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SUPERIOR COURT
OF GUAM

IN THE SUPERIOR COURT OF GUAM

PEOPLE OF GUAM,

Plaintiff,

vs.

WAYNER GEORGE aka Wayner Soloman
aka Wayner Uriel George,
DOB: 08/26/1992

HERIC SUDA ANDREW,
DOB: 04/06/2000

CRIMINAL CASE NO. CF0329-26
Severed Case No. CF0329-26-01

DECISION AND ORDER
GRANTING DEFENDANT
HERIC SUDA ANDREW'S
MOTION TO SEVER TRIAL

I. INTRODUCTION

This matter came before the Honorable Judge Maria T. Cenzone on July 8, 2026, for a Pre-Trial Conference and continued hearing on Defendant Heric Suda Andrew's (the "Defendant Andrew") Motion To Sever Case For Trial (the "Motion") filed on June 1, 2026, which was originally heard on June 9 and 30, 2026.¹ The People opposed the Motion.² Defendant Andrew was not present; however, Attorney Heather Martinez Quitugua appeared on his behalf. The People were represented by Assistant Attorneys General Curtis Van de Veld and Matt Ferago.

¹ See, Minutes of 6/9/2026 Hrg. on Motion to Sever (Heric Andrew) and Further Proceedings (Wayner George)(Jun. 9, 2026) and Minutes of 6/30/2026 Hrg. on Motion to Sever and Pre-Trial Conference (June 30, 2026). Van de Veld was present for the People on June 30.

² See, *People's Opposition Brief to Motion to Sever Trial By Defendant Heric Suda Andrew and Joined by Defendant Wayner George Without Written Memorandum in Support Making A Showing as to Application to Him of the Motion* (Jun. 15, 2026)(the "Opposition"). Defendant filed a Reply on June 16, 2026.

1 Andrew's co-defendant Wayner George ("Defendant George" or "George") orally joined in the
2 Motion during the June 9, 2026, hearing, and was present at the continued hearing, represented
3 by Attorney Vanessa Williams Cruz.

4 The Court, after reviewing the Parties' written briefs and the record on file, considering
5 the arguments presented at the Motion Hearing, and the applicable statutes and case law, found
6 good cause to grant the motion and issued its oral ruling from the bench. The Court now issues
7 this Decision and Order memorializing its ruling.
8

9 **II. BACKGROUND AND FINDING OF MEDICAL INCAPACITY**

10 Defendants Andrew and George are jointly charged in this matter arising from alleged
11 crimes occurring on or about May 3, 2026. The record establishes that during the incident,
12 Defendant Andrew sustained serious injuries and is presently physically incapacitated and
13 bedridden in a hospital. See *Declaration of Counsel (Filed Under Seal)* (Jun. 17, 2026). Based on
14 the information presented on the record, Andrew cannot appear in court or remain seated for
15 extended periods without significant medical assistance. Although Andrew has, through his
16 counsel, waived his right to a speedy trial under 8 GCA § 80.60, his co-defendant George has
17 asserted his statutory right to a speedy trial under 8 G.C.A. § 80.60 and refuses to waive time.
18 George is currently detained at the Department of Corrections ("DOC").
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21 It is noteworthy that, despite being committed to DOC,³ Andrew is not in DOC's physical
22 custody, but has been admitted to and remains in the care of the Guam Regional Medical City
23 (GRMC) because DOC is unable to provide the medical care that Andrew requires if he were to
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27 ³ *Commitment Order* (May 7, 2026).

1 be remanded to DOC's custody. *Decl. of Counsel* (Jun. 17, 2026). Since his arraignment on May
2 28, 2026, at which he appeared telephonically from GRMC, Andrew has not appeared at any of
3 the hearings in this case, and the People have not attempted to produce him (either in person or
4 remotely) for the subsequent hearings, as they are required to do.

5 In addition to raising the issue of his inability to be physically present at trial at this time
6 without medical assistance, Defendant Andrew contends that a joint trial invokes a potential
7 violation of Andrew's Constitutional right to confront George (a potentially non-testifying
8 witness) about incriminating statements which George may have made about Andrew under
9 *Bruton v. United States*, 391 U.S. 123, 127-128 (1968). *Motion* at p. 5. However, the Court's
10 focus is largely on Andrew's statutory and Constitutional right to be present at all stages of a
11 criminal proceeding against him. The Court also analyzes the Motion in the context of the impact
12 that the delay in ensuring that Andrew is present during the trial will affect George's statutory
13 speedy trial rights.

16 **III. APPLICABLE LAW**

17 **A. Defendant's Presence at Trial Is Mandated by 8 GCA §1.13.**

18 Guam law provides that a defendant "shall be present" at arraignment, at the time of plea,
19 "at every stage of the trial including the impaneling of the jury and return of the verdict," and at
20 sentencing, except as otherwise provided. 8 G.C.A. § 1.13. While §1.13 permits waiver of
21 presence after trial has commenced if a defendant *voluntarily* absents himself, it does not create
22 a general exception permitting trial *in absentia* where a defendant is physically incapacitated and
23 unable to appear.
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1 **B. Defendant George’s Statutory Speedy Trial Right Under 8 GCA § 80.60.**

2 Although Andrew has waived his right to a speedy trial under 8 G.C.A. § 80.60, his co-
3 Defendant George asserted his right on May 27, 2026. *Assertion or Waiver of Speedy Trial and*
4 *Request for Jury of Twelve in Felony Case* (May 27, 2026). Section 60.60 requires that a criminal
5 action must be dismissed if trial does not commence within the statutory period (forty-five days
6 after arraignment for a defendant in custody, or sixty days if not in custody at arraignment), unless
7 good cause is shown for the failure to commence trial within the prescribed period. 8 G.C.A. §
8 80.60. Guam law also reflects a strong policy that criminal proceedings “shall be set for trial and
9 heard and determined at the earliest possible time.” 8 G.C.A. § 80.50. Guam courts have
10 recognized that speedy trial protections guard against oppressive pretrial incarceration, minimize
11 anxiety and concern, and limit impairment of the defense. See *People of Guam v. Mendiola*, 1999
12 Guam 8 ¶ 32.

13 **C. Guam Law Addressing the Court’s Discretion to Sever Trial of Co-Defendants.**

14 Guam law on severance provides:

15 If it appears that a defendant or the government is prejudiced by a joinder of
16 offenses or of defendants in an indictment or information or by such joinder for
17 trial together, the court may order an election or separate trials of counts, grant a
18 severance of defendants or provide whatever other relief justice requires.

19 8 G.C.A. § 65.35 (emphasis added). Section 65.35 mirrors Rule 14(a) of the Federal Rules of
20 Criminal Procedure. See 8 G.C.A. § 65.35, Note. Rule 14(a) provides:

21 (a) RELIEF. If the joinder of offenses or defendants in an indictment, an
22 information, or a consolidation for trial appears to prejudice a defendant or the
23 government, the court may order separate trials of counts, sever the defendants’
24 trials, or provide any other relief that justice requires.

1 Accordingly, the Court may turn to federal case law interpreting the analogous federal rules for
2 guidance.

3 The Court recognizes that there is a general preference for joint trials of defendants who
4 are indicted together, as joint trials serve a number of purposes:

5 It would impair both the efficiency and the fairness of the criminal justice system
6 to require, in all these cases of joint crimes where incriminating statements exist,
7 that prosecutors bring separate proceedings, presenting the same evidence again
8 and again, requiring victims and witnesses to repeat the inconvenience (and
9 sometimes trauma) of testifying, and randomly favoring the last-tried defendants
10 who have the advantage of knowing the prosecution's case beforehand. Joint trials
11 generally serve the interests of justice by avoiding inconsistent verdicts and
12 enabling more accurate assessment of relative culpability, advantages which
13 sometimes operate to the defendant's benefit. Even apart from these tactical
14 considerations, joint trials generally serve the interests of justice by avoiding the
15 scandal and inequity of inconsistent verdicts.

16 *Richardson v. Marsh*, 481 U.S. 200, 210 (1987).

17 The trial court has great discretion when ruling on a motion to sever. *Zafiro v. United*
18 *States*, 506 U.S. 534, 538-39 ("Rule 14 does not require severance even if prejudice is shown,
19 rather it leaves the tailoring of the relief to be granted, if any, to the district court's sound
20 discretion."). Thus, the Court must balance the defendant's right to a fair trial free from prejudice,
21 which may result from the joinder. *United States v. Lewis*, 787 F.2d 1318, 1321 (9th Cir. 1986).
22 The Supreme Court of the United States has held that courts "should grant severance under Rule
23 14 only if there is a serious risk that a joint trial **would compromise a specific trial right of one**
24 **of the defendants** or prevent the jury from making a reliable judgment about guilt or innocence...."

25 *Zafiro v. U.S.*, 506 U.S. 534, 539 (1993)(emphasis added).

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1 **IV. DISCUSSION**

2 The Court finds severance is warranted under 8 G.C.A. § 65.35, and the applicable case
3 law, for the following reasons:

4 First, Defendant Andrew's physical incapacity presents a genuine impediment to
5 proceeding to a joint jury trial, particularly where his co-defendant has asserted his right to a
6 speedy trial. Guam law requires a defendant's presence "at every stage of trial." 8 G.C.A. § 1.13.
7 The Court is not persuaded that § 1.13 permits proceeding with a felony trial in Andrew's absence
8 where the absence is involuntary and caused by medical incapacity. On the present record,
9 Defendant Andrew cannot meaningfully be present for trial, and the Court cannot commence a
10 joint trial consistent with § 1.13 within the time set for speedy trial.
11

12 During the July 8, 2026, hearing, the People were reminded of their obligation to present
13 the Defendant for trial, as he remains committed to the Department of Corrections, although not
14 in DOC's physical custody due to his medical condition. Chief Prosecutor Van De Veld
15 committed to the Court that the People intend to present Defendant Andrew for the jury selection
16 and trial; however, on inquiry from the Court regarding the government's plan to accommodate
17 Andrew's needs under the Americans With Disabilities Act (the "ADA"), including whether a
18 request was made to the Court to provide a "reasonable accommodation" based on the severity of
19 Andrew's medical condition, or whether the People had a plan to ensure that Andrew would have
20 medical staff on hand for the duration of the trial to attend to Defendant Andrew's medical needs,
21 which trial, at the time, was scheduled to commence the following day, on July 9, the People
22 failed to confirm that any plan was underway to ensure that Andrew would, in fact, be produced
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1 at the trial scheduled for July 9.⁴ As an alternative to bringing Andrew to court from GRMC, the
2 People proposed to have Andrew present remotely during the trial via Zoom. However, this
3 arrangement does not satisfy the requirement under § 1.13. Andrew will not be able to confer with
4 his counsel during the testimony of witnesses; he will not have a meaningful confrontation of the
5 witnesses against him; he will not have any meaningful participation in his defense at his own
6 trial.
7

8 During the July 8 hearing, the People requested a continuance of the trial based largely on
9 the impact that Super Typhoon Bavi had on the island, and, particularly, on the purported
10 unavailability of Guam Police Department witnesses who the People asserted – without any
11 evidence – were occupied with directing traffic at the various intersections.⁵ The People also
12 claimed that it had intended to make Defendant Andrew available remotely from GRMC for the
13 July 8 hearing but was unable to do so due to the Typhoon. The People, however, presented no
14 evidence that it had made any such arrangements with the Court or with Defendant Andrew's
15 counsel, or GRMC for his remote attendance. The Court denied the oral request for a continuance,
16 finding that the People failed to provide the Court with good cause to continue the trial based on
17 Super Typhoon Bavi. The Court's Trial Scheduling Order was issued on May 29, 2026, and the
18 People had over forty (40) days in which to be prepared to go to trial.
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23 ⁴ The Court, for reasons not related to Defendant's severance motion, vacated Defendant George's trial scheduled
24 for July 9, 2026, on the basis that George sought to exclude all witnesses listed on the People's Witness List, which
25 was untimely filed on July 8, 2026 – twenty-six (26) days after the cut-off date set forth in the Court's Asserted
26 Criminal Trial Scheduling Order of June 12, 2026. Asserted Criminal Trial Scheduling Order (May 29, 2026).

27 ⁵ During the hearing on July 8, Van De Veld informed the Court and the parties that the People had not had the
28 opportunity to interview the Government witnesses in preparation for trial. The Court admonished the People for its
apparent lack of readiness to proceed with the trial, which, due to Super Typhoon Bavi, was delayed by one day, to
July 9, 2026.

1 Second, Co-Defendant George has asserted his statutory speedy trial right under 8 G.C.A. §
2 80.60 and refuses to waive time. If the Court were to keep the defendants joined for trial, George
3 would be required to wait an indeterminate period for Defendant Andrew to recover sufficiently
4 to appear and sit through trial. That course would risk running afoul of the statutory speedy trial
5 framework and Guam's policy favoring prompt resolution of criminal cases. See 8 G.C.A. §§
6 80.50, 80.60. Additionally, George would also suffer from the increased time and expense of a
7 trial, which would take longer in duration due to Andrew's need to be repositioned every 15 to
8 30 minutes due to his paralysis. *Decl. of Counsel* at ¶ 6; Exhibit A to Declaration. The more the
9 People would attempt to accommodate Andrew's health needs by adjusting the trial schedule –
10 e.g., more days off, shorter trial days, or the availability of health care providers to accompany
11 Andrew – the more burdensome the result would be for George. *See, United States v. Saltzman*,
12 153 F.Supp.3d 245 (D.C. 2016)(court granting motion to sever in a multiple defendant case
13 alleging conspiracy to unlawfully distribute prescription drugs by internet and mail, where co-
14 defendant's medical condition would negatively impact co-defendant). The People have named
15 over forty (40) witnesses in this case, and, at the pre-trial conference on July 8, could not
16 specifically identify which witnesses it intended to call at the trial. The trial could last for weeks,
17 extending to months, if Defendant Andrew's trial on the charges against him were not severed
18 from his co-defendant's.

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20 The Court recognizes that § 80.60 contains a good-cause exception that may excuse certain
21 delays. However, the Court finds that severance is the more appropriate and narrowly tailored
22 remedy here because it simultaneously (1) protects Co-Defendant George's asserted speedy trial
23 right and (2) preserves Defendant Andrew's right to be present at his own trial once medically
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1 able. See 8 G.C.A. §§ 1.13, 65.35, 80.50, 80.60. In these current circumstances, continued joinder
2 would prejudice both defendants in different ways: it would either force an impermissible trial in
3 absentia as to Defendant Andrew, or it would delay Co-Defendant George's trial despite his
4 invocation of speedy trial under § 80.60.

5 **V. CONCLUSION AND ORDERS**

6
7 For the reasons set forth herein, the Court exercises its discretion under 8 G.C.A. § 65.35
8 to sever the trials.

9 **THEREFORE, IT IS HEREBY ORDERED:**

- 10 1. Defendant Andrew's Motion to Sever Trial is **GRANTED**.
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12 2. Defendant George's matter shall proceed to trial separately under the original case
13 number, CF0329-26.
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15 3. Defendant Andrew's case shall proceed under Criminal Case No. CF329-26-01 for
16 administrative purposes, and the parties shall conform the pleadings to the Order
17 herein as appropriate.
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19 4. The matter as to Defendant George shall be set for trial at the earliest possible time
20 consistent with 8 G.C.A. §§ 80.50 and 80.60, following the resolution of Defendant
21 George's pending Motion to Preclude [the People's] Untimely Disclosed Witnesses
22 and Exhibits.

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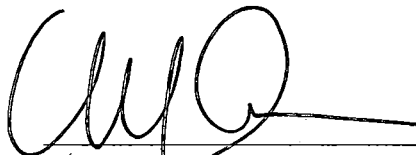
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1 5. The matter as to Defendant Andrew is continued to a status hearing on
2 November 30, 2026, at 9:30 a.m., at which time the Court will address
3 Defendant's medical status and readiness to proceed.

4 SO ORDERED this 9th day of July, 2026.

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8 HONORABLE MARIA T. CENZON
9 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, H. Quitagua,
26 V. Williams - Cruz

27 Date: 7/9/26 Time: 3:31pm

28 Antonio J. Cruz
Deputy Clerk, Superior Court of Guam.