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IN THE SUPERIOR COURT OF GUAM

SUPERIOR COURT

OF GUAM

PEOPLE OF GUAM,

Criminal Case No. CF0078-25

GPD Report Nos. 25-02688 / 25-01867

v.

BRIAN JOE SANTOS

(aka BEBOY),

DOB: 05/28/1985

Defendant.

DECISION AND ORDER

DENYING

DEFENDANT'S MOTION TO DISMISS

INTRODUCTION

This matter came before the Honorable Alberto C. Lamorena, III on April 24, 2026 for hearing on Brian Joe Santos's (*aka* Beboy's) ("Defendant's") Motion to Dismiss ("Motion"). Assistant Attorney General Lucas Wood represents the People, and Assistant Public Defender Zachary Taimanglo represents Defendant. Having duly considered the parties' briefs and the applicable law, the Court now issues the following Decision and Order and **DENIES** Defendant's Motion.

BACKGROUND

Defendant is charged with one count of Terrorizing (as a 3rd Degree Felony) and two counts each of Family Violence (as a Misdemeanor) and Assault (as a Misdemeanor). See Indictment (Feb. 6, 2025). The charges stem from alleged incidents on: (i) January 20, 2025 in which Defendant repeatedly punched and struck Johanna Rose Davis ("Victim") with a cane, and (ii) January 30, 2025 in which Defendant threatened to kill Victim and their five shared children. See Magistrate's Complaint (Jan. 31, 2025).

On February 25, 2025, Defendant filed his Request for Disclosure, directing the People to disclose "any ... photograph ... which the prosecuting attorney intends to use in the trial" as well as "any material or information which might tend to negate the guilt of the Defendant." See Request for Disclosure at 1-2 (Feb. 25, 2025).

1 Trial in this matter was scheduled to begin February 20, 2026. See Minute Entry (Feb. 17,
2 2026). However, that day, defense counsel informed the Court that Defendant had waived his
3 speedy trial rights out of necessity because the People failed to provide him with relevant
4 photographs taken of Victim until a few days prior to the trial's start date. See Minute Entry (Feb.
5 20, 2026). The People intend on introducing these photographs into evidence during trial. See
6 People's Amended Exhibit List at Exhibit 5 (Feb. 20, 2026). The Court rescheduled the trial to July
7 27, 2026 so that Defendant would have time to file a formal motion to dismiss. See Trial
8 Scheduling Order (Feb. 23, 2026).

9 Defendant filed his Motion to Dismiss on March 5, 2026. Defendant seeks dismissal of the
10 case with prejudice due to the People's delayed disclosure of their discovery obligations. See
11 Motion at 2 (Mar. 5, 2026). Specifically, Defendant claims relevant photographs taken of Victim
12 were not provided to him until February 16, 2026, four days before the scheduled trial. Id. at 3.
13 Defendant believes dismissal with prejudice is the appropriate remedy because: (i) these particular
14 photographs are crucial to the trial, and (ii) the People's delayed disclosure amounts to exceptional
15 misconduct because they were in continuous possession of the photographs for the past year. Id. at
16 4-5.

17 The People filed their Opposition to Motion to Dismiss ("Opposition") on March 5, 2026.
18 The People believe dismissal is a disproportionately severe remedy for the claimed discovery
19 violation because Defendant has not shown substantial prejudice stemming from the violation. See
20 Opposition at 2 (Mar. 5, 2026).

21 The Court held a hearing on April 24, 2026. The parties agreed to forgo oral arguments and
22 instead submit on their briefs. See Court Recording at 10:11:00am (Apr. 24, 2026). The Court
23 subsequently took the matter under advisement.

24 DISCUSSION

25 I. Preliminary Rules:

26 8 G.C.A. § 70.10 requires prosecutors to turn over certain enumerated items to defense
27 counsel upon a noticed motion by the Defendant. It reads as follows:
28

1 (a) Except as otherwise provided by §§ 70.20 and 70.30, at any time after the
2 first appearance upon noticed motion by the defendant, the court shall order the
3 prosecuting attorney to disclose to the defendant's attorney or permit the
4 defendant's attorney to inspect and copy the following material and information
5 within his possession or control, the existence of which is known, or by the
6 exercise of due diligence may become known to the prosecuting attorney:

7 (4) any ... photograph ... which the prosecuting attorney intends to use
8 in the trial or which was obtained from or belonged to the defendant;

9 (7) any material or information which tends to negate the guilt of the
10 defendant as to the offense charged or would tend to reduce his
11 punishment therefor.

12 (b) The prosecuting attorney's obligations under this Section extend to any
13 material information in the possession or control of members of his staff and
14 any other persons who have participated in the investigation or evaluation of
15 the case and who either regularly report or with reference to this case have
16 reported to his office.

17 See 8 G.C.A. § 70.10

18 8 G.C.A. § 70.45 lays out the remedies available when a party fails to comply with their
19 discovery obligations. It reads as follows:

20 If at any time during the course of the proceedings, it is brought to the attention of
21 the court that a party has failed to comply with an order issued pursuant to this
22 Chapter, the court may order such party to comply with the prior order, grant a
23 continuance, or issue such other order as it deems just under the circumstances.

24 See 8 G.C.A. § 70.45.

25 Courts have great discretion in deciding appropriate remedies for discovery violations.
26 When choosing a remedy, courts should consider “the following factors: 1) reasons why the
27 disclosure was not made; 2) the extent of prejudice, if any, to the opposing party; 3) the feasibility of
28 rectifying that prejudice by a continuance, and 4) any other relevant circumstances.” See *People v.*
Tuncap, 1998 Guam 13 ¶ 25.

In certain situations, courts may opt for dismissal of the case or exclusion of the material not
disclosed. However, “it seems better policy ... to apply sanctions which affect the evidence at trial
and the merits of the case *as little as possible*.” See Note to 8 G.C.A. § 70.45 (emphasis added).
“The sanction of dismissal is a disfavored remedy” and is appropriate only when the misconduct is

1 “grossly shocking and so outrageous as to violate the universal sense of justice.” See *Tuncap* at ¶
2 26.

3 **II. Although the People violated their discovery obligations, this violation does not**
4 **warrant the extreme remedy of dismissal.**

5 Under their 8 G.C.A. § 70.10 duties, the People were required to turn over “any ...
6 photograph ... which the prosecuting attorney intends to use in the trial” as well as “any material or
7 information which might tend to negate the guilt of the Defendant” because Defendant specifically
8 requested such disclosure. See Request for Disclosure at 1-2 (Feb. 25, 2025). The People failed to
9 timely disclose the photographs of Victim when they waited until four days before the trial’s
10 scheduled start date to do so.

11 In deciding what the appropriate remedy is for the People’s discovery violation, the Court
12 considers the factors adopted in *Tuncap*.

13 **a. Factor One: Reasons why timely disclosure was not made**

14 The People have not provided any reason why timely disclosure was not made. The record
15 indicates the People had possession and control over the photos since the case’s inception. This
16 suggests the People’s belated disclosure was a purposeful decision to withhold evidence and a
17 willful violation of their discovery obligations.

18 **b. Factor Two: The extent of prejudice, if any, to Defendant**

19 Defendant suggests this violation prejudiced his right to a fair trial because the belated
20 disclosure forced him to choose between his right to a speedy trial and the right to be apprised of the
21 evidence against him. See Motion at 4-5 (Mar. 5, 2026). In making this claim, Defendant gives
22 several blanket labels to these photographs, calling them both “crucial” to the People’s case and
23 “exculpatory” in nature. Id. at 4-5.

24 However, Defendant failed to articulate how this belated disclosure prejudiced him.
25 Defendant provides no explanation for why these photographs are consequential. The photographs
26 are likely inconsequential, providing only visual context to the other evidence in the People’s case
27 against Defendant. Defendant also provides no explanation for why these photographs are
28 exculpatory. Defendant does not suggest any different strategic action he would have taken if given

1 more time to prepare and use these photographs in his defense. Simply put, Defendant failed to
2 explain any significant prejudice suffered by the belated disclosure.

3 **c. Factor Three: The feasibility of rectifying that prejudice by a continuance**

4 Even if Defendant was correct in claiming the People's belated discovery prejudiced his
5 right to a fair trial, that prejudice was rectified because the Court rescheduled the trial to July 27,
6 2026. See Trial Scheduling Order (Feb. 23, 2026). This provided Defendant with over five months
7 of additional time to review the photographs and utilize them in the preparation of his defense.

8 **d. Factor Four: Any other relevant circumstances**

9 Defendant believes dismissal and the strong message it sends is appropriate to correct
10 systematic discovery violations by the People, claiming "this is not the only case that the
11 Government has failed to provide the defendant with all the discovery". See Motion at 4 (Mar. 5,
12 2026).

13 However, "it is not the court's place to impose sanctions or policies on ... the OAG to rectify
14 cumulative issues relative to discovery violations. The inquiry over the appropriateness of a
15 sanction ... for a discovery violation ... is case-specific." See *People v. Nego*, 2021 Guam 3 ¶ 24.

16 In this case, the extreme remedy of dismissal is inappropriate because Defendant failed to
17 explain any significant prejudice suffered by the belated disclosure. Furthermore, any prejudice
18 actually suffered was rectified because the trial was postponed over five months beyond the date of
19 disclosure.

20 **III. The People's discovery violation warrants the remedy of their public chastising.**

21 Remedies less severe than dismissal would appropriately address the People's discovery
22 violation and accomplish the desired result of future compliance with discovery orders. The Guam
23 Supreme Court lays out several possible remedies, including "holding the attorney in contempt",
24 "personal fines", "holding the Chief Prosecutor or Attorney General in contempt", "initiating
25 disciplinary actions by reference to the bar", and "chastising counsel in a public opinion". See
26 *Tuncap* at ¶ 28.

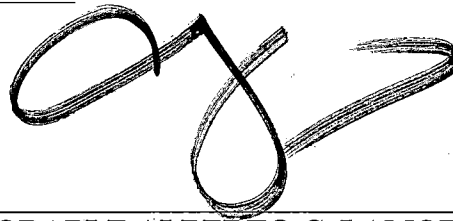
27 Here, the Court finds it appropriate to criticize the People for their belated discovery. The
28 People provided no explanation as to why timely disclosure was not made. Furthermore, discovery

1 statutes were “developed with the goal of expediting cases” through our judicial system. Id. at ¶ 32.
2 The People’s delayed disclosure resulted in a five-month postponement of Defendant’s trial. This is
3 clearly contrary to the purpose of our discovery statutes and is not welcomed in this jurisdiction.

4 **CONCLUSION**

5 For the reasons stated above, the Court **DENIES** Defendant’s Motion. Dismissal with
6 prejudice is much too severe a remedy for the People’s discovery violation because Defendant
7 failed to articulate substantial prejudice caused by the violation. However, the People should be
8 criticized for their belated disclosure and shall not make a trend out of it.

9
10 **IT IS SO ORDERED** this June 15, 2026.

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14 **HONORABLE ALBERTO C. LAMORENA, III**
15 **Presiding Judge, Superior Court of Guam**

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22 **SERVICE VIA E-MAIL**

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

25 AG, POSC

26 Date: 6/15/26 Time: 1:47pm

27 Antonio Cruz
28 Deputy Clerk, Superior Court of Guam