

2024 NOV 21 PM 2: 29

SUPERIOR COURT
OF GUAM

IN THE SUPERIOR COURT OF GUAM

PEOPLE OF GUAM,

v.

ANTHONY FERNANDEZ REYES
(aka TONY),
DOB: 06/23/1991

Defendant.

Criminal Case No. CM0002-21
GPD Report Nos. 20-32730 / 21-00012

DECISION AND ORDER
GRANTING
THE PEOPLE'S MOTION
TO REVOKE PROBATION

INTRODUCTION

This matter came before the Honorable Alberto C. Lamorena, III on November 8, 2024, for a Revocation Hearing in the above-captioned matter related to Anthony Fernandez Reyes's (aka Tony's) ("Defendant's") failure to abide by his probationary terms. Defendant was represented by Assistant Public Defender Jocelyn Roden. The People of Guam were represented by Assistant Attorney General Jacob Wagner. Having duly considered the Parties' briefs, oral arguments, and the applicable law, the Court now issues the following Decision and Order Granting the People's Motion to Revoke Probation.

BACKGROUND

On April 6, 2022, Defendant entered a deferred plea of guilty to Family Violence (as a Misdemeanor). See Order After Hearing (Apr. 28, 2022). The Court would later accept Defendant's plea and adjudicate him guilty on May 20, 2024 following Defendant's failures to abide by his probationary terms. See Judgment of Conviction (Nov. 6, 2024). A judgment was entered imposing the following relevant conditions of probation:

- **MANDATORY TESTING:** Defendant shall submit to random alcohol and drug testing under the supervision of the Adult Probation Office.

- 1 • **STAY AWAY FROM VICTIM:** Defendant shall stay away, directly, and
2 indirectly from Peter Fernandez Reyes, Jr. (“Victim”) and shall not contact the
3 same by telephone, in writing, via email, via text message, through social media,
4 via any electronic device, or through a third-party, including a family member or
5 friend.
- 6 • **STAY AWAY FROM VICTIM:** Defendant shall stay away from the residence,
7 dwelling, school, day care center, or place of employment of Victim, or any other
8 specified place, and shall not come within five hundred (500) feet of the above
9 specified places.
- 10 • **HARRASSING OR HARMING VICTIM:** Defendant shall not harass, threaten,
11 physically strike, or injure Victim.
- 12 • **LAWS:** Defendant shall obey all federal and local laws of Guam.

13 Id.

14 On June 10, 2024, a Violation Report was filed informing the Court that Defendant had
15 skipped several scheduled drug tests. See Ninth Violation Report (Jun. 10, 2024).

16 On September 25, 2024, another Violation Report was filed informing the Court that
17 Defendant had violated the Victim’s stay-away order and violently assaulted Victim with a series of
18 punches to the head. See Tenth Violation Report (Sep. 25, 2024).

19 On October 11, 2024, the People filed their Motion to Revoke Defendant’s Probation and
20 Impose Jail Sentence (“Motion”). The People base their request on Defendant’s non-compliance with
21 numerous probation conditions. See Motion (Oct. 11, 2024). Opposing the Motion, Defendant claims
22 he retains the ability to complete the terms of his probation if given another chance. See Opposition
23 to Motion (Oct. 28, 2024).

24 On November 8, 2024, the Court held a Revocation Hearing and subsequently took the
25 matter under advisement. See Minute Entry (Nov. 8, 2024).

26 **DISCUSSION**

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1 Guam law specifies the procedures that the Court must follow for revocation of probation.

2 The relevant statute, in its entirety, states as follows:

3 [T]he court, if satisfied that the offender has inexcusably failed to comply with a
4 substantial requirement imposed as a condition of the order may revoke the
5 suspension or probation and sentence or re-sentence the offender. Violation of a
6 condition shall not result in revocation, however, unless the court determines that
7 revocation under all the circumstances then existing will best satisfy the ends of
8 justice and the best interests of the public.

9 See 9 G.C.A. § 80.66(a)(2) (1980).

10 The process for revoking an offender’s probation has been further explained by the Guam
11 Supreme Court as follows:

12 Probation revocation is a two-step process. First, the trial court must make a factual
13 determination that a violation of probation actually has occurred. If a violation is
14 proven, then the Court must determine if the violation warrants revocation of the
15 probation.

16 See *People of Guam v. Camacho*, 2009 Guam 6 ¶ 27 (internal citations omitted). To revoke a
17 defendant’s probation, evidence and facts presented to the Court must be “reasonably necessary to
18 satisfy the judge that the probationer’s conduct has not been as required by the conditions of
19 probation.” Id. at ¶ 30 (*citing* *People v. Angoco*, 1998 Guam 10).

20 The Court also cannot order revocation unless the offender is provided with written notice
21 of grounds for revocation of probation. See 9 G.C.A. § 80.68(a). At the hearing, the offender shall
22 “have the right to hear and controvert the evidence against him, to offer evidence in his defense and
23 to be represented by counsel.” Id. Should the Court revoke an offender’s probation, “it may impose
24 on the offender any sentence that might have been imposed originally for the crime of which he
25 was convicted.” See 9 G.C.A. § 80.66(b).

26 It remains undisputed that Defendant violated his probation conditions and that there is
27 probable cause to support the violations. The Victim’s sworn written declaration details how
28 Defendant violated the stay-away order by entering Victim’s property and violently assaulting him.

1 See Tenth Violation Report (Sep. 25, 2024). The Adult Probation Office records also show how
2 Defendant skipped three scheduled drug tests over a month-long period. See Ninth Violation
3 Report (Jun. 10, 2024).

4
5 Having found that Defendant was in violation of his probation requirements, the next
6 question the Court must resolve is whether “revocation under all the circumstances . . . will best
7 satisfy the ends of justice and the best interests of the public.” See 9 G.C.A. § 80.66(a)(2).

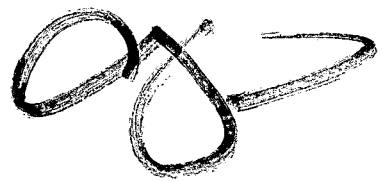
8 Based on a review of the record, Defendant has exhausted the trust of the Court by violating
9 numerous probationary conditions. Defendant repeatedly violated the same probationary
10 conditions over and over again, skipping multiple scheduled drug tests. Defendant also violated
11 previous court orders by contacting Victim and violently assaulting Victim. This is especially
12 concerning given that Defendant’s probation was originally imposed for having committed Family
13 Violence against the same Victim.

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15 Were probation continued, it appears unlikely that any significant progress would be made
16 in positively altering Defendant’s behavior and ensuring compliance with the Court’s orders.
17 Therefore, the Court finds that revocation is in the public’s best interest and satisfies the ends of
18 justice. See 9 GCA § 80.66(a)(2).

19
20 **CONCLUSION**

21 For the reasons stated above, the Court hereby **REVOKES** the Defendant’s probation in the
22 above-captioned matter. The Defendant is hereby **SENTENCED** to **one (1) year incarceration** at
23 the Department of Corrections, Mangilao with credit for time served. This period of incarceration
24 shall be served *consecutive* to Defendant’s incarceration in **CM0277-21**. After the completion of
25 the Defendant’s sentence the Court shall close the above-captioned case.

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27 **IT IS SO ORDERED** this November 21, 2024.



HONORABLE ALBERTO C. LAMORENA III
Presiding Judge, Superior Court of Guam

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