



Supreme Court of Guam

Guam Judicial Center • 120 West O'Brien Drive, Ste. 300 • Hagåtña, Guam 96910

Telephone: (671) 475-3162 • Facsimile: (671) 475-3140

Web site: <http://www.guamcourts.org>

E-mail: justice@guamcourts.gov



PRESS RELEASE

FOR IMMEDIATE RELEASE – October 31, 2023 – Today, Justice F. Philip Carbullido of the Guam Supreme Court expressed his concurring viewpoint in the case of *In re Request of Lourdes A. Leon Guerrero, IMaga 'hågan Guåhan, Relative to the Validity & Enforceability of Pub. L. No. 20-134*, 2023 Guam 11.

Justice Carbullido agreed with the majority regarding its jurisdictional examination and the subsequent conclusion that Public Law 20-134 was impliedly repealed. Additionally, he acknowledged that 7 GCA § 4104 provided the court with the prerogative to refrain from granting relief, even when the court's jurisdictional conditions are satisfied. However, the Justice's perspective diverged when applying this discretion to the current case. He emphasized the Governor's *ultra vires* query sought a crucial clarification about the extent of the Guam Legislature's power and authority. Justice Carbullido asserted that this pivotal question deserved a response.

He concurred with the Governor, referencing that since *Roe v. Wade* stood as the prevailing law in 1990, Public Law 20-134 was inherently void, and the Legislature's promulgation of it was beyond their authority. Drawing further historical context, Justice Carbullido noted that the Organic Act of 1990 restricted the Guam Legislature's power to enact legislation in alignment with the U.S. Constitution. Given that P.L. 20-134 infringed upon the 14th Amendment and considering the case of *Webster v. Reproductive Health Services* did not amend this fact, the legislation was *ultra vires*, hence void from the

beginning. This invalidation, he insists, cannot be changed by subsequent shifts in legal interpretations.

Emphasizing the principle of legal finality and citing *In re Registration of Title to Est. No. 2959*, 2023 Guam 6 ¶ 29, Justice Carbullido argued that judgments should remain settled regardless of shifting judicial interpretations. Once a case concludes, with all appeals exhausted, it should remain final. He firmly asserted that reviving old policies isn't the Judiciary's role. For changes in Guam's abortion policy, the initiative should come from the Legislature, not the courts.

Concluding his statement, Justice Carbullido confirmed his concurrence in the judgment, rooted in his conviction that P.L. 20-134 was void from its inception.

For more information, contact Sarah Elmore-Hernandez at sehernandez@guamcourts.gov.