

FILED  
SUPERIOR COURT  
OF GUAM

2019 AUG 15 PM 3:43

CLERK OF COURT

By: \_\_\_\_\_

**IN THE SUPERIOR COURT OF GUAM**

THE PEOPLE OF GUAM,

vs.

BRUCE MATTHEW CRUZ aka Bruce  
Matthew Unchangco Cruz aka Bruce Matthew  
Uncangco Cruz,

Defendant.

CRIMINAL CASE NO. CF0429-19.

**DECISION AND ORDER**

**INTRODUCTION**

This matter came before the Honorable Vernon P. Perez on August 13, 2019, for hearing on Defendant Bruce Matthew Cruz aka Bruce Matthew Unchangco Cruz aka Bruce Matthew Uncangco Cruz's ("Defendant") Ex Parte Motion and Application for Bail Redetermination Hearing Under 8 G.C.A. § 45.50(a) for Release on Personal Recognizance ("Motion for Bail Redetermination"). Defendant was present with counsel Assistant Public Defender Kristine Borja, and Assistant Attorney General Matthew A. Phelps was present on behalf of the People of Guam ("the Government"). In accord with its ruling from the bench on August 13, 2019, the Court now issues the following Decision and Order DENYING Defendant's Motion for Bail Redetermination.

**BACKGROUND**

On August 5, 2019, Defendant was indicted with the charge of Family Violence (As a Third Degree Felony). (Indictment, Aug. 5, 2019). This charge stems from allegations that

1 Defendant got into an argument with his girlfriend, Ms. Naomi Santos, which turned physical.  
2 (Decl. of Matthew A. Phelps, Magistrate's Compl., Jul. 29, 2019). When Ms. Santos told  
3 Defendant she was leaving him, Defendant dragged a small couch across the door to prevent her  
4 from leaving. *Id.* When she attempted to jump over the couch to leave the room, Defendant  
5 dragged her to the ground and held her there. *Id.* A struggle then ensued on the ground and she  
6 struck Defendant until he released her. *Id.* Ms. Santos ran to the car, where her niece was inside  
7 the vehicle. *Id.* Defendant followed, stood in the doorway and began choking Ms. Santos. *Id.*  
8 The Guam Police Department Officer who responded to the scene, observed fresh abrasions to  
9 Ms. Santos' elbow, an abrasion to the left side of her neck extending to her ear, and a slight  
10 reddish mark on the right side of her neck. *Id.*

11 On August 5, 2019, Defendant filed the instant Motion for Bail Redetermination.  
12 Defendant is confined pending the posting of \$3,000 cash bail. *See* Commitment Order, Jul. 29,  
13 2019. The Government did not file a response to the Motion for Bail Redetermination, but  
14 indicated on the record at the August 13, 2019 Motion Hearing that the alleged victim did not  
15 state any position on Defendant's release, only that she does not want contact.

#### 16 DISCUSSION

17 Defendant moves the Court to release him on personal recognizance as he does not have  
18 the means to pay the three thousand dollar (\$3,000.00) cash bail. *See generally*, Mot. Bail  
19 Redetermination, Aug. 5, 2019.

20 Under Guam law, the Court must "order the person charged to be released on  
21 recognizance, unless the judge determines, in his discretion, on the basis of available  
22 information, that such a release will not reasonably assure the appearance of the person as  
23 required or will endanger the safety of any other person or the community." 8 G.C.A. §  
24 40.15(b). Factors for the Court to consider in determining whether Defendant presents a  
25 substantial risk of nonappearance or is a danger to the safety of any other person or the  
26 community include:

- 27 (1) the nature of the offense charged, the apparent possibility of conviction and  
28 the likely sentence;

- 1 (2) the history and characteristics of the person charged, including:  
2 (i) length of his/her residence on Guam;  
3 (ii) his/her employment status and history, and financial condition;  
4 (iii) his/her family ties and relationships;  
5 (iv) his/her reputation, character and mental and physical condition;  
6 (v) his/her prior criminal record, if any, including any record of prior  
7 release on recognizance or on bail;  
8 (vi) his/her history relating to drug or alcohol abuse;  
9 (vii) the identity of the reasonable members of the community who will  
10 vouch for his/her reliability;  
11 (viii) whether at the time of the current offense or arrest, he/she was on  
12 probation, on parole or on other release pending trial, sentencing,  
13 appeal or completion of sentence of an offense under Federal, state  
14 or local law; and  
15 (ix) his/her history of compliance with other court orders;
- 16 (3) the nature and seriousness of the danger the person would pose to the  
17 community or to any individual member thereof if released; and  
18 (4) any other factors which bear on the risk of willful failure to appear or the  
19 danger the person would pose to the community or to any individual member  
20 thereof if released.

21 8 G.C.A. § 40.15(c).

22 If the Court finds that release on his or her own recognizance would not assure a  
23 defendant's appearance or would present a danger to any other person or the community, the  
24 Court may still permit release subject to certain conditions under 8 G.C.A. § 40.20. These  
25 conditions include:

- 26 (a) placement of the person in the custody of a designated person or organization  
27 agreeing to supervise him and to assist him in appearing in Court;  
28 (b) placement of restrictions on the activities, movements, associations and  
residence of the person;  
(c) placement of the person under supervision by means of electronic monitoring,  
including electronic monitoring with alleged victim stay-away alert  
technology, if available, and subject to the payment of fees or the exemption  
of fees, and other rules established by the court for electronic monitoring;  
(d) execution of a bond in an amount specified by the judge; such bond in the  
discretion of the judge to be either unsecured or secured in whole or in part by  
the deposit of cash or other property, or by the obligation of qualified sureties;  
(e) release of the person during working hours, but with the condition that he  
return to custody at specific times;

- 1 (f) require the person charged with family violence or violation of a protective  
2 order to undergo a lethality risk assessment or other risk assessments deemed  
3 appropriate by the Judiciary of Guam; or  
4 (g) any other condition reasonably necessary to assure appearance as required and  
5 the safety of any other person and the community.

6 8 G.C.A. § 40.20. Under section 40.20, the least onerous conditions shall be imposed to ensure  
7 Defendant's appearance as required and the safety of any other person and the community.  
8 "Determinations as to bail conditions and amounts are not to be driven by the goal of keeping  
9 the accused incarcerated, but should rather be reached in consideration of the only authorized  
10 interests, *to wit*, ensuring the appearance of the accused and the safety of others." *People v.*  
11 *Song*, 2011 Guam 19 ¶ 11.

12 In support of his motion, Defendant offers that he is a twenty-eight year old U.S. citizen  
13 and a lifelong resident of Guam with social and familial ties to the island. (Mot. Bail  
14 Redetermination at 4, Aug. 5, 2019). Defendant does not have a criminal history and has two  
15 minor children. *Id.* Defendant states that the alleged victim does not work and he is the sole  
16 provider for her and their children, including his thirteen year old stepson. *Id.*

17 Upon consideration of the 8 G.C.A. § 40.15 factors, the Court is greatly concerned with  
18 the safety of the community and Defendant's ability to exert self-control. Although Defendant  
19 is only charged with Family Violence (As a Third Degree Felony), the Court notes that the  
20 allegations include the dragging of furniture across the floor to prevent the victim from leaving,  
21 followed by the assault, which continued after the victim fled the house to the car. *See Decl. of*  
22 *Matthew A. Phelps*, Magistrate's Compl., Jul. 29, 2019. Further, the allegation that Defendant  
23 choked the victim in the car occurred before the presence of another. *Id.*

24 Thus, upon the Court's review, Defendant's release only on personal recognizance does  
25 not sufficiently allay the Court's concerns regarding the safety of the community. This  
26 decision, however, does not preclude Defendant from requesting release with proposed third-  
27 party custodians in the future.

28 //

//

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**CONCLUSION**

For the foregoing reasons, the Court hereby DENIES Defendant's Motion for Bail Redetermination. Further Proceedings are set for September 12, 2019 at 9:00 a.m.

**IT IS SO ORDERED**, *nunc pro tunc* to August 13, 2019, this AUG 15 2019.



HONORABLE VERNON P. PEREZ  
Judge, Superior Court of Guam

**SERVICE VIA COURT BOX**

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

AG & PDSC

Date: AUG 15 2019 Time: 4pm

**Cynthia T. Tiong**  
Deputy Clerk, Superior Court of Guam