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SUPREME COURT OF GUAM

**SUPREME COURT OF GUAM**

**ADMINISTRATIVE RULE NO. 06-002**

**RELATIVE TO EXTENDING THE EFFECTIVE PERIOD OF ADMINISTRATIVE RULE 05-02 REGARDING A MENTAL HEALTH DOCKET IN THE SUPERIOR COURT OF GUAM**

Administrative Rule 05-01 ("AR 05-01") has been in effect since February 1, 2005 regarding the random assignment of cases in the Superior Court of Guam. On October 14, 2006, the Supreme Court adopted its Administrative Rule 05-02 ("AR 05-02") which amended AR 05-01 in order to allow the creation of a mental health docket within the Superior Court. (A copy of AR 05-02 is attached hereto as Exhibit A for reference purposes.) Pursuant to its express terms, AR 05-02 was scheduled to be effective for a period of one year, thus expiring on October 15, 2006.

Judge Katherine A. Maraman, the Superior Court Judge assigned to the mental health docket, has submitted her report recommending that the docket be continued for an additional year. (A copy of Judge Maraman's report (without attachments) is attached hereto as Exhibit B for reference purposes.)

Having reviewed Judge Maraman's report, this Court agrees that it is in the best interest of the Judiciary of Guam and the administration of justice to continue the mental health docket beyond October 15, 2006. Therefore the effective date of Administrative Rule 05-02 is hereby amended to extend its effective date by one year. Thus AR 05-02 shall remain in effect until October 15, 2007.

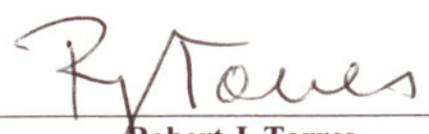
Duly adopted this 13th day of October, 2006.



**F. Philip Carbullido**  
Chief Justice of Guam



**Frances Tydingco-Gatewood**  
Associate Justice



**Robert J. Torres**  
Associate Justice

I do hereby certify that the foregoing is a full true and correct copy of the original on file in the office of the clerk of the Supreme Court of Guam

OCT 16 2006

By: LISA C. IBANEZ  
Deputy Clerk, Supreme Court of Guam

# SUPREME COURT OF GUAM

## ADMINISTRATIVE RULE NO. 05-02

### RELATIVE TO AMENDING SUPREME COURT OF GUAM ADMINISTRATIVE RULE 05-01 REGARDING SUPERIOR COURT OF GUAM CASE ASSIGNMENTS TO SPECIFICALLY ADDRESS ASSIGNMENT OF CRIMINAL CASES WHERE A DEFENDANT'S MENTAL STATE IS AT ISSUE

The Criminal Justice Diversion Workgroup, a multi-organizational effort consisting of several representatives from each of the three Branches of the Government of Guam and chaired by a representative of the Department of Mental Health and Substance Abuse, recommends that the Judiciary of Guam begin hearing cases where a defendant's mental state is at issue using a therapeutic court model.

The Judiciary of Guam is working with the Criminal Justice Diversion Workgroup to create a Mental Health Court.

As an interim measure, the Workgroup recommends that one judge hear the cases and that hearings occur on the same day at the same time each week, with each specific case being heard every other week.

THEREFORE, ADMINISTRATIVE RULE 05-01 IS HEREBY AMENDED TO INCORPORATE THEREIN THE FOLLOWING PROCEDURES:

- I. Effective Date: This amendment of Supreme Court of Guam Administrative Rule 05-01 shall be effective on October 15, 2005, and shall remain in effect for a period of one (1) year thereafter, unless sooner repealed or amended, following which the original language of Supreme Court of Guam Administrative Rule 05-01 shall again be in effect.
- II. Hearing Schedule: Hearings in cases assigned to Family Court I regarding the mental state of defendants shall be scheduled before Judge Katherine Maraman for 11:00 a.m. every other Tuesday, beginning with Tuesday, October 18, 2005, or as necessary at the discretion of Judge Katherine Maraman. So long as a defendant and his or her counsel consent, staffing for cases in which a defendant has been adjudicated as Not Guilty By Reason of Mental Disease or Defect pursuant to Article 2 of Chapter 7 of Title 9 of the Guam Code Annotated shall occur at 10:00 on the same Tuesdays.
- III. Pending Cases:
  1. All cases pending as of the effective date of this Administrative Rule in which a defendant has been adjudicated not guilty by reason of mental illness, disease or defect pursuant to Article 2 of Chapter 7 of Title 9 of the Guam Code Annotated prior to the effective date of this Administrative Rule shall be reassigned to Family Court I for all subsequent hearings which shall be presided over by Judge Katherine Maraman.

ORIGINAL

Exhibit A

2. All cases pending as of the effective date of this Administrative Rule in which a defendant has placed his mental state in issue pursuant to Title 9 GCA § 7.22 prior to the effective date of this Administrative Rule or in which a defendant places his mental state in issue pursuant to Title 9 GCA § 7.22 after the effective date of this Administrative Rule shall nonetheless remain with the assigned judge until the mental state issue is adjudicated. If and only if a defendant is adjudicated not guilty by reason of mental illness, disease or defect pursuant to Article 2 of Chapter 7 of Title 9 of the Guam Code Annotated by the assigned judge shall the case be reassigned to Family Court I.

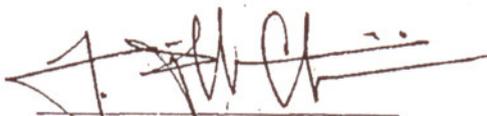
IV. Future Cases:

All cases filed after the effective date of this Administrative Rule and during the period during which the resulting amendment to Administrative Rule 05-01 is in effect in which a defendant places his mental state in issue pursuant to Title 9 GCA §7.22 shall be re-assigned to Family Court I for all subsequent hearings which shall be presided over by Judge Katherine Maraman. Regardless of whether or not the defendant is subsequently adjudicated not guilty by reason of mental illness, disease or defect pursuant to Article 2 of Chapter 7 of Title 9 of the Guam Code Annotated, the case shall remain with Family Court I until fully adjudicated.

V. Caseload Credit for Reassigned Cases:

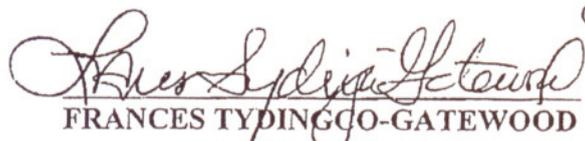
All cases which are assigned to Family Court I to be presided over by Judge Katherine Maraman pursuant to this Administrative Rule prior to the issue of mental state being adjudicated shall be counted towards Judge Maraman's 6% share of either felony or misdemeanor cases not already assigned to the Family Violence Specialty Court judge or the Adult Drug Court Specialty Court judge pursuant to Section B.2.(a)(I) & (ii) of Administrative Rule 05-01, whichever the case may be.

Adopted this 14<sup>th</sup> day of October, 2005.

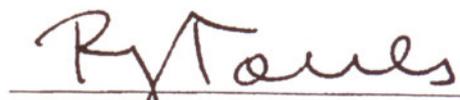


F. PHILIP CARBULLIDO

Chief Justice



FRANCES TYDINGCO-GATEWOOD  
Associate Justice



ROBERT TORRES  
Associate Justice



Chambers of  
**Katherine A. Maraman**  
Judge

## SUPERIOR COURT OF GUAM

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October 11, 2006

### Memorandum

To: Chief Justice

From: Judge Katherine A. Maraman

Subject: **Supreme Court of Guam Administrative Rule 05-02**

This memorandum is in response to administrative rule 05-02, which amended the case assignment rule of administrative rule 05-01 by creating a mental health docket for the Superior Court under Family Court I. However, this amendment is due to expire on Sunday, October 15, 2006. The Assignment of Cases (Mental Health Court) subcommittee is seeking for a one (1) year extension to continue work on this crucial project for cases where a defendant's mental state is at issue.

For historical purposes, the following events are documented for your information.

1. The U.S. District Court of Guam issued a permanent injunction against Department of Mental Health and Substance Abuse (DMHSA) in July 2001. The injunction ordered defendants to provide:
  - A. Persons served in the DMHSA Adult Inpatient Unit (AIU) safety and freedom from undue restraint, and treatment under safe conditions;
  - B. Minimally adequate or reasonable staff training to ensure safety, freedom from undue restraint, and to prevent consumers' pre-existing self-care skills from deteriorating because of commitment; and
  - C. Timely implementation of placement plans.
  
2. A further contempt finding was filed in July 2005, which modified the permanent injunction and required deadlines to be established for the following remaining areas that need to be addressed:
  - A. A proposed system for implementation of a waiting list.
  - B. Development of a comprehensive implementation plan to develop community services and supports which will ensure prompt placements of Plaintiffs in appropriate living situations outside the DMHSA AIU.

Exhibit B

- C. Creation of policies and procedures (including grievance procedures) addressing procedures for changes in community placement and the return by individuals to the AIU.
  - D. Development of a plan to implement the minimum care requirement outlined by the permanent injunction.
3. Thereafter, the Criminal Justice Diversion Workgroup was created to address necessary services for persons with mental illness in the criminal justice setting. The first meeting was held on May 16, 2005 at the Department of Mental Health and Substance Abuse (DMHSA). Three (3) subcommittees were formed with the following initial members:
- A. Police Crisis Intervention Training. Chair: Sgt. Authur Paulino. Members include Officer Joseph Borja and Brad Hokanson of Guam Police Department; Kathy Maher of Public Defender; Frances Okubo and Mary Weakley of DMHSA.
  - B. Assignment of Cases. Chaired by Judge Maraman, co-chaired by Dianne Corbett of the Attorney General's Office. Members include Robert Cruz, Jackie Zahnen Cruz, Dr. James Kiffer, Ed Alvarez, Joe Tenorio of the Judiciary; Frances Okubo and Mary Weakley of DMHSA; and Kathy Maher of Public Defender. This has since been expanded to include other agencies.
  - C. Community Reentry. Chair: Frances Okubo of DMHSA; co-chair: Renata Bordallo. Members include Public Guardian John Weisenberger, Ed Alvarez of Judiciary of Guam; and Kathy Maher of Public Defender.

As a result of the permanent injunction and constant dialogue to transform service delivery systems, the Governor's Office – Office of Community Integration, the Department of Mental Health and Substance Abuse, and the Department of Integrated Services for Individuals with Disabilities created a plan entitled *Comprehensive Actions Toward Community-Based Services and Supports* on October 11, 2005, which not only addresses the mandates resulting from the permanent injunction, but encompasses a much broader system-wide transformation initiative for all individuals with disabilities on Guam.

The goal of the Assignment of Cases subcommittee was to establish a mental health case docket within the Superior Court, and collaborate with respective governmental agencies who serve persons with mental illness in the criminal justice setting. The subcommittee needed to determine the feasibility of creating a mental health court for Guam, based on the target population to be served, availability of treatment, and availability of related services, such as dental care, housing, public assistance, etc. This was a large task that required constant dialogue with agency heads and treatment representatives to optimize the coordination of these services and impress upon these agencies the importance of ensuring these individuals are adequately and sufficiently served.

The following progress has been made since the establishment of the subcommittee, and the issuance of administrative rule 05-02.

1. Superior Court established a mental health case docket on October 18, 2005. Criminal cases where a defendant's mental state is at issue are assigned to Family Court I and scheduled for every other Tuesday at 11 a.m.; and at 10 a.m. when a defendant has been adjudicated as Not Guilty by Reason of Mental Disease or Defect. From October 2005 through the present time, there have been eighty (80) cases assigned.
2. The subcommittee has made significant strides in developing a program to implement a Mental Health Court (MHC) for Guam. A year after the first criminal justice diversion workgroup and Assignment of Cases (MHC) Subcommittee meetings began, a program proposal was finalized and submitted for funding consideration to the U.S. Department of Justice (DOJ) on June 3, 2006.

Although official feedback from DOJ is pending, this collaborative effort is indicative that there is a definite need in our community to provide coordinated services for these individuals, but funding is needed.

The grant proposal identified a total of \$250,000 in federal funds, excluding a matching requirement of \$62,549 for staff from the court, DMHSA, Public Defender, and Attorney General's Office to provide a percentage of their time toward this program. Items budgeted were:

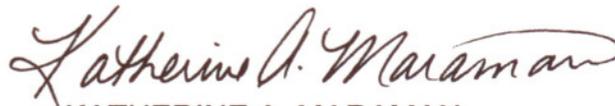
<i>Item</i>	<i>Amount</i>
Personnel Salaries and Fringe Benefits (1 Coordinator, 1 Case Manager for 2 years)	\$ 172,014.00
Travel	38,000.00
Consultant services to develop an MIS system	24,986.00
Supplies (treatment materials)	5,000.00
Equipment (server)	10,000.00
<b>Total:</b>	<b>\$ 250,000.00</b>

3. The subcommittee has met monthly to work out problems and address issues related to this project (see attached minutes from both the Criminal Justice Diversion Workgroup, and the Assignment of Cases [Mental Health Court] Subcommittee).

4. The following court divisions have substantially assisted in this effort: Court Programs Office, Probation, Marshals, Court Reporters, Client Services and Family Counseling Division, and the Office of the Public Guardian.

Therefore, based on significant progress made, and the current lack of funding for personnel and related items to implement this program, the subcommittee hereby recommends extending administrative rule 05-02 by one (1) year to October 15, 2007. This will allow additional time to continue working with the subcommittee to establish a Mental Health Court and coordinated services for individuals with mental illness in the criminal justice system on Guam, and perhaps address creative ways to begin implementing the program absent federal funding.

If you have any questions, please contact me at extension 589.

  
KATHERINE A. MARAMAN

- Attachment: (1) Administrative Rules 05-01 and 05-02  
(2) Meeting Minutes: Criminal Justice Diversion Workgroup  
(3) Meeting Minutes: Assignment of Cases (MHC) Subcommittee