



Supreme Court of Guam

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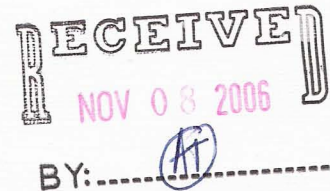


F. PHILIP CARBULLIDO
Chief Justice

JEANNE G. QUINATA
Clerk of Court

ROBERT J. TORRES
Associate Justice

November 8, 2006



Hon. Robert Klitzkie, Senator
Mina'Bente Ocho Na Liheslaturan Guåhan
Chairman of the Committee on the Judiciary
Chairman of the Committee on Calendaring
197 Hernan Cortes Avenue
Hagåtña, Guam 96910

Re: Proposed Legislation Regarding Authorization to Appoint Magistrates and Judicial Hearings Division Hearings Officers and to Authorize Their Assignment to Satellite Court Facilities

Dear Senator Klitzkie:

This letter requests your support for the enclosed proposed legislation to facilitate disposition of matters brought before the Superior Court of Guam. I would like to thank you for your continuous assistance and valuable input since we first began our ongoing reorganization efforts here at the Judiciary. The Legislature's support for this proposed legislation will again illustrate its support for the Judiciary's vision of efficiency, frugality, transparency and accountability.

In furtherance of our commitment to improve efficiency here at the courts, earlier this year we commissioned the National Center for State Courts ("NCSC") to undertake a comprehensive study of the work our Superior Court Judges and our Judicial Hearings Division child support referee perform. The result of the study was the September 2006 Guam Judicial Workload Assessment Final Report. (A copy of that Final Report is enclosed herewith for your convenience.) The NCSC concluded that an additional 1.32 full time judicial officers should be added to the trial court bench in order to maximize the Superior Court's operations. Of important note here is that a "judicial officer" is not necessarily a judge. Further, the NCSC's analytical methodology was based on the current workload of the Superior Court without consideration of changes in our community which will soon be brought about by the influx of military personnel and their dependants. In order to maximize organizational efficiencies and production into the future, I believe it is incumbent upon us to also consider the court's future needs in our planning process.

To add an additional Superior Court judge to the trial bench would cost the government approximately \$406,000 annually and would require construction of an eighth trial courtroom which would involve significant additional costs. As an alternative, the proposed legislation authorizes the appointment of magistrates and Judicial Hearings Division Hearings Officers ("JHD Hearings Officers") as necessary for the proper administration of justice. The magistrates and JHD Hearings Officers would be at no additional cost to the government during fiscal year 2007, and in future years would require far less than the \$406,000 annual price tag an additional judge would entail. Magistrates and JHD Hearings Officers will utilize existing Judicial Center courtrooms during periods of time they are not in use, thus avoiding expensive plant expansion, and existing personnel will be assigned to support the magistrates and JHD Hearings Officers to the extent practicable. As described below, I firmly believe that the work to be handled by magistrates and JHD Hearings Officers will allow our current contingent of seven Judges to more efficiently process their cases in accordance with our recently adopted time standards and to more cost-effectively focus their attentions on challenging, complicated and time-consuming matters before them without the need for an additional Judge.

As contemplated by the proposed bill, the conditions that will apply to a magistrate or JHD Hearings Officer include that he or she will be appointed by the Chief Justice to serve a four year term, removable for cause; must meet the same qualifications as required of a Superior Court Judge; will be subject to the same ethical and judicial standards as a Superior Court Judge or Justice, to include the Guam Rules for Judicial Disciplinary Enforcement; will receive a salary no greater than 90% of a Judge of the Superior Court of Guam's (who is not the Presiding Judge) salary; and will be prohibited from engaging in the outside practice of law. A magistrate will be empowered to hear the following:

- (1) small claims matters, and to issue and hear returns of warrants of arrest in such cases;
- (2) traffic matters, and to issue and hear returns of warrants of arrest in such cases;
- (3) changes of name;
- (4) post-judgment civil matters relative to execution of judgments such as judgment debtor exams, garnishment matters, and writs of execution, and to issue and hear returns of warrants of arrest in such cases;
- (5) first appearances of criminal defendants within the context of Title 8 GCA § 45.30, which include appearances pursuant to Title 8 GCA § 45.10 which are commonly referred to in practice within our local criminal court as "magistrate hearings," as well as appearances pursuant to Title 8 GCA Chapter 15 (summons) and Title 8 GCA § 25.20 (notice to appear), although no authority exists to issue or hear returns of warrants of arrest in such cases;
- (6) set or change bail and conditions of release in criminal cases;

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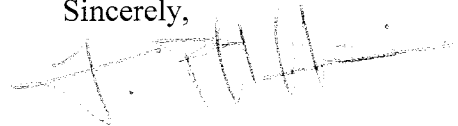
- (7) criminal arraignments, although no authority exists to issue or hear returns of warrants of arrest in such cases; and
- (8) any matters which may be heard by a referee of the Superior Court of Guam.

JHD Hearings Officers, also to be appointed by the Chief Justice, will carry the same duties as the prior Judicial Hearings Division referees pursuant to Chapter 5A of Title 19, Guam Code Annotated.

To better serve the convenience of the public and to further maximize the efficiency and frugality of the Judiciary, the bill also authorizes the Chief Justice to assign magistrates or JHD Hearings Officers to satellite court facilities as he deems appropriate for the proper administration of justice.

We are keenly aware of the tight budgetary times our government is facing. Thus, rather than the \$406,000 annual expense an additional trial judge would require, I believe the more frugal and creative approach of fully utilizing magistrates and JHD Hearings Officers will enable us to successfully address the issues raised by the NCSC.

Sincerely,



F. Philip Carbullido
Chief Justice of Guam

Enclosures