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CLERK OF COURT
IN THE SUPERIOR COURT OF GUAM

BY: 

Criminal Case No. CF0286-21
GPD Report No. 21-13889

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

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4
5 **PEOPLE OF GUAM,**

6 v.

7 **EMELIO TRAY BORJA**
8 *(aka EMELIO TROY BORJA)*
9 *(aka EMILIO TRAY BORJA)*
10 *(aka ELILO TRAY BORJA),*
11 **DOB: 12/07/1999**

Defendant.

12 **INTRODUCTION**

13 This matter came before the Honorable Alberto C. Lamorena, III on March 12, 2024 for a
14 Revocation Hearing in the above-captioned matter related to Emelio Tray Borja's (*aka* Emelio Troy
15 Borja's) (*aka* Emilio Tray Borja's) (*aka* Elilo Tray Borja's) ("Defendant's") failure to abide by his
16 probationary terms. Defendant was represented by Assistant Public Defender Jocelyn Roden. The
17 People of Guam were represented by Assistant Attorney General Grant Olan. During the hearing,
18 the Court revoked the Defendant's probation, sentenced defendant to one (1) year incarceration,
19 and now issues this written decision memorializing its ruling.
20

21 **BACKGROUND**

22 On December 30, 2021, Defendant pled guilty to two counts of Family Violence (as a
23 Misdemeanor). See Judgment of Conviction (Jan. 6, 2022). A judgment was entered imposing the
24 following relevant conditions of probation:
25

- 26
- 27 • **NO DRUGS:** Defendant shall not possess or consume any illegal controlled
substances or marijuana.
 - 28 • **LAWS:** Defendant shall obey all federal and local laws of Guam.

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. Since entering probation, Defendant has engaged in and
28 subsequently been convicted of Criminal Mischief (as a Misdemeanor) in CM0007-23. Defendant

1 has also tested positive for several illegal drugs and failed to obey court orders to show up at his
2 scheduled hearings.

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

7 Based on a review of the record, it is clear that Defendant has exhausted the trust of the
8 Court by violating his probationary conditions. Defendant received multiple Violation Reports for
9 conduct that covers the better part of a year. Many of these are serious violations, including a
10 conviction for new criminal conduct committed while on probation. This suggests Defendant is
11 either unable or unwilling to follow his probation conditions if given another chance.
12

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

18 **CONCLUSION**

19 For the reasons stated above, the Court hereby **REVOKES** the Defendant’s probation in the
20 above-captioned matter. The Defendant is hereby **SENTENCED** to **one (1) year incarceration** at
21 the Department of Corrections, Mangilao with credit for time served. This period of incarceration
22 shall be served **concurrently** to Defendant’s incarceration in CF0256-19. After the completion of
23 the Defendant’s sentence the Court shall close the above-captioned case.
24

25 **IT IS SO ORDERED** this March 14, 2024 *nunc pro tunc* to March 12, 2024.

26 
27 **HONORABLE ALBERTO C. LAMORENA III**
28 **Presiding Judge, Superior Court of Guam**