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SUPERIOR COURT
OF GUAM

IN THE SUPERIOR COURT OF GUAM

PEOPLE OF GUAM,

Plaintiff,

vs.

HORACE RILEY WESTFALL,
DOB: 06/22/1977

Defendant.

Criminal Case No. **CF0333-24**

DECISION AND ORDER RE PEOPLE'S
MOTION TO DISMISS WITHOUT
PREJUDICE AND ORDER
DISMISSING AND CLOSING CASE

This matter came before the Honorable Maria T. Cenzone upon the People of Guam's ("People") Motion to Dismiss Without Prejudice, and upon Defendant Horace Riley Westfall's ("Defendant") Brief in Support of Dismissal With Prejudice. The People are represented by Assistant Attorney General Christine S. Tenorio, and Defendant is represented by Attorney Heather M. Quitugua. Having received and reviewed the pleadings on file herein and considering the applicable law, the Court issues the following Decision and Order **GRANTING** the People's Motion to Dismiss Without Prejudice and **DENYING** Defendant's request for dismissal with prejudice.

PROCEDURAL AND FACTUAL BACKGROUND

In May 2024, Defendant was charged in the Superior Court of Guam with local controlled substance offenses. In a separate matter, with separate factual predicates, Defendant was charged in the District Court of Guam with federal controlled substance offenses. Mot. Dismiss at 2 (Mar. 18, 2026). In November 2025, the District Court entered judgment against Defendant and sentenced him

1 to serve 57 months of incarceration at a Bureau of Prisons facility in Oregon. *See id.*, Ex. 1 (Judgment,
2 Case No. CR-24-00024).

3 On March 18, 2026, the People moved to dismiss this case without prejudice. The People
4 explained that they would not be able to prove their case while Defendant is in off-island federal
5 custody, but sought to retain the power to re-charge Defendant “in the event that [he] is paroled
6 before the end of his 57-month prison term.” Mot. Dismiss at 1–2. In response, Defendant filed a
7 Non-Opposition to Dismissal, explaining that while he “does not object to dismissal,” he “requests
8 the dismissal be with prejudice.” Def.’s Non-Opposition at 1 (Mar. 19, 2026).

10 On April 21, 2026, the Court held a Status Hearing and asked the parties about the pending
11 Motion. *See* Order After Hearing (Apr. 29, 2026). The parties re-iterated their respective positions
12 about dismissal with or without prejudice. *Id.* at 2. At the hearing, the Court concluded that good
13 cause exists to dismiss the case, but reserved on whether to dismiss with or without prejudice. *Id.*
14 Before deciding that issue, the Court gave Defendant leave to file a written memorandum supporting
15 his request, and also gave the People leave to file a reply memorandum. *Id.* The Court also informed
16 the parties that after the briefing was complete, the Court would take the matter under advisement
17 without oral argument. *Id.* at 3.

19 On May 15, 2026, Defendant filed his written memorandum. The People did not file a reply
20 memorandum. The Court took the matter under advisement on June 1, 2026.

22 DISCUSSION

23 Prosecutorial motions to dismiss are governed by 8 GCA § 80.70(a), which provides, in
24 relevant part: “The prosecuting attorney may *with leave of court* file a dismissal of an indictment,
25 information or complaint and the prosecution shall thereupon terminate.” (emphasis added). Title 8

1 GCA § 80.70(a) is modeled on Rule 48(a) of the Federal Rules of Criminal Procedure (“FRCP”), and
2 thus judicial interpretations of FRCP 48(a) are persuasive authority for interpreting 8 GCA §
3 80.70(a). *See People v. Gutierrez*, 2005 Guam 19 ¶¶ 48-49.

4 Although prosecutorial dismissal requires the Court to grant leave, “a trial court’s evaluation
5 of dismissals pursuant to Rule 48(a) is narrow.” *Id.* ¶ 57. “[T]he prosecution is entitled to a
6 presumption of good faith when bringing a Rule 48(a) motion, and the motion should generally be
7 granted as a matter of course.” *Id.* ¶ 52 (citations omitted). The Court assesses only “whether the
8 government’s motion is contrary to manifest public interest because it is not based on the prosecutor’s
9 good faith discharge of her duties.” *Id.* ¶ 57 (quoting *United States v. Jacobo-Zavala*, 241 F.3d 1009,
10 1013 (8th Cir. 2001)). Moreover, even if the Court were to find that the prosecutor acted in bad faith,
11 “section 80.70(a) does not authorize trial courts to *sua sponte* dismiss indictments with prejudice.”
12 *Id.* ¶ 69; *see United States v. B.G.G.*, 53 F.4th 1353 (11th Cir. 2022) (“the authorities are replete that
13 [a FRCP 48(a)] dismissal is without prejudice”). Thus, except in one special circumstance not present
14 here,¹ the trial court may deny the prosecutor’s motion to dismiss, but may not dismiss the case with
15 prejudice. *Gutierrez*, 2005 Guam 19 ¶ 69.

16 Defendant cites several cases for the proposition that dismissal with prejudice may be
17 appropriate in cases where prosecutors seek dismissal in bad faith. *See* Def.’s Br. at 2–3 (May 15,
18 2021). However, Defendant appears to concede that *this* Motion to Dismiss was not brought in bad
19 faith. *See id.* at 3 (“To be clear, Mr. Westfall does not accuse the individual Assistant Attorney
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21
22

23 ¹ The Guam Supreme Court has recognized that dismissal with prejudice may be warranted “when a trial court
24 grants a motion to dismiss without prejudice and later discovers that the earlier motion was made in bad faith.” *Gutierrez*,
25 2005 Guam 19 ¶ 69. In other words, a *refiled* case may be dismissed with prejudice if the prosecution acted in bad faith
26 in dismissing the defendant’s initial case. *See id.* n.14. However, this is the initial case against Defendant, not a refiled
27 of previously dismissed charges. Thus, while the *Gutierrez* exception may be relevant should these charges be refiled in
28 a future case, the exception does not apply here.

General appearing in this case of improper motivation. . .”). The Court agrees: there is no evidence of prosecutorial bad faith. Instead, the Defendant’s unavailability is a valid reason to seek dismissal. *Cf. United States v. Balde*, 2025 WL 2476710, at *2 (S.D.N.Y. Aug. 28, 2025) (slip copy) (dismissing without prejudice where defendant had been deported and could not be extradited for trial); *see also United States v. Madzarac*, 678 F.Supp.3d 42, 49 (D.D.C. 2023) (“when the government faces an unexpected . . . factual development and moves to dismiss without prejudice, courts routinely grant the request.”).

Applying the presumption of prosecutorial good faith applicable to motions under 8 GCA § 80.70(a), and in lieu of any evidence to the contrary, the Court concludes that dismissal *without* prejudice is warranted here.²

CONCLUSION

For the above reasons, the People’s Motion to Dismiss Without Prejudice is **GRANTED** and Defendant’s request for dismissal *with* prejudice is **DENIED**.

Accordingly, **IT IS HEREBY ORDERED** that this case be **DISMISSED WITHOUT PREJUDICE**, and that this case is now **CLOSED**.

SO ORDERED this 9/2/2026.

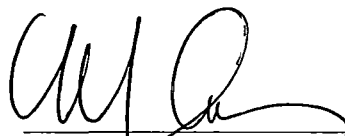
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I acknowledge that an electronic copy of the original was e-mailed to:

AG, H. Quiñigua

Date: 9/2/26 Time: 4:06pm

Antonio G. Cruz
Deputy Clerk, Superior Court of Guam



HONORABLE MARIA T. CENZON
Judge, Superior Court of Guam

² The Court notes that Defendant “preserves his right to object to any refiling in the event the court denies his motion to dismiss with prejudice.” Def.’s Br. at 3.