

Hawaii district court judge dismisses Pāgat case

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HAWAII District Court Judge Leslie Kobayashi has granted the Navy's motion to dismiss the Pāgat case, saying the case is already moot.

The order issued last Friday came about a month after the Department of Defense announced it would conduct a supplemental environmental impact statement to re-evaluate firing ranges for the Marine Corps when they transfer to Guam.

In the decision, Kobayashi noted the Record of Decision, which the Department of the Navy and the Department of the Army issued in September 2010, was not a final decision as to the location of the live-fire firing range complex discussed.

Atty. Leevin Camacho, a member of We Are Guåhan, issued a statement regarding the decision of the Hawaii



We Are Guåhan spokesman Leevin Camacho and Joe Quinata, chief program officer for the Guam Preservation Trust, hold a video conference with Department of Defense officials with regard to the Pāgat case. A Hawaii District Court judge has dismissed the case as moot. Zita Y. Taitano / Variety

District Court.

"We wanted the court to continue to oversee the process," Camacho said, "but we are hopeful that DOD will live up to its legal obligations

this time and ensure that the supplemental EIS process is open and honest without the need for court intervention."

The DOD filing stated it would formally commence

the supplemental EIS process in 2012 by holding scoping meetings before preparing and releasing a draft supplemental EIS for comment.

This level of public involve-

ment and participation is something DOD had previously refused to agree to in its motion for voluntary remand filed earlier in 2011.

"Our goal from day one has been to ensure that DOD followed the law," Camacho said. "The preparation of a supplemental EIS is the first victory – a necessary victory – along the way to achieve our ultimate goal of saving Pāgat Village."

The lawsuit was filed in November 2010 by the Guam Preservation Trust, the National Trust for Historic Preservation, and We Are Guåhan, in order to protect the ancient village of Pāgat and the surrounding area, which is comprised of two fresh water caves (Pāgat cave and Marbo cave) as well as significant sites where residents go swimming and fishing.

Meanwhile, a more detailed written order on the decision is expected to follow.

GDOE...

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employees. The reserved amount is equal to four pay periods.

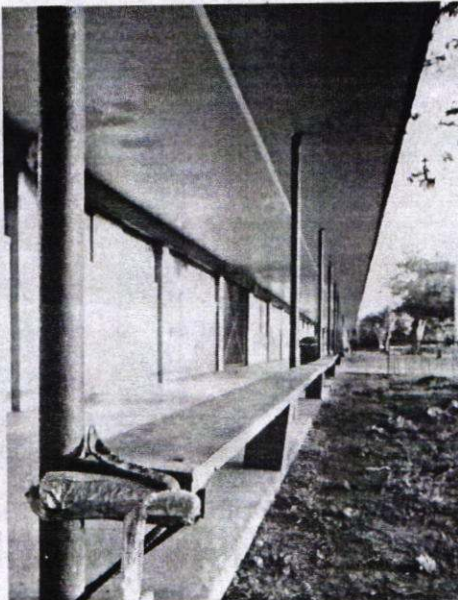
The 15 percent reserve will also negatively impact the University of Guam by reducing their Fiscal Year 2012 budget by almost \$4 million and the Guam Community College by more than \$2 million, Pangelinan said.

Untalan

Meanwhile, Sen. Judi Guthertz last week implored the governor to move Untalan Middle School from its rapidly deteriorating complex to an interim campus at Tiyan.

Guthertz said the 25-acre property was an educational opportunity that should not be allowed to slip away.

"Ideas for utilization of the property are endless and could tie in well with the 'classroom-to-careers' initiative that you've proposed. Perhaps even a new Career and Technical High School could be possible," Guthertz wrote. The senator also urged



The decrepit state of the Untalan Middle School campus has prompted officials to move for the school's transfer to the former temporary JFK campus in Tiyan. Variety file photo

Calvo to use his executive powers to declare Untalan unsafe to allow its relocation to Tiyan.

"Let's roll up our sleeves and get to work on assisting the Guam Department of Education in responding to this critical need. Let's start the new year off

by blessing the students, parents, faculty and staff of L.P. Untalan Middle School with a safe and structurally sound learning environment. Even if the relocation occurs between now and summer, it is worth the effort," Guthertz said.

Lawsuit...

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the case if any decision is made on the matter.

In the brief in support of the motion to dismiss, the plebiscite case was likened to that of "a wolf in sheep's clothing."

Aguon stated the lawsuit by Davis has nothing to do with the discrimination of race or the safeguarding of civil rights, but "seeks to deny a multi-racial, multi-ethnic group of people, namely the pre-1950 residents of Guam and their descendants, from effectively exercising their right to express by plebiscite their desires regarding their future political relationship with the United States of America."

"If and when the time comes, Davis will lose this case on the merits. The Guam statutes he challenges here do not utilize any race-based classification," Aguon stated.

The court document also noted Davis won't be able to prove the plebiscite is race-based, especially since the people who became U.S. citizens from the Organic Act as well as their descendants are now comprised of diverse racial and ethnic groups, to include Caucasians.

Aguon further cited the attorney general's motion to dismiss the case that was filed early last month, which indicated the lawsuit failed to present a justifiable case or controversy. Aguon stated the lawsuit fails for

another reason and "is not ripe for adjudication."

He explained the claimant must "satisfy the threshold requirement imposed by Article III of the U.S. Constitution by alleging an actual case or controversy" and that the policy with regards to what is termed a ripeness doctrine is "to prevent the courts, through avoidance of premature adjudication, from entangling themselves in abstract disagreements."

Additionally, Aguon argued that ripeness of the lawsuit is more a question of timing, thus a federal court probably should not resolve issues on events that may not occur as hoped for or may not even happen.

It was pointed out the plebiscite can only be held on a date of the general election that has 70 percent of eligible voters registered as determined by the Guam Election Commission. There is currently no filing by GEC which shows that percentage was met.

Another issue brought forth was how Davis, who has lived on Guam since 1977, waited until 2009 to contact the Department of Justice over the alleged racial discrimination, and then another two years to file a lawsuit.

"Although much remains to be said on the substantive merits of this lawsuit, including that the Decolonization Registry at issue violates no provision of U.S. or Guam law, immediate dismissal of the above-captioned case is appropriate on ripeness grounds alone," Aguon states.



Sen. Dennis Rodriguez, author of Bill 413-31, said there were still some outstanding issues the Guam Election Commission didn't address when the bill was submitted. Variety file photo

Election law reform bill sent back to committee

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BILL 413-31 has been sent back to committee for further review and possible resubmission.

Sen. Dennis Rodriguez, author of the bill, said there were still some outstanding issues that the Guam Election Commission didn't address when the bill was submitted.

"I think one of the issues required a legal opinion from their legal counsel and they don't meet until next week Tuesday. We talked to Maria Pangelinan, Guam Election Commission director, if they can address those issues and then resubmit another version that would take into consideration those concerns," Rodriguez said, adding those issues included the "Citizens United" ruling from the U.S. Supreme Court.

"That's something their legal counsel was still reviewing and was not considered when they were putting that bill together," Rodriguez said.

Another matter was the proposed 30-day timeline for

GEC to verify signatures on petitions for people running for office. The current timeline is 10 days.

"They're looking at hopefully revising that to give them a longer time to review the signatures. That would take into consideration one of the issues during the 2010 elections challenge, which included the allegation that people from the CNMI voted here. Ten days is not enough for GEC to verify these signatures," the senator said.

Once the bill has been revised and resubmitted, Rodriguez said Speaker Judi Won Pat will call for a special session so the Legislature can act on it right away.

"But if there are substantial changes to the existing bill, we can also have a public hearing on it to get the public's input," Rodriguez said.

Meanwhile, Pangelinan confirms the commissioners will discuss the federal ruling at their upcoming meeting: "It'll be on the commission agenda on Tuesday next week during their regular meeting at 4 p.m."

Navy seeks comments for firing range

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PUBLIC comments on the supplemental environmental impact statement scoping process for a live fire training range complex on Guam are being sought by the Department of the Navy.

"The Navy appreciates the community taking the time to submit comments in the SEIS scoping process," Joint Guam Program Office Forward Director Capt. Dan Cuff said in a statement.

"We look forward to reviewing their input."

The comments will be accepted for the scoping meetings scheduled for next month. The meetings will be held on Saturday, March 17 from 1 to 5 p.m. at the University of Guam Fieldhouse in Mangilao; Monday, March 19 from 5 to 9 p.m. at Southern High School in Santa Rita; and Tuesday, March 20 from 5 to 9 p.m. at the

The meetings will be held on Saturday, March 17 from 1 to 5 p.m. at the University of Guam Field House in Mangilao; Monday, March 19 from 5 to 9 p.m. at Southern High School in Santa Rita; and Tuesday, March 20 from 5 to 9 p.m. at the Yigo Gymnasium.

Yigo Gymnasium.

Meanwhile, those who use the site should be advised that the site is public and that users may receive an error message when attempting to visit. The error is a common occurrence among many government websites, however, the Navy assured that logging on to the site is completely safe.

Users may also see a message when they reach the site reading "Certificate Error: Navigation Blocked. There is a problem with

SEIS COMMENT INFO

Residents who wish to submit their comments can go to:

http://bit.ly/Guam_LFTRC_SEIS

There will be comment forms available which can be electronically submitted.

this website's security certificate. The security certificate presented by this website was not issued by a trusted certificate authority." According to the Navy, accepting the certificate is completely safe and will allow access to the site.

To submit comments online, just send them to Guam_LFTRC_SEIS@navy.mil.

Residents who wish to submit public comments by regular mail can send them to the following address: Joint Guam Program Office (JGPO) Forward; P.O. Box 153246; Santa Rita, Guam 96915.

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