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IN THE SUPERIOR COURT OF GUAM
SUPERIOR COURT
OF GUAM

PEOPLE OF GUAM,

v.

JAZMIN EILEEN RIVERA,
DOB: 07/29/2005

Defendant.

Criminal Case No. CM0076-25
GPD Report Nos. 25-04949 / 25-04951

DECISION AND ORDER
DENYING
DEFENDANT'S MOTION TO DISMISS

INTRODUCTION

This matter came before the Honorable Alberto C. Lamorena, III on April 29, 2026 for hearing on Jazmin Eileen Rivera's ("Defendant's") Motion to Dismiss ("Motion"). Assistant Attorney General Lucas Wood represents the People, and Attorney Le Roi Enriquez represents Defendant. Having duly considered the parties' briefs, oral arguments, and the applicable law, the Court now issues the following Decision and Order and **DENIES** Defendant's Motion.

BACKGROUND

Defendant is charged with two counts of Assault (as a Misdemeanor) and one count of Disorderly Conduct (as a Petty Misdemeanor). See Magistrate's Complaint (Feb. 25, 2025). The charges stem from allegations that Defendant and Ricky Mike Camp ("Ricky") entered into a heated argument outside a club in Tumon. Id. During the argument, Ricky began violently shoving Defendant. Id. Gin Resun and Ginane Resun (collectively "the Victims") intervened to help Defendant and stop the argument. Id. However, Defendant and Ricky began punching the Victims. Id.

On April 3, 2026, Defendant filed her Motion to Dismiss. Defendant claims the charges against her should be dismissed for lack of probable cause and asserts the affirmative defense of self-defense. See Motion at 2-5 (Apr. 3, 2026). In a signed declaration supporting her Motion, Defendant claims the Victims approached Ricky and became physical with him. See Declaration of Defendant in Support of Motion (Apr. 3, 2026). Defendant claims the Victims began attacking her when she tried to defuse the situation, forcing her to defend herself. Id. Therefore, Defendant

1 claims there is no probable cause supporting the charges against her and that they should be
2 dismissed because her actions were justified by self-defense. See Motion at 3-5 (Apr. 3, 2026).

3 On April 29, 2026, the People filed their Opposition to Defendant's Motion ("Opposition").
4 The People claim the Magistrate's Complaint is supported by probable cause to believe that
5 Defendant committed the crimes charged. See Opposition at 2-3 (Apr. 29, 2026). Furthermore, the
6 People claim Defendant's Motion improperly asks the Court to resolve factual disputes concerning
7 her self-defense claim. Id. at 3.

8 The Court held a hearing on April 29, 2026. After hearing the arguments of the parties, the
9 Court took the matter under advisement.

10 **DISCUSSION**

11 **I. The legal standard to dismiss a complaint is lack of probable cause.**

12 A complaint and the affidavits filed therewith must show "probable cause to believe that an
13 offense has been committed and that the defendant has committed it." See 8 G.C.A. § 15.20.
14 However, the court must dismiss any charges "if from the evidence it appears that there is no
15 probable cause to believe that an offense has been committed or that the defendant committed it."
16 See 8 G.C.A. § 45.80.

17 Probable cause amounts to "such a state of facts as would lead a man of ordinary caution or
18 prudence to believe, and conscientiously entertain a strong suspicion of the guilt of the accused."
19 See *Guam v. San Nicolas*, 2013 Guam 21, n.5. Probable cause "is not a high bar", and probable
20 cause decisions are "hard to undermine, and still harder to reverse." See *Kaley v. U.S.*, 571 U.S.
21 320, 338-339 (2014).

22 **II. The Magistrate's Complaint is supported by probable cause to believe that Defendant** 23 **committed the crimes charged.**

24 To charge Defendant with Assault (as a Misdemeanor), the People must establish probable
25 cause to believe that Defendant:

- 26 • In Guam;
- 27 • Did recklessly;
- 28 • Cause or attempt to cause bodily injury to another.

1 See 9 G.C.A. § 19.30(a)(1).

2 To charge Defendant with Disorderly Conduct (as a Petty Misdemeanor), the People must
3 establish probable cause to believe that Defendant:

- 4 • In Guam;
- 5 • Did recklessly;
- 6 • Create a risk of public inconvenience, annoyance, or alarm;
- 7 • By engaging in fighting or threatening, or in violent and tumultuous behavior.

8 See 9 G.C.A. § 61.15(a)(1).

9 Here, the affidavit accompanying the Magistrate's Complaint establishes probable cause to
10 believe that Defendant committed Assault (as a Misdemeanor) against the Victims and engaged in
11 Disorderly Conduct (as a Petty Misdemeanor). The affidavit alleges that multiple witnesses reported
12 Defendant aggressively punching the Victims and pulling their hair after the Victims tried to defuse
13 a physical altercation between Defendant and Ricky. See Magistrate's Complaint (Feb. 25, 2025).
14 Id. These facts would lead a man of ordinary caution or prudence to believe that Defendant was
15 recklessly causing or attempting to cause bodily injury to the Victims. These facts would also lead a
16 man of ordinary caution or prudence to believe that Defendant was recklessly creating a risk of
17 public inconvenience, annoyance, or alarm, by engaging in fighting or in violent and tumultuous
18 behavior.

19 **III. Defendant's Motion improperly asks the Court to resolve factual disputes concerning**
20 **her self-defense claim, which should instead be left to the trier of fact.**

21 The crux of Defendant's Motion is that her alleged actions were justified by self-defense so
22 there is no probable cause supporting the charges against her. See Motion at 3-5 (Apr. 3, 2026).
23 However, in making that argument, Defendant asks the Court to resolve a factual dispute of whether
24 the circumstances surrounding her actions support her self-defense claim.

25 The probable cause test in a motion to dismiss turns on the legal sufficiency of the charges
26 rather than a general determination of guilt or innocence. "A Rule 12(b) motion to dismiss is not the
27 proper way to raise a factual defense" because that would "invade the province of the ultimate finder
28 of fact" which is the jury. See *United States v. Nukida*, 8 F.3d 665, 669 (9th Cir. 1993).

1 As previously indicated, the allegations supporting the Magistrate's Complaint establish
2 probable cause to believe that Defendant committed the crimes charged. Defendant's signed
3 declaration does not negate or undue this fact. Defendant is free to establish a self-defense claim
4 during trial by cross-examining the witnesses and testifying on her behalf. The jury, as factfinders,
5 can then give the testimony any weight it deserves in choosing whether to convict Defendant or not.
6 However, Defendant's Motion prematurely and improperly raises her self-defense claim because the
7 Court is not allowed to act as the jury and resolve factual disputes in a Rule 12(b) motion to dismiss.

8 **CONCLUSION**

9 For the reasons stated above, the Court **DENIES** Defendant's Motion. The Magistrate's
10 Complaint is supported by probable cause to believe that Defendant committed the crimes charged.
11 Furthermore, Defendant's self-defense claim is premature and should instead be made at trial
12 because it involves a factual determination left to the trier of fact.

13
14 IT IS SO ORDERED this JUL 28 2026.

A handwritten signature in black ink, appearing to be 'ALB', is written over a faint circular stamp or seal.

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18 **HONORABLE ALBERTO C. LAMORENA, III**
19 **Presiding Judge, Superior Court of Guam**
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