

FILED
SUPERIOR COURT
OF GUAM

2017 JUL 14 PM 12:44

CLERK OF COURT

BY: 

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6 **IN THE SUPERIOR COURT**
7 **OF GUAM**

8 THE PEOPLE OF GUAM,

) CRIMINAL CASE No. CF0421-15
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9
10 v.

) **DECISION AND ORDER**
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11 MARK A. TORRE, JR.,

12 Defendant.
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15 **STATEMENT OF THE CASE**

16 This matter is before the Honorable Judge Michael J. Bordallo. The People are
17 represented by Assistant Attorney General Phillip J. Tydingco. Defendant is represented by
18 attorney Joaquin C. Arriola. Having reviewed the memorandum and papers presented, the
19 Court now issues the following decision granting Defendant's motion for release on bail
20 pending appeal.
21

22 **BACKGROUND**

23 This matter arises out of an indictment filed by the People on July 24, 2015. Defendant
24 filed his Motion for Release on Bail pending Appeal on June 22, 2017. The People filed their
25 opposition to Defendant's motion on July 12, 2017. There was no reply.
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PRINCIPLES OF LAW

Under 8 GCA § 40.85: Release After Conviction Pending Appeal; Conditions.

- (a) A person who has been convicted of an offense and is either awaiting sentence or has filed an appeal, shall be released pursuant to §§ 40.15 or 40.20 pending the imposition of sentence or the final determination of the appeal, by the court having jurisdiction of the case, unless the court has reason to believe that no one or more conditions of release will reasonably assure that the person will not flee or pose a danger to any other person or the community. If such a risk of flight or danger is believed to exist, or if it appears that an appeal is frivolous or taken for delay, the person may be ordered detained.

ANALYSIS

Defendant moves to be released on continued house arrest, third party custodians, and posting of the family home as bail pending appeal. Mot. at 3. The People argue that 1) Defendant has not filed an appeal to trigger a release of defendant pending appeal, and 2) Defendant's intent to appeal all of the proceedings in this case shows that Defendant attempts to delay the serving of his imprisonment. Opp'n at 2-3.


Guam's bail statute mandates that defendant be released unless the defendant is a flight risk or poses a danger to any other person or the community. Defendant has complied with all the conditions of his pre-trial release, and incurred no violations during the two year period. Additionally, Defendant has appeared to all hearings and Court proceedings. Lastly, there has been no evidence that Defendant is a flight risk or poses a danger to the community. Therefore, the Court will preliminarily grant Defendant's motion on this basis.

A final judgment has not been entered in this matter to trigger the timely filing of an appeal. Thus, the Defendant cannot file an appeal. The parties have briefed the issue of restitution and the Court will hold an evidentiary hearing for restitution on July 26, 2017 at 9:00AM.

1 **CONCLUSION**

2 Based on the foregoing, Defendant's motion for release on bail pending appeal is
3 **GRANTED**. Upon the final judgment being entered, Defendant's release will be revoked if he
4 does not timely file an appeal. If the Defendant timely files an appeal, the People may move to
5 revoke the Defendant's release if it believes the appeal is frivolous or made for the purpose of
6 delay.
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9 SO ORDERED, this 14th day of July 2017.
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14 HONORABLE MICHAEL J. BORDALLO
15 Judge, Superior Court of Guam
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