

2023 SEP -8 PM 5: 07

CLERK OF COURT

BY: 

IN THE SUPERIOR COURT OF GUAM

PEOPLE OF GUAM,

Plaintiff,

v.

ANTHONY INEK
(aka ANTWAN INNEK),
DOB: 12/26/1998

Defendant.

Criminal Case No. CF0728-22
GPD Report Nos.: 22-19742 / 22-26396 /
22-28594 / 22-30711 /
22-31992

**DECISION AND ORDER
GRANTING REVOCATION OF
PROBATION**

INTRODUCTION

This matter came before the Honorable Alberto C. Lamorena, III on August 10, 2023 for hearing on the People of Guam’s Motion to Revoke Defendant’s Probation and Impose Jail Sentence (“Motion”). The People of Guam were represented by Assistant Attorney General Kristine Borja. Anthony Inek (*aka* Antwan Innek) (“Defendant”) was represented by James Spivey of the Private Attorney Panel. Having duly considered the Parties’ briefs and the applicable law, the Court now issues the following Decision and Order Granting Revocation of Probation.

BACKGROUND

On January 30, 2023, Defendant pled guilty to Theft (as a Misdemeanor). See Judgment of Conviction (Mar. 1, 2023). A judgment was entered imposing the following relevant conditions of probation:

- **LAWS:** The Defendant shall obey all federal and local laws of Guam.

- **NO DRUGS:** The Defendant shall not possess or consume any illegal controlled substances.

Id.

In June 2023, a violation report was filed indicating that Defendant was arrested and indicted and charges of Possession of a Schedule II Controlled Substance (as a 3rd Degree Felony) and Aggravated Assault (as a 3rd Degree Felony) in CF0247-23. See 1st Violation Report (Jun. 23, 2023).

After Defendant's arrest, the People filed their Motion to Revoke Defendant's Probation and Impose Jail Sentence. Defendant opposes revocation, believing it to be improper given that he has yet to be convicted of any offense in CF0247-23. See Opposition to Motion at 1-2 (Jun. 19, 2023).

On August 10, 2023, the Court held a Revocation Hearing and subsequently took the matter under advisement. See Minute Entry (Aug. 10, 2023).

DISCUSSION

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

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

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

See 9 G.C.A. § 80.66(a)(2) (1980).

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

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

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

9 The Court also cannot order revocation unless the offender is provided with written notice
10 of grounds for revocation of probation. See 9 G.C.A. § 80.68(a) (1980). At the hearing, the
11 offender shall "have the right to hear and controvert the evidence against him, to offer evidence
12 in his defense and to be represented by counsel." *Id.* Should the Court revoke an offender's
13 probation, "it may impose on the offender any sentence that might have been imposed originally
14 for the crime of which he was convicted." See 9 G.C.A. § 80.66(b).

15 It remains undisputed that Defendant was in violation of his probation conditions and that
16 there was probable cause to support the violations. The Defendant stands indicted on multiple
17 felonies in CF0247-23, from conduct allegedly perpetrated just two months from the taking of his
18 plea. See 1st Violation Report (Jun. 23, 2023). Defendant's conduct includes possessing
19 methamphetamine and slingshotting a victim with metal fragments. *Id.*

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

23 Based on a review of the record, it is clear that Defendant has exhausted the trust of the
24 Court by violating numerous conditions of his probation. Defendant was arrested and indicted in
25 CF0247-23 just two months after entering probation in this case. By blatantly violating his
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