

2024 SEP -6 AM 10:00

SUPERIOR COURT
OF GUAM

IN THE SUPERIOR COURT OF GUAM

PEOPLE OF GUAM,

v.

EFSON TERRY,
DOB: 04/13/1991

Defendant.

Criminal Case No. CF0420-17
GPD Report No. 17-20469

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

INTRODUCTION

This matter came before the Honorable Alberto C. Lamorena, III on August 29, 2024, for a Revocation Hearing in the above-captioned matter related to Efson Terry's ("Defendant's") failure to abide by his probationary terms. Defendant was represented by Assistant Public Defender Brian Kegerreis. The People of Guam were represented by Assistant Attorney General Jacob Wagner. Having duly considered the Parties' briefs, oral arguments, and the applicable law, the Court now issues the following Decision and Order Granting the People's Motion to Revoke Probation.

BACKGROUND

On January 13, 2020, Defendant was adjudged guilty of Driving Under the Influence of Alcohol with a Child on Board (as a 3rd Degree Felony) pursuant to Defendant's noncompliance with the terms of the Deferred Plea Agreement entered into on August 15, 2018. See Judgment of Conviction (Jan. 30, 2020). A judgment was entered imposing the following relevant conditions of probation:

- **MANDATORY REPORTING:** Defendant shall report to the Adult Probation Office once a month in person, or as ordered by the Court or the Probation Office.

- 1 • **COUNSELING/TREATMENT:** Defendant shall attend all recommended treatment and
2 classes, pay for any costs for treatment, and abide by all the conditions and instructions
3 of the Court, treatment counselors, and probation officers.
- 4 • **FINE:** Defendant shall pay a **fine of one thousand dollars (\$1,000.00)** plus **court costs**
5 **of eighty dollars (\$80.00)**. All or part of the fine imposed may be converted to community
6 service at the current prevailing minimum wage.
- 7 • **COURT ORDERS:** Defendant shall comply with any court orders entered against
8 Defendant, including orders of family court or any other local or federal court of
9 competent jurisdiction.

10 Id.

11 On November 5, 2021, a Violation Report was filed indicating that Defendant hadn't been
12 reporting to the Probation Office on a monthly basis, had failed to schedule and attend an intake and
13 drug/alcohol assessment at New Beginnings, and hadn't made any progress on paying off either his
14 fines or his court costs. See First Violation Report (Nov. 5, 2021).

15 A Further Proceedings Hearing was scheduled for December 10, 2021 and the Court ordered
16 Defendant to appear. See Summons (Nov. 16, 2021). However, Defendant failed to attend or follow
17 the Court's orders, and a bench warrant was issued for his arrest. See Minute Entry (Dec. 10, 2021);
18 Bench Warrant (Dec. 17, 2021). Defendant spent the next year and a half on the run until his eventual
19 arrest in May 2023. See Return of Warrant Service (May 19, 2023).

20 On August 16, 2023, another Violation Report was filed indicating that Defendant still hadn't
21 scheduled his intake appointment at New Beginnings, and again was failing to report to the Probation
22 Office. See Second Violation Report (Aug. 16, 2023).

23 A Further Proceedings Hearing was scheduled for November 16, 2023 and the Court ordered
24 Defendant to appear. See Summons (Aug. 30, 2023). However, Defendant again failed to attend or
25 follow the Court's orders, and another bench warrant was issued for his arrest. See Minute Entry
26 (Nov. 16, 2023); Bench Warrant (Nov. 27, 2023).

27 On June 24, 2024, the People filed their Motion to Revoke Defendant's Probation and
28 Impose Jail Sentence ("Motion"). The People base their request on Defendant's non-compliance

1 with numerous probation conditions. See Motion (Jun. 24, 2024). Opposing the Motion, Defendant
2 claims he still has time to complete the terms of his probation if given another chance. See
3 Opposition to Motion (Jul. 8, 2024).

4
5 On August 29, 2024, the Court held a Revocation Hearing and subsequently took the matter
6 under advisement. See Minute Entry (Aug. 29, 2024).

7 DISCUSSION

8 Guam law specifies the procedures that the Court must follow for revocation of probation.
9 The relevant statute, in its entirety, states as follows:

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

16 See 9 G.C.A. § 80.66(a)(2) (1980).

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

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

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

27 The Court also cannot order revocation unless the offender is provided with written notice
28 of grounds for revocation of probation. See 9 G.C.A. § 80.68(a). At the hearing, the offender shall
“have the right to hear and controvert the evidence against him, to offer evidence in his defense and

1 to be represented by counsel.” Id. Should the Court revoke an offender’s probation, “it may impose
2 on the offender any sentence that might have been imposed originally for the crime of which he
3 was convicted.” See 9 G.C.A. § 80.66(b).

4
5 It remains undisputed that Defendant violated his probation conditions and that there is
6 probable cause to support the violations. Since entering probation, Defendant has failed to make
7 any progress on paying off his fines or court costs, never scheduled even his initial
8 intake/assessment appointment at New Beginnings, and routinely failed to report to the Probation
9 Office. Defendant has also violated this Court’s orders by failing to appear at numerous scheduled
10 hearings.

11
12 Having found that Defendant was in violation of his probation requirements, the next
13 question the Court must resolve is whether “revocation under all the circumstances . . . will best
14 satisfy the ends of justice and the best interests of the public.” See 9 G.C.A. § 80.66(a)(2).

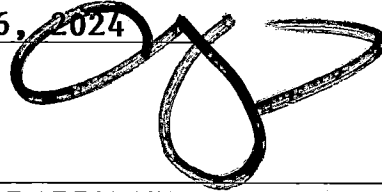
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16 Based on a review of the record, Defendant has exhausted the trust of the Court by violating
17 numerous probationary conditions. Defendant has made very little progress on completing any of
18 his probation conditions in the three years he has been on probation. During that time, Defendant
19 blatantly ignored the Court’s orders, failing to appear at multiple scheduled hearings. Rather than
20 complete his probation conditions, Defendant spent much of that time on the run from authorities
21 while a warrant was out for his arrest.

22
23 Were probation continued, it appears unlikely that any significant progress would be made
24 in positively altering Defendant’s behavior and ensuring compliance with the Court’s orders.
25 Therefore, the Court finds that revocation is in the public’s best interest and satisfies the ends of
26 justice. See 9 GCA § 80.66(a)(2).

27 **CONCLUSION**

1 For the reasons stated above, the Court hereby **REVOKES** the Defendant's probation in the
2 above-captioned matters. The Defendant is hereby **SENTENCED** to **three (3) years**
3 **incarceration** at the Department of Corrections, Mangilao with credit for time served. After the
4 completion of the Defendant's sentence the Court shall close the above-captioned case.
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6 **IT IS SO ORDERED** this September 6, 2024



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8
9 **HONORABLE ALBERTO C. LAMORENA III**
10 **Presiding Judge, Superior Court of Guam**

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24 **SERVICE VIA E-MAIL**

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

AG, PDSC

9/6/24 10:10am

Date Time

Antonio Cruz

Deputy Clerk, Superior Court of Guam