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CLERK OF COURT

IN THE SUPERIOR COURT OF GUAM

PEOPLE OF GUAM,

v.

ROMAN AARON DUENAS ALVAREZ,  
DOB: 07/11/1994

Defendant.

BY: ~~CF0078-22~~ *Q*

GPD Report No. 22-03669 *Q*

*CF0078-22*

**DECISION AND ORDER  
GRANTING  
DEFENDANT’S MOTION TO DISMISS**

**INTRODUCTION**

This matter came before the Honorable Alberto C. Lamorena, III between April 3, 2023 through December 18, 2023 for hearing on Roman Aaron Duenas Alvarez’s (“Defendant’s”) Motion to Dismiss (“Motion”). Assistant Attorney Generals Basil O’Mallan, Yusuke Haffeman-Udagawa, Sean Brown, and Gloria Rudolph represented the People of Guam (“the People”). Attorneys Joaquin Arriola and William Brennan represented Defendant. Having duly considered the parties’ briefs, oral arguments, and the applicable law, the Court now issues the following Decision and Order and **GRANTS** Defendant’s Motion.

**BACKGROUND**

In February 2022, Defendant was arrested and indicted on charges of Attempted Murder (as a 1<sup>st</sup> Degree Felony) with Special Allegation: Possession or Use of a Deadly Weapon in the Commission of a Felony, Aggravated Assault (as a 2<sup>nd</sup> Degree Felony) with Special Allegation: Possession or Use of a Deadly Weapon in the Commission of a Felony, Aggravated Assault (as a 3<sup>rd</sup> Degree Felony) with Special Allegation: Possession or Use of a Deadly Weapon in the Commission of a Felony, and Resisting Arrest (as a Misdemeanor). See Indictment (Feb. 15, 2022).

The charges stem from a fight at the W Nightclub between Defendant and Joseph Q. Taimanglo II (“Baby Joe”). The two briefly scuffled inside the W Nightclub, several punches were thrown, and Baby Joe ultimately placed Defendant in a headlock before both parties were escorted outside. See Court Recording (“CR”) at 1:54:30pm (Apr. 3, 2023); CR at 2:11:30pm (Apr. 4, 2023).

1           Once outside, the parties were separated. See Exhibit U. Defendant and his friend Brandon  
2 Aguon then entered Defendant’s vehicle in an attempt to leave. See CR at 2:11:30pm (Apr. 3, 2023).  
3 However, before Defendant could leave, Baby Joe and his brother, Kelly Taimanglo, approached  
4 Defendant’s vehicle in an aggressive manner. See CR at 11:13:20am (Apr. 3, 2023); CR at 2:16:00pm  
5 (Apr. 4, 2023). Yelling at Defendant, Baby Joe began punching the driver’s side window which was  
6 closed and did not shatter. See CR at 11:51:50am & 2:17:20pm (Apr. 3, 2023); CR at 2:16:00pm-  
7 2:23:00pm (Apr. 4, 2023). Defendant was able to drive out of his parking spot, striking Kelly  
8 Taimanglo with his vehicle in the process. See Exhibit 4. However, Baby Joe then positioned himself  
9 to block Defendant’s exit path from the parking lot. See CR at 11:15:20am (Apr. 3, 2023). At that  
10 point, Defendant accelerated towards Baby Joe, striking him with his vehicle as he left the parking  
11 lot. Id. at 11:15:40am & 2:22:30pm. Defendant then stopped his vehicle across the street at the Fuji  
12 Ichiban parking lot where he was arrested. Id. at 11:36:30am & 2:17:50pm.

13           On November 18, 2022, Defendant filed his Motion to Dismiss. Defendant requests dismissal,  
14 claiming that self-defense is an applicable exculpatory defense, which the People wrongly failed to  
15 instruct the Grand Jury on. See Memorandum in Support of Motion at 3-6 (Nov. 18, 2022).  
16 Additionally, Defendant claims the People wrongly failed to submit several pieces of key exculpatory  
17 evidence regarding self-defense for the Grand Jury’s consideration. Id. at 6-7. Lastly, Defendant  
18 claims he is immune from prosecution under Guam’s Castle Doctrine Act. Id. at 7-8.

19           On March 8, 2023, the People filed their Opposition to Defendant’s Motion (“Opposition”).  
20 The People argued they were not required to submit the exculpatory evidence to the Grand Jury  
21 because that evidence merely supports an affirmative defense, while not directly negating essential  
22 elements of the crimes charged. See Opposition at 3-4 (Mar. 8, 2023). The People also argued  
23 Defendant did not allege sufficient facts to raise a Castle Doctrine defense, and that even if he did,  
24 dismissal is inappropriate because that would create a factual issue to be resolved by a jury. Id. at 5-  
25 8.

26           On March 14, 2023, Defendant filed his Reply to People’s Opposition (“Reply”). Defendant  
27 contends self-defense is an exculpatory defense. See Reply at 3-4 (Mar. 14, 2023). Defendant claims  
28

1 this created a duty for the People to submit the relevant exculpatory evidence for the Grand Jury’s  
2 consideration. Id. at 3-4.

3 The Court held hearings on April 3, April 4, April 6, October 27, December 14, and December  
4 18, 2023. After hearing the arguments of the parties, the Court took the matter under advisement.

5 **DISCUSSION**

6 **I. Prosecuting attorneys are required to present exculpatory evidence to grand juries, and**  
7 **instruct them on possible defenses and justifications.**

8 During a grand jury proceeding, the prosecuting attorney presents evidence for the grand jury  
9 to determine whether “there is reasonable cause to believe that an indictable offense has been  
10 committed and that the defendant committed it.” See 8 G.C.A. § 50.54(b).

11 In doing so, “the prosecuting attorney shall submit any evidence in his possession which would  
12 tend to negate guilt and the grand jury shall weigh all the evidence submitted.” See 8 G.C.A. § 50.46.  
13 This duty to disclose covers “all substantial material evidence favorable to an accused” and “extends  
14 to matters relevant to punishment, including any evidence that goes to special circumstances”. See  
15 *People v. Sablan*, D.C. Crim. No. 85-0024A, 1986 WL 68900 at 3 (D. Guam. App. Div. Oct. 24,  
16 1986). Favorable evidence is substantially material and must be disclosed if it operates “to negate the  
17 guilt of the accused and explain away the charge”. Id. at 3. Prosecuting attorneys are obligated to  
18 submit such exculpatory evidence because grand jury proceedings are unilateral and defendants are  
19 neither present nor able to submit any such evidence on their own. See 8 G.C.A. § 50.26.

20 Prosecuting attorneys are also required to instruct grand juries on possible defenses and  
21 justifications. See *State v. Hogan*, 764 A.2d 1012, 1024 (N.J. Super. Ct. App. Div. 2001) (“a  
22 prosecutor’s obligation to instruct the grand jury on possible defenses is corollary to his responsibility  
23 to present exculpatory evidence.”). “The question of whether a particular defense need be charged  
24 depends upon its potential for eliminating a needless or unfounded prosecution.” Id. at 1024. Thus,  
25 grand juries must be instructed on relevant exculpatory defenses, but need not be instructed on mere  
26 mitigating defenses. Id. at 1024. A defense is exculpatory if it “would, if believed, result in a finding  
27 of no criminal liability, *i.e.*, a complete exoneration.” Id. at 1024.

1 The duty to instruct grand juries on exculpatory defenses arises “only when the facts known  
2 to the prosecutor clearly indicate or clearly establish the appropriateness of an instruction”. *Id.* at  
3 1025; See also *State v. Chong*, 86 Hawai’I 282, 949 P2d 122 (1997) (prosecution is not required to  
4 instruct the grand jury as to the nature and significance of evidence relating to self-defense unless the  
5 evidence clearly establishes that the accused acted in self-defense). This duty applies only when  
6 certain exculpatory defenses are obvious, because ascertaining the value of defenses can be a difficult  
7 task that is not always apparent at the grand jury stage.

8 If the People fail to present materially exculpatory evidence to a grand jury, dismissal of the  
9 charges within the indictment, without prejudice, is the appropriate remedy. See *Johnson v. Superior*  
10 *Court*, 539 P.2d 792, 796 (Cal. 1975).

11 **II. The People should have presented exculpatory evidence to the Grand Jury and**  
12 **instructed the Grand Jury on self-defense because it is an exculpatory defense clearly**  
13 **indicated by the evidence obtained.**

14 Several self-defense provisions allow law-abiding people to protect themselves, others, and  
15 their property from intruders/attackers without fear of criminal prosecution.

16 Generally speaking, “the use of force upon or toward another person is justifiable when the  
17 defendant believes that such force is immediately necessary for the purpose of protecting himself  
18 against the unlawful force by such other person”. See 9 G.C.A. § 7.84. However, deadly force is only  
19 justified if “the defendant believes that such force is necessary to protect himself against death, serious  
20 bodily harm, kidnapping or rape”. See 9 G.C.A. § 7.86(b).

21 Force may also be justifiably used to protect a third party if: (1) the defendant “would be  
22 justified under § 7.84 in using such force to protect himself against the injury he believes to be  
23 threatened to the person whom he seeks to protect”, (2) “the person whom he seeks to protect would  
24 be justified in using such protective force” and (3) “the defendant believes that his intervention is  
25 necessary for the protection of such other person.” See 9 G.C.A. § 7.88(a).

26 Force may also be justifiably used to protect interference with property rights. See 9 G.C.A.  
27 § 7.90. However, deadly force is only justified if “the person against whom the force is used is  
28 attempting to commit or consummate arson, burglary, robbery, or other felonious theft or property

1 destruction and either: (A) has employed or threatened deadly force against or in the presence of the  
2 defendant; or (B) the use of force other than deadly force to prevent the commission or the  
3 consummation of the crime would expose the defendant or another person in his presence to  
4 substantial danger of serious bodily harm.” See 9 G.C.A. § 7.90(f)(2).

5 Here, the People were in possession of surveillance footage covering the W Nightclub’s  
6 parking lot, where the alleged crime took place. See Exhibit T. This footage shows Baby Joe pulling  
7 on Defendant’s hair, following Defendant to his car, repeatedly hitting the car’s windows, and  
8 standing in the way to prevent Defendant from safely leaving. Id. The People were also in possession  
9 of Defendant’s post-arrest mugshots, which show significant swelling and damage inflicted on  
10 Defendant’s face. See Exhibit M.

11 These two pieces of evidence should have alerted the People of Defendant’s possible self-  
12 defense justification. Having been aware of this, the People should have instructed the Grand Jury on  
13 Guam’s self-defense statutes. Furthermore, the People were obligated to present both pieces of  
14 evidence to the Grand Jury because they establish exculpatory facts favorable to the accused. Some  
15 of these facts were contradicted by other evidence the People put forward, highlighting the importance  
16 of presenting both pieces of evidence for the Grand Jury’s consideration. For example, Officer  
17 Lorenzo provided Grand Jury testimony that the Defendant had multiple exit paths from the parking  
18 lot, despite the video showing one such path blocked by a white car. See CR at 2:35:00pm (Apr. 3,  
19 2023); See also Exhibit T. These failures by the People tainted the grand jury process and necessitate  
20 dismissal of the indictment.

21 **III. The Court need not address Defendant’s Castle Doctrine immunity claim because it is**  
22 **now moot.**

23 Because dismissal is already justified by the People’s grand jury failures, the Court need not  
24 address Defendant’s immunity claim under Guam’s Castle Doctrine Act.

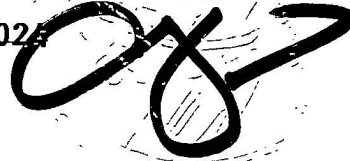
25 **CONCLUSION**

26 For the reasons stated above, the Court **GRANTS** Defendant’s Motion. The indictment and  
27 charges alleged within are hereby **DISMISSED WITHOUT PREJUDICE** due to the People’s  
28 failure to present exculpatory evidence and instruct the Grand Jury on self-defense justifications.

1 Should the People wish to refile an indictment against Defendant, they are required:

- 2
- (1) To instruct the Grand Jury on the principals of law related to the exculpatory
  - 3 defenses of self-defense, defense of others, and defense of property; and
  - 4 • (2) Present to the Grand Jury exculpatory evidence consisting of Defendant's mugshot
  - 5 and the surveillance footage capturing the alleged crimes.
- 6

7 IT IS SO ORDERED this March 18, 2024



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

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23 **SERVICE VIA EMAIL**

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

AG J. Amela

Date: 3/18/24 Time: 4:40

Coaleris  
Deputy Clerk, Superior Court of Guam