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SUPERIOR COURT
OF GUAM

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Office of the Attorney General
Leevin Taitano Camacho
Attorney General of Guam
Prosecution Division
590 S. Marine Corps Drive, Ste. 901
Tamuning, Guam 96913 • USA
(671) 475-3406 • (671) 477-3390 (Fax)
www.guamag.org

Attorney for the People of Guam

IN THE SUPERIOR COURT OF GUAM

THE PEOPLE OF GUAM,

Plaintiff,

vs.

DWAYNE PIYELIT,

Defendant.

S.C. Criminal Case No.: **CF0080-19**

**PEOPLE'S SENTENCING
MEMORANDUM**

The People of Guam, by and through Assistant Attorney General Christine Santos Tenorio, respectfully submit this Sentencing Memorandum. This memorandum is based on the following points and authorities and such oral and documentary evidence as may be adduced at any hearing on the matter.

Respectfully submitted, this 14th day of July, 2021.

OFFICE OF THE ATTORNEY GENERAL
Leevin Taitano Camacho, Attorney General of Guam

[Signature]

CHRISTINE SANTOS TENORIO
Assistant Attorney General, Prosecution Division

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I. FACTUAL AND PROCEDURAL BACKGROUND

Evidence at co-defendant VIANNEY HOSEI's jury trial revealed that DWAYNE PIYELIT picked up a 16-year-old female and supplied her with alcohol. PIYELIT brought the victim to the residence of BURTON BORJA. All parties consumed alcohol. While the victim was severely intoxicated, PIYELIT, BORJA, and HOSEI each performed sexual acts on the victim. The incident was recorded on PIYELIT's cellular phone. On the recording, PIYELIT stated, "I feel like a rapist." The recording was subsequently disseminated and went viral on social media.

PIYELIT was indicted by a grand jury for one count of First Degree Criminal Sexual Conduct as a First Degree Felony and one count of Possession of Child Pornography as a Second Degree Felony. PIYELIT pleaded guilty to one count of Third Degree Criminal Sexual Conduct as a Second Degree Felony.

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II. STATUTORY PENALTIES

Third Degree Criminal Sexual Conduct carries a range of one (1) to eight (8) years incarceration, pursuant to 9 GCA § 25.25. Pursuant to the plea agreement between the People and PIYELIT, the People will argue a range of one (1) to six (6) years incarceration, provided that PIYELIT cooperated with the People against co-defendant HOSEI.

PIYELIT proved to be uncooperative both pre-trial and throughout the course of the jury trial. The People put this on the record several times. Notwithstanding, the People will argue a range of one (1) to six (6) years incarceration. However, the People request a **SIX YEAR term of incarceration** due to the nature and seriousness of PIYELIT's offenses, his involvement as the instigator of the events leading up to the incident, and his subsequent lack of cooperation.

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III. LEGAL AUTHORITY

Title 9 G.C.A. § 80.60 sets out the Standards for Imposing or Withholding Probation in lieu of imprisonment:

(b) Notwithstanding Subsection (a) The court shall not suspend imposition of the sentence or place an offender on probation if, having due regard to the nature and circumstances of the crime and the history, character and condition of the offender, the court finds that imprisonment is necessary for the protection of the public because:

- 1 (1) there is undue risk that during the period of a suspended sentence or probation
the offender would commit another crime;
- 2 (2) the offender is in need of correctional treatment that can be provided most
effectively by commitment to an institution; or
- 3 (3) a lesser sentence would depreciate the seriousness of the offender's crime.
- 4 (c) The following factors, while not controlling, shall be accorded weight in determining
whether to suspend imposition of sentence or to place the offender on probation whether:
 - 5 (1) The offender's criminal conduct neither caused nor threatened serious harm.
 - 6 (2) The offender did not contemplate that his criminal conduct would cause or
threaten serious harm.
 - 7 (3) There were substantial grounds tending to excuse or justify the offender's
criminal conduct, though failing to establish a defense.
 - 8 (4) The offender has compensated or will compensate the victim of his criminal
conduct for the damage or injury which was sustained.
 - 9 (5) The offender has no history of prior delinquency or criminal activity or has led
a law-abiding life for a substantial period of time before the commission of the present
crime.
 - 10 (6) The offender is particularly likely to respond affirmatively to probationary
treatment.

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12 9 G.C.A. §80.60 (2005).

13 14 **IV. SENTENCING REQUEST**

15 In the instant case, PIYELIT had sexual intercourse with a 16-year-old minor after supplying with
16 her alcohol and was abetted by his two friends, BORJA and HOSEI. PIYELIT possessed the recording
17 on his cellular phone, which caused the video to be disseminated. While PIYELIT chalks up the whole
18 incident as a "mistake" and apologizes for this "mistake," the People question whether he is truly
19 remorseful for this act; PIYELIT does not seem to view the victim as an individual that he took advantage
20 of on the night of the incident. While the Defendant may not have "intended" to cause harm to the victim,
21 nothing can undo the injury to the victim; the video is still being circulated and the victim is retraumatized
22 each time that it appears. Furthermore, federal resources had to be expended to try to rid the internet of
23 the video and also to procure PIYELIT's appearance in court. Any lack of criminal history on the party
24 of PIYELIT is outweighed by the severity of the offenses. Therefore, it is the People's position that
25 PIYELIT is in need of correctional treatment and that a sentence lesser than SIX YEARS will depreciate
the seriousness of the offender's crime.

26 The SIX YEAR sentence is also warranted given the lack of cooperation by PIYELIT. Inspection
27 of the Defendant's exhibits shows that PIYELIT was not forthcoming during the People's interview and
28 request for information. Examination of PIYELIT's testimony at trial also shows that PIYELIT was more

1 forthcoming to the defense counsel's questions than to the People's questions. This lack of cooperation
2 shows that the Defendant is not truly remorseful for the harm that he and his co-defendants have caused
3 the victim. Any attempt to relegate the whole incident as a mistake involving alcohol depreciates the
4 nature and seriousness of alcohol-induced sexual assault.

5 The People intend to submit the victim's impact statement closer to the sentencing hearing, as the
6 victim has been struggling with the turmoil of the incident and the trial and needs more time.

7 V. CONCLUSION

8 Based on the foregoing and any evidence and arguments adduced at the sentencing hearing, the
9 People respectfully recommend and urge this Honorable Court to sentence the Defendant to a total term
10 of SIX (6) YEARS incarceration.

11 *HVLT*
12 Respectfully submitted this 7th day of July, 2021.

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14 OFFICE OF THE ATTORNEY GENERAL
15 LEEVIN TAITANO CAMACHO, Attorney General of Guam

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17 **CHRISTINE SANTOS TENORIO**
18 Assistant Attorney General, Prosecution Division
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