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IN THE SUPERIOR COURT OF GUAM

DONNA E. LAWRENCE,

Petitioner,

v.

DOUGLAS B. MOYLAN, as a Public Official
capacity as the elected ATTORNEY
GENERAL OF GUAM, JOSEPH GUTHRIE,
as a Public Official in the OFFICE OF THE
ATTORNEY GENERAL OF GUAM, GARY
W.F. GUMATAOTAO, as a Public Official in
the OFFICE OF THE ATTORNEY
GENERAL OF GUAM, and D. GRAHAM
BOTH, as a Public Official in the OFFICE
OF THE ATTORNEY GENERAL OF
GUAM.

Respondents.

SPECIAL PROCEEDINGS CASE NO.
SP0136-23

DECISION AND ORDER

INTRODUCTION

This case poses a straightforward question with weighty consequences: What should a court do when a litigant repeatedly ignores its orders, misses hearings, and takes no steps to move her case forward? Petitioner Donna E. Lawrence (“Petitioner”) brought this Sunshine Reform Act suit seeking transparency from public officials. But after filing her pleadings, she stopped participating in her own case—failing to comply with court directives, failing to file

1 required notices, and failing to appear at hearings despite clear warnings. Respondents Douglas
2 B. Moylan, Joseph Guthrie, Gary W.F. Gumataotao, and D. Graham Botha—all officials with
3 the Office of the Attorney General of Guam—moved to dismiss under GRCP 41(b), arguing
4 that Petitioner’s abandonment of the litigation and disregard of court orders leave no path
5 forward. The motion came before the Honorable Arthur R. Barcenas on October 17, 2025.
6 Respondents appeared through counsel; Petitioner did not. The rules governing dismissal for
7 failure to prosecute exist for a reason. Courts cannot resolve cases when parties do not
8 participate. They cannot manage dockets when litigants disregard deadlines. And they cannot
9 protect the integrity of the judicial process when orders carry no consequences. So the question
10 before the Court is narrow but decisive: Has Petitioner’s prolonged noncompliance and repeated
11 failure to appear reached the point where dismissal under Rule 41(b) is warranted?
12
13 For the reasons explained below, the answer is yes.

15 BACKGROUND

16 On October 23, 2023, Petitioner filed a Complaint under the Sunshine Reform Act,
17 alleging that the Office of the Attorney General of Guam (“OAG”) failed to produce public
18 records required by law. *See, Opp’n to Mot. to Dismiss 1–3* (Feb. 29, 2024). Her request sought
19 OAG electronic communications policies, personnel-file maintenance procedures, grievance
20 procedures, and records-retention materials. *Id.* at 2–4.

21 Petitioner filed an Amended Complaint on December 7, 2023, adding new Sunshine
22 Reform Act requests unrelated to her original filing. *Id.* at 5.

23 Respondents moved to dismiss under GRCP 12(b)(1) and 12(b)(6). *See, Mot. to Dismiss*
24 *Am. Compl.* (Feb. 1, 2024). Petitioner opposed, arguing that no “pending litigation” exception

1 under the Sunshine Reform Act applied because no lawsuit was filed that would justify

2 withholding the requested records. *See*, Opp'n to Mot. to Dismiss 5–7 (Feb. 29, 2024).

3 After oral argument on April 23, 2024, the Court denied the motion. *See*, Decision &
4 Order (July 19, 2024). The Court held that Petitioner's Sunshine Act claims were not moot and
5 that Respondents improperly treated “potential litigation” as equivalent to “pending litigation”
6 under 5 GCA § 10108(a).

7 On April 17, 2025, Petitioner's counsel, Attorney Jacqueline T. Terlaje, moved to
8 withdraw, citing a breakdown in communications. *See*, Mot. to Withdraw as Counsel (Apr. 17,
9 2025). The Court granted the motion on June 5, 2025, and ordered Petitioner to (1) retain new
10 counsel or notify the Court of her intent to precede pro se within 30 days, and (2) appear at a
11 status and scheduling conference on August 21, 2025. *Id.* at 2. The Court warned that failure to
12 comply could result in sanctions or dismissal. *Id.*

13 Petitioner did not file the required notice and failed to appear at the August 21, 2025
14 status hearing. *See*, Min. Entry (Aug. 21, 2025). Respondents filed the present Motion to
15 Dismiss for Failure to Prosecute under GRCP 41(b) on August 26, 2025. *See*, Mot. to Dismiss
16 (Aug. 26, 2025). They argued that Petitioner violated the Court's June 5, 2025 Order, failed to
17 appear at the status hearing, and has abandoned prosecution of this case. *Id.* at 1–4.

18 The Court held a hearing on October 17, 2025. Petitioner did not appear. The Court took
19 the matter under advisement.

20 ANALYSIS

21 In reaching its decision, the Court first considers whether dismissal is appropriate under
22 GRCP Rule 41 (b). The Court begins by outlining the governing legal standard and the five-
23 factor test adopted in *Santos* evaluating dismissals based on inaction. The Court then applies
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1 these factors to the procedural history of this case—specifically, Petitioner’s repeated
2 noncompliance with the Court’s June 5, 2025 Order, her failure to appear at the August 21,
3 2025 status hearing, and her continued absence at the October 17, 2025 motion hearing—to
4 determine whether dismissal is warranted. In doing so, the Court balances the interests of
5 judicial efficiency, fairness to the parties, and the public policy favoring resolution of cases on
6 their merits before rendering its ruling.
7

8 **I. Petitioner Has Failed To Prosecute And Comply With The Rules And Order Of
9 The Court.**

10 Rule 41(b) permits dismissal when a plaintiff fails to prosecute or comply with the rules
11 or a court order. Although the rule does not define “failure to prosecute,” courts apply five
12 factors to determine whether dismissal is appropriate: (1) the public’s interest in expeditious
13 resolution of litigation; (2) the court’s need to manage its docket; (3) the risk of prejudice to the
14 defendants; (4) the public policy favoring resolution on the merits; and (5) whether less drastic
15 sanctions are available. *Santos v. Carney*, 1998 Guam 4 ¶ 5.
16

17 Respondents argue that Petitioner has stopped prosecuting this case and ignored this
18 Court’s orders. The record supports that assertion. On June 5, 2025, the Court ordered Petitioner
19 to notify the Court within 30 days whether she had retained counsel or intended to precede pro se
20 and to appear at the August 21, 2025 status hearing. She did neither. She also did not appear at
21 the October 17, 2025 hearing on this motion. Rule 41(b) allows dismissal under exactly these
22 circumstances.
23

24 The first two *Santos* factors—the public’s interest in timely resolution and the court’s
25 interest in managing its docket—strongly favor dismissal. This case has been pending since
26 October 23, 2023 and has remained stagnant since the Court’s July 19, 2024 order. Courts cannot
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allow litigants to ignore deadlines and orders without consequence; doing so undermines judicial efficiency and fairness to other litigants.

The third factor—prejudice to the defendants—also weighs in favor of dismissal.

Prejudice is presumed when a plaintiff's inaction delays litigation and leaves claims unresolved. That presumption applies here, especially where public officials remain subject to open allegations with no effort by the Petitioner to advance the case.

The fourth factor—public policy favoring resolution on the merits—typically weighs against dismissal, but carries little weight when the plaintiff is the reason the case cannot move forward. Petitioner was given clear opportunities and warnings. Her deliberate inaction makes a merits-based resolution impossible.

The fifth factor—the availability of less drastic sanctions—supports dismissal. The Court warned Petitioner that failure to comply with its June 5, 2025 order or to appear at the status hearing could result in dismissal. She ignored that warning and has taken no steps to prosecute her claims. No lesser sanction would be effective.

Because all *Santos* factors, collectively, favor dismissal, the Court finds that Lawrence has failed to prosecute this action and has violated the Court's orders.

CONCLUSION

For the reasons set forth above, the Court **GRANTS** Respondents' Motion to Dismiss.

IT IS SO ORDERED JAN 08 2026


HONORABLE ARTHUR R. BARCINAS
Judge, Superior Court of Guam