		FILED SUPERIOR COURT	
1	OF GUAM		
2		2024 MAR 18 PH 4: 12	
3	IN THE SUPERIOR COURT OF GUAM		
4		! X! /	
5	PEOPLE OF GUAM,	BY: Criminal Case No. CF0286-21 GPD Report No. 21-13889	
6	v.	DECISION AND ORDER	
7	EMELIO TRAY BORJA	GRANTING	
8	(aka EMELIO TROY BORJA) (aka EMILIO TRAY BORJA)	THE PEOPLE'S MOTION TO REVOKE PROBATION	
9	(aka ELILO TRAY BORJA), DOB: 12/07/1999		
10			
11	Defendant.		
12	INTRODUCTION		
13	This matter came before the Honorable Alberto C. Lamorena, III on March 12, 2024 for a		
14	4		
15			
16	Borja's) (aka Emilio Tray Borja's) (aka Elilo Tray Borja's) ("Defendant's") failure to abide by his		
17	probationary terms. Defendant was represented by Assistant Public Defender Jocelyn Roden. The		
18	People of Guam were represented by Assistant Attorney General Grant Olan. During the hearing,		
19	the Court revoked the Defendant's probation, sentenced defendant to one (1) year incarceration,		
20	and now issues this written decision memorializing its ruling.		
21	· ·		
22			
23	On December 30, 2021, Defendant pled guilty to two counts of Family Violence (as a		
24	Misdemeanor). See Judgment of Conviction (Jan. 6, 2022). A judgment was entered imposing the		
25	following relevant conditions of probation:		
26	• NO DRUGS: Defendant shall not possess or consume any illegal controlled		
27	substances or marijuana.		
28	• LAWS: Defendant shall obey all federal and local laws of Guam.		
	Decision and Order Granting the People's Motion to Revoke Probation CF0286-21, People of Guam v. Emilio Borja Page 1 of 4		

1 2

3

5

6

7

8

27

28

• **COURT ORDERS:** Defendant shall comply with any court orders entered against Defendant, including orders of family court or any other local or federal court of competent jurisdiction.

4 Id.

On April 6, 2022, Defendant received a Violation Report indicating that he tested positive for multiple illegal substances, including methamphetamine and MDMA, during a urinalysis drug test conducted by the Adult Probation Office. <u>See</u> Violation Report (Apr. 6, 2022).

On June 16, 2022, Defendant failed to appear at a scheduled Further Proceedings hearing in
the above-captioned case, despite being summoned to appear. See Summons (May 17, 2022);
Minute Entry (Jun. 16, 2022). A bench warrant was ultimately issued for Defendant's nonappearance. See Bench Warrant (Jun. 16, 2022).

On January 26, 2023, another Violation Report was filed indicating that Defendant had been
arrested and charged with Criminal Mischief (as a Misdemeanor) with Special Allegation: Crime
Against the Community in CM0007-23. See Violation Report (Jan. 26, 2023). Defendant would
ultimately plead guilty to and be convicted of Criminal Mischief (as a Misdemeanor). See CM0007Judgment of Conviction (Dec. 6, 2023).

On October 26, 2023, the People filed their Motion to Revoke Probation ("Motion"). The
People base their request on Defendant's multiple Violation Reports and previous non-appearance
at required court dates. See Motion (Oct. 26, 2023). Opposing the Motion, Defendant claims
revocation is premature because he has ample time to complete his remaining probationary terms
and requirements. See Opposition to People's Motion (Dec. 27, 2023).

On March 12, 2024, the Court held a Revocation Hearing and subsequently revoked
 Defendant's probation. See Minute Entry (Mar. 12, 2024).

## **DISCUSSION**

Decision and Order Granting the People's Motion to Revoke Probation CF0286-21, People of Guam v. Emilio Borja Page 2 of 4

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 substantial requirement imposed as a condition of the order may revoke the suspension or probation and sentence or re-sentence the offender. Violation of a condition shall not result in revocation, however, unless the court determines that revocation under all the circumstances then existing will best satisfy the ends of justice and the best interests of the public.	
4 5		
6		
7 8	<u>See</u> 9 G.C.A. § 80.66(a)(2) (1980).	
o 9	The process for revoking an offender's probation has been further explained by the Guam	
10	Supreme Court as follows:	
11	determination that a violation of probation actually has occurred. If a violation is proven, then the Court must determine if the violation warrants revocation of the probation	
12		
13		
14	See People of Guam v. Camacho, 2009 Guam 6 ¶ 27 (internal citations omitted). To revoke a	
15	defendant's probation, evidence and facts presented to the Court must be "reasonably necessary to	
	satisfy the judge that the probationer's conduct has not been as required by the conditions of	
17 18	probation." <u>Id.</u> at ¶ 30 ( <i>citing People v. Angoco</i> , 1998 Guam 10).	
19	The Court also cannot order revocation unless the offender is provided with written notice	
20	of grounds for revocation of probation. See 9 G.C.A. § 80.68(a). At the hearing, the offender shall	
21	"have the right to hear and controvert the evidence against him, to offer evidence in his defense and	
22	to be represented by counsel." <u>Id.</u> Should the Court revoke an offender's probation, "it may impose	
23	on the offender any sentence that might have been imposed originally for the crime of which he	
24		
25		
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 Based on a review of the record, it is clear that Defendant has exhausted the trust of the 7 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 Were probation continued, it appears unlikely that any significant progress would be made 13 in positively altering Defendant's behavior and ensuring compliance with the Court's orders. 14

Therefore, the Court finds that revocation is in the public's best interest and satisfies the ends of justice. See 9 GCA § 80.66(a)(2).

## **CONCLUSION**

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

24

17

18

25

26

27

28

IT IS SO ORDERED this March 14, 2024 nunc pro tune to March 12, 2024.

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