1) the plain language of section 67.401.12 is unambiguous; (2) section 67.401.12 mandates drug rehabilitation in all cases; and (3) Yurko’s sentence did not comply with the mandate of section 67.401.12 for drug rehabilitation in all cases and was illegal.

1. The plain language of section 67.401.12 is unambiguously mandatory

[20] “[I]t is a cardinal rule of statutory construction that courts must look first to the language of the statute itself. Absent clear legislative intent to the contrary, the plain meaning prevails.” *People v. Cruz*, 2021 Guam 10 ¶ 12 (quoting *Sumitomo Constr., Co. v. Gov’t of Guam*, 2001 Guam

23 ¶ 17). “If a statute is unambiguous, then the judicial inquiry into the meaning of the statute is complete.” *Id.* (quoting *People v. Lau*, 2007 Guam 4 ¶ 14). “We begin our review with the statutory text . . . to determine its plainness or ambiguity. We make this determination based on the statute’s language, the context in which it is used, and the broader context of the statute as a whole, including its object and policy.” *Walliby*, 2024 Guam 13 ¶ 10 (citations omitted).

[21] Yurko argued, “Section 67.401.12 contains unambiguous language that compels treatment for first-time methamphetamine offenders.” Appellant’s Br. at 8. Section 67.401.12 provides:

In cases where § 67.401.11^[1] is applicable to the sentencing of a person, a person who has not been previously convicted of a felony relative to the possession of any controlled substance and has been convicted of a felony for the first time relative to possession of methamphetamine shall be sentenced to a term of imprisonment of no more than three (3) years and a fine of Five Thousand Dollars (\$5,000.00). Sentence in these cases must also include mandatory community service of no less than one hundred and fifty (150) hours, mandatory enrollment and attendance in a drug rehabilitation program at the Guam Behavioral Health and Wellness Center or any other drug rehabilitation program approved by the Superior Court, and a mandatory term of probation of five (5) years.

9 GCA § 67.401.12. The Legislature used specific mandatory language in section 67.401.12, stating its intent to require “enrollment and attendance in a drug rehabilitation program,” by including the terms “must also include” and “mandatory.” We concluded that the plain language is unambiguously mandatory, and there is no contrary legislative intent.

[22] Yurko argued that “the Legislature’s use of ‘must also include’ coupled with ‘mandatory enrollment and attendance’ creates an unqualified command.” Appellant’s Br. at 8–9 (quoting 9 GCA § 67.401.12). Yurko contended that, “[b]y imposing incarceration without rehabilitation, the trial court disregarded the Legislature’s express determination that treatment is an essential component of sentencing for methamphetamine possession.” *Id.* at 10. Yurko argued that the sentencing court disregarded the following statutory language: “Sentence in these cases must also

¹ Section 67.401.11 is the mandatory sentencing provision for repeat offenders. 9 GCA § 67.401.11 (2005).

include . . . mandatory enrollment and attendance in a drug rehabilitation program at the Guam Behavioral Health and Wellness Center or any other drug rehabilitation program approved by the Superior Court.” *See id.*; 9 GCA § 67.401.12. The People argued that “the statute presupposes the existence of an available and suitable treatment program and the defendant’s willingness to participate.” Appellee’s Br. at 12. The People claimed further that the sentencing court’s conditional recommendation for RSAT, “if available,” “reflects practicality, not error.” *Id.* at 15.

[23] The statute acknowledges that a drug rehabilitation program at GBHWC might not be available by stating “or any other drug rehabilitation program approved by the Superior Court.” *See* 9 GCA § 67.401.12. This language suggests that the Legislature foresaw that programs might be unavailable and enabled the sentencing court to exercise its discretion to approve alternative drug rehabilitation programs. The statute, however, does not provide an option for the sentencing court not to order “enrollment and attendance” or merely conditional “enrollment and attendance.” *See id.*

[24] The Legislature unambiguously contemplated “the defendant’s willingness to participate” in a drug rehabilitation program by making both “enrollment *and* attendance” mandatory. *See* Appellee’s Br. at 12; 9 GCA § 67.401.12 (emphasis added). If the Legislature had not considered that individuals convicted of possession of illegal substances may also be addicted to those substances, it would not have included a rehabilitation requirement in the sentence. Yet the Legislature went further and included not only “enrollment” in such programs, but mandated “attendance” as well, reflecting that it contemplated “the defendant’s willingness to participate” in a drug rehabilitation program. *See* Appellee’s Br. at 12; 9 GCA § 67.401.12. The Legislature did not write “enrollment and attendance, if available,” or “recommended enrollment and attendance,” or “enrollment and attendance when feasible.” It wrote “*mandatory* enrollment *and* attendance.”

9 GCA § 67.401.12 (emphases added). Because the Legislature mandated that sentences under section 67.401.12 “must also include . . . mandatory enrollment and attendance in a drug rehabilitation program,” the sentencing court cannot order RSAT only “[i]f available.”² See RA, tab 81 at 2 (Judgment of Conviction).

[25] Section 67.401.12 mandates that sentences “must also include” three “mandatory” components: (1) “mandatory community service of no less than one hundred and fifty (150) hours”; (2) “mandatory enrollment and attendance in a drug rehabilitation program”; and (3) “a mandatory term of probation of five (5) years.” Reading “mandatory” as discretionary for one component, but not for the others, would create absurd results. See generally *People v. Flores*, 2004 Guam 18 ¶ 18 (“[N]otwithstanding the deference due the plain-meaning of statutory language, . . . such language need not be followed where the result would lead to absurd or impractical consequences, untenable distinctions, or unreasonable results.” (second alteration in original) (quoting *Sumitomo Constr.*, 2001 Guam 23 ¶ 17)). If “mandatory” is read as discretionary for “enrollment and attendance in a drug rehabilitation program,” it could also be read as discretionary for community service or probation. See *Sumitomo Constr.*, 2001 Guam 23 ¶ 17 (“[W]ords and people are known by their companions.” (quoting *Gutierrez v. Ada*, 528 U.S. 250, 255 (2000))). If “enrollment and attendance in a drug rehabilitation program” is not mandatory, a court could impose 150 hours of community service “if convenient” or impose five years of probation “subject to the discretion of the probation division.” Every sentence for first-time methamphetamine possession “must also include . . . mandatory enrollment and attendance in a drug rehabilitation program.” 9 GCA § 67.401.12. The plain language of section 67.401.12

² However, it would be well within the sentencing court’s discretion to order, for example, “RSAT, if available. But if RSAT is unavailable, then mandatory enrollment and attendance in a drug rehabilitation program.”

is unambiguous because it is not susceptible to any other reasonable interpretation. *See Walliby*, 2024 Guam 13 ¶ 10.

2. Legislative intent indicates that section 67.401.12 is unambiguously mandatory

[26] The Legislature uses “may” for permissive language, 9 GCA § 1.48 (2005), but chose to use consistent mandatory language in section 67.401.12. This choice reflects a deliberate decision to impose a nondiscretionary rehabilitation requirement for sentences under section 67.401.12. Using both “must” and “mandatory” unambiguously shows the Legislature’s intent that “enrollment and attendance in a drug rehabilitation program” be required for sentences under section 67.401.12. The People point us to 9 GCA § 1.14(b) and (c),³ arguing, “The court’s interpretation was consistent with the statute and the Legislature’s purpose.” Appellee’s Br. at 13.

³ Title 9 GCA § 1.14(b) and (c) provide:

(b) The general purposes of the provisions governing the sentencing offenders [sic] are:

- (1) to prevent and condemn the commission of offenses;
- (2) to promote the correction and rehabilitation of offenders;
- (3) to assure the public safety by preventing the commission of offenses through the deterrent influence of sentences imposed and the confinement of offenders when required in the interest of public protections;
- (4) to safeguard offenders against excessive, disproportionate, or arbitrary punishment;
- (5) to give fair warning of the nature of the sentences that may be imposed on conviction of an offense;
- (6) to differentiate among offenders with a view to a just individualization in their treatment; and
- (7) to advance the use of generally accepted scientific methods and knowledge in sentencing offenders.

(c) The provisions of this Code shall be construed according to the fair import of their terms, but when the language is susceptible of differing constructions it shall be interpreted to further the general purposes stated in this Section and the special purposes of the particular provision involved. The discretionary powers conferred by this Code shall be exercised in accordance with the criteria stated in the Code and, insofar as such criteria are not decisive, to further the general purposes stated in this Section.

9 GCA § 1.14(b), (c) (2005).

Yurko’s appellate counsel did not address 9 GCA § 1.14 in the reply brief.⁴ Contrary to the People’s argument, 9 GCA § 1.14(b)(2) shows that the Legislature intended “[t]he general purposes of the provisions governing the sentencing offenders [sic] are: . . . to promote the correction and rehabilitation of offenders.” This legislative intent supports an interpretation of “must also include” and “mandatory” as unambiguously mandatory language as used in section 67.401.12. Thus, the plain language of section 67.401.12 is unambiguous.

3. The People’s “impossibility” and “substantial compliance” arguments failed

[27] The People argued that the statute “cannot logically compel the court to do what is impossible.” Appellee’s Br. at 12. Of course, “courts should avoid a construction which attempts to require the performance of an impossible act.” *See* 73 Am. Jur. 2d *Statutes* § 149 (May 2026 Update). But no statutory construction was required here because the statute is unambiguous and its plain meaning controls. *See Cruz*, 2021 Guam 10 ¶ 12.

[28] The People are wrong that the sentencing court could not comply with the statute because ordering drug rehabilitation for Yurko was possible. Yurko argued that “the Government itself identified treatment alternatives available at sentencing.” Appellant’s Reply Br. at 1 (Nov. 5, 2025). At a continued sentencing hearing, the People identified New Beginnings and Lighthouse Recovery Center as alternative programs and offered “priority placement” for an inpatient bed and a “warm hand-off” as options the court could order. Tr. at 14–15 (Cont’d Sent’g Hr’g, Jan. 8, 2024). The People cannot claim “impossibility” when it identified options for the court to order

⁴ “The purpose of a reply brief is to respond to new arguments contained in the respondent’s brief.” *Frank v. Winter*, 528 N.W.2d 910, 913 (Minn. Ct. App. 1995). “The law is clear that reply briefs should respond to arguments raised in the opposition brief, or explain a position in the initial brief that the respondent refuted” *Atl. Power & Elec. Co. v. Big Jake*, 583 F. Supp. 3d 631, 642 (D.N.J. 2022) (citation omitted). Although normally “a party’s failure in a reply brief to respond to a particular argument raised in an opponent’s answering briefing may nonetheless be construed as an *abandonment* of certain arguments or claims,” *Obrien v. Bisignano*, 142 F.4th 687, 694 n.6 (9th Cir. 2025), “this court is not bound to accept a party’s concession on issues of law—especially when doing so would require accepting an erroneous statement or application of law,” *Leachco, Inc. v. Consumer Prod. Safety Comm’n*, 103 F.4th 748, 754 n.4 (10th Cir. 2024) (collecting cases), *cert. denied*, 145 S. Ct. 1047 (2025).

that would otherwise comply with the statute’s mandate for drug rehabilitation. *See id.*; Reply Br. at 1.

[29] The People argued that the sentence substantially complies with the statute. *See* Appellee’s Br. at 12. The People cited *Castino v. G.C. Corp.*, 2010 Guam 3, a civil case on construction law, to support this argument. Appellee’s Br. at 12; *see also Castino*, 2010 Guam 3 ¶ 40 (“Whether there is substantial compliance with a particular statutory requirement depends on the degree of non-compliance, the underlying policy of the requirement, and the prejudice the property owner or third parties may have suffered as a result of the non-compliance.” (citing *Tigard Sand & Gravel Co. v. LBH Constr., Inc.*, 941 P.2d 1075, 1077 (Or. Ct. App. 1997))). However, this court was narrowly applying the substantial-compliance doctrine in *Castino* for construction-lien claims as “[c]onstruction liens are purely statutory.” *See Tigard Sand*, 941 P.2d at 1077. In applying the substantial-compliance doctrine, the Oregon Court of Appeals cited two other lien cases. *Id.* (citing *McGregor Co. v. Heritage*, 631 P.2d 1355, 1357–58 (Or. 1981) (en banc) (regarding agricultural services liens); *C-3 Builders, Inc. v. Krueger*, 642 P.2d 344, 345–46 (Or. Ct. App. 1982) (regarding construction lien)). The People cite no other courts that have applied the substantial-compliance doctrine to a criminal sentencing statute and have not persuaded us that it would be appropriate to apply it here. Even if strict compliance is not required, there can be no substantial compliance when a sentence does not include a mandatory term. The People’s “impossibility” and “substantial compliance” arguments are unavailing.

B. Because Yurko’s Illegal Sentence Required Reversal, We Did Not Reach Other Claims

[30] Yurko argued that the sentence violates equal protection because RSAT is available only to male inmates. She also argued that the trial court abused its discretion by imposing the

maximum allowable sentence. Because Yurko’s illegal sentence required reversal, we did not reach any of her other claims.

V. CONCLUSION

[31] Yurko’s sentence was illegal because it did not include the statutorily mandated “enrollment and attendance in a drug rehabilitation program.” *See* 9 GCA § 67.401.12. In our earlier order, we **VACATED** Yurko’s sentence and **REMANDED** for resentencing not inconsistent with our order. Order at 1–12 (Mar. 4, 2026). We issue this written Opinion consistent with that order. *Id.*

/s/

F. PHILIP CARBULLIDO
Associate Justice

/s/

ROBERT J. TORRES
Associate Justice

/s/

KATHERINE A. MARAMAN
Chief Justice