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SUPREME COURT OF GUAM
BY: YWT Time: 10:49am

*Attorneys for the
Honorable Lourdes A. Leon Guerrero
Governor of Guam*

IN THE SUPREME COURT OF GUAM

IN RE:

REQUEST OF LOURDES A. LEON
GUERRERO, I MAGA'HÅGAN
GUÅHAN, RELATIVE TO
ORGANIC ACT LIMITS ON
LEGISLATIVE CONDITIONS
AFFECTING THE GOVERNOR'S
AUTHORITY TO ESTABLISH
HOSPITALS

SUPREME COURT CASE NO.
GRQ 26001

**REQUEST FOR
DECLARATORY JUDGMENT
(7 G.C.A. § 4104);
VERIFICATION**

Petitioner Lourdes A. Leon Guerrero, *I Maga'hågan Guåhan*, Governor of
Guam, by and through counsel and pursuant to 7 G.C.A. § 4104, Rules 26 and 27 of
the Guam Rules of Appellate Procedure, and the Organic Act of Guam, respectfully

1 requests that the Court issue a declaratory judgment regarding the constitutional
2 scope of the Governor's authority under 48 U.S.C. § 1421g(a) and the limits, if any,
3 the Legislature may impose upon the execution of that authority through generally
4 applicable Guam statutes.

5 I. INTRODUCTION

6 This request seeks a declaratory judgment under 7 GCA § 4104 concerning
7 the constitutional scope of the Governor's authority under 48 U.S.C. § 1421g(a) to
8 establish a public hospital of Guam, and the extent to which general laws enacted by
9 the Guam Legislature may be construed in a manner that conditions or prevents the
10 Governor from exercising such authority.

11 Section 1421g(a) of the Organic Act expressly provides that "[s]ubject to the
12 laws of Guam, the Governor *shall* establish, maintain, and operate public-health
13 services in Guam, including hospitals, dispensaries, and quarantine stations." 48
14 U.S.C. § 1421g(a) (emphasis added). This is a specific, enumerated power granted
15 directly to the Governor by the Organic Act. The question presented herein is
16 whether the Legislature may enact or apply statutes in a manner that effectively vests
17 final execution authority over the establishment of a hospital in another officer or
18 entity, thereby preventing the Governor from carrying out her Organic Act duty.

19 The issue presented is not whether the Legislature retains general legislative
20 authority over procurement, contracts, appropriations, or land use. Nor does this

1 Petition contend that executive action is exempt from compliance with generally
2 applicable law. Rather, the question is whether statutes of general application may
3 be interpreted or applied in a manner that reallocates or conditions final execution
4 authority over hospital establishment in a way inconsistent with the Governor's
5 specific authority under 48 U.S.C. § 1421g(a).

6 This Court has recognized that where the Organic Act confers a specific power
7 upon one branch, that specific grant controls over a general grant of authority
8 elsewhere in the Act. *See, e.g., In re Request of Leon Guerrero*, 2021 Guam 6;
9 *Camacho v. Estate of Gumataotao*, 2010 Guam 1 ¶ 19. A general legislative power
10 cannot be read to nullify a specific executive power conferred by Congress. The
11 interaction between § 1421g(a) and Guam statutory law must therefore be
12 interpreted in a manner that preserves the Governor's ability to execute her
13 enumerated duty.

14 The dispute is not hypothetical. Governor Leon Guerrero has undertaken steps
15 to establish new hospital infrastructure in the village of Mangilao using lawfully
16 received federal funds, including funds subgranted for utility and infrastructure work
17 through executive agencies and instrumentalities acting pursuant to their respective
18 statutory authorities in furtherance of the hospital project. The legality of attaching
19 conditions to, and ultimately preventing, execution of that work through legislative
20

1 enactments presents a constitutional question affecting the structure and operation
2 of government.

3 This request seeks a declaratory judgment of a pure question of law affecting
4 the powers and duties of the Executive Branch and the separation of powers
5 established by the Organic Act.¹ The issue is one of great public importance.
6 Resolution through ordinary litigation would cause undue delay while critical
7 public-health infrastructure remains stalled and federal funding deadlines approach.
8 Declaratory guidance from this Court is therefore appropriate to clarify the
9 constitutional limits on legislative conditions affecting the Governor's authority to
10 establish hospitals.

11 II. STANDING

12 1. Petitioner Governor Lourdes A. Leon Guerrero brings this request for
13 declaratory judgment pursuant to 7 GCA § 4104. As the duly elected Chief
14 Executive of the Government of Guam, the Governor is expressly authorized under
15 Section 4104 to seek declaratory guidance on questions affecting the powers and
16 duties of the Executive Branch. The questions presented herein concern the scope of
17

18 ¹ This Petition does not seek adjudication of the Governor's authority to expend
19 American Rescue Plan Act ("ARPA") funds or to resolve any funding-related
20 disputes currently pending in other proceedings. The sole question presented
concerns the constitutional interaction between 48 U.S.C. § 1421g(a) and generally
applicable Guam statutes.

1 the Governor's enumerated authority under 48 U.S.C. § 1421g(a) and therefore
2 directly implicate her constitutional duties and the lawful administration of
3 government.

4 **III. JURISDICTION**

5 2. This Court has original jurisdiction over requests from the Governor of
6 Guam for declaratory judgment interpreting any federal or local law, including
7 interpretation of the Organic Act of Guam and its interaction with Guam statutory
8 law, and over questions affecting the powers and duties of the Governor and the
9 operation of the Executive Branch. 7 G.C.A. § 4104; *See also* 48 U.S.C.A. § 1424-
10 1(a).

11 3. Guam law authorizes the Governor to seek declaratory judgments
12 directly from this Court on matters affecting the Executive Branch. Section 4104
13 provides:

14 *I [Maga'hāgan] Guāhan*, in writing...may request declaratory
15 judgments from the Supreme Court of Guam as to the interpretation of
16 any law, federal or local, lying within the jurisdiction of the courts of
17 Guam to decide, and upon any question affecting the powers and duties
18 of *I [Maga'hāga]* and the operation of the Executive Branch...The
19 declaratory judgments may be issued only where it is a matter of great
20 public interest and the normal process of law would cause undue
delay...The Supreme Court of Guam *shall*, pursuant to its rules and
procedure, permit interested parties to be heard on the questions
presented and *shall* render its written judgment thereon.

7 G.C.A. § 4104 (emphasis in original).

1 4. This Court has held that the Governor must satisfy three requirements
2 to invoke its declaratory judgment jurisdiction under 7 GCA § 4104: (1) the issues
3 must be of great public importance; (2) resolution through the normal process of law
4 would cause undue delay; (3) and the subject matter is appropriate for Section 4104
5 review. *In re Request of Governor Carl T.C. Gutierrez, Relative to the Organicity &*
6 *Constitutionality of Pub. L. 26-35, 2002 Guam 1 ¶ 9.*

7 5. Where those requirements are satisfied, the Court has recognized a
8 narrow exception to traditional Article III standing principles. *In re Request of Leon*
9 *Guerrero, Relative to the Validity and Enforceability of Public Law No. 20-134,*
10 *2023 Guam 11 ¶ 24.* In such cases, Article III standing is not required so long as the
11 request presents a purely legal issue in an adversary context that is capable of judicial
12 resolution. *Id.* The present request concerns a purely legal question regarding the
13 constitutional allocation of authority under the Organic Act and arises in an
14 adversarial context in which executive action is being impeded through the asserted
15 operation of Guam statutory law enacted pursuant to the Legislature's general
16 lawmaking authority.

17 **IV. MATTER OF GREAT IMPORTANCE**

18 6. A matter of great importance or public interest “signifies an importance
19 of the issue to the body politic, the community, in the sense that the operations of
20 the government may be substantially affected one way or the other by the issue's

1 resolution ... the issue presented must be significant in substance and relate to a
2 presently existing governmental duty borne by the branch of government that
3 requests the opinion.” *In re Request of Governor Gutierrez for a Declaratory*
4 *Judgment as to Organicity of Guam Pub. Law 22-42, 1996 Guam 4 ¶ 4.*

5 7. This Petition seeks declaratory judgment to determine whether the
6 Legislature may enact or apply statutes in a manner that conditions, delays, or
7 effectively prevents the Governor from carrying out her specific Organic Act duty
8 under 48 U.S.C. § 1421g(a) to “establish, maintain, and operate” public-health
9 services in Guam, including hospitals. This issue is a matter of great importance and
10 public interest because it concerns the allocation of constitutional authority between
11 the legislative and executive branches of government and directly affects the ability
12 of the Executive Branch to develop critical public-health infrastructure for the
13 people of Guam.

14 8. The issue concerns a presently existing governmental duty borne by the
15 Executive Branch. The Governor is actively undertaking steps to establish hospital
16 infrastructure pursuant to her Organic Act authority and concomitant duty to
17 establish hospitals, including the allocation and use of lawfully received federal
18 funds for necessary infrastructure work through executive agencies and
19 instrumentalities acting pursuant to their respective statutory mandates. Whether
20 statutory mechanisms may operate to condition or prevent execution of that authority

1 presents a concrete and ongoing dispute. The question is not abstract. It affects
2 current governmental action and the timely development of essential public-health
3 facilities.

4 9. Resolution of this issue will determine whether a generally applicable
5 Guam statute may be interpreted or applied so as to function as a veto over the
6 Governor's enumerated Organic Act authority. That determination will define the
7 Organic Act relationship between legislative enactments and specific executive
8 powers granted by Congress. The outcome will have consequences beyond this
9 project and will guide future interactions between the branches whenever the
10 Governor exercises powers expressly conferred by the Organic Act.

11 10. The establishment of hospital infrastructure directly implicates public
12 health, emergency preparedness, and the well-being of our community. Delays or
13 uncertainty in the execution of the Governor's authority affect the timely
14 development of healthcare facilities and the effective use of federal funds lawfully
15 received by the Government of Guam and subject to federally imposed expenditure
16 deadlines. Prolonged uncertainty regarding the scope of the Governor's authority
17 risks impairing the orderly deployment of those funds and the timely advancement
18 of critical public-health infrastructure.

19 11. Executive agencies and instrumentalities tasked with infrastructure
20 planning and contracting are presently confronted with competing interpretations of

1 Guam law regarding whether statutory approval mechanisms may condition
2 execution of the Governor's enumerated authority under 48 U.S.C. § 1421g(a).
3 Without authoritative clarification, those entities are placed in the position of
4 navigating conflicting legal constructions while attempting to discharge their own
5 statutory duties.

6 12. Because the issue implicates the validity and permissible scope of
7 legislative conditions as they apply to express Organic Act powers, affects core
8 Executive Branch functions, and presents a concrete and ongoing constitutional
9 dispute, its resolution is a matter of great public importance within the meaning of
10 the Court's declaratory judgment jurisprudence.

11 **V. UNDUE DELAY IN NORMAL PROCESS OF LAW**

12 13. The declaratory judgment mechanism under 7 GCA § 4104 exists
13 precisely to prevent undue delay in resolving matters of substantial public
14 importance. As the Court has explained, Section 4104 "was intended to provide a
15 fast track for the initiation of cases before the Supreme Court of Guam so that rulings
16 could be obtained on important issues of law without time consuming litigation in
17 the inferior court." *In re Gutierrez*, 1996 Guam 4 ¶ 8.

18 14. In evaluating undue delay, the Court has explained that the inquiry
19 "requires one to estimate, as a practical matter, the *relative* difference in speed for
20 an issue depending on whether it travels the 'normal processes of law' route, or that

1 provided by 7 G.C.A. § 4104,” and further that the delay must be “undue, that is to
2 say, excessive or inappropriate.” *In re Request of Calvo Relative to Interpretation &*
3 *Application of Organic Act Section 1423b & What Constitutes Affirmative Vote of*
4 *Members of I Liheslaturan Guåhan*, 2017 Guam 14 ¶ 11. Both criteria are satisfied
5 here.

6 15. The normal process of law would cause undue delay because the
7 constitutional question presented directly affects ongoing executive action
8 undertaken pursuant to 48 U.S.C. § 1421g(a). The Governor has initiated steps to
9 establish hospital infrastructure using lawfully received federal funds, including the
10 deployment of those funds for infrastructure work through executive agencies and
11 instrumentalities acting pursuant to their respective statutory authorities in
12 furtherance of the project. The legality of conditioning or preventing execution of
13 that work through statutory mechanisms is presently in dispute.

14 16. If this issue were litigated through the ordinary process, it would first
15 proceed in the trial court through pleadings, discovery, and motion practice,
16 followed by appellate review. That process would likely take months or years.
17 During that time, infrastructure work would remain stalled or subject to continued
18 uncertainty, construction sequencing would be disrupted, and federal funding
19 deadlines would approach or expire.
20

1 17. Unlike an ordinary statutory dispute involving retrospective relief, the
2 issue here concerns the forward-looking execution of an enumerated Organic Act
3 duty. Delayed resolution risks practical consequences that cannot be undone by a
4 later ruling. Infrastructure projects depend upon coordinated timelines, procurement
5 sequencing, and compliance with federal expenditure deadlines. Relief granted after
6 the fact cannot restore lost time, recover expired federal funds, or fully remedy
7 delays in public-health infrastructure development.

8 18. The delay is not theoretical. The Governor is presently exercising her
9 enumerated Organic Act authority to establish hospital infrastructure. At the same
10 time, legislative enactments are being construed or applied in a manner that would
11 condition or prevent execution of that authority. The Executive Branch cannot
12 meaningfully discharge its constitutional duty while the interaction between the
13 Organic Act and Guam statutory law remains unsettled and subject to competing
14 interpretations.

15 19. Declaratory resolution now would avoid piecemeal litigation and
16 repeated interbranch conflict each time executive action is undertaken pursuant to §
17 1421g(a). Absent clarification, disputes regarding contract approval, infrastructure
18 work, and funding execution will recur throughout the life of the project, leading to
19 fragmented litigation and operational delays.
20

1 20. Section 4104 was designed precisely for circumstances in which an
2 important constitutional question affects current governmental operations and delay
3 would impair the effective functioning of government. The question presented here
4 concerns the interaction between an enumerated Organic Act power and generally
5 applicable Guam statutes. The “normal process of law” would stall resolution of
6 these critical issues and result in the forfeiture of federal funds.

7 21. For these reasons, the delay inherent in ordinary litigation would be
8 excessive and inappropriate under the circumstances. Immediate declaratory
9 guidance from this Court is necessary to prevent undue delay within the meaning of
10 7 GCA § 4104.

11 **VI. REQUESTED INTERPRETATION AFFECTING POWERS AND**
12 **DUTIES OF THE GOVERNOR AND OPERATIONS OF THE**
13 **EXECUTIVE BRANCH**

14 22. This Court has recognized two subjects appropriate for section 4104
15 review: (1) questions that require an interpretation of federal or local law lying
16 within the jurisdiction of Guam courts; and (2) questions that affect the powers and
17 duties of the Governor and the operation of the Executive Branch. Governor Leon
18 Guerrero seeks interpretation under both categories.

19 23. Governor Leon Guerrero respectfully requests declarations on the
20 following questions:

1 a. Whether the Organic Act's specific grant of authority to the Governor under
2 48 U.S.C. § 1421g(a) limits the Legislature's ability to enact or apply Guam
3 statutes in a manner that reallocates or conditions final execution authority
4 over hospital establishment.

5 b. Whether generally applicable Guam statutes must be construed in harmony
6 with 48 U.S.C. § 1421g(a) so as to preserve the Governor's enumerated
7 authority to establish public-health services, including hospitals.

8 24. This request squarely seeks interpretation of an Organic Act provision
9 and its interaction with Guam statutory law. The Court is asked to determine the
10 Organic Act limits, if any, on legislative enactments that affect execution of a
11 specific power granted to the Governor by Congress. That is a pure question of law
12 lying within this Court's jurisdiction.

13 25. This request also satisfies the second category of matters appropriate
14 for review under 7 GCA § 4104 because it directly affects the powers and duties of
15 the Governor and the operation of the Executive Branch. The Governor bears the
16 enumerated Organic Act duty to establish, maintain, and operate public-health
17 services in Guam. That duty necessarily includes taking actions required to initiate
18 and carry out hospital infrastructure development consistent with applicable law.
19 Whether legislative enactments may functionally condition or prevent execution of
20 that duty directly affects the Governor's constitutional responsibilities.

1 26. Although this Petition arises in the context of the hospital project, the
2 question presented concerns the broader constitutional relationship between
3 legislative enactments and the execution of powers expressly conferred upon the
4 Governor by the Organic Act. The Court's clarification of that relationship will
5 provide guidance not only for this project but also for future instances in which
6 enumerated executive authority intersects with generally applicable Guam statutes.

7 27. Implementation of hospital infrastructure necessarily involves
8 coordination among multiple executive agencies and instrumentalities acting
9 pursuant to their respective statutory mandates in furtherance of the Governor's
10 exercise of authority under 48 U.S.C. § 1421g(a). Uncertainty regarding the scope
11 of the Governor's enumerated authority affects the ability of those entities to proceed
12 with coordinated infrastructure planning, contracting, and execution. Absent
13 declaratory guidance, executive agencies face competing interpretations of Guam
14 law and the Organic Act in carrying out their lawful functions in connection with
15 this project.

16 28. If left unresolved, disputes concerning the scope of § 1421g(a) authority
17 will recur throughout the life of the project and beyond, generating piecemeal
18 litigation and continued operational uncertainty. That outcome would impair the
19 orderly administration of government and undermine clear constitutional allocation
20 of authority.

1 29. For these reasons, the requested interpretation directly affects the
2 Governor's powers and duties and the operation of the Executive Branch within the
3 meaning of 7 GCA § 4104. Declaratory resolution is necessary to provide clear,
4 authoritative guidance regarding the constitutional interaction between the Organic
5 Act and Guam statutory law.

6 30. Accordingly, this Petition satisfies all three jurisdictional requirements
7 articulated in *In re Request of Governor Gutierrez*, 2002 Guam 1 ¶ 9. The issues
8 presented are of substantial public importance because they concern the scope of an
9 enumerated Organic Act power relating to public health infrastructure. Resolution
10 through ordinary litigation would cause undue delay while execution of that
11 authority remains subject to uncertainty. The requested interpretation directly affects
12 the Governor's powers and duties and the operation of the Executive Branch.
13 Declaratory review under 7 GCA § 4104 is therefore appropriate and necessary to
14 clarify the constitutional limits on legislative conditions affecting the Governor's
15 authority to establish hospitals.

16 **VII. PETITIONER'S LEGAL POSITION**

17 **A. The Organic Act Confers Upon the Governor Specific Authority to** 18 **Establish Hospitals, and That Enumerated Authority Controls Over** **General Legislative Enactments**

19 Section 1421g(a) of the Organic Act provides that "[s]ubject to the laws of
20 Guam, the Governor shall establish, maintain, and operate public-health services in

1 Guam, including hospitals, dispensaries, and quarantine stations.” 48 U.S.C. §
2 1421g(a). This is a specific and affirmative grant of authority by Congress to the
3 Governor.

4 When the Organic Act confers a specific power upon one branch of
5 government, that specific grant controls over more general provisions. This Court
6 has recognized that “a narrower, more specific provision of a statute takes
7 precedence over a more general provision of the same statute.” *Camacho v. Estate*
8 *of Gumataotao*, 2010 Guam 1 ¶ 19. In *In re Leon Guerrero*, 2021 Guam 6, this Court
9 applied that principle in the Organic Act context, holding that a specific enumerated
10 executive power cannot be overridden by reliance upon a general legislative grant
11 of authority.

12 The Legislature’s general power to enact laws under 48 U.S.C. § 1423a does
13 not permit it to nullify or transfer execution of a specific power expressly conferred
14 upon the Governor by Congress. While the Legislature retains authority to
15 appropriate funds and to enact generally applicable statutes governing procurement,
16 contracting, and public administration, those enactments must be construed in
17 harmony with the Organic Act and cannot operate to defeat an enumerated executive
18 duty.

19 The power to “establish” a hospital necessarily includes the authority to take
20 actions required to initiate, coordinate, and execute the infrastructure necessary to

1 bring such a facility into existence, subject to judicial review for compliance with
2 applicable law. If generally applicable Guam statutes are construed to require the
3 approval of another officer as a condition precedent to executing that authority, such
4 interpretation would effectively transfer final execution authority away from the
5 Governor and undermine the specific grant conferred by § 1421g(a).

6 The Organic Act does not contemplate that an enumerated executive function
7 may be frustrated absent the consent of another official exercising statutory
8 authority. Where disputes arise regarding the legality of executive action taken
9 pursuant to § 1421g(a), the proper constitutional safeguard is judicial review, not
10 unilateral prevention of execution through statutory approval mechanisms.

11 Accordingly, generally applicable Guam statutes must be interpreted and
12 applied in a manner that preserves, rather than nullifies, the Governor's enumerated
13 authority to establish hospitals under the Organic Act.

14 **B. Legislative Regulation May Not Function as a Veto Over Execution of an**
15 **Enumerated Organic Act Power**

16 The Legislature possesses authority to determine whether and how to
17 appropriate funds for public projects. Through its appropriations power, the
18 Legislature may decide whether funding will be made available for construction of
19 a hospital and may attach lawful conditions to the expenditure of appropriated funds.

20 However, where, as here, funds are lawfully available to the Executive Branch
and the Governor is acting pursuant to an enumerated Organic Act duty, legislative

1 enactments cannot be construed or applied in a manner that vests final execution
2 authority in another officer or entity.² Section 1421g(a) expressly grants the
3 Governor authority to “establish, maintain, and operate public-health services in
4 Guam, including hospitals.” That grant is specific and constitutional in nature.

5 Questions have arisen regarding the interaction between 48 U.S.C. § 1421g(a)
6 and generally applicable statutory provisions, including 5 GCA § 5150, which
7 addresses the Attorney General’s review of certain contracts for correctness of form
8 and legality when such review is required by law.³ Nothing in § 5150 expressly
9 purports to transfer, limit, or override the Governor’s authority under 48 U.S.C. §
10

11 ² The Governor does not challenge the Legislature’s authority to enact statutes
12 governing the structure, governance, or funding of public health institutions, nor
13 does this Petition seek to invalidate the hospital chapter of Guam law. The
14 Legislature retains authority to appropriate funds and to enact general laws
15 regulating public projects. This Petition presents the narrower structural question
16 whether legislative enactments may be construed or applied in a manner that
17 conditions execution of a specific enumerated duty under 48 U.S.C. § 1421g(a) upon
18 the discretionary approval of another official.

19 ³ Petitioner does not challenge the Attorney General’s good-faith execution of duties
20 as defined by statute, nor does this Petition seek relief against any action taken by
the Attorney General personally. The applicability of 5 GCA § 5150 to contracts
entered into by autonomous agencies is separately contested in pending litigation
removed to the United States District Court of Guam (Case No. 25-CV-00041).
Nothing in this Petition should be construed as conceding that § 5150 requires
Attorney General approval in this context. The question presented here is structural
and concerns the Legislature’s authority under the Organic Act to confer or apply
statutory approval mechanisms in a manner that may operate to condition or prevent
execution of an enumerated gubernatorial duty. The issue therefore lies between the
Organic Act and legislative enactment, not between executive officers.

1 1421g(a). Nor does it expressly condition execution of an enumerated Organic Act
2 duty upon discretionary approval by another executive officer.

3 To the extent § 5150 is construed to require discretionary approval as a
4 condition precedent to execution of the Governor's authority to establish a hospital,
5 such construction would effectively transfer final execution authority from the
6 Governor to another officer. That result would undermine the specific grant of
7 authority conferred by the Organic Act and permit a statute of general application to
8 control a narrower constitutional delegation.

9 The Legislature may not accomplish indirectly through statutory approval
10 mechanisms what it could not do directly—nullify, condition, or transfer execution
11 of a specific Organic Act power. A statute of general application must be interpreted
12 in harmony with the Organic Act and may not be applied in a manner that effectively
13 prevents execution of an enumerated executive duty.

14 Where disputes arise concerning the legality of executive action undertaken
15 pursuant to § 1421g(a), the constitutional safeguard is adjudication by the courts.
16 The Organic Act does not contemplate a regime in which execution of a specific
17 executive power may be suspended through the unilateral application of a generally
18 applicable statute by another official.

19 Accordingly, 5 GCA § 5150 and other generally applicable Guam statutes
20 must be interpreted and applied in a manner that preserves the Governor's

1 enumerated authority to establish hospitals under the Organic Act and does not
2 operate as a veto over execution of that authority absent judicial determination.

3 **C. Any Construction of Guam Statutes That Reallocates Final Decision-**
4 **Making Authority Over Hospital Establishment Fails Under the *Perez***
5 **Framework**

6 In *In re Leon Guerrero*, 2021 Guam 6, this Court analyzed a conflict between
7 legislative enactments and the Governor’s enumerated authority under 48 U.S.C. §
8 1421g(a) using the two-part framework articulated in *People v. Perez*, 1999 Guam
9 2. Under *Perez*, the Court first asks “whether the statutory provision prevents the
10 accomplishment of constitutional functions,” and second, “if so, whether the
11 disruptive impact is justified by any overriding constitutional need.” *Perez*, 1999
12 Guam 2 ¶ 17; *In re Leon Guerrero*, 2021 Guam 6 ¶ 40.

13 Applying that framework here confirms that Guam statutes may not be
14 construed or applied in a manner that reallocates final execution authority over
15 hospital establishment away from the Governor.

16 **1. A Construction That Conditions or Transfers Final Decision-Making**
17 **Authority Prevents Accomplishment of the Governor’s Organic Act Duty**

18 The Organic Act expressly grants the Governor authority to “establish,
19 maintain, and operate” public-health services in Guam, including hospitals. 48
20 U.S.C. § 1421g(a). That grant is specific and enumerated. It assigns responsibility

1 for execution of that duty to the Governor as the constitutional officer charged with
2 administration of the Executive Branch.

3 In *In re Leon Guerrero*, the Court held that legislative provisions preventing
4 the Governor from independently determining quarantine policy “intrude[d] too far”
5 into executive authority and “negate[d] the command of the Organic Act.” 2021
6 Guam 6 ¶ 50. The Court emphasized that where a statute “removes essential
7 decision-making power” from the Governor and substitutes legislative or judicial
8 determinations in its place, it prevents the Governor from accomplishing her
9 constitutional responsibilities. *Id.* ¶¶ 47–50.

10 The same principle governs here. If generally applicable Guam statutes are
11 construed to require discretionary approval by another officer as a condition
12 precedent to execution of the Governor’s authority under § 1421g(a), such
13 construction would remove essential decision-making authority from the Governor
14 and substitute the discretionary judgment of another officer for that of the
15 constitutional officer charged by Congress with establishing public-health services.
16 The Governor’s execution of her enumerated duty would become contingent upon
17 approval external to the Organic Act’s allocation of authority.

18 *Perez* does not prohibit all legislative regulation affecting executive action.
19 But it does prohibit statutory constructions that materially impair the Executive’s
20 ability to carry out a constitutionally assigned function. A regime in which final

1 execution authority over hospital establishment rests with someone other than the
2 Governor is not mere regulation. It is *reassignment* of constitutional responsibility.
3 That result fails the first prong of *Perez*.

4 **2. No Overriding Constitutional Need Justifies Reallocating Execution**
5 **Authority**

6 Under the second prong of *Perez*, the Court must determine whether any
7 impairment of executive authority is justified by an overriding constitutional need.
8 The Legislature possesses general legislative authority under 48 U.S.C. § 1423a and
9 retains power over appropriations, procurement, land use, and other subjects of
10 legislation not inconsistent with the Organic Act. But as the Court reaffirmed in *In*
11 *re Leon Guerrero*, where Congress grants a specific executive power, that narrower
12 provision controls over general legislative authority. 2021 Guam 6 ¶ 27.

13 Nothing in the Organic Act confers upon the Legislature a specific competing
14 authority to execute the establishment of hospitals. Nor does the Organic Act assign
15 final execution authority over public-health infrastructure to any officer other than
16 the Governor. The Legislature may determine whether to appropriate funds and may
17 enact generally applicable laws governing government operations. However, once
18 funds are lawfully available and the Governor is acting pursuant to an enumerated
19 Organic Act duty, there is no overriding constitutional need that justifies transferring
20 or conditioning final execution authority.

1 Preserving the Governor's enumerated authority does not insulate executive
2 action from legal constraint. Executive decisions remain subject to statutory
3 requirements, federal conditions, and judicial review. If a dispute arises regarding
4 the legality of executive action undertaken pursuant to § 1421g(a), recourse lies in
5 the courts. The Organic Act does not contemplate that execution of a specific
6 enumerated duty may be halted or reassigned through discretionary statutory
7 approval mechanisms.

8 Accordingly, any construction of Guam statutes that reallocates final
9 decision-making authority over hospital establishment away from the Governor
10 cannot be reconciled with 48 U.S.C. § 1421g(a) and fails under the *Perez* framework.

11 **PRAYER FOR RELIEF**

12 WHEREFORE, Petitioner Governor Leon Guerrero respectfully requests that the
13 Court:

- 14 1. Expedite the briefing and hearing schedule in this matter;
- 15 2. Declare that 48 U.S.C. § 1421g(a) confers upon the Governor
16 enumerated authority to establish, maintain, and operate public-health services in
17 Guam, including hospitals;
- 18 3. Declare that generally applicable Guam statutes may not be construed
19 or applied in a manner that conditions, prevents, or effectively transfers ultimate
20

1 authority over the establishment of a hospital from the Governor, consistent with the
2 Organic Act;

3 4. Declare that disputes concerning the legality of executive action
4 undertaken pursuant to 48 U.S.C. § 1421g(a) are resolved through judicial review
5 and may not be conclusively determined through unilateral application of statutory
6 approval mechanisms; and

7 5. Grant such other and further relief as the Court deems just and proper.

8 Respectfully submitted this 4th day of March, 2026.

9 **OFFICE OF THE GOVERNOR OF GUAM**
10 **Office of Legal Counsel**

11 By: _____

12 **LESLIE A. TRAVIS**
13 *Attorneys for Petitioner*
14 *Lourdes A. Leon Guerrero,*
15 *Governor of Guam*

1 VERIFICATION

2 GUAM U.S.A,)
3) ss:
4 Territory of Guam)

5 The undersigned, deposes and says: That she is the petitioner in the foregoing
6 Request for Declaratory Judgment, that the facts contained therein are true and
7 correct to the best of her knowledge and belief, except as to the matters stated upon
8 information and belief, and as to those matters, she believes them to be true.

9 Dated this 3RD day of March, 2026.

10 *Lou Leon Guerrero*
11 **LOURDES A. LEON GUERRERO**

12 SUBSCRIBED and SWORN to before me on the day and year first above-
13 written.

14 *Kevin James Lizama-Reyes*
15 **NOTARY PUBLIC**

16 **KEVIN JAMES LIZAMA-REYES**
17 **NOTARY PUBLIC**
18 In and for Guam, U.S.A.
19 My Commission Expires: MAY 29, 2029
20 Commission Number NP: 25-0849G
P.O. Box 4854 Hagatna, GU 96932

