

FILED
CLERK OF COURT

2026 AUG 18 PM 2:39

SUPERIOR COURT
OF GUAM

IN THE SUPERIOR COURT OF GUAM

PEOPLE OF GUAM,

vs.

**NOMUO MENAI aka Nom Makrino aka
Makrino Menai aka Makrino I Menai aka
Makrino,**

Defendant.

CRIMINAL CASE NO. CF0356-26

DECISION AND ORDER

INTRODUCTION

This matter came before the Honorable Vernon P. Perez on July 15, 2026, for hearing on Defendant **NOMUO MENAI aka Nom Makrino aka Makrino Menai aka Makrino I Menai aka Makrino's** ("Defendant") Motion to Suppress. Present were Assistant Attorney General Lucas Wood on behalf of the People of Guam and Defendant with counsel, Deputy Public Defender John P. Morrison and Interpreter Elfriede Suda. In accordance with its ruling from the bench on August 14, 2026, the Court now issues the following Decision and Order **DENYING** Defendant's Motion to Suppress.

BACKGROUND

Defendant is charged with one count of Possession of a Schedule II Controlled Substance (As a Third Degree Felony) with attached Notice: Commission of a Felony While on Felony Release. (Superseding Indictment, Jul. 10, 2026). This charge stems from the discovery of a glass pipe with black residue in an open handbag on the floor of the front passenger seat after the

1 effectuation of a traffic stop on or about May 10, 2026. (Affidavit of J. David Griffin,
2 Magistrate's Compl., May 11, 2026). At the time of the alleged offense, Defendant was on pre-
3 trial release in two felony cases: CF00187-23 and CF0200-23. (Superseding Indictment, Jul. 10,
4 2026). Jury Selection and Trial was set to commence on July 6, 2026, as Defendant asserted his
5 right to a speedy trial. On June 17, 2026, Defendant filed the instant Motion. On June 30, 2026,
6 the Government filed its Opposition.

7 On July 16, 2026, the Court heard sworn testimony from Guam Police Department
8 ("GPD") Officer Kyle Henrickson ("Officer Henrickson"), Officer Anthony James Quitugua
9 Fejeran ("Officer Fejeran"), and Defendant. After the conclusion of testimony, the Court gave
10 the parties leave to submit proposed findings of fact and conclusions of law. On July 24, 2026,
11 Defendant filed his proposed findings of fact and conclusions of law. The Government did not
12 file any proposed findings of fact and conclusions of law. The Court subsequently placed the
13 matter under advisement.

14 The Court ascertained the following facts from witness testimony:

- 15 1. On or about May 10, 2026, Officer Henrickson was on patrol on Route 28 with Officer
16 Lance Corpus.¹ Officer Henrickson effectuated a traffic stop around 3:07 p.m. after
17 observing a vehicle on the road with no license plates on.
- 18 2. Officer Henrickson approached the driver, who was identified as Billy Nitomur ("Mr.
19 Nitomur").
- 20 3. Officer Corpus approached the front passenger side of the vehicle.
- 21 4. Mr. Nitomur was unable to provide a driver's license, vehicle insurance, or vehicle
22 registration.
- 23 5. The front passenger of the vehicle was identified as Defendant.
- 24 6. Officer Henrickson observed Defendant avoiding eye contact with him. Officer
25 Henrickson also observed a black bag on Defendant's lap.
- 26 7. Officer Henrickson asked Mr. Nitomur for consent to search the vehicle.

27
28 ¹ Officer Corpus was a trainee undergoing on-the-job training.

- 1 8. Mr. Nitomur gave him consent and warned him that there was a machete between the
2 door and his driver's seat.
- 3 9. Mr. Nitomur and Defendant exited the vehicle. Officer Henrickson testified that at
4 this time, no one was under arrest, handcuffed, placed in the patrol car, or told that
5 they could not leave at that point.
- 6 10. Officer Henrickson saw the black bag – previously on Defendant's lap – on the front
7 passenger floorboard. Officer Henrickson testified he could see the bulbous end of a
8 glass pipe containing black residue in the bag which was open.
- 9 11. Officer Henrickson also discovered a syringe containing a white crystallized substance
10 in the bag. The syringe later tested presumptive positive for methamphetamine.
- 11 12. Officer Henrickson held up the black bag and asked Mr. Nitmour if the bag belonged
12 to him. Mr. Nitomur denied ownership of the bag by saying "no." Officer Henrickson
13 then asked Defendant if he owned the bag by holding up the bag and pointed to it.
14 Defendant said "yes" in English and nodded his head at the same time. Mr. Nitomur
15 and Defendant were standing next to each other. When Officer Henrickson informed
16 them about the contents of the bag, Defendant refused ownership of it.
- 17 13. Officer Henrickson testified he spoke directly to Defendant in English.
- 18 14. Officer Henrickson testified that Mr. Nitomur did not translate any questions he asked
19 Defendant nor any answers given by Defendant.
- 20 15. Officer Henrickson testified he never asked Mr. Nitomur to translate for him at any
21 time.
- 22 16. Officer Henrickson testified Defendant never told him he did not understand him nor
23 did he ever ask for an interpreter.
- 24 17. Officer Henrickson testified that Defendant and Mr. Nitomur did not speak over each
25 other and were both calm.
- 26 18. Officer Henrickson told Defendant that he was being arrested for possession of drugs.
27 Defendant responded by saying "it's not mine."
28

- 1 19. Officer Henrickson estimated about five minutes passed between when Defendant
- 2 initially claimed ownership and then denied ownership of the bag.
- 3 20. Defendant spelled his name for Officer Henrickson in English.
- 4 21. Officer Henrickson transported Defendant to the Dededo Precinct.
- 5 22. Defendant was placed in an interview room.
- 6 23. Officer Henrickson advised Defendant of his Miranda rights using the GPD rights
- 7 form in English.
- 8 24. Officer Henrickson testified that Defendant asked him to slow down when they
- 9 reached the last statement on the waiver of rights form.
- 10 25. Officer Henrickson testified that Defendant acknowledged and wrote the word "yes"
- 11 and his initials next to each right.
- 12 26. Defendant also signed his name under the waiver of rights paragraph on the form.
- 13 27. Officer Henrickson then interviewed Defendant in English.
- 14 28. Officer Henrickson asked Defendant about the bag. Defendant told Officer
- 15 Henrickson that he did not own the bag and that it was on the floor of the car when he
- 16 was picked up by Mr. Nitomur.
- 17 29. Officer Henrickson testified Defendant did not go into further detail.
- 18 30. Officer Henrickson asked Defendant one more time about the contents in the bag,
- 19 however, Defendant no longer wanted to speak about the drugs found in the bag and
- 20 the questioning ceased.
- 21 31. Officer Henrickson estimated that he spoke with Defendant approximately five to six
- 22 times in English from the time of the effectuation traffic stop to the GPD interview
- 23 room.
- 24 32. Officer Fejeran encountered Defendant in March of 2023, when he arrested Defendant
- 25 for theft of a motor vehicle and possession of illegal contraband. Officer Fejeran
- 26 attempted to advise Defendant of his rights at the precinct but was unable to complete
- 27 the advisement of rights because Defendant told him he didn't understand.
- 28

1 33. Defendant has lived on Guam for about six to seven years. Defendant has had a job
2 in construction for a year and a half, rebar to lay foundations. Defendant testified that
3 he receives instructions at work from other Chuukese workers.

4 34. Defendant testified that Officer Henrickson primarily spoke to his cousin and that he
5 did not personally speak to Officer Henrickson.

6 35. Defendant testified he did not speak with Officer Henrickson until after he was
7 arrested and placed into the police vehicle.

8 36. Defendant testified that he asked his cousin in Chuukese why they handcuffed him.
9 Defendant testified his cousin told him he was being arrested because the bag belonged
10 to him.

11 37. Defendant acknowledged that he was presented with a form at the police station to
12 sign. Defendant testified he told the officer that he did not understand the content of
13 the form by saying, "I'm sorry, I don't understand" in English.

14 38. Defendant testified he wrote "yes" on the form despite also saying that he did not
15 understand what he was saying "yes" to.

16 39. Defendant testified that the officer insisted and instructed him to write on the form,
17 but did not threaten him.

18 40. Defendant also testified that he told the officer that it was not his bag, that the bag did
19 not belong to him, and that it was in the car when his cousin picked him up.

20 DISCUSSION

21 At issue are statements Defendant made at the scene to Officer Henrickson. Defendant
22 initially moved the Court to suppress his statements because he did not freely, knowingly, and
23 intelligently waive his *Miranda* rights based on Mr. Nitomur incorrectly translating the
24 advisements and manufacturing a confession attributed to Defendant. *See generally*, Mot.
25 Suppress, Jun. 17, 2026. The testimony elicited at the Suppression Hearing, however, did not
26 support these arguments as there was no testimony that Mr. Nitomur acted as an interpreter for
27 Defendant at the scene, nor was there any testimony that Defendant was read his *Miranda* rights
28 at the scene. Defendant now argues that the statements must be suppressed as a violation of his

1 due process rights because he did not voluntarily give them. (Deft. FFCL at 4). Defendant argues
2 that any statements he made at the scene were involuntary and unreliable because of his limited
3 English proficiency. *Id.* at 5.

4 “Involuntary or coerced confessions are inadmissible at trial, because their admission is a
5 violation of a defendant's right to due process under the Fourteenth Amendment. A confession is
6 involuntary if it is not ‘the product of a rational intellect and a free will.’” *Brown v. Horell*, 644
7 F.3d 969, 979 (9th Cir. 2011) (internal citations omitted). *See also Lego v. Twomey*, 404 U.S.
8 477, 483 (1972) (“[A] defendant in a criminal case is deprived of due process of law if
9 his conviction is founded, in whole or in part, upon an involuntary confession, without regard for
10 the truth or falsity of the confession”). “[C]oercive police activity is a necessary predicate to the
11 finding that a confession is not ‘voluntary’ within the meaning of the Due Process Clause of the
12 Fourteenth Amendment.” *Colorado v. Connelly*, 479 U.S. 157, 167 (1986).

13 Here, there was no testimony that officers employed threats, force, or overbearing tactics
14 towards Defendant. Defendant was not restrained or under arrest when he initially acknowledged
15 ownership of the black bag. Defendant was standing outside of the vehicle on the side of the road
16 next to his cousin, Mr. Nitomur, in the middle of the afternoon. Although Defendant later
17 recanted ownership of the bag and now asserts limited English proficiency, the record does not
18 demonstrate that his will was overborne or that his statements resulted from coercive police
19 activity, as required to render them involuntary under the Fourteenth Amendment. *See Dickerson*
20 *v. United States*, 530 U.S. 428, 434 (2000) (noting the due process voluntariness test was refined
21 through case law “into an inquiry that examines whether a defendant’s will was overborne by the
22 circumstances surrounding the giving of a confession.”). Accordingly, the Court concludes that
23 Defendant’s statements at the scene were voluntary under the Due Process Clause and are not
24 subject to suppression.

25 //

26 //

27 //

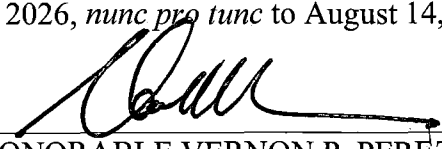
28 //

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CONCLUSION

For the foregoing reasons, the Court hereby DENIES Defendant's Motion to Suppress.

IT IS SO ORDERED this 17th day of August, 2026, *nunc pro tunc* to August 14, 2026.



HONORABLE VERNON P. PEREZ
Judge, Superior Court of Guam

SERVICE VIA E-MAIL

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

AG, POSC

Date: 8/18/26 Time: 3:19pm

Antonio Cruz
Deputy Clerk, Superior Court of Guam