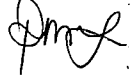


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SUPERIOR COURT
OF GUAM



IN THE SUPERIOR COURT OF GUAM

PEOPLE OF GUAM,

vs.

PHILIP J. CRUZ,
aka Philip John Cruz
DOB: 09/27/1978

Defendant.

CRIMINAL CASE NO. CF0397-21
GPD Report No. 20-23837

DECISION & ORDER
RE. MOTION TO WITHDRAW AS
COUNSEL

This matter came before the Honorable Alberto E. Tolentino on May 29, 2026, for a Further Proceedings. Defendant Philip J. Cruz ("Defendant") was present with counsel Public Defender Ramiro Orozco. Assistant Attorney General Vernon Hosannah was present for the People of Guam ("People"). Following the hearing, the court took the Defendant's Motion to Withdraw as Counsel under advisement pursuant to Supreme Court of Guam Administrative Rule 06-001, CVR 7.1(e)(6)(A) and CR1.1 of the Local Rules of the Superior Court of Guam. Having duly considered the parties' briefings, oral arguments, and the applicable law, the court **DENIED** the Defendant's Motion to Withdraw as Counsel, and now issues this Decision and Order memorializing its previous ruling.

BACKGROUND

Based on events that occurred on or about September 22, 2020, the Defendant was charged with the following offenses: (1) BURGLARY (As a 2nd Degree Felony); (2) ATTEMPTED

1 THEFT (As a 2nd Degree Felony); and (3) CRIMINAL MISCHIEF (As a Misdemeanor). *See*
2 Indictment (Aug. 26, 2021). The Public Defender Service Corporation (“Public Defender”) was
3 appointed as counsel for the Defendant on August 14, 2021. *See* Notice (Aug. 14, 2021).

4 While jury selection and trial was originally set for May 4, 2022, the court rescheduled
5 jury selection and trial for June 2, 2026, in light of several warrants for the Defendant’s arrest led
6 and the recent assertion of his right to speedy trial in April of this year.¹ The Defendant
7 subsequently filed two motions on May 5, 2026: (1) Defendant’s Motion in Limine to Exclude
8 Prior Bad Acts Evidence; and (2) Defendant’s Motion to Compel Disclosure of Witness
9 Information and for Sanctions. On May 12, 2026, the Defendant filed two more motions: (1)
10 Defendant’s Motion to Dismiss for Prosecutorial Misconduct; and (2) Motion to Withdraw as
11 Counsel (“Motion to Withdraw”). Upon filing this Motion to Withdraw, the Defendant filed a
12 Motion to Compel the Government to Provide Offer of Proof Regarding Availability of Ivy
13 Austria. The People also filed its Non-Opposition to the Motion to Withdraw.
14
15

16 At a Motion Hearing, the court addressed the parties’ arguments on several motions,
17 including the Motion to Withdraw. *See* Mot. Hr’g Mins. at 2:26:27PM (June 1, 2026). Having
18 considered the parties arguments and applicable law, the court denied the Motion to Withdraw
19 for reasons set forth below. *Id.*
20

21 DISCUSSION

22 **A. Although the Public Defender’s Motion to Withdraw was filed without leave of court,**
23 **the court has an obligation to consider the merits of the motion before rendering its**
24 **decision.**

25 Before addressing the substance of the Motion to Withdraw, it is noteworthy that the
26 Defendant’s Motion to Withdraw was filed beyond the court’s deadline of May 5, 2026. *See*
27

28 ¹ *See* Criminal Trial Scheduling Order (Oct. 29, 2021); *see also* Bench Warrant (Oct. 12, 2022); *see also* Bench
Warrant (Dec. 20, 2025); *see also* Bench Warrant (Nov. 24, 2025); *see also* Criminal Trial Scheduling Order (Apr.
10, 2026); *see also* Assertion (Apr. 7, 2026).

1 Criminal Trial Scheduling Order (Apr. 10, 2026). If a motion is untimely filed, the court may
2 allow the filing of motions beyond the time limit previously set by the court. *See* 8 GCA § 65.45
3 (“Failure by a party to raise defenses or objections or to make requests which must be made prior
4 to trial, at the time set by the court pursuant to § 65.15, or prior to any extension thereof made by
5 the court, shall constitute a waiver thereof, but the court for cause shown may grant relief from
6 the waiver.”).

7
8 “Papers required to be served shall be filed with the court. Papers shall be filed in the
9 manner provided in civil actions.” 8 GCA § 1.29(d). “Papers not timely filed by a party including
10 any memoranda or other papers required to be filed under this Rule shall not be considered
11 without leave of court.” CVR 7.1(f). The scope of the Civil Rules of the Local Rules of the
12 Superior Court of Guam does not extend to criminal matters unless *they are inconsistent with*
13 *rules that apply*. *See* CVR 1.1. In this case, the Defendant through counsel was not granted leave
14 of court to file any of his motions that were filed beyond May 5, 2026.

15
16 Public Defender argues that “[t]he timing of this conflict is directly attributable to the
17 Government’s delayed disclosure of information relating to Ms. Sablan.” Def.’s Mot. Withdraw
18 (May 12, 2026). Despite asking for discovery from the People since September 10, 2021, Public
19 Defender notes that it had not requested information related to Naomi Bermudes Sablan
20 specifically until May 4, 2026; almost two weeks after the parties’ deadline to exchange mutual
21 discovery and file motions to compel lapsed. Although the People filed its witness list on May 5,
22 2026, her name was included in the Affidavit of Probable Cause attached to the Magistrate’s
23 Complaint filed on August 14, 2021. *See* Magistrate’s Compl., Aff. (Aug. 14, 2021).

24
25
26 Counsels are reminded of its obligation to “act with reasonable diligence and promptness
27 in representing a client” pursuant Guam Rule of Professional Conduct (“GRPC”) 1.3. Despite the
28

1 failure to timely file a Motion to Withdraw in this case, the court still has an obligation to analyze
2 the merits of the issue before it.²

3 **B. The Public Defender has not shown that its representation of Defendant Cruz will**
4 **result in a violation of its obligations to Ms. Naomi Sablan as a former client under**
5 **GRPC 1.9.**

6 When filing motions in criminal matters, the Local Rules of the Superior Court of Guam
7 reads as follows:

8 (1) Required Pleadings. An application to the court for an order shall be by
9 motion. A motion other than one made during a trial or hearing shall be in
10 writing unless the court permits it to be made orally. It shall state the grounds
11 upon which it is made and shall set forth the relief or order sought. *It shall be*
12 *supported by a memorandum containing citations of authority* and may also
13 be supported by affidavit. The motion shall also include copies of all
14 documentary evidence that the moving party intends to submit in support of
15 the motion. Additionally, all motions and each response or opposition thereto
16 shall contain a statement whether an evidentiary hearing is requested and an
17 estimate of the time required for the presentation of the evidence and/or
18 arguments. The reply brief shall contain a re-estimate of the time or a statement
19 that the original estimate is unchanged.

20 CR 1.1(b)(1) (emphasis added). Although Public Defender's memorandum contains no citations
21 of authority for the court to consider regarding an attorney's material limitations by
22 responsibilities to former clients and a duty of confidentiality, the court will review the issue of
23 the Public Defender's withdrawal pursuant to GRPC 1.16 and 1.9.

24 GRPC 1.16 states in relevant part that "a lawyer shall not represent a client or, where
25 representation has commenced, shall withdraw from the representation of a client if the
26 representation will result in violation of the rules of professional conduct or other law." Guam R.
27 Prof'l Conduct 1.16(a)(1). Here, Public Defender requests its withdrawal as counsel for the
28 Defendant due to its previous representations in other closed criminal cases of Naomi Bermudes

29 ² In *Petition of Quitugua v. Flores*, the Supreme Court of Guam held that "the failure to file a written opposition, the
30 filing of a notice non-opposition, or the disregard of untimely filed papers" does not relieve the lower court of its
31 obligation to consider the merits of a motion before rendering its decision. *Petition of Quitugua v. Flores*, 2004 Guam
32 19 ¶¶ 27-28.

1 Sablan; one of the People's potential witnesses. As the governing authority for an attorney's
2 withdrawal due to conflicts of interest with former clients, GRPC 1.9 states the following:

- 3 a. A lawyer who, has formerly represented a client in a matter shall not
4 thereafter represent another person in the same or a substantially related
5 matter in which that person's interests are materially adverse to the
6 interests of the former client unless the former client gives informed
7 consent, confirmed in writing.
8 b. A lawyer shall not knowingly represent a person in the same or a
9 substantially related matter in which a firm with which the lawyer formerly
10 was associated had previously represented a client
11 i. whose interests are materially adverse to that person; and
12 ii. about whom the lawyer had acquired information protected by
13 Rules 1.6 and 1.9(c) that is material to the matter; unless the former
14 client gives informed consent, confirmed in writing.
15 c. A lawyer who has formerly represented a client in a matter or whose
16 present or former firm has formerly represented a client in a matter shall
17 not thereafter:
18 i. use information relating to the representation to the disadvantage
19 of the former client except as these Rules would permit or require
20 with respect to a client, or when the information has become
21 generally known; or
22 ii. reveal information relating to the representation except as these
23 Rules would permit or require with respect to a client.

24 Guam R. Prof'l Conduct 1.9. At a continued Pre-Trial Conference, the People represented to the
25 court that it had no intent on calling the witness at issue within the Motion to Withdraw. *See* Pre-
26 Trial Conference Mins. at 2:43:07PM (May 29, 2026). Upon that representation, Public Defender
27 indicated that a conflict no longer is present. Finding that the Public Defender's representation of
28 the Defendant will not result in violation of GRPC 1.9, the court denies the Defendant's Motion
to Withdraw as Counsel at this time.

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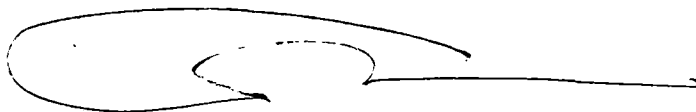
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CONCLUSION

For reasons stated above, the court hereby **DENIES** the Defendant's Motion to Withdraw as Counsel.

SO ORDERED JUL 28 2026, *nunc pro tunc*, June 1, 2026.



HONORABLE ALBERTO E. TOLENTINO

Judge, Superior Court of Guam

SERVICE VIA EMAIL

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

DAG & PDSC

Date: 7/28/26 Time: 11:04

Reinita M. Lindlay

Deputy Clerk, Superior Court of Guam