

FILED
SUPERIOR COURT
OF GUAM

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IN THE SUPERIOR COURT OF GUAM

MILLIE NICE p.k.a. MILICA LEPOJEVIC,

Petitioner,

vs.

GUAM BOARD OF ALLIED HEALTH
EXAMINERS; and DOES 1-20,

Respondents.

Special Proceedings Case No. SP0066-26

CLERK OF COURT

BY: MS

**DECISION AND ORDER GRANTING
PETITION FOR WRIT OF MANDATE
AND DECLARATORY RELIEF**

Petitioner Millie Nice, formerly known as Milica Lepojevic, petitions the Court for a Writ of Mandate and seeks declaratory relief against Respondent Guam Board of Allied Health Examiners (GBAHE). After reviewing Nice's Verified Petition, and GBAHE's response, the Court GRANTS the Writ of Mandate, and ORDERS GBAHE to comply.

I. BACKGROUND

This case has a lengthy administrative history despite arising over a relatively short period; the Court highlights the most relevant alleged facts below, drawn from Nice's verified petition, as GBAHE has not provided an alternate version. In May 2024, Nice repeatedly contacted the Health Professional Licensing Office (HPLO) and GBAHE to confirm the licensure requirements for a Licensed Mental Health Counselor (LMHC) and Marriage and Family Therapist (MFT). V. Pet. at 7–8. Based on the information she received, she completed two additional courses to satisfy the academic requirements. *Id.* at 8.

In June 2024, Nice again contacted HPLO, this time seeking clarification about clinical supervisor qualifications. *Id.* at 8–9. She questioned the inconsistency between the three-year

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licensure requirement set forth in 10 GCA §§ 121301–121303 for certain supervisors and the five-year Guam licensure requirement HPLO had told her applied. *Id.* at 8–9. After further back-and-forth with HPLO about that discrepancy, she was told her request would be presented at the next GBAHE meeting. *Id.* at 9. At the September 2024 meeting, GBAHE Chair Balajadia stated that a five-year licensure requirement applied to all clinical supervision. *Id.* at 9–10.

Beginning March 13, 2025, Nice contacted GBAHE six times to ask whether she should provide a detailed breakdown of graduate hours on her application; she received a reply on April 16, 2025, one day after submitting her application. *Id.* at 11, Exs. 4–5. Nice filed a formal complaint against two GBAHE board members on March 31, 2025, and noted in her April 15, 2025 licensure application that those two board members should be excluded from processing her application. *Id.* at 12. She later received an email from the HPLO confirming her eligibility to sit for both licensing examinations. *Id.* Ex. 9.

On May 19, 2025, HPLO informed Nice that, based on a GBAHE member’s direction, she could not sit for either examination unless she completed 3,000 post-graduate hours for each license. *Id.* at 13. Nice disputed that requirement, citing the examination guidebooks, which do not require completion of post-graduate supervision hours before sitting for the examinations, and asserting that applicants seeking both licenses have not previously been required to complete separate, non-overlapping sets of hours. *Id.* at 13.

On May 26, 2025, Nice requested disclosure under the Sunshine Act of all communications regarding her licensure process between GBAHE board members and HPLO, believing that the board members against whom she had filed complaints had not properly recused themselves. *Id.* at 14. GBAHE refused to comply, claiming the communications were privileged. *Id.* at Ex. 85.

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During its June 6, 2025 meeting, GBAHE rescinded Nice's licensure approval for lack of academic requirements. *Id.* at Ex. 102. Both GBAHE board members against whom Nice filed formal complaints were present and voted at the meeting. *Id.* at Ex. 102. On June 23, 2025, Nice escalated her concerns about the handling of her application and the failure to provide requested communications, to the GBAHE Vice President, the Department of Public Health and Social Services Director, and the Lieutenant Governor. *Id.* at 18.

On July 8, 2025, HPLO informed Nice that her application was invalid and later explained that her clinical supervisor had insufficient licensure years in Guam. *Id.* at 20–21. GBAHE also indicated that Nice's coursework was incomplete. *Id.* at 17, 20.

On August 1, 2025, after GBAHE investigated the complaints against two of its members, it dismissed the cases, despite never interviewing Nice. *Id.* at 23–24, Exs. 100, 106. That same day, GBAHE approved another candidate to sit for the same exam for which Nice had applied, even though that candidate had not yet completed the 3,000-hour post-graduate supervision requirement. *V. Pet.* at 23, Ex. 102.

In October 2025, HPLO issued a written denial of additional supervised hours submitted under Joleen Baza, citing an alleged conflict of interest. *Id.* Exs. 53–55. Nice requested reconsideration on October 28, 2025, and the record reflects further follow-up regarding supervision and complaint issues in the months that followed, though GBAHE did not include the matter on its immediate meeting agendas. *Id.* Exs. 54, 113–14. On November 26, 2025, Nice notified GBAHE that she had added Beverly Delos Reyes as a supervisor, and HPLO confirmed receipt. *Id.* Ex. 99.

In January 2026, GBAHE held a meeting in which it discussed Nice's reconsideration request, but it failed to notify her of the meeting or provide her a written decision on the matter.

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Id. Exs. 89, 117. Later that month, GBAHE Chair Balajadia contacted Nice's employer and alleged that Nice was representing herself to others as a "Doctor of Psychology"; no supporting documentation was provided, and the record does not reflect a formal Board action on that issue. *Id.* Ex. 98.

On March 27, 2026, HPLO contacted Nice and instructed her to complete a change-of-supervisor form and return it by April 1, 2026. *Id.* Ex. 118. Nice replied that she had already notified the Board of the new supervisor on November 26, 2025, that HPLO had acknowledged the notice, and that the new form appeared to impose a newly required step on an expedited timeline. *Id.* Ex. 118. Shortly thereafter, Nice filed her Petition in the Superior Court of Guam.

The Court issued an Alternative Writ of Mandate on April 10, 2026, after finding sufficient grounds for issuance based on the allegations in the 87-page Petition and its accompanying exhibits. Alt. Writ Mandate (Apr. 10, 2026). GBAHE thereafter filed a two-page Response generally denying the allegations and specifically denying lack of remedies, the characterization of events, and the existence of a ministerial duty. Resp't Guam Bd. Allied Health Examiners' Resp. Alt. Writ Mandate (May 13, 2026). GBAHE relies on two exhibits: an undated statement from GBAHE Chair Balajadia and HPLO Administrator Sablan, which purports to clarify certain policies, and an undated administrative timeline summarizing interactions with Nice during her application process up to the present. *Id.* Ex. B.

A hearing on the Alternative Writ was held on June 2, 2026, at which Nice argued that the Court could proceed under 7 GCA § 31207 and expressed willingness to forego further discovery. Hr'g (June 2, 2026). GBAHE appeared late, said the matter was well pled, and did not offer further argument before the hearing concluded minutes later. Hr'g (June 2, 2026).

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II. JURISDICTION AND LEGAL STANDARDS

This Court has jurisdiction over the Petition for writ relief under 7 GCA §§ 31201 et seq., which authorizes a writ of mandate to compel a public board or agency to perform an act that is enjoined by law. The Court also has jurisdiction to declare rights and duties in an actual controversy concerning the construction and validity of statutes and regulations under 7 GCA §§ 26801–26802.

A writ of mandate lies only when the petitioner shows (1) a clear legal right to performance of a duty; and (2) the respondent has a corresponding duty imposed by law, usually ministerial. *Bank of Guam v. Reidy*, 2001 Guam 14 ¶ 13; *Holmes v. Territorial Land Use Comm’n*, 1998 Guam 8 ¶ 11. Guam courts have repeatedly described mandamus as an extraordinary remedy that compels performance of a ministerial duty, not the exercise of discretion. *See Limtiaco v. Guam Fire Dep’t*, 2007 Guam 10 ¶¶ 8–9; *Guam Publ’ns, Inc. v. Super. Ct. (Bruneman)*, 1996 Guam 6 ¶ 10; *Holmes*, 1998 Guam 8 ¶¶ 11–12. A peremptory writ is the Court’s final command after the respondent has had the opportunity to show cause under an alternative writ and the court concludes relief is warranted. 7 GCA § 31204; *Long-Term Credit Bank of Japan v. Super. Ct. of Guam*, 2003 Gaum 10 ¶ 25. Where material factual disputes prevent immediate final resolution, 7 GCA § 31207 permits the case to proceed to trial. But where the record is sufficient to resolve a particular basis for relief, the court may decide entitlement to a peremptory writ without further evidentiary proceedings. 7 GCA § 31205; *see Long-Term Credit Bank of Japan*, 2003 Guam 10 ¶ 25. That approach is consistent with Guam decisions recognizing that mandamus may issue where the duty is clear and the record supports judicial enforcement.

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Declaratory relief is appropriate where an actual and present controversy exists concerning the parties' legal rights and duties. 7 GCA § 26801; *see Veoh Networks, Inc. v. UMG Recordings, Inc.*, 522 F. Supp. 2d 1265, 1268 (S.D. Cal. 2007). It may not be used to obtain an advisory opinion or to bypass governing procedural or jurisdictional requirements. *See Veoh Networks, Inc.*, 522 F. Supp. 2d at 1268; *Story-Bernardo v. Gov't of Guam*, 2023 Guam 27 ¶¶ 35–36. But where statutory construction and agency authority are directly disputed, and the dispute continues to affect the petitioner's rights, declaratory relief may be granted together with mandamus relief. 7 GCA § 26802.

III. MOOTNESS AND THE STATUS OF EXHIBITS A AND B

GBAHE's principal argument in its Response is that the matter is moot and the Alternative Writ should be quashed because the Board has issued policy clarifications and administrative statements addressing the issues raised by Nice. Nice responds that the documents GBAHE attached as Exhibits A and B are not formal Board actions, were not shown to have been adopted at a duly noticed public meeting, and do not even provide complete relief or undo the challenged prior actions affecting her. The Court agrees that GBAHE has not met its burden to establish mootness. A matter is moot when a party complies with the performance required, eliminating the controversy. *TransparentGov Novato v. City of Novato*, 246 Cal. Rptr. 3d 17, 22 (Ct. App. 2019) (writ of mandate may be denied where the respondent demonstrates "willingness to perform without coercion," and is moot where the respondent shows actual compliance); *Sananap v. Cyfred, Ltd.*, 2011 Guam 22 ¶ 6 (issue is moot when the issues cease to exist).

Here, the Response itself is a general denial coupled with a request that the matter be declared moot based on Exhibits A and B. But those exhibits consist of a statement

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acknowledging concerns with the licensing process, an administrative timeline, and regulatory “clarifications” signed by the Board Chair and Acting HPL Administrator—neither of which were shown to be formally deliberated upon, approved, or adopted by the Board in a duly noticed public meeting as official Board action. This conclusion is reinforced by Nice’s reply and the hearing discussion, in which Nice challenged whether the documents reflected the position of the Board itself rather than the unilateral action of the two signatories, and GBAHE did not identify any contrary Board action at hearing. The evidence on the record does not show GBAHE’s willingness to perform its statutory duties or review erroneous decisions under statutory light. No willingness to perform nor actual performance is indicated. For those reasons, the Court proceeds in the matter, finding it is not moot and there exist multiple bases for review.

IV. BASIS ONE: SUPERVISION REQUIREMENTS

One principal basis of the Petition is that GBAHE misapplied the supervision requirements. It treated telehealth provisions as though they governed Nice’s face-to-face supervision, and it rejected proposed supervisors and submitted hours on that basis. The Alternative Writ identifies that same alleged error. It challenges the Board’s failure to apply the governing supervision requirements in light of the statutes and legislative interpretation, including the distinction between telehealth and face-to-face supervision.

On the present record, Nice is entitled to relief in part. GBAHE’s own Exhibit A states that, after Public Law 37-42, face-to-face supervision remains governed by 10 GCA §§ 121301–121303, while GBAHE Administrative Rule 10407(d)(1) applies only to telehealth supervision. Nice persuasively argues that this concession undermines the Board’s earlier contrary position. It also confirms that judicial intervention was necessary to correct the Board’s treatment of face-to-face supervision under telehealth-specific provisions. To the extent the Board applied the

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wrong legal framework to Nice's supervision, mandamus requires application of the correct standard.

The Court cannot, however, resolve every issue Nice raises on the present record. The record is sufficient to declare that GBAHE must evaluate Nice's supervised hours under the correct statutory framework. It is also sufficient to order that GBAHE may not deny that supervision by applying the wrong rule. But the current record does not establish, with sufficient precision, that all hours under particular supervisors must be deemed approved outright.

Accordingly, a peremptory writ shall issue on this basis. It shall require GBAHE to apply the correct legal standard to Nice's supervision and to reconsider any contrary determinations made under an incorrect standard. Declaratory relief shall also issue to the extent stated here.

V. BASIS TWO: DUAL LICENSURE AND THE HOUR REQUIREMENT

Nice next contends that GBAHE imposed an additional non-statutory requirement that she complete separate, non-overlapping sets of post-graduate hours for LMHC and MFT licensures, effectively requiring 6,000 hours, without identifying any statute, duly adopted regulation, or formal Board action authorizing that requirement. The Alternative Writ separately identified this as an alleged basis for relief and directed GBAHE either to refrain from imposing additional licensure requirements not grounded in statute or duly adopted regulation or to show cause why relief should not issue.

On this basis, Nice is entitled to relief. GBAHE's own materials do not identify any duly adopted, binding rule that clearly imposed a non-overlapping 6,000-hour dual-licensure requirement on Nice at the relevant time. To the contrary, Exhibit A states that the Board is "working toward formalizing" guidance on whether and how hours may overlap for dual

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applicants, and Nice's Reply correctly observes that a statement of future policy review is not itself legal authority for the prior imposition of a disputed requirement. Especially where the record appears to indicate this has never been required before. The present record therefore supports the conclusion that GBAHE has not demonstrated lawful authority for imposing a separate, non-overlapping dual licensure hours requirement on Nice.

Mandamus is appropriate to prevent the continued enforcement of a licensure condition that the record does not show to be grounded in statute or duly adopted regulation. Declaratory relief is also appropriate because an actual controversy exists as to whether GBAHE may impose such a requirement absent explicit legal authority. Accordingly, a peremptory writ shall issue on this basis directing GBAHE not to impose on Nice a non-overlapping 6,000-hour dual-licensure requirement absent express statutory or duly adopted regulatory authority. The Court further declares that GBAHE may not enforce against Nice a dual-licensure hours requirement that is not grounded in statute or duly adopted regulation.

VI. BASIS THREE: LICENSURE AND EXAM-ELIGIBILITY DETERMINATIONS

Nice further alleges that GBAHE unlawfully reversed or modified previously granted licensure and examination approvals, imposed additional eligibility requirements not grounded in law, and failed to provide lawful written determinations and consistent standards. The record reflects that Nice alleges the Board approved both intern licenses and both examination requests at a duly convened meeting, after which it narrowed or rescinded those approvals through later actions and communications. Nice's Reply also argues that GBAHE has not reinstated or clarified MFT-related licensure and examination approvals and has not provided a lawful explanation for the challenged reversals.

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The Court concludes that Nice is entitled to partial relief on this basis, but not to the full extent requested. The existing record supports the conclusion that GBAHE must act through lawful procedures and may not impose additional eligibility requirements not grounded in statute or duly adopted regulation. The record also supports relief requiring GBAHE to provide lawful written determinations identifying the basis for any action affecting Nice's licensure or examination eligibility.

At the same time, the Court cannot on this record finally resolve every factual and administrative question concerning the exact status of each license, the exact scope of each prior approval, or whether Nice is immediately entitled otherwise sit for a specific examination without further Board action applying the proper legal standards. Those matters involve a mix of legal and record-specific administrative questions not all fully resolved by the materials now before the Court.

Accordingly, a peremptory writ shall issue on this basis only to the following extent: GBAHE shall set aside any licensure or exam-eligibility determination affecting Nice that was based on requirements not grounded in statute or duly adopted regulation at the time of her applications. GBAHE shall issue any further determination through lawful procedures, with written notice identifying the legal basis for the action taken. To the extent Nice seeks a broader present judicial order compelling immediate issuance of all requested licenses or exam eligibility determinations, relief is denied without prejudice on the current record.

VII. BASIS FOUR: RECUSAL, CONFLICTS, AND COMPLAINT HANDLING

A further basis for the Petition is that Board members who were the subjects of formal complaints participated in the investigation, deliberation, discussion, and voting on matters involving Nice, including complaints against themselves. That conduct is inconsistent with

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mandatory recusal, disqualification, walling-off, and complaint-handling obligations. The Alternative Writ specifically raised these issues and directed GBAHE to comply with the governing procedures or show cause why relief should not issue; GBAHE failed to address this.

The Court finds that Nice has shown entitlement to relief in part on this basis. The Petition and Reply set out numerous allegations that identified Board members participated in matters affecting Nice despite pending complaints and conflict concerns. They also allege that members participated in motions or votes relating to complaints against themselves. GBAHE's Exhibits A and B do not refute the existence of mandatory recusal principles. To the contrary, its own post-petition statement instructs Board members to follow recusal protocols and to avoid participation where pending formal complaints create a conflict. That acknowledgment supports, rather than defeats, Nice's position that the duty exists and must be observed. A board should not need judicial instruction to avoid having a member sit in judgment of a complaint directed at that member. Recusal in such circumstances is not a technicality—it is the most basic of safeguards to fairness and impartial administration. When a complaint names a board member, that member must step aside from any participation in the handling of that complaint. To do otherwise taints the proceedings.

The Court cannot, however, make final adjudicative findings as to every alleged violation by every identified individual or as to every requested remedial measure—that reaches beyond the authority of this Court. The present record is sufficient to establish that GBAHE must ensure that Board members who are the subject of pending complaints by Nice or whose impartiality is otherwise compromised, do not participate in the investigation, deliberation, recommendation, discussion, or voting on those matters. The Court further concludes that any board decision dismissing a complaint against a board member who participated in the investigation, discussion,

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or vote on that complaint is subject to vacatur to the extent of that member's participation. A board member may not sit in judgment of a complaint directed at that member. The integrity of the decision-making process depends on recusal when the conflict arises. Therefore, any such dismissal shall be vacated and the complaint reconsidered by members not disqualified from participation.

Accordingly, a peremptory writ shall issue on this basis. It shall direct GBAHE to comply with mandatory recusal and disqualification requirements in matters affecting Nice and to ensure that no Board member who is the subject of a pending complaint by Nice participates in the handling of that complaint or in decisions materially affecting Nice while the conflict exists. To the extent Nice seeks broader individualized findings of misconduct against named persons or a more detailed supervisory regime than is necessary to secure lawful future proceedings, relief is denied.

VIII. BASIS FIVE: NOTICE, OPEN-GOVERNMENT, AND WRITTEN DETERMINATION ISSUES

Nice also asserts that GBAHE failed to provide proper agenda notice, made decisions outside duly noticed public meetings, withheld non-exempt communications relating to licensure matters, and failed to issue proper written determinations identifying the legal basis for actions affecting Nice. The Alternative Writ expressly framed those allegations as separate bases for relief.

The Court concludes that Nice is entitled to limited relief on this basis. To the extent that GBAHE makes decisions affecting Nice's licensure, supervision, or examination eligibility, those decisions must be made through lawful procedures, including proper notice where required and written determinations adequate to identify the statutory or regulatory basis for the action

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taken. GBAHE's own Exhibit A acknowledges that decisions regarding license approval, rescission, or examination eligibility are to be conducted during properly noticed public meetings with accurate official recording, which further supports the propriety of prospective mandamus relief requiring compliance with those obligations.

The Court does not, however, on the present record undertake to resolve every disclosure dispute or to order production of every category of requested communication described in the Petition. The submissions show disagreement about the scope of Nice's requests and GBAHE's confidentiality assertions, but the present record does not permit the Court to issue a sufficiently precise final disclosure order as to each category without risking ambiguity.

Accordingly, a peremptory writ shall issue on this basis to require GBAHE to provide lawful notice and written determinations in matters affecting Nice and to conduct such matters through properly noticed procedures as required by law. To the extent Nice seeks broader record-production relief as to all requested communications, that request is denied without prejudice to a more particularized showing.

IX. DECLARATORY RELIEF

Independent of mandamus, declaratory relief is warranted in part because an actual and ongoing controversy exists regarding the scope of GBAHE's authority and the procedures required by law in handling Nice's licensure-related matters. The Court therefore declares as follows:

1. GBAHE may not impose upon Nice licensure, supervision, or examination-eligibility requirements that are not grounded in statute or duly adopted regulation.

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2. Face-to-face supervision must be evaluated under the governing statutory framework identified in GBAHE's own post-petition clarification and may not be denied by application of telehealth-only supervision provisions.
3. GBAHE may not impose upon Nice a non-overlapping dual licensure hours requirement absent express statutory or duly adopted regulatory authority.
4. In matters affecting Nice, GBAHE must comply with applicable recusal, disqualification, notice, and lawful-procedure requirements.

The Court declines to issue broader declaratory relief on matters not necessary to resolve the present controversy or not sufficiently developed for final declaration on the existing record.

X. CONCLUSION AND ORDER

For the foregoing reasons, the Court ORDERS as follows:

1. GBAHE's request to declare this matter moot, quash the Alternative Writ of Mandate, and dismiss the Petition is DENIED.
2. A Peremptory Writ of Mandate shall issue consistent with this Decision as follows:
 - a. **Supervision Requirements.** GBAHE shall evaluate Millie Nice's supervision under the governing statutory framework and shall not deny such supervision by applying the incorrect provisions. GBAHE shall reconsider any contrary determination made under the incorrect legal standard.
 - b. **Dual licensure and hour requirements.** GBAHE shall not impose upon Millie Nice a non-overlapping 6,000-hour post-graduate supervision requirement for dual LMHC and MFT licensure absent express statutory authority or duly adopted regulation. GBAHE shall not continue enforcing against Millie Nice any such requirement that is not grounded in statute or duly adopted regulation.

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- c. **Licensure and examination eligibility.** GBAHE shall set aside any licensure or examination-eligibility determination affecting Millie Nice that was based on a requirement not grounded in statute or duly adopted regulation at the time of her applications. Any further determination affecting her licensure or examination eligibility shall be made through lawful procedures and shall be provided to her in writing, identifying the statutory or regulatory basis for the action taken. This writ does not, on the present record, compel the immediate issuance of every requested license or examination-eligibility determination.
- d. **Recusal, disqualification, and complaint handling.** GBAHE shall comply with applicable recusal and disqualification requirements in matters affecting Millie Nice. No Board member who is the subject of a complaint filed by Nice, or whose impartiality is otherwise compromised, shall participate in the investigation, deliberation, recommendations, discussion, or voting concerning that complaint or in decisions materially affecting Nice while the conflict exists. Any Board decision dismissing a complaint against a Board member who participated in the investigation, deliberation, recommendations, discussion, or vote on that complaint shall be vacated, and the complaint shall be reconsidered by members not disqualified from participating.
- e. **Notice, open-government procedures, and written determinations.** In matters affecting Millie Nice's licensure, supervision, or examination eligibility, GBAHE shall act through lawful procedures, including proper notice where required and properly noticed public meetings with accurate official recordings where required by law. GBAHE shall provide lawful written determinations adequate to identify

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the statutory or regulatory basis for each action affecting Millie Nice. This writ does not, on the present record, compel production of every category of communication requested by Nice.

3. Declaratory relief is GRANTED IN PART to the extent set forth in Section IX of this Decision.

SO ORDERED this 21 September 2026.



HON. ELYZE M. IRIARTE
Judge, Superior Court of Guam

SERVICE VIA E-MAIL

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

NG

Cunliffe & Cook

Date: 9/21 Time: 1418

N. Fumzeler

Deputy Clerk, Superior Court of Guam

Appearing Attorneys:

Jeffrey A. Cook, Esq., Law Offices of Cunliffe & Cook, for Petitioner
Paul Sirmans, Esq., Office of the Attorney General, for Respondent

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