

No. 20-1311 ORIGINAL

IN THE

FILED

MAR 12 2021

SUPREME COURT OF THE UNITED STATES

Sedfrey M. Linsangan

Petitioner

vs.

Government of Guam, Linda De Norcey,
Lourdes Leon Guerrero (Acting in
their Official Capacity)

Respondents

On Petition for a Writ of Certiorari to
The Supreme Court of Guam

PETITION FOR A WRIT OF CERTIORARI

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I. Questions Presented

1. Why incoming residents and passengers into Guam are being quarantined at government facilities despite that they did not have had contact with persons that are infected with COVID and have no symptoms?
2. How could my case be dismissed for mootness when up to this time, Guam is quarantining incoming residents?
3. Where is the justification, dignity and integrity of Guam's quarantine when there is a gross violations of Federal, C.D.C. Guidance, Constitutional Rights and Guam law?
4. How could the Guam government control or prevent the spread of infection (COVID) when 7,000 plus residents that tested positive of COVID 19 were ordered to quarantined at home?

5. Why the Court is dismissing my other claim for unripeness when a violation of Open Government law was committed and I was not given the opportunity to do discovery and replead my case?

6. Where is the Rational of our Leaders in Guam when they quarantined incoming residents that has no exposure to Covid and not positive with Covid but residents that tested positive were told to quarantine at their homes?

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- A. Section 7103 (Tax Payer Standing to Sue)
 - B. U.S. Department Health and Human Services, C.D.C. ORDER FOR QUARANTINE
 - C. Interim Guidance on Management of Corona Virus
 - D. Section 264 of 42 U.S.C. , Surgeon General Duties
 - E. U.S. Department of Health and Human Services, Authority to Enforce Isolation
 - F. Letter, Isolation Hotel is in Horrible Shape
 - G. 11 Families with 18 people tested positive
 - H. Quarantine, isolation facilities cost \$20 Million so far
 - I. We've got to start saying No
 - J. Treat us as human beings
 - K. Attorney: Do away with mandatory Quarantine Facilities
 - L. U.S. to end enhanced covid screening
- I.I.

III. Petition for Writ of Certiorari

Petitioners respectfully prays that a Writ of Certiorari be issued to ^{to} review the judgment of the Supreme Court of Guam.

IV. Opinions Below

The Opinion of the Guam Superior Court appears at Appendix A to the petition.

The opinion of the Supreme Court of Guam appears at appendix B to the petition.

V. Jurisdiction

The date on which the ^{the} Supreme Court of Guam decided my case was on December, 29, 2020. The jurisdiction of this court is invoked under 28 U.S.C. Section 1254(1)

VI. List of Parties

All parties appear in the caption of the case on the cover page .

VII Related Cases and Table of Authorities

1. Thompson v. McCombe, 99 F.3d 352, 353 (9th Circuit 1996)
2. Mc Carthy v. United States, 850 F.2d 558, 560 (9th Cir. 1988)
3. Bretz v. Kelman, 773 F.2d 1026, 1027 n. 1 (9th Circuit 1985)
4. Butler v. Long, 752 F.3d 1177, 1180 (9th Circuit, 2014)
5. Ivey v. Bd. of Regents of Univ. of Alaska 673 F.2d 266, 268 (9th Cir. 1982)
6. Lopez v. Smith, 203 F.3d 1122, 1130 (9th Circuit

7. *Wapth v. Seldin*, 422 U.S. 4910, 501 (1975)

8. Cases in the 50 States. Incoming passengers or residents into the State were told to self quarantine at their homes if they did not have had close contact with persons that are infected with Covid. (As per C.D.C. guidelines on quarantine)

VII Constitutional, Federal Laws, regulations and Guam Laws Involved.

1. Section 361 of Public Health Service Act
2. Section 264 of 42 U.S.C.(a) Surgeon General
3. Section 70.6, 71.32 and 71.33 of 42 C.F.R.
4. C.D.C. Interim Guidance on Management of Covid 19 Disease on Quarantine,

Cohorting, Medical Isolation, Close contact of someone with Covid.

5. Section 7103 of Chapter 7, 5 GCA, Guam's law on Tax Payer Standing to Sue

6. Provisions of Chapter 19 to Division 1 of Title 10 GCA, Relative to "Island Guahan Emergency Health Powers Act"

a. Section 1, Legislative Intent. Guided by principle of justice and liberties

b. Section 19102, To act with fairness and tolerance and guided by principle of justice.

c. Sections, 19103, 19602, 19603, 19604,

d. Section 19803, Financing, Expenses

e. Section 19808, 19807

7. Provisions of Title 48, Organic Act of Guam

a. Section 1421 b of Bill of Rights

b. Subsection (n) discrimination (anti)

c. Subsection (e) Due process

d. Subsection (c) that contains the First Amendment, Fifth, Ninth, Fourteenth Amendment

7. Section 1422 of Title 48 Organic Act of Guam. "It provides that Governor shall have the power to issue executive orders and regulations not in conflict with any applicable law."

8. Section 1423 K. Right of Petition. "The legislature or any person or group of persons in Guam shall have the unrestricted right of petition. It shall be the duty of all officers of the government to receive and without delay to act upon or forward, as the case may require, any such petition."

VIII. OTHER, Excerpts of Record, Exhibits
Newspaper reports from Pacific Daily
News and Post Guam on Quarantine issues,
lawsuits, complaints and concerns.

IX. Statement of the case

The Respondents up to now are going beyond the bounds of their statutory authority, fail to follow legally required procedures and quarantining incoming passengers and residents that is in contravention or inconsistent with their constitutional rights and civil liberties.

The Guam Supreme Court dismissed my case for mootness, unripeness and held that the Governor and Director are not properly served.

Mootness Issue

The court erred because up to this time, the Governor is quarantining incoming passengers or residents from US, Manila and other countries to government facilities at the hotels instead at their homes. (Please see or refer to Excerpts of Record, dated 3/29/20 and Opening Brief and opposition to order (4/22/20)

My claim is not moot and have standing because I have legally cognizable interest in the outcome of the case. (Please refer to my Petition dated 3, 29, 20, Excerpts of Record) Also refer to Exhibit A, Section 7103 "Taxpayer Standing to Sue". In pages 5 of the Petition, I specified Section 19803, Financing, Expenses that should not exceed \$600,000.00. Any amount excess shall be subjected to Legislature's Appropriation. (Please refer to Excerpts of Record, dated 3/30/20 Statement of Standing, Jurisdiction in page 3. I stated my taxpayer standing. The Supreme Court and the Superior Court of Guam overlooked my pleadings on Taxpayer Standing.

Unrigeness Issue

The Governor execute Executive Order # 2020-06 to suspend the Open Government Law without Due Process. After 4 days

the Governor revoked the Executive Order No. 2020-07 due to outcry of the people of Guam and I filed a case. During the Oral Arguments hearing, I did not alleged that a meeting occurred during the 4 days between the Executive Order because the Court did not allowed me to do Discovery or replead my case (Please refer to Appellants Brief dated 6/18/20, Excerpts of Record)

" A party invoking the courts jurisdiction has the burden of proving the actual existence of subject matter jurisdiction" See Thompson v. McCombe, 99 F. 3d, 352, 353 (9th Cir. 1996)
When ruling on such motion, the court is not restricted to the face of the pleadings, but may review any evidence, such as affidavits and testimony, to resolve factual

disputes concerning the existence of jurisdiction.
McCarthy v. United States, 850 F.2d 558, 560
(9th Cir. 1988)

The court has an obligation, especially in civil rights actions, to construe pro se pleading liberally and gives the pro se plaintiff the benefit of any doubt." Bretz v. Kelman, 733 F.2d 1026, 1027 n. 1 (9th Cir. 1985); see also Butler v. Long, 752 F.3d 1177, 1180 (9th Cir. 2014). However, the courts liberal interpretation of a pro se complaint may not supply elements of the claim that were not pled. "Ivey v. Bd. of Regents of Univ. of Alaska, 673 F.2d 266, 268 (9th Cir. 1982). Generally, if a court dismisses a pro se complaint it should "grant leave to amend . . . unless it determines that the pleading could not possibly be cured

by the allegation of other facts. "Lopez v. Smith, 203 F.3d 1122, 1130 (9th Cir. 2000).

For purposes of ruling on a motion to dismiss for want of standing, both the trial and reviewing courts must accept as true all material allegation of the complaint and must construe the complaint in favor of the complaining party." *Walth v. Seldin* 422 U.S. 490, 501 (1975).

The court must draw on its judicial experience and common sense to determine the plausibility of a claim given the specific context of each case." *Twombly*, 550 U.S. at 556)
Id. at 679, 678. In my case, the Governor violated the Open Government Law by suspending the public hearing. Even she revoked her Order, the case is ripe for adjudication. "I am referring to persons

that were not successful in their failed attempt to steal, murder people. This is nexus to the violation committed by the Governor whether there are hearings made within in the 4 days of the suspension. 11

Governor and Director were Served Properly

The Defendants were properly Served.

(Please See Excerpts of Record 3/30/20, Proof of Service, 4/2/20 Amended Summons, Proof of Service, Summons signed by PO3 Reyes and Petition signed by PO1 Cruz.

The petition and summons were also emailed to the Governor's Office email. The Governor's Office is guarded by policeman that is why it is not possible to serve the Governor in person due to Pandemic.

Quarantine of Incoming residents and passengers are illegal.

Pursuant to Section 361 of Public Health Service Act, 42 Code of Federal Regulations Part 70 (Interstate) and Part 71 (Foreign), persons that would be quarantined should be provided with an Order For Quarantine informing the Subject Person of their Legal Rights and other provisions in the Declaration. (Please see Exhibit B)

The Government ^{did not comply} with the C.D.C. Interim Guidance on Management of Corona Virus. (Please see Exhibit C) Quarantine refers to the practice of separating individuals who have had close contact with someone with Covid 19 to determine whether they develop symptoms or test positive for the disease.

The Government of Guam misinterprets

the Guidance on Quarantine, Cohorting, Medical Isolation, definition of Close Contact of someone with Covid-19. The Governor, Director are generalizing that all incoming passengers and residents have had close contact with Covid. It does not mean or reflect that because Countries and US States have Covid cases, all people or residents there have had close contact with infected persons. Persons that were quarantined that came from Hubei Province is an exemption because that's where Covid originated.

Federal Laws Violation

As provided by Section 264, The Surgeon General with the approval of the Secretary is authorize to make and enforce such regulations In Guam, the Surgeon General did not approved the

quarantine of the incoming passengers and residents. (Please see Exhibit D) Also Please see Exhibit E) Under 42 Code of Federal Regulations parts 70 and 71 CDC is authorized to carry out functions on quarantine and CDC Guidance should be adhered .

Quarantine at Expensive Hotels by the Government of Guam is not Justified.

The government of Guam is letting or ordering the residents that tested positive for Covid 19 (around 7,000 plus) to Self Quarantine at their homes. But the incoming residents were brought to the Government facility (Hotels) for Quarantine .

If the government is serious in protecting the public from Covid 19, residents that tested positive should be isolated

and treated in compliance with CDC Guidance. They are doing it in a reverse way because the incoming residents are not positive yet. Data reveals that only 0.5% of people that were tested at the government facilities had Covid. In short all people that were quarantined illegally resulted to 0.5% positivity rate.

The main issue here is the selective treatment, violation of C.D.C. guidance, complaints from people that were quarantined due to unsanitary condition of the hotels and violation of their civil liberties. (14th Amendment, Bill of Rights, Guam Pandemic Laws) (Please see Exhibits F, G, H, I, J, K) that reported the concerns of people that were quarantined.

So far, \$120 Million were spent for Quarantine and isolation. Bulk of the \$120 Million were spent in quarantining the incoming passengers into Guam. CARE'S Act Fund money was being spent on quarantine and Surplus money of Gov. Guam that is in violation of Guam Pandemic Law. (Section 19803, Financing, Expenses of Chapter 19, Title 10 GCA) It provides that expenses incurred shall not exceed \$600,000.00. "Any amount excess shall be subjected to Legislatures Appropriation."

The Governor did not get the approval of the Legislature on more Appropriation. The CARE'S Act funding was also abused by not adhering to C.D.C. guidance.

X. Reasons for Granting the Writ.

There are gross violations of the constitutional rights, federal laws, C.D.C.

Guidance by the Respondents There is no rational basis that the Governor continue the quarantining of the incoming passengers and residents into Guam because Seven Thousand Plus residents that tested positive of Covid were ordered to self quarantine at their homes. There are extraordinary arguments, facts, News Paper reports, letter from persons that quarantine should stop immediately.

The issue has extreme importance to the people of Guam, Federal Government and economy because of the \$20 Million funds and still counting that could have helped more the community, hospital,

Small businesses, unemployed, businesses that up to now were ordered closed and stimulate the economy

The Guam Supreme Court has entered a decision that my case is moot and unripe that is in conflict with the facts. Extraordinary revelations on arguments and facts and violation of statutory provisions justified that my Request for Granting the Writ should be granted by the highest court in the land.

I am also requesting that the Court issue an Order to stop or enjoin the Respondent from quarantining people at government facilities.

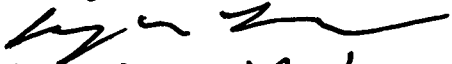
Whether the Governor stop the quarantine in the middle of the review,

my case should move forward because it will be an injustice to the people of Guam that are U.S. citizens. Otherwise it could be repeated in the future or subsequent months by the Government of Guam.

XI. Conclusion

For the foregoing reasons, I am respectfully requesting that this Court issue a Writ of Certiorari to review the judgment of the Guam Supreme Court.

Dated: Feb. 11, 2021

Respectfully Submitted,

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