

- 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

2
3
4
5
6
7
8
9
10
11

12
13
14
15
16
17
18
19
20
21
22

23
24
25

—

1 Order After Hearing Re. People's Motion to Dismiss; Court's Retention of Jurisdiction Until Final
2 Adjudication of Motion; Exoneration of Bail; and Vacating Order of Conditional Release (Apr.
3 29, 2026). Before deciding on that issue, the Court granted the People time to review Defendant's
4 Non-Opposition and request for dismissal with prejudice and leave to file a reply memorandum.
5 *Id.* The Court also informed the parties that after briefing was complete, it would take the matter
6 under advisement without oral argument. *Id.* at 3.
7

8 On April 29, 2026, the People submitted further argument in response to the Defendant's
9 Non-Opposition and request for dismissal with prejudice. In it, the People proffer that, despite the
10 Victim's unwillingness to testify at the trial of this case, "the People have independent evidence
11 demonstrating that the Victim was injured. * * * Due to the fluctuations of family dynamics, the
12 People cannot foreclose the possibility of the Victim pursuing charges in the future. Based on same
13 [sic], there was no bad faith on the part of the People by moving for dismissal. Given that there
14 was no bad faith on the part of the People, dismissal should be without prejudice. The People have
15 no objection to expunging the record on July 12, 2028 if prosecution does not occur by then."
16 *People's Submission Re: Dismissal Without Prejudice* at 3 (Apr. 29, 2026). The Court took the
17 matter under advisement on June 3, 2026.
18
19
20

21 DISCUSSION

22 Guam law provides the procedure upon which a prosecutor may move for case dismissal.
23 8 GCA § 80.70(a) reads as follows:

24 (a) The prosecuting attorney may *with leave of court* file a dismissal of an
25 indictment, information or complaint and the prosecution shall thereupon
26 terminate. Such a dismissal may not be filed during the trial without the consent of
27 the defendant. The prosecuting attorney shall file a statement of his reasons for
28 seeking dismissal when he applies for 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 GCA § 80.70(a)(emphasis added). Title 8 GCA § 80.70(a) is modeled on Rule 48(a) of the
2 Federal Rules of Criminal Procedure (“FRCP”), and thus judicial interpretations of FRCP 48(a)
3 are persuasive authority for interpreting 8 GCA § 80.70(a). See *People v. Gutierrez*, 2005 Guam
4 19 ¶¶ 48-49.

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

19
20 Notwithstanding the limited exception noted in *Gutierrez*, the Court must also consider
21 whether dismissal results in prejudice to the Defendant under Guam’s speedy trial statute. In this
22 case, the Court applies the federal Speedy Trial Act factors when deciding whether to dismiss with
23 or without prejudice. *People v. Corpuz*, 2019 Guam 1 ¶ 20. These factors are: “(1) the seriousness
24 of the offense; (2) the facts and circumstances of the case which led to the dismissal; and (3) the
25 impact of a reprosecution on the administration of justice.” *Id.* ¶ 21.
26
27
28

1 For the first factor, the felony offense of Attempted Strangulation (as a Third Degree
2 Felony) is a serious offense for which the Defendant faces a maximum of three (3) years of
3 incarceration. 9 G.C.A. § 80.30(c), § 80.31 (First offender). This factor weighs heavily against
4 dismissal with prejudice. *Corpuz* at ¶ 22 (“[W]here the crime charged is serious, the sanction of
5 dismissal with prejudice should ordinarily be imposed only for serious delay.” citing *United States*
6 *v. Bert*, 814 F.3d 70, 79 (2d Cir. 2016)(quoting *United States v. Simmons*, 786 F.2d 479, 485 (2d
7 Cir. 1986)).

9 For the second factor, the Court considers “the facts and circumstances surrounding the
10 length of delay, government conduct, and actual prejudice suffered by the defendant.” *Id.* at ¶ 23.
11 As the Guam Supreme Court noted in *Corpuz*: “[C]ourts must hold themselves accountable for
12 ensuring their own compliance with statutory speedy trial requirements, and when a violation is
13 caused by the court or a prosecutor, it weighs in favor of granting dismissal with prejudice.” *Id.*
14 (citation omitted). However, “where the delay is not overly long and there has been no showing of
15 prejudice, negligent conduct by the court or the government renders the second factor ... neutral,
16 at best.” *Id.* (citations omitted). The Court must also “evaluate whether the court’s or government’s
17 conduct rises to the level of “ ‘something more than an isolated unwitting violation,’ such as a
18 finding of ‘bad faith’ or a ‘pattern of neglect.’ ” *Id.* (quoting *United States v. Taylor*, 487 U.S. 326,
19 339 (1988)). Applying these considerations, the Court finds that, in light of Defendant’s assertion
20 on March 23, 2026, and the filing of the Motion to Dismiss on April 27, 2026, shortly after
21 discovering that the Victim did not want to testify at the trial of this matter, there was no undue
22 delay and the People filed its Motion to Dismiss in advance of the trial, which was scheduled for
23 May 13, 2026. Although the trial did not begin as scheduled on May 13, 2026, through no fault of
24 the Defendant, applying the factors in *Corpuz*, the Court finds that the Defendant did not suffer

any actual prejudice from the delay under the circumstances. Defendant had been released in this case on July 15, 2025, and subjected to a curfew from 8:00 p.m. to 6:00 a.m., but did not appear to have been restricted outside of those hours from employment or curtailment of associations, with the exception of the “stay away” order from the named victim. *See*, Order of Conditional Release and Appearance Bond (Jul. 15, 2025). It is noteworthy that the Guam Supreme Court has ruled that the unavailability of a witness is good cause to delay a criminal trial, particularly where the witness is essential, as the named Victim is here. *See People v. Mendiola*, 2015 Guam 26 ¶¶ 28 – 33.² Finally, the Court does not find that the People engaged in any pattern of neglect or bad faith in moving to dismiss this case under the circumstances. The Court finds that this factor weighs against dismissal with prejudice, or is neutral at best.

For the third factor, the Court must consider whether there is a bar to reprosecution of this case in the future, including whether the People are precluded from bringing a case against the Defendant on statute of limitation grounds. *Corpuz* at ¶ 27. The Court finds that the Attempted Strangulation (As a Third Degree Felony) charge is the most serious of the offenses and has a statute of limitations of three years after its commission under 8 G.C.A. § 10.20(c). As such, the People must re-indict the Defendant by July 12, 2028, or be barred from prosecution.³ The Court finds persuasive the People’s argument that the Victim in this case may, within the limitation of

² Although *Mendiola* involved the unavailability of a witness for medical reasons, the rationale applies in this instance.

³ The Defendant may file a Motion to Expunge Record after the statute of limitations in which the Government has to bring this matter to trial has elapsed without prosecution. The People indicate it will have no objection to such a Motion. Any request for a criminal case expungement is a separate civil matter. *See People v. Lau*, 2007 Guam 4 ¶ 6 (“In the future, when a party requests expungement pursuant to 8 GCA § 11.10, he or she should do so in a separate civil case. The expungement proceeding will be a civil matter governed by civil rules, and an appeal of right will be available from a final civil judgment by the Superior Court under 7 GCA 3108(a).”); *see also People v. Ho*, 2009 Guam 18 ¶ 32 (Pursuant to the *Lau* opinion, expungement must be brought as a separate civil action.) and 8 GCA § 11.10(a) (“The official records of the Court, the Attorney General, and the police reports in connection therewith dealing with a violation or attempted violation by an adult of territorial law. . . shall be expunged. . . when the prosecuting attorney decides *not* to prosecute the offense, when the time for commencing the criminal action as prescribed by Chapter 10 of this title has passed. . .”) (emphasis in original).

1 time, seek to pursue criminal charges against the Defendant for this offense in the future.
2 Therefore, this factor weighs against dismissal with prejudice. However, for the offenses of Family
3 Violence (As a Misdemeanor), Assault (As a Misdemeanor) and Assault on an Unborn Child (As
4 a Misdemeanor), the Court finds that the prosecution for these offenses is barred by the one-year
5 statute of limitations under 8 G.C.A. § 10.30. Consequently, the Court dismisses the misdemeanor
6 offenses *with* prejudice.
7

8 CONCLUSION

9 For the above reasons, the People's Motion to Dismiss without Prejudice is **GRANTED**
10 **IN PART** as to the **Attempted Strangulation (As a Third Degree Felony)**, but **DENIED** as to
11 the Misdemeanor offenses. The Defendant's Motion to Dismiss With Prejudice is **GRANTED IN**
12 **PART** as to the **Misdemeanor offenses of Family Violence, Assault and Assault on an Unborn**
13 **Child**. As to the Attempted Strangulation (As a Third Degree Felony), the Defendant's motion is
14 **DENIED**.
15

16 The Court shall issue a separate Order consistent with its ruling herein.
17

18 **SO ORDERED** this 2nd day of September, 2026.
19

20 

21 **HONORABLE MARIA T. CENZON**
22 Judge, Superior Court of Guam
23

24 **SERVICE VIA EMAIL**

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

27 OAG & H. Quiñones

28 Date: 9/2/26 Time: 2:58

Reinita M. Lindlau

Deputy Clerk, Superior Court of Guam