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2025 JAN -8 PM 4: 06

SUPERIOR COURT
OF GUAM

IN THE SUPERIOR COURT OF GUAM

THE PEOPLE OF GUAM

Plaintiff,

Case No. CF0373-24

vs.

**AMENDED DECISION AND ORDER ON
MOTION IN LIMINE**

RICHARD ALLYN LATSNIC

Defendants.

INTRODUCTION

This matter came before the Honorable John C. Terlaje on January 8, 2025, for the Jury Trial of Richard Allyn Latsnic. The Court addressed People's Notice and Motion in Limine to Admit Evidence Under Rule 413. Public Defender Attorney William Bischoff appeared for Defendant Richard Allyn Latsnic and Assistant Attorney General Christine Tenorio appeared for the People of Guam ("People"). In accordance with its ruling from the bench, the Court now issues the following order **GRANTING** the People's Motion in Limine.

PROCEDURE

On January 7, 2025, the People filed its Motion in Limine regarding Guam Rules of Evidence ("GRE") 413. People's Mot. in Lim. No opposition was filed by the Defense. The Court reviewed the motions and applicable law and ruled from the bench on January 8, 2025.

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RULINGS

I. People's Motion in Limine to Admit Evidence Under Rule 413

The Court **GRANTS** the People's Motion to admit evidence pursuant to Rule 413 of the GRE. The People have moved to allow the victim to testify regarding other sex acts that occurred during the charged time period, but which are not charged against the defendant in this case. In *Chinel*, the Guam Supreme Court used a three-factor test to determine whether a prior offense or conduct is admissible. *Chinel*, 2013 Guam 24 ¶ 21. This test includes 1) the present case must include criminal sexual conduct charges, 2) the evidence proffered must be evidence of the defendant's commission of another past act of sexual assault, and 3) the past act must be relevant. This Court has found that the current case involves criminal sexual conduct charges and the evidence proffered includes uncharged instances of sexual acts between the defendant and the victim. Furthermore, the Court finds these acts are relevant as they are similar to the acts charged in this criminal sexual conduct case and involve the same defendant and victim. As stated by the People in its Motion, Rule 413 supersedes Rule 404(b)'s prohibition on similar conduct to show propensity.


The Court has also considered a balancing test as required under Guam Rule of Evidence 403 to determine if the probative value of the 413 evidence is not substantially outweighed by unfair prejudice to a defendant, using the framework provided in *United States v. Lemay*, 260 F.3d 1018, 1026-27 (9th Cir. 2001). *Wesen*, 2022 Guam 18 ¶ 47. Under *Lemay*, the trial court should consider, but is not limited to: 1) the similarity of the prior acts to the acts charged, 2) the closeness in time of the prior acts to the acts charged, 3) the frequency of the prior acts, 4) the presence or lack of intervening circumstances, and 5) the necessity of the evidence beyond the

1 testimonies already offered at trial. *Chinel*, 2013 Guam 24 ¶ 36. The Court finds that the charged
2 sex acts include similar conduct to the other acts the victim may discuss and occurred in the same
3 time period. There are no intervening circumstances, and the victim's testimony is the main
4 evidence that will be offered at trial.
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6 **CONCLUSION AND ORDER**

7 For the above reasons, the Court **GRANTS** the People's Motion in Limine and
8 **ORDERS** the testimony from the victim showing that Defendant Richard Allyn Latsnic
9 engaged in other incidents of sexual conduct with the minor in addition to the charged
10 incidents to be **admissible**.

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12 SO ORDERED, this 8th day of January 2025.

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18 HONORABLE JOHN C. TERLAJE
19 Judge, Superior Court of Guam

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21 **SERVICE VIA EMAIL**
22 I acknowledge that an electronic
23 copy of the original was e-mailed to:

24 AG, POSC
25 Date: 1/10/25 Time: 4:05p
26 Antonio Cruz
27 Deputy Clerk, Superior Court of Guam