

**In The
Supreme Court of the United States**

The People of Guam,

Applicants,

v.

Arthur U. San Agustin and Masatomo Nadeau,

Respondents.

**Application to Extend Time to File a
Petition for Writ of Certiorari from the
Supreme Court of Guam**

**Directed to the Honorable Elena Kagan,
Circuit Justice for the United States Court of Appeals for the
Ninth Circuit**

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May 1, 2026

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To the Honorable Elena Kagan, as Circuit Justice for the United States Court of Appeals for the Ninth Circuit:

Applicants The People of Guam (“The People”), by and through the constitutional office of the Attorney General of Guam (“Attorney General”), *see* 48 U.S.C. § 1421g(d) (Organic Act of Guam), and pursuant to this Court’s rules 13.5, 22, 30.2, and 30.3, request a 60-day extension of time to file its petition for writ of certiorari. This request, if granted, would extend the deadline from May 13, 2026 to July 10, 2026.

On February 4, 2026, the Supreme Court of Guam disqualified the democratically-elected Attorney General from representing the People in *The People of Guam v. Arthur U. San Agustin and Masatomo Nadeau*, Supreme Court of Guam Case No. CRA24-023, an appeal that sought review of the dismissal of a criminal indictment of the named defendants in *The People of Guam v. Arthur U. San Agustin and Masatomo Nadeau*, Superior Court of Guam Criminal Case No. CF0446-23. (Order, February 4, 2026) (**Exhibit A**). The Order expressly threatened that any further filings by the Attorney General on behalf of the People would be stricken. (Order at 3). Further, the court granted the “People of Guam” until February 12, 2026 to file a Motion for Rehearing by “conflict-free substitute counsel.” The Order does not direct anyone to appoint the

“conflict-free substitute counsel.” The People of Guam are a non-corporeal, collective entity, who can only act through the Attorney General. *See* 5 Guam Code Annotated (“G.C.A.”) §§ 30104 and 30109(a). And, as the Order makes painfully clear, the Attorney General cannot represent the People.

Nonetheless, to preserve the federal constitutional rights of the People, discharge the powers and duties of his constitutional office, *see* 48 U.S.C. § 1421g(d), including prosecuting criminals, *see* 5 G.C.A. §§ 30104 and 30109(a), and avoid violating the Order, the Attorney General advertised the need for a “conflict-free substitute counsel.” On February 12, 2026, the Attorney General filed (solely on behalf of his constitutional office) a Notice of Compliance with the Supreme Court of Guam, indicating that no attorney had stepped forward to serve as substitute counsel. (**Exhibit B**). To date, the Supreme Court of Guam has refused to issue any further rulings effectively depriving the People of their rights to redress the wrongs committed against them by the named Defendant-Respondents.

Having exhausted all territorial remedies, on March 25, 2026, the Attorney General filed a Verified Petition for Writ of Prohibition against the Supreme Court of Guam in the District Court of Guam seeking an

alternative writ of prohibition commanding the respondent court to desist and refrain from taking any further action or proceedings in the aforesaid appeal and directing and requiring it to show cause why it should not be absolutely and forever restrained and prohibited from frustrating the People of Guam and the Attorney General's appellate rights guaranteed by the U.S. Congress *vis-à-vis* the U.S. Constitution, the 1950 Organic Act of Guam (as amended), and Guam statutes. *See Attorney General of Guam v. Supreme Court of Guam*, District Court of Guam Case No. 1:26-cv-00007. To date, the Chief Judge of the District Court of Guam has entered no orders.

The forthcoming Petition for Certiorari will raise matters of great public importance with national implications regarding the breadth and applicability of the due process and equal protection rights found in the United States Constitution to citizens and residents located in United States Territories. It will concomitantly raise matters of great public importance with national implications regarding territorial courts' powers to reject precedent set by the United States Supreme Court and to amend Acts of Congress without any avenue for federal judicial review.

In this case, the Supreme Court of Guam's conduct and *continued inaction* in this criminal appeal violates the due process and equal

protection clauses of the Fourteenth Amendment of the United States Constitution; 48 U.S.C. § 1421g(d) (Organic Act provision designating the Attorney General of Guam as the “Chief Legal Officer for the Government of Guam.”); 48 U.S.C. § 1421b(a) (“No law shall be enacted in Guam respecting an establishment of religion or prohibiting the free exercise thereof, or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble and to petition the government for a redress of their grievances.”); and 5 Guam Code Annotated (“G.C.A.”) §§ 30104 and 30109(a) (Guam statutes enacted pursuant to the Organic Act, an Act passed by the U.S. Congress, designating the Attorney General of Guam the exclusive government organ tasked with prosecuting crimes in Guam).

The February 4, 2026 Order and the *continued inaction* by the Supreme Court of Guam violates the People’s rights under the due process and equal protection clauses of the Fourteenth Amendment of the United States Constitution and 48 U.S.C. § 1421b(a) because, after disqualifying the Attorney General, *it failed to provide for the appointment of “conflict-free substitute counsel”* who could file the motion for rehearing they had authorized to be filed thus unconstitutionally depriving the People of Guam of the statutory right to appeal the

Superior Court of Guam’s Decision and Order. See U.S. Const. amend XIV § 1¹; see also 48 U.S.C. §§ 1421b(u)² and 48 U.S.C. § 1421b(a). Where a statute “... grants [the constitutional right to appellate review], it becomes a matter of federal concern under the equal protection clause of the Fourteenth Amendment, requiring uniformity of opportunity to appeal. [U.S. Supreme Court decisions omitted].” *Sierra Melendez v. Rivera Brenes*, 331 F. Supp. 898, 900-901 (D. Puerto Rico 1971). The People appealed pursuant to 8 G.C.A. §§ 130.20(a)(5) and 130.40 and that legislative statute must be interpreted consistent with the due process clause and the equal protection clause of the Fourteenth Amendment of the United States Constitution.

The February 4, 2026 Order and the *continued inaction* by the Supreme Court of Guam violates the People of Guam’s rights under the due process clause of the Fourteenth Amendment of the United States

¹ “No state shall make or enforce any law which shall abridge the privileges and immunities of the citizens of the United States; nor shall any state deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.”

² “The following provisions of and amendments to the Constitution of the United States are hereby extended to Guam ... and shall have the same force and effect there as in the United States or in any State of the United States: article I, section 9, clauses 2 and 3; article IV, section 1 and section 2, clause 1; the first to ninth amendments inclusive; the thirteenth amendment; the second sentence of section 1 of the fourteenth amendment; and the fifteenth and nineteenth amendments. All laws enacted by Congress with respect to Guam and all laws enacted by the territorial legislature of Guam which are inconsistent with the provisions of this subsection are repealed to the extent of such inconsistency.”

Constitution and 48 U.S.C. § 1421b(a) because, after disqualifying the Attorney General, *it failed to give the People of Guam effective constitutional notice of the disqualification of their counsel and to provide them with a means of securing “conflict-free substitute counsel”* who could file the motion for rehearing they had authorized to be filed thus unconstitutionally depriving the People of the (federal) statutory right to appeal the Superior Court of Guam’s Decision and Order. *See* U.S. Const. amend XIV § 1³; *see also* 48 U.S.C.A. §§ 1421b(u) and 1421b(a).

In addition, it effectively frustrates (perhaps will prevent) the People from filing a petition for writ of certiorari to this Court inasmuch as the Attorney General was prohibited under pain of sanctions from lodging any further filings and the “People of Guam” are not natural persons. *See* 48 U.S.C. § 1424-2 (authorizes the filing of a petition for writ of certiorari from the Supreme Court of Guam to the Supreme Court of the United States within 90 days).

Douglas B. Moylan is the duly democratically-elected Attorney General of Guam; an office created in 1950 and later amended in 1998 by the United States Congress in 48 U.S.C. § 1421g(d)(1) (“Chief Legal

³ “No state shall make or enforce any law which shall abridge the privileges and immunities of the citizens of the United States; nor shall any state deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.”

Officer of the Government of Guam”). In 1998, the Legislature of Guam established the Attorney General as an elected position under 5 G.C.A. § 30101. On May 28, 1999, the Legislature of Guam unanimously passed Guam P.L. No.25-44 delegating the exclusive power to prosecute all criminal matters to the Attorney General. The Governor signed the law on June 9, 1999.

In 2023, the elected Attorney General, acting on behalf of the People of Guam, obtained grand jury indictments on two public officials (the named criminal defendants) for criminal activity while they were in office. Subsequently, upon motion from counsel for the defendants, the Superior Court of Guam disqualified the “entire office” of the Attorney General from representing the People of Guam. The Attorney General appealed and the Supreme Court of Guam issued its February 4, 2026 Order. The Supreme Court’s actions and *continued inaction* have deprived the People from appealing or continuing any prosecution of these public officials.

Absent an extension of time, the petition for certiorari would be due on May 13, 2026. The jurisdiction of this Court rests upon 28 U.S.C. § 1257(a) and 48 U.S.C. § 1424-2. On information and belief, this request is opposed by the named Defendants-Respondents.

Good cause exists for the requested extension.

First, primary responsibility for preparing the petition for certiorari has been assigned to undersigned counsel whose office (and home) has been adversely impacted by the aftermath of Super Typhoon Sinlaku which recently struck Guam and neighboring islands. Support staff have also been terribly affected. The matter at issue has national implications relative to the due process and equal protection rights of the people to be represented by conflict-free elected representatives in criminal prosecutions. The preparation of the petition, therefore, reasonably necessitates additional time to ensure accuracy, continuity, and completeness. Even as we prepare this extension, our office has no air conditioning and is running on limited generator capacity. The entire Government of Guam is under similar circumstances at this time. This has even further delayed funding and filings.

Second, undersigned counsel faces significant pre-existing professional obligations in federal court over the next several weeks, including briefing in other complex civil matters. The combination of those obligations, the lingering effects of Super Typhoon Sinlaku, and the assignment of the preparation of this writ combine to make it impracticable to prepare a high-quality petition by May 13, 2026. A 60-

day extension will allow counsel to complete a thorough review of the issues and prepare a petition that will adequately assist this Court in reviewing the aforementioned important questions with national implications.

Three, without this Court's intervention, the issues described above will evade review as the Supreme Court of Guam continues to prohibit the elected Attorney General's participation in this criminal appeal in territorial courts and perhaps in federal courts through potential disciplinary referrals to Guam's Regulatory Counsel as threatened in the Order. The Attorney General, acting on behalf of the People, has exhausted all territorial remedies and has even sought a writ of prohibition from the District Court of Guam which remains stalled and no orders have been entered. Again, without this Court's intervention, the rights of the People to be represented by their elected federal constitutional officer in criminal prosecutions will be erased without judicial review of any kind.

For these reasons, the Applicants respectfully request that the time to file a petition for a writ of certiorari be extended by 60 days, to and including July 10, 2026.

May 1, 2026

Respectfully submitted,

OFFICE OF THE ATTORNEY GENERAL
Douglas B. Moylan, Attorney General of Guam

/s/ Curtis Van de Veld

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Certificate of Service

I certify that a copy of this application was served by email and hand-delivery to the counsel listed below in accordance with Supreme Court Rule 22.2 and 29.3:

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