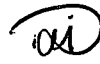


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SUPERIOR COURT  
OF GUAM

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CLERK OF COURT

BY: 

IN THE SUPERIOR COURT OF GUAM

PEOPLE OF GUAM,

vs.

**GREGORIO TRIO DENAMARQUEZ, JR.,**

Defendant.

CRIMINAL CASE NO. **CF0260-22**

**DECISION AND ORDER**

**INTRODUCTION**

This matter came before the Honorable Vernon P. Perez on June 20, 2023, for hearing on Defendant **GREGORIO TRIO DENAMARQUEZ, JR.**'s ("Defendant") Motion for Discovery Brady. Present were Assistant Attorney General Christine S. Tenorio on behalf of the People of Guam ("the Government") and Defendant with counsel, William L. Gavras. Having reviewed the pleadings, the arguments presented, and the record, the Court now issues the following Decision and Order.

**BACKGROUND**

On May 2, 2023, a grand jury indicted Defendant with five counts of Second Degree Criminal Sexual Conduct (As a First Degree Felony). (Indictment, May 2, 2023). These charges stem from allegations that Defendant touched a young female minor known to him on the buttock, inner thigh, and primary genital area over the course of several years. (Decl. of Jeremiah Luther, Magistrate's Compl., Apr. 22, 2022).

On May 8, 2023, Defendant filed the instant Motion. On June 6, 2023, the Government filed its Opposition. On June 13, 2023, Defendant filed his Reply.

1 On June 20, 2023, the Court heard brief arguments on the Motion and subsequently placed  
2 the matter under advisement.

### 3 DISCUSSION

4 Defendant moves the Court to compel the Government to turn over “facts (including  
5 statements) the A.G. uncovered and obtained in its prosecution of Gregorio Denamarquez, Sr.”  
6 (Mot. Compel at 2). Defendant sets forth that the “prosecution of Denamarquez, Sr. is *Brady*  
7 material as the [alleged victim’s] sister is integral to the [bringing] of these charges in that her  
8 talk with the [alleged victim] led to these charges being brought. The specifics contained within  
9 the A.G.’s file are equally valuable to Defendant and constitute *Brady* material as they necessarily  
10 explain some of the underlying facts leading to the instant prosecution of Defendant.” *Id.* at 3.  
11 In its Opposition, the Government indicates that Defendant’s father, Gregorio Denamarquez, Sr.,  
12 has not been charged by the Office of the Attorney General of Guam and that it was unaware of  
13 an investigation concerning him until the Motion was filed. (Opp’n at 2). The Government now  
14 has in its possession a police report concerning Defendant’s father regarding allegations made by  
15 the victim’s older sister, S.D.J. (DOB: 10/07/2002). *Id.* According to the Government, “officers  
16 of the Guam Police Department have confirmed that there is an open investigation against  
17 Denamarquez Sr. and [he] has not been arrested yet.” *Id.* The Government opposes turning over  
18 the police report because (1) it is confidential as part of an open investigation and (2) it does not  
19 constitute exculpatory evidence or *Brady* material. *Id.* at 2-5. Under Guam law, police reports  
20 “are confidential and exempt from public inspection except as ordered by a court.” 10 G.C.A. §  
21 77129.

22 As a preliminary matter, the Court notes that “[t]here is no general constitutional right to  
23 discovery in a criminal case.” *People v. Orallo*, 2004 Guam 5 ¶ 9 (quoting *Weatherford v. Bursey*,  
24 429 U.S. 545, 559 (1977)) (alteration in original). “[T]he right to pre-trial discovery is strictly  
25 limited to that which is permitted by statute or court rule mandated by constitutional guarantees.”  
26 *Id.* (quoting *Cole v. State*, 835 A.2d 600, 608 (Md. 2003)). Guam law provides that upon a  
27 defendant’s noticed motion, the court must order the prosecutor to disclose information  
28 enumerated under 8 G.C.A. § 70.10 that is “within his possession or control, the existence of

1 which is known, or by the exercise of due diligence may become known to the prosecuting  
2 attorney.” 8 G.C.A. § 70.10(a). “The disclosure of exculpatory evidence is required by section  
3 70.10(a)(7) which codifies and expands upon the constitutional due process requirement, set forth  
4 in *Brady v. Maryland*, 373 U.S. 83 (1963), that the prosecution must disclose evidence favorable  
5 to the defendant which is material to guilt or punishment.” *Orallo*, 2004 Guam 5 ¶ 12. *Brady*  
6 evidence “includes impeachment evidence relating to government witnesses.” *People v. Fisher*,  
7 2001 Guam 2 ¶ 12 (citing *United States v. Bagley*, 473 U.S. 667, 676 (1985)). “In addition to  
8 these mandatory disclosures, the court may order, in its discretion, that the prosecution turn over  
9 other evidence upon a showing of materiality to the preparation of his defense and that the request  
10 is reasonable.” *People v. Mateo*, 2017 Guam 22 ¶ 15 (quoting 8 G.C.A. § 70.15(a)). “[U]nder  
11 both sections 70.10 and 70.15, as well as our holding in *Tuncap*, a threshold showing of  
12 materiality must be established before the prosecution is obligated to turn over evidence to the  
13 defendant either automatically (under section 70.10 and *Brady*) or following a motion by the  
14 defendant (under section 70.15).” *Id.*

15 As there is no charged criminal case against Defendant’s father, Denamarquez, Sr., the  
16 only issue before the Court at this time is whether the police report must be turned over as  
17 discovery to Defendant. The Government indicates that it has “reviewed the police report and  
18 [has] confirmed that the victim in the Denamarquez Jr. case and Denamarquez, Jr. are not  
19 mentioned anywhere in the report.” (Opp’n at 2). The Court is inclined to agree with the  
20 Government that “[t]he requested information – any statements given [by] the Victim’s sister to  
21 the Guam Police Department regarding an individual that [is] neither a defendant in the instant  
22 case nor a witness – does not negate the guilt of Defendant.” *Id.* at 4. The Court will not order  
23 the Government to turn over the police report regarding Defendant’s father, Denamarquez, Sr.  
24 Defendant can cross-examine both the alleged victim and her older sister at trial as to how the  
25 charges against Defendant in the instant matter were brought.

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1 **CONCLUSION**

2 For the foregoing reasons, the Court hereby DENIES Defendant's Motion for Discovery.  
3 A **Status Hearing** is set for **October 3, 2023 at 9:30 a.m.** Parties should be prepared to discuss  
4 trial dates at that time.

5 **IT IS SO ORDERED** this 19<sup>th</sup> day of September, 2023.  
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9 HONORABLE VERNON P. PEREZ  
10 Judge, Superior Court of Guam  
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