

FILED
SUPERIOR COURT
OF GUAM

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CLERK OF COURT

IN THE SUPERIOR COURT OF GUAM

By: _____

BRYAN J. CRUZ,

Petitioner,

vs.

DOUGLAS B. MOYLAN, in his official
capacity as the ATTORNEY GENERAL OF
THE OFFICE OF THE ATTORNEY
GENERAL OF GUAM,

Respondent.

Special Proceedings Case No. SP0198-25

**DECISION AND ORDER FINDING
MATTER MOOT**

The Court here addresses Petitioner Bryan J. Cruz's request that this Court proceed to hear his Verified Petition for Writ of Mandamus. Cruz petitioned the Court to compel Respondent Douglas Moylan, in his official capacity as the Attorney General of Guam ("OAG"), to process Cruz's retirement-related personnel records. The Court initially issued an Alternative Writ of Mandamus commanding the OAG to explain why it had not yet processed Cruz's records. Following that Alternative Writ, records show that the OAG processed Cruz's paperwork. Upon review of the parties' extensive briefing, the Court here concludes that the Petition is moot and that Cruz is not entitled to attorney's fees or costs.

I. Background

On November 26, 2025, Cruz petitioned for a writ of mandamus compelling the OAG to process and transmit his retirement-related personnel action and records to the Department of Administration and the Government of Guam Retirement Fund. V. Pet. (Nov. 26, 2025). On that same day, the Court issued an Alternative Writ commanding the OAG to show cause why Cruz's

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petition should not be granted. Alt. Writ Mandamus (Nov. 26, 2025).

Shortly thereafter, the OAG completed the personnel action and transmitted the required documents, leading to questions regarding mootness. *See* Decl. AG’s Off. Hum. Res. Supervisor (Dec. 1, 2025) (attesting that Cruz’s paperwork was processed on December 1, 2025). This matter then underwent oral argument and two rounds of briefing. The Court now issues its determination on the Petition and availability for relief.

II. Mootness

The relief Cruz sought—mandamus—is an extraordinary remedy, to be used in extreme situations, and issued only when there is not a plain, speedy and adequate remedy in the ordinary course of law. *Holmes v. Terr. Land Use Comm’n*, 1998 Guam 8 ¶ 9 (citing 7 GCA § 31203); *Limtiaco v. Guam Fire Dep’t*, 2007 Guam 10 ¶ 8. “Mandamus is limited to compelling ministerial acts; it cannot be used to make retroactive claims for monetary relief.” *Ehlert v. Univ. of Guam*, 2019 Guam 27 ¶ 15. In other words, mandamus must operate prospectively—it cannot compel the performance of a duty that has already been completed. *Id.* (citing *Torres v. City of Montebello*, 183 Cal. Rptr. 3d 801, 818 (Ct. App. 2015) (“mandamus must operate in the present”)).

In fact, when a legal duty has been satisfied, a matter seeking to compel that duty becomes moot. A case becomes moot “when the issues are no longer live or the parties lack a legally cognizable interest in the outcome.” *Linsangan v. Gov’t of Guam*, 2020 Guam 27 ¶ 30 (quoting *Town House Dep’t Stores, Inc. v. Ahn*, 2000 Guam 32 ¶ 9). Mootness is a threshold jurisdictional doctrine, and courts “may not give opinions upon moot questions or abstract propositions.” *Id.* ¶ 30.

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Here, Petitioner's primary requested remedy—the processing and transmission of retirement paperwork—has already been accomplished. No further ministerial action remains for the Court to compel. Accordingly, there is no live controversy, and the Court lacks jurisdiction to issue the extraordinary remedy of mandamus.¹

III. Attorney's Fees Under 7 GCA §§ 31212 and 26603

Cruz also requests attorneys' fees pursuant to 7 GCA §§ 26603 and 31212. Section 26603 permits government employees to recover attorney's fees in lawsuits involving their employment upon a judgment; section 31212 also authorizes fees and costs upon a judgment. Reading these statutes plainly, a fee award may be permitted only upon the issuance of a judgment. Because the issues are now moot, no judgment may be issued, meaning no award of attorney's fees and costs can be rendered.

Further a dismissal based on mootness is not a final determination on the merits warranting a judgment. *See Ass'n of Irrigated Residents v. Dep't of Conservation*, 218 Cal. Rptr. 3d 517, 532 (Ct. App. 2017). Because the underlying petition is moot and the Court may not enter judgment on a moot controversy, there is no statutory basis for an award of fees. If this Court were to render a decision on a moot controversy, it would amount to an advisory opinion, which the Guam Supreme Court forbids this Court from doing. *See Maeda Pac. Corp. v. GMP Haw.*, 2011 Guam 20 ¶ 22.

IV. Evidentiary Hearing not needed

Finally, the Court addresses whether other authority requires this Court to render findings

¹ No exception to mootness, such as being capable of repetition, applies. The petition concerns a specific, one-time personnel action unique to Cruz.

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and issue a judgment. The Court invited the parties to discuss “whether the statute allows an award of fees and costs where there are no legal findings made. . . . (The Court notes the similarity of this debate to the catalyst theory versus *Buckhannon Bd. & Care Home v. W. Va. Dep’t of Health & Hum. Res.*, 532 U.S. 598 (2001) and cases thereunder).” Order (Mar. 27, 2026). In *Buckhannon*, the United States Supreme Court rejected a plaintiff’s effort to obtain attorney’s fees; the plaintiff argued that despite the lawsuit being dismissed, the suit became the catalyst for the defendant’s change in conduct. The court said no; even if a defendant changes its conduct to the point that the plaintiff receives full relief, there must still be a judicially sanctioned change in the legal relationship between the parties. The court reasoned that where the defendant's change of conduct moots the case before any merits determination, there is no judgment to which a fee entitlement can attach.

Buckhannon is not binding authority here, but the Court finds its analysis persuasive because, at its core, the plaintiff in *Buckhannon* also failed to obtain a judgment. Likewise, here, there is no Court action that has resulted in the parties’ legal relationship.

Cruz asks the Court to reject the reasoning in *Buckhannon* for a few reasons. First, he notes that the federal law addressed in *Buckhannon* concerned whether one is a “prevailing party” under the Fair Housing Act and Americans with Disabilities Act. Even so, Guam’s 7 GCA § 26603 emphasized there had to be a judgment *and* a court or jury finding that the employee has been deprived of their rights. In other words, Guam law provides even stronger language than federal law relative to the necessary preconditions before an attorney’s fee award can be made.

Second, Cruz points out that *Buckhannon* has been superseded by federal statute. Pet’r’s Mem. (Apr. 28, 2026) (citing *Waage v. I.R.S.*, 656 F. Supp. 2d 1235, 1239 (S.D. Cal. 2009)). This is not helpful to Cruz as it just confirms that a legislative body can determine how one

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becomes eligible for a fee award. That happened here, where the Guam Legislature in section 26603 dictated that a fees award must follow a judgment.

Finally, Cruz asks the Court to follow *Fleming v. Quigley*, 2003 Guam 4, which adopts the American Rule in Guam, and determine that the conduct here fits under an exception to the American Rule. However, even if the Court took this route, it would mean eventually issuing an advisory opinion. Given that Cruz has not explained how this case fits any recognized equitable exception to the American Rule (such as bad faith), the Court declines to engage this exercise only to arrive at an advisory opinion.

Therefore, the Court DENIES Cruz's request for an evidentiary hearing to determine if bringing this proceeding was even necessary to obtain the OAG's compliance with processing his retirement documents.

V. Conclusion and Order

The Verified Petition for Writ of Mandamus is DISMISSED as MOOT. The Alternative Writ issued on November 26, 2025, is hereby resolved, discharged, and dissolved. Lastly, Petitioner's request for attorneys' fees and costs under 7 GCA § 26603 is DENIED.

Having dismissed this matter on mootness, the Court further declines to further engage in other jurisdictional questions raised by the OAG, including sovereign immunity, failure to exhaust administrative remedies, and unclean hands.

SO ORDERED this 15 September 2026.


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

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