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CLERK OF COURT

By: 

IN THE SUPERIOR COURT OF GUAM

THE PEOPLE OF GUAM,)	CRIMINAL CASE NO. CF0415-19
)	
vs.)	
)	
JONATHAN TORRES TEDTAOTAO,)	DECISION AND ORDER RE:
)	EX PARTE MOTION
DEFENDANT.)	TO WITHDRAW [AS COUNSEL]

Introduction

This matter came before the Honorable Maria T. Cenzone on the *Ex Parte* Motion to Withdraw filed by Defendant Jonathan Torres Tedtaotao’s (Tedtaotao) counsel, Assistant Public Defender Zachary C. Taimanglo, Esq. on August 9, 2019. On August 27, 2019, the Court granted the motion by oral order, finding that a breakdown in the relationship between attorney and client supported such request, and appointing Alternate Public Defender in the stead of Public Defender Services Corporation (PDSC). The Court now issues this written Decision and Order memorializing its ruling from the bench.

Discussion

On July 29, 2019, an Indictment was filed against Tedtaotao charging him with Burglary as a 2nd Degree Felony, Theft as a 2nd Degree Felony, Criminal Trespass as a Misdemeanor and Criminal Mischief as a Misdemeanor, along with attendant notices of Commission of a Felony While on Felony Release. Tedtaotao currently has a pending case against him in CF0225-18 for

1 Burglary as a 2nd Degree Felony, two (2) counts of Third Degree Robbery as a 3rd Degree felony
2 and two (2) counts of Assault as a Misdemeanor.¹ Defendant asserted his right to a speedy trial
3 on July 31, 2019, at his arraignment hearing and brought before this Court on August 6 for a
4 Criminal Trial Setting. On August 7, Defendant's counsel filed a Motion and Application for
5 Bail Redetermination Hearing Under 8 GCA §40,50 For Release on Personal Recognizance.
6 However, on August 9, counsel filed the instant Motion to Withdraw. The Court heard the
7 motion to withdraw on August 12 and Tedtaotao stated to the Court that he, essentially had no
8 confidence in counsel and that he believed counsel was "working under the government,"
9 implying some collusion for which Tedtaotao could not provide any evidence when prompted by
10 the Court for concrete information. After a lengthy discussion, both counsel and Tedtaotao
11 agreed to the continued representation by PDSC. Ultimately, however, the Court found that the
12 continued lack of trust or confidence expressed by Tedtaotao, but which were not grounded in
13 any factual allegations expressed to the Court, created a significant impediment in the continued
14 representation by PDSC, and on August 27, 2019, the Court relieved Mr. Taimanglo and the
15 PDSC from continued representation of Tedtaotao and appointed the Alternate Public Defender.
16 *Pre-Trial Conference hearing (8/27/2019)*. On August 28, 2019 the Court held a Further
17 Proceedings with new counsel Alternate Public Defender. As of the Pre-trial Conference on
18 September 4, 2019, no conflicts issue has been raised by APD. The trial of this matter is still
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25 ¹ CF0225-18 is in the pre-trial stage. Mr. Taimanglo previously successfully advocated for Tedtaotao's release in
26 that case in order to enable him to obtain treatment at Lighthouse Recover Center (LRC). The Court granted this
27 motion despite Tedtaotao's lengthy criminal history after considering counsel's arguments that no such intensive
28 treatment had previously been sought by Tedtaotao and that his client would be committed to completing the
program. Prior to his arrest in the instant matter, Tedtaotao was close to completing the six (6) month in-patient
program and transitioning into aftercare services with LRC. He was released with conditions on January 3, 2019.

1 scheduled to commence on September 11, 2019 – well within the statutory speedy trial time
2 period of 45 days.² A continued Pre-trial conference is scheduled for September 10.

3 Analysis

4 This Court has relied heavily upon the Guam Supreme Court’s ruling in *People of Guam*
5 *v. Flores*, 2009 Guam 22, in granting the Motion to Withdraw filed by PDSC. In *Flores* (which
6 also involved an asserted speedy trial right), the defendant expressed to the Court his refusal to
7 work with his court-appointed attorneys and made accusations remarkably similar to Tedtaotao’s
8 assertions against PDSC. Flores informed the court that “his attorney betrayed him, he was
9 afraid of his attorney, he believed his attorney failed to do any of the things a prudent attorney
10 would have done, and he could not work with this attorney.” *Flores* at ¶37. Finding that
11 appointing new counsel and a four month continuance was appropriate in that case, the Guam
12 Supreme Court ruled that because the delay was caused by Flores’ conduct and that Flores
13 benefitted from the delay, good cause existed under 8 G.C.A. section 80.60 to delay the trial
14 beyond the statutory 45-day period. *Id.* at 40.

17 Finding that a similar accusation was lodged by Tedtaotao as against PDSC and Mr.
18 Taimanglo, the Court found good cause to grant the motion to withdraw following unsuccessful
19 attempts by Mr. Taimanglo and Tedtaotao to continue the attorney-client relationship. The Court
20 has not vacated the current trial schedule and, therefore, there is no prejudice to Tedtaotao by the
21 appointment of new counsel. However, should delay be necessary for new counsel to prepare
22 adequately for trial, under the circumstances, *Flores* would support such a reasonable
23 continuance.
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27 ² Tedtaotao remains detained following the Court’s denial of the Motion for Bail Redetermination. *See Decision*
28 *and Order Denying Defendant’s Mot. and Application for Bail Redetermination* (Aug. 26, 2019).

1 Conclusion

2 Based on the foregoing reasons, the Court finds that good cause exists to grant PDSC's
3 Motion to Withdraw as Counsel and ORDERS the appointment of Alternate Public Defender as
4 new counsel for Defendant Tedtaotao.
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6 SO ORDERED, *nunc pro tunc* August 27, 2019.

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9 HONORABLE MARIA T. CENZON
10 JUDGE, SUPERIOR COURT OF GUAM
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22 **CLERK OF COURT ACCOUNT BOOK**

23 I acknowledge that a copy of the
24 original hereto was placed in the
25 court box of:

26 PDSC

27 Date: 9/1/19 Time: 12:10

28 Deputy Clerk: [Signature] Court of Guam