

EXHIBIT B



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IN THE SUPREME COURT OF GUAM

PEOPLE OF GUAM,)	Supreme Court Case No. CRA24-024
)	Superior Court Case No. CF0447-23
Plaintiff-Appellant,)	
)	
vs.)	
)	
RICHARD Y. YBANEZ,)	
JENNIFER BADAR CRUZ,)	
ALEJO C. SABLAN,)	ORDER
KEVIN J.T. SUSUICO, and)	
ANTHONY P. CHARGUALAF,)	
)	
Defendants-Appellees.)	
)	

This matter comes before the court upon the motion to dismiss this appeal, or in the alternative, to disqualify the Office of the Attorney General (“OAG”), filed by Defendants-Appellees Alejo C. Sablan, Richard Y. Ybanez, Jennifer Badar Cruz, and Anthony P. Chargualaf (collectively, “Appellees”), and the Opposition filed by Plaintiff-Appellant People of Guam (“People”).¹ See Sablan’s Mot. Dismiss, Mot. Disqual. OAG at 1-11 (July 18, 2025); Appellant’s Mem. Resp. Mot. Dismiss, Mot. Disqual. OAG (Aug. 14, 2025).

The People appeal from the Superior Court’s order dismissing the case with prejudice due to violation of Appellees’ statutory right to a speedy trial. The People’s opening brief identified three issues: (1) whether the trial court failed to account for the Organic Act and Guam law when applying the Guam Rules of Professional Conduct (“GRPC”); (2) whether disqualifying “each and every” Assistant AG was error; and (3) whether the court erred in dismissing the indictment with prejudice. Appellant’s Br. at 4 (June 6, 2025). Sablan thereafter moved to dismiss and

¹ See Ybanez’s Joinder in Sablan’s Mot. Dismiss, Mot. Disqual. OAG (July 22, 2025); Chargualaf’s Joinder in Sablan’s Mot. Dismiss, Mot. Disqual. OAG (July 22, 2025); Cruz’s Joinder in Sablan’s Mot. Dismiss, Mot. Disqual. OAG (July 22, 2025). Defendant-Appellee Kevin J.T. Susuico did not join.

1 disqualify the OAG, arguing that the OAG waived its challenge to the dismissal below, and that
2 “[t]he OAG cannot and could not represent the People of Guam after its disqualification . . .
3 without a stay ordered or interlocutory appeal accepted by this Court.” Mot. Dismiss at 1-8.
4 Given the pending motions, this court vacated the scheduled oral argument. Order at 1 (July 31,
5 2025).

6 The People’s reply brief focused primarily on disqualification and did not materially
7 expand the speedy-trial argument, instead asserting that the dismissal issue had been raised in the
8 opening brief. Appellant’s Reply Br. at 4 (Aug. 7, 2025). Only in response to Sablan’s motion
9 to dismiss did the People file a separate memorandum substantially developing their argument
10 that the trial court abused its discretion in dismissing the indictment with prejudice. Appellant’s
11 Mem. Resp. Mot. Dismiss at 3-4.

12 **A. The People’s Challenge to the Dismissal Below Is Sufficiently Briefed to Permit**
13 **Appellate Review**

14 Under Guam Rule of Appellate Procedure (“GRAP”) 13(a)(9), the arguments in an
15 appellant’s opening brief must contain “the contentions and the reasons for them, with citations
16 to the authorities and parts of the record on which the Appellant relies.” Failure to raise an issue
17 or to support it with argument and authority in the opening brief may result in forfeiture of that
18 issue on appeal, though this court retains discretion to consider forfeited issues. *See People v.*
19 *Quinata*, 2023 Guam 25 ¶ 32 (citing *People v. Borja*, 2017 Guam 20 ¶ 28); *Estate of Concepcion*
20 *v. Siguenza*, 2003 Guam 12 ¶ 11. Forfeiture, in this context, arises from neglect, whereas waiver
21 is the intentional relinquishment of a known right; waived issues may not be reviewed, but
22 forfeited issues may be addressed in this court’s discretion. *Quinata*, 2023 Guam 25 ¶ 32 n.4.

23 These authorities emphasize two related principles: (1) appellants must do more than
24 simply list an issue—they must provide some explanation and supporting authority; and (2) even
25 when briefing is inadequate, this court may choose to reach a forfeited issue where fairness, clarity
26 in the law, or the integrity of judicial proceedings so require. This court has dismissed appeals or
27 refused to consider arguments where the opening brief failed entirely to raise the issue or
28

1 presented no meaningful argument. *See RSA-Tumon, LLC v. Pitt Cnty. Mem'l Hosp., Inc.*, 2023
2 Guam 8 ¶ 23; *Concepcion*, 2003 Guam 12 ¶ 11; *Macris v. Richardson*, 2010 Guam 6 ¶ 8.

3 Here, the Superior Court's dismissal with prejudice is the final judgment from which this
4 appeal is taken under 8 GCA § 130.20(a)(5). Although the People's discussion of the dismissal
5 is underdeveloped, the opening brief identified, as its third issue, whether the trial court erred
6 when it dismissed the case with prejudice, and cited 8 GCA §§ 80.60 and 80.70 as well as portions
7 of the record describing the timeline from indictment to dismissal. *See* Appellant's Br. at 4, 46-
8 49. Appellees responded on the merits of the statutory speedy-trial issue, and the People
9 developed their dismissal arguments in their memorandum opposing the motion to dismiss. *See*
10 Mot. Dismiss at 6 ("OAG eventually appealed from the Superior Court's dismissal"); Appellant's
11 Mem. Resp. Mot. Dismiss at 3-4; Sablan's Reply to OAG Opp'n Mot. Dismiss at 3-4 (Aug. 21,
12 2025).

13 Having considered the motion, joinder, opposition, the record on appeal, and the
14 applicable law, we conclude that the People's challenge to the Superior Court's dismissal order—
15 though minimally briefed—is sufficiently presented to permit appellate review and has been
16 neither waived nor forfeited. We deny Appellees' motion to dismiss this appeal on the ground
17 that the OAG's challenge to the dismissal is unreviewable; however, that does not end the
18 analysis.

19 **B. Prosecution of This Appeal is Prospectively Conditioned on the Appearance of**
20 **Conflict-Free Substitute Counsel**

21 The Superior Court disqualified the entire OAG from prosecuting this matter based on an
22 unwaivable conflict under GRPC 1.7 and ordered the appointment of a special prosecutor within
23 30 days. Record on Appeal ("RA"), tab 203 at 15-17 (Dec. & Order (Mot. Disqual., Apr. 25,
24 2024)); RA, tab 204 at 1 (Order, Apr. 25, 2024). The OAG did not obtain a stay of that
25 disqualification order, and no interlocutory appeal of that order has been accepted by this court.
26 Unless the Superior Court's disqualification order is overturned, it is presumed valid and must be
27 given effect. In these circumstances, we cannot simply ignore the Superior Court's order and
28 allow a disqualified office to continue as counsel of record in this court.

