

1 CRIMINAL SEXUAL CONDUCT (As a Second-Degree Felony); (2) ATTEMPTED THIRD-
2 DEGREE CRIMINAL SEXUAL CONDUCT (As a Second-Degree Felony – 2 Counts); and (3)
3 FOURTH-DEGREE CRIMINAL SEXUAL CONDUCT (As a Misdemeanor – 2 Counts).

4 On February 28, 2025, the Defendant filed a Motion for Decertification and Transfer to
5 Family Court (“the Motion”), arguing that “[i]n balancing the factors, under 19 GCA § 5106,
6 the facts and circumstances of this case weigh in favor of transfer to juvenile court.” *See*
7 *generally* Def.’s Mot. for Decert. & Transfer to Fam. Ct. (Feb. 28, 2025). Specifically, the
8 Defendant argues that the absence of a history of prior delinquency and the Defendant’s
9 participation in IEP based educational programming favors the granting of the Defendant’s
10 Motion. *Id.* On March 14, 2025, the People of Guam (“the People”), filed its Opposition to the
11 Defendant’s Motion, arguing that the Court should deny the Defendant’s Motion because (1)
12 this case involved “multiple incidents, proving that the Defendant [was] already engaged in
13 recidivist conduct,” (2) “[t]he Defendant’s egregious conduct [was] deserving of adult
14 treatment,” and (3) “an evidentiary hearing [was] necessary to make a conclusion on the
15 Defendant’s potential for rehabilitation.” *See generally* People’s Opp. to Def.’s Mot. to Transfer
16 to Fam. Ct. (Mar. 14, 2025). On March 21, 2025, the Defendant filed his Reply to the People’s
17 Opposition, arguing that although the Defendant did not oppose an evidentiary hearing, the
18 Defendant did not have the burden of establishing rehabilitation potential because the Court
19 only needed to find that there was a reasonable likelihood that the minor could be rehabilitated
20 before the expiration of the juvenile court’s jurisdiction pursuant to 19 GCA § 5106(d)(7). *See*
21 *generally* Def.’s Reply to the People’s Opp. (Mar. 21, 2025). After hearing oral arguments on
22 the Motion on April 9 and May 6, 2025, the Court then took the matter under advisement.
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DISCUSSION

In deciding whether to transfer the Defendant to Family Court, the Court looks to 19 GCA § 5106 for guidance. The statute states in relevant part:

- (a) A child who is sixteen (16) years of age or older at the time he committed the offense for which he is charged shall automatically be charged as an adult for any act which would constitute a felony of the first or second degree along with any acts which are misdemeanors or felonies of the third degree which are part of the same scheme of criminal activity as the felony. If a child is under sixteen years of age at the time he committed the offense for which he is charged, and if the conduct would constitute an offense under 9 GCA Chapter 16 (Homicides), and if the court after full investigation deems it contrary to the best interest of such child or of the public to retain jurisdiction, the court may, in its discretion, certify such child for proper criminal proceedings to any court which would have trial jurisdiction of such offense if committed by an adult.

19 GCA § 5106(a). In this case, the Defendant was automatically charged as an adult because he was sixteen at the time of the offenses. To grant the Defendant's transfer to Family Court, the Court must now determine, based on clear and convincing evidence, whether the best interests of Defendant would be amenable to care, treatment, and training programs offered in the juvenile justice system. To do so, the court must balance the following factors:

- (d) Notwithstanding Subsection (a) of this Section, on motion of either the prosecutor or defendant, or *sua sponte* by the Court, the complaint or indictment may be transferred to the jurisdiction of the Family Court upon a finding based on clear and convincing evidence that the best interest of the minor would be amenable to the care, treatment, and training programs available through the facilities of the juvenile court based on an evaluation of the following:

- (1) the age of the minor;
- (2) the history of the minor, including:
 - (A) any previous delinquent or criminal history of the minor;
 - (B) any previous abuse or neglect history of the minor; and
 - (C) any mental health, physical or educational history of the minor, or a combination of these factors;
- (3) the circumstances of the offense, including:
 - (A) the seriousness of the offense;
 - (B) whether the minor is charged through accountability;

- 1 (C) whether there is evidence the offense was committed in an
aggressive and premeditated manner;
2 (D) whether there is evidence the offense caused seriously bodily
harm; and
3 (E) whether there is evidence the minor possessed a deadly
weapon;
4 (4) the advantages of treatment within the juvenile justice system,
including, whether there are facilities or programs, or both,
5 particularly available in the juvenile system;
6 (5) whether the security of the public requires sentencing under Title
9, Chapter 80 of the Guam Code Annotated;
7 (6) the minor's history of services, including the minor's willingness
8 to participate meaningfully in available services;
9 (7) whether there is a reasonable likelihood that the minor can be
rehabilitated before the expiration of the juvenile court's
10 jurisdiction; and
11 (8) the adequacy of the punishment or services.

12 In considering these factors, the court shall give greater weight to the
seriousness of the alleged offense and the minor's prior record of delinquency
13 than to the other factors listed in this Subsection.

14 19 GCA § 5106(d).

15 **(1) Age of the Minor**

16 As to the first factor, the court must review the age of the minor when considering
17 whether it falls in favor of transfer to Family Court. The Defendant urges the Court to follow the
18 approach the Court took in *People v. Concepcion*, CF0222-12, where Defendant Concepcion
19 was seventeen (17) years old indicted with two (2) counts of First Degree Criminal Sexual
20 Conduct (As a First-Degree Felony) and two (2) counts of Second Degree Criminal Sexual
21 Conduct (As a First-Degree Felony) against a minor who was fourteen (14) years old at the time
22 of the alleged offense, and the Court granted Defendant Concepcion's Motion for
23 Decertification. Def.'s Mot. at 4; *see also* Dec. & Order Re Mot. for Decertification
24 ("Concepcion D&O"), *People v. Jude Kristopher Concepcion*, Superior Court Criminal Case
25 No. CF0222-19 (July 12, 2019). The People distinguishes this case from *Concepcion* in that all
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1 the *Concepcion* parties (i.e., the Defendant, the victim, and their family) agreed with removal to
2 Family Court whereas the victim in this case opposes removal to Family Court. Pl.'s Opp. at 3.
3 The People further differentiates this case from *Concepcion* in that *Concepcion* involved a
4 singular incident whereas this case involves multiple incidents. The Court is not persuaded that
5 this case is far different from *Concepcion*.

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7 Here, the Defendant is now seventeen (17) years old; however, the Defendant was
8 sixteen (16) years old at the time of the offenses in this case. Because the Defendant is closer to
9 becoming an adult, his susceptibility to influence may be less than that of a younger teenager or
10 child. Nonetheless, this first factor weighs in favor of the Defendant's transfer to Family Court.

11 **(2) History of the Minor**

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13 Under the second factor, the court must review the history of the minor, which includes
14 the minor's previous delinquent or criminal history; previous abuse or neglect; and mental
15 health, physical, or educational history. 19 GCA § 5106(d)(2). Notably, a minor's prior record
16 of delinquency is a factor that the court *shall* give greater weight to compared to other
17 enumerated factors. 19 GCA § 5106(d).

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19 Because this factor asks the court to review previous abuse or neglect of the Defendant,
20 the court must consider the record before it. In regards to the Defendant's history, the court's
21 records indicate that he previously attended Career Tech High Academy Charter School and has
22 an eleventh-grade education as of the date of this decision. Since his arrest, he has been placed
23 on house arrest with no school. The court acknowledges that the Defendant has no prior criminal
24 history nor any juvenile delinquency case/arrest before the Family Court. The record indicates
25 that the Defendant also has no history of abuse or neglect; however, throughout his academic
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1 years, the Defendant has been under the Special Education Division that provides structure and
2 accommodations for his special learning diagnosis.

3 Although the People acknowledges that the two biggest factors are the seriousness of the
4 offense and the Defendant's prior record, it failed to address the Defendant's prior history or
5 lack thereof. Thus, in light of the record before it, the court finds that the second factor weighs
6 in favor of the Defendant's transfer to Family Court.
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8 **(3) Circumstances of the Offense**

9 As to the third factor, the court reviews several circumstances of the offense, such as:
10 seriousness of the offense; whether the minor is charged through accountability; evidence of the
11 offense being committed in an aggressive and premeditated manner; evidence of serious bodily
12 harm; and possession of a deadly weapon. 19 GCA § 5106(d)(3). Like the minor's prior record
13 of delinquency, the court *shall* also give greater weight to the seriousness of the alleged offense
14 compared to the other factors. 19 GCA § 5106(d).
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16 Here, the Defendant is charged with second-degree felonies, each of which are offenses
17 that automatically certified him to be charged as an adult. However, the Defendant did not
18 engage in the use of a deadly weapon or illegal drugs, and the Defendant's actions did not
19 involve serious bodily injury. Although the People urges the court to the frequency of the
20 alleged incident (i.e., multiple incidents of the offense(s)), the court is also urged to consider that
21 the Defendant was about sixteen (16) years old when the incidents occurred.
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23 Despite the Defendant's alleged multiple incidents and the seriousness of the offenses,
24 the court cannot ignore that the Defendant was below the age of the majority at the time of the
25 offenses. Thus, this factor weighs in favor of the Defendant's transfer to Family Court.
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(4) Advantages of the Juvenile Justice System

As to the fourth factor, the court must look at the advantages of treatment facilities or programs that are particularly available in the juvenile system. 19 GCA § 5106(d)(4). In the Defendant's Motion, he generally claims that the juvenile system would better address his educational needs because the structure provided within the juvenile justice system can ensure that the Defendant's educational needs are addressed and met due to his history of being in the Individualized Education Program¹ ("IEP") at his current school. The Defendant also claims that the juvenile court can also order counseling services from various service providers, such as Guam Behavioral Health and Wellness Center ("GBHWC") and Client Services and Family Counseling ("CSFC"), which has a greater structure for tracking, assessing, and monitoring the Defendant's progress and ensure his rehabilitation.

Finally, the Defendant's school has shared their concerns related to the Defendant's IEP situation and his ability to comprehend via online classes versus in-person or on-hand learning, which the Defendant is more receptive to. Therefore, this factor weighs in favor of the Defendant's transfer to Family Court.

(5) Security of the Public

This factor asks whether the Defendant should be sentenced for the sake of the public's security. As mentioned prior, the Defendant has no prior cases of delinquency, no prior arrests and no prior convictions, and while the charges of the indictment are serious in nature, the Defendant was not alleged to have caused bodily injury, or engage in the use of a deadly weapon or illegal drugs. The court's position is that the Defendant and the community would benefit

¹ The IEP is a legal document under United States law that is developed for each public-school child in the U.S. who needs special education.

1 from the close monitoring and periodic hearings afforded by the Family Court. Thus, this factor
2 weighs in favor of the Defendant's transfer to Family Court.

3 **(6) Minor's History of Services and Willingness to Participate in Services**

4 This factor asks the court to look at the Defendant's history of services. As of the date of
5 this decision, there have been no showings that the Defendant is unwilling or unreceptive to
6 participate in services. The Defendant emphasizes that this adult criminal matter has limited his
7 opportunities to be placed outside of the Department of Youth Affairs. Further, this factor also
8 asks the court to look at whether the Defendant is willing to "meaningfully participate in
9 available services." 19 GCA 5106(d)(6). Here, the Defendant expressed his willingness to work
10 with court and community partners to better his life, and the Defendant has a mother who is
11 willing to be involved in the services deemed appropriate. Because the court believes that such
12 services would benefit the Defendant and that the provided services would align with the
13 Defendant's IEP plan, the court finds that this factor weighs in favor of the Defendant's transfer
14 to Family Court.
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17 **(7) Reasonable Likelihood of Rehabilitation**

18 This factor would weigh in favor of the Defendant's transfer to Family Court if there is a
19 reasonable likelihood that the Defendant can be rehabilitated before the juvenile court's
20 jurisdiction expires. 19 GCA § 5106(d)(7). As mentioned earlier, the Defendant is currently
21 seventeen (17) years old. 19 GCA § 5105 allows Family Court to retain jurisdiction until the
22 Defendant turns twenty-one (21) depending on the circumstances. If the court were to grant the
23 Defendant's transfer to Family Court, Family Court could have jurisdiction until August 21,
24 2028, for Defendant Chargualaf.
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1 The Defendant's willingness to engage in treatment and services coupled with the
2 support from his mother indicates a high likelihood of successful treatment. The treatment that
3 accompanies Family Court is better structured to support the needs of the Defendant and
4 transferring the case to Family Court would allow the Defendant to "learn and master brand new
5 skills regarding appropriate behaviors and coping with stressors and trauma." *See People v. Juan*
6 *Alberto Gonzalez, Jr.*, Superior Court of Guam Case No. CF0806-23. Therefore, this factor
7 weighs in favor of the Defendant's transfer to Family Court.
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9 **(8) Adequacy of the Punishment**

10 The last factor looks at how adequate the punishment or services would be for the
11 Defendant. In this case, the Defendant faces one (1) to eight (8) years for the top felony offenses
12 he was charged for allegedly committing. However, if this case were to be remanded to the
13 juvenile court, any punishment would be more individualized, focused, and enforced in that
14 court. The court is convinced that seventeen is too young of an age to label the Defendant as
15 irredeemable and beyond rehabilitation. Family Court would allow the Defendant to mature into
16 a contributing adult all while enforcing extensive measures if they become necessary. Therefore,
17 this factor weighs in favor of the Defendant's transfer to Family Court.
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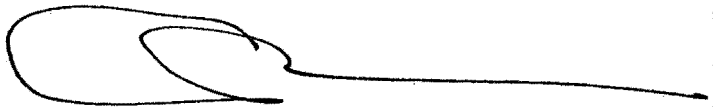
20 After analyzing all factors under 19 GCA § 5106(d), the court found that all factors
21 weighed in favor of Defendant Chargualaf's transfer to Family Court. Therefore, the court finds,
22 based on clear and convincing evidence, that the best interests of Defendant Jayden Chargualaf
23 would be amenable to the care, treatment, and training programs available through the juvenile
24 court system.
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CONCLUSION

For the reasons set forth above, the court **GRANTS** Defendant Jayden Anthony Leon Guerrero Chargualaf's Motion for Decertification and Transfer to Family Court.

SO ORDERED this AUG 06 2025.



HONORABLE ALBERTO E. TOLENTINO
Judge, Superior Court of Guam

SERVICE VIA E-MAIL

I acknowledge that an electronic copy of the original was e-mailed to:

AG, POSE

Date: 8/6/25 Time: 12:28pm

Antoniagh Cour
Deputy Clerk, Superior Court of Guam