

1 Degree Felony). *See* Indictment (May 14, 2015).¹ Attached to both charges was the Special
2 Allegation of Possession and Use of a Deadly Weapon in the Commission of a Felony. *Id.*

3 After the receipt of evidence at trial, a jury of twelve (12) found the Defendant guilty on
4 all charges against him. *See* Cont'd Jury Trial Mins. at 1:39:59 – 48:34PM (July 20, 2015). For
5 the charges above, the court sentenced the Defendant to serve a total of fifteen (15) years. *See*
6 Judgment (Sep. 20, 2016). On February 18, 2021, the Honorable Anita A. Sukola subsequently
7 issued an Amended Judgment after sentencing the Defendant to a total of fifteen (15) years for
8 ATTEMPTED MURDER (As a 1st Degree Felony) with the Special Allegation of Possession
9 and Use of a Deadly Weapon in the Commission of a Felony. Amended Judgment (Feb. 18, 2021).
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11 On August 25, 2025, the People filed a Memorandum Supporting Joint Motion to Amend
12 Release Conditions to Deport Defendant (“Joint Motion”), seeking “to permanently deport
13 Defendant to his country by allowing the Defendant to be released to the custody of the United
14 States Department of Homeland Security’s Immigration and Customs Enforcement.” Joint Mot.
15 (Aug. 25, 2025). If the court granted the Joint Motion, the parties stipulated to the following:
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- 17 1. That Defendant consents to jurisdiction and that Defendant’s remaining term of
18 incarceration shall be stayed and held in abeyance from the date that Defendant
19 is released to the United States Department of Homeland Security’s
20 Immigration and Customs Enforcement (“ICE”) for Defendant’s deportation;
- 21 2. That Defendant shall be released only to the custody of ICE for purposes of
22 Defendant’s immediate deportation to this country;
- 23 3. That if Defendant is for whatever reason not deported and is released from ICE
24 custody in Guam or any other U.S. jurisdiction, or otherwise remains on Guam
25 or in the United States, that Defendant shall immediately turn himself/herself
26 into the Guam Police Department, or if Defendant fails to do so be immediately
27 arrested pursuant to a bench warrant to be issued, and brought before a Judge

28 ¹ Although the People subsequently filed a Superseding Indictment and Amended Superseding Indictment, the only
difference in the Defendant’s charges was the addition of 9 GCA § 4.60 to the Third Charge of ATTEMPTED
MURDER (As a 1st Degree Felony). *See* Superseding Indictment (June 30, 2015); *see also* Amended Superseding
Indictment (July 14, 2015)

1 to be re-incarcerated at the Dept. of Corrections for the balance of Defendant's
2 prison term; and

- 3 4. That a bench warrant shall issue for Defendant to trigger Defendant's
4 immediate arrest, appearance before a Judge of the Superior Court of Guam and
5 to serve Defendant's remaining term of incarceration at the Dept. of Corrections
6 in this case in the event that Defendant re-enters Guam or any United States
7 jurisdiction for any reason, or is somehow released from ICE custody instead
8 of being deported to Defendant's country.

9 Stip. Amend (Aug. 25, 2025). This court issued its Order for supplemental briefing on the issue
10 of the court's jurisdiction to reduce a Defendant's sentence pursuant to 8 GCA § 120.46. *See*
11 Order (Sep. 25, 2025). Despite this, no supplemental briefing was submitted in accordance with
12 the court's Order. Two weeks later, the People filed an *Ex Parte* Motion to Enlarge Time to File
13 Supplemental Briefing. *See Ex Parte* Mot. (Nov. 10, 2025).

14 The parties were before the court to address the *Ex Parte* Motion on November 10, 2025;
15 the day of the motion's filing. Referencing its written *Ex Parte* Motion, the People attributed its
16 noncompliance with the court's deadline "to a calendaring oversight and the press of workload
17 within the Office of the Attorney General's General Crimes Division." *See Ex Parte* Mot. at 2;
18 *see also Ex Parte* Hr'g Mins. at 3:18:25 – 35:19PM (Nov. 10, 2025). In support of its request for
19 an additional twenty-one (21) days to file its supplemental briefing, the People cite this oversight
20 as excusable neglect pursuant to Guam Rule of Civil Procedure 6(b)(2). *Id.* at 2.² Ultimately, the
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23 ² While Guam Rule of Civil Procedure 6(b)(2) may have been relevant authority if there were no statutory equivalent
24 within Guam's Criminal Procedural Rules, CR1.1(f) governs extensions of times in criminal cases such as this,
stating that:

25 No continuance shall be granted merely on the stipulation of the parties. *If a party is unable to*
26 *comply with the established schedule despite its diligence, that party shall move for a reasonable*
27 *extension of time, specifically setting forth the basis for the requested extension, which shall be*
28 *considered by the court in determining good cause pursuant to subsection (e) above. Such motion*
shall be made as soon as practicable but, in any event, not later than the date upon which the act
was to have been completed.

Guam Crim. Pro. R. 1.1(f) (emphasis added).

1 court denied the People's *Ex Parte* Motion and granted the Defendant additional time to file his
2 supplemental briefing by November 18, 2025. *See Ex Parte* Hr'g Mins. at 3:18:25 – 35:19PM.

3 On November 18, 2025, the court held a Motion Hearing to address the parties' oral
4 arguments on the Joint Motion, the accompanying Stipulation, and the Defendant's Supplemental
5 Briefing Regarding Deportation ("Supplemental Brief"). At the end of arguments, the court took
6 the matter under advisement.
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8 DISCUSSION

9 As stated above, the parties move for this court to hold the remainder of the Defendant's
10 fifteen-year sentence in abeyance and deport him immediately. *See* Joint Mot. at 2. Further, the
11 parties ask the court to issue a bench warrant that may be triggered if the Defendant ever decides
12 to return to Guam after ICE deports him. *Id.* The only citation that the People provide as authority
13 for this court to grant the Joint Motion is from the Court of Appeals of Maryland: *Keane v. State*,
14 166 A. 410 (Md. 1933).³ However, this Maryland caselaw addresses a court's discretion in regards
15 to Petitioner Frank Keane's writ of error coram nobis, which is "[t]raditionally used as a posttrial
16 remedy to correct factual errors affecting the validity and regularity of the judgment." *See Keane*
17 *v. State*, 166 A. 410 (Md. 1933); 39 Am. Jur. 2d Habeas Corpus § 178 (2026). Because neither
18 party asserts any factual errors within the Defendant's Judgment, this common-law remedy and
19 authority does not apply to the issue before the court.
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22 Although the parties characterize this Joint Motion as a Motion to Amend Release
23 Conditions, the only release condition in place would be restitution and three-year parole term.
24 *See* Amended Judgment at 2. At this point, his release, and any conditions that accompany his
25 release, are governed by the Guam Parole Board. *See* 9 GCA §§ 80.76 & 80.80. Based on the
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28 ³ The court notes for the record that this caselaw was erroneously cited as *Keane v. State*, 166 A. 411 (Md. 1933) within the Joint Motion and provides the correct citation above.

1 court's review of the Joint Motion's substantive arguments, this is more appropriately
2 characterized as a Motion for Reduction of Sentence pursuant to 8 GCA § 120.46, which the
3 Defendant addressed in his Supplemental Brief. When determining whether the court can reduce
4 a sentence, Title 8 of Guam Code Annotated states the following:

5 The court may correct an illegal sentence at any time and may correct a sentence
6 imposed in an illegal manner within the time provided herein for the reduction of
7 sentence. *The court may reduce a sentence within one hundred twenty (120) days*
8 *after the sentence is imposed, or within one hundred twenty (120) days after receipt*
9 *by the court of a mandate issued upon affirmance of the judgment or dismissal of*
10 *the appeal, or within one hundred twenty (120) days after entry of any order or*
11 *judgment of the Supreme Court of Guam, having the effect of upholding a judgment*
12 *of conviction.*

13 8 GCA § 120.46 (emphasis added). While the Joint Motion seeks relief relating to a sentence
14 reduction, the court agrees with the Defendant's belief that it "does not have jurisdiction to reduce
15 Nathan's sentence pursuant to 8 GCA 120.46" based on the amount of time passed since the
16 Honorable Anita A. Sukola issued the Amended Judgment for this case. Def.'s Suppl. Brief (Nov.
17 18, 2025). In the Supplemental Brief, the Defendant mainly argues that he is deportable as a
18 foreign national pursuant to 9 GCA § 80.37.2(d), which states:

19 (d) Under the terms of the Compacts of Free Association (COFA), citizens of the
20 Freely Associated States [the sovereign states of the Federated States of
21 Micronesia (FSM), the Republic of the Marshall Islands (RMI), and the Republic
22 of Belau], may enter the U.S. under a special status, and are treated as foreign
23 nationals while in the U.S., such status allowing the U.S. to deport a citizen of any
24 COFA state if such citizen is found guilty of breaking or disregarding the laws of
25 a U.S. jurisdiction.

26 (1) A COFA citizen shall be considered deportable if convicted of a felony
27 or a crime of moral turpitude; or if sentenced to one (1) year or more for
28 any crime(s) committed; or if the COFA citizen becomes a repeat offender
for driving-under-the-influence of alcohol.

(2) Such COFA citizen in violation of the COFA will be treated as any
other foreign national and shall be deported if convicted of a deportable
crime under the terms of the Compact of Free Association.

(3) Upon conviction of a deportable crime, the Attorney General of Guam
(AG) shall immediately notify the U.S. Immigration and Customs

1 Enforcement (ICE) Division of the U.S. Department of Homeland Security
2 (DHS) of Guam's desire to have the COFA citizen deported. The AG shall
3 work closely with the U.S. ICE Division of DHS to ensure all documents
4 related to the conviction and required for deportation are immediately
5 provided to the proper authorities. Citizens of the U.S. cannot be deported
6 under the terms of the COFA. The AG shall transmit a quarterly report to
7 *I Liheslatura* indicating how many cases were forwarded to the U.S. ICE
8 Division of DHS for deportation and the status of those cases. The AG
9 shall also publish this report on its website on a quarterly basis.

10 9 GCA § 80.37.2(d). Although the Defendant was convicted of a deportable crime ten (10) years
11 ago, the Attorney General was obligated to have *immediately* notified ICE of Guam's desire to
12 have him deported. If this court were to grant the Defendant's release to ICE's custody, the parties
13 propose to have the court issue a bench warrant that may be triggered if the Defendant ever
14 decides to return to Guam after ICE deports him. Although the parties agree that the Defendant's
15 deportation under their terms is in the best interests of the People of Guam, the court does not
16 believe that it is in the best interests of the People of Guam to release someone for deportation,
17 and allow this case to remain active because of a bench warrant that may not ever be returned.

18 Because no party is asserting that an illegal sentence was imposed against the Defendant,
19 this court no longer has jurisdiction over the Defendant's release after the court Amended his
20 Judgment of Conviction in 2021. Whether it be into the community on parole or to ICE for
21 deportation, the court finds that the proper authority to address the Defendant's release and its
22 conditions at this time would be the Guam Parole Board; and is not inclined to interfere "with the
23 parole and clemency powers vested in the Executive Branch." *Affronti v. United States*, 350 U.S.
24 79, 83 (1955). Therefore, the court denies the Joint Motion.

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CONCLUSION

For reasons stated above, the court hereby **DENIES** the parties' Joint Motion to Amend Release Conditions to Deport Defendant.

SO ORDERED this FEB 23 2026.



HONORABLE ALBERTO E. TOLENTINO
Judge, Superior Court of Guam

SERVICE VIA E-MAIL

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

AOS S. Teke

FEB 23 2026 Date: Time: 11:10am

Evan L. Topasna

Deputy Clerk, Superior Court of Guam