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OF GUAM

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IN THE SUPERIOR COURT OF GUAM

**IN THE APPLICATION OF
DEPARTMENT OF PUBLIC HEALTH
AND SOCIAL SERVICES FOR
ADMINISTRATIVE INSPECTION AND
SEARCH WARRANT OF WISE OWL
ANIMAL HOSPITAL**

**) SPECIAL PROCEEDINGS
CASE NO. SP0137-14**

DECISION AND ORDER

**(Government’s Motion for Entry of
Judgment)**

INTRODUCTION

This matter came before the Honorable Anita A. Sukola on February 5, 2016 on the Government of Guam’s (the “Government”) Motion for Entry of Judgment. Attorney Mitchell F. Thompson appeared on behalf of Dr. Joel Joseph (“Movant”). Assistant Attorney General R. Happy Rons appeared on behalf of the Government. Following the hearing, the Court took the matter under advisement. Upon review of the written and oral arguments presented by both parties, the Court issues its Decision and Order **GRANTING** the Government’s Motion.

BACKGROUND

On May 8, 2013, the Department of Public Health and Social Services (“DPHSS”) executed an administrative search warrant, issued by the Superior Court of Guam, on Movant’s veterinary clinic, Wise Owl Animal Hospital (“Wise Owl”). Movant’s Mot. Return Property at

ORIGINAL

1 (Oct. 10, 2014). On October 10, 2014, Movant filed its Motion for Property Seized Pursuant
2 to Search Warrant with the Superior Court of Guam. This Court held an evidentiary hearing on
3 Movant's Motion and subsequently issued its Findings of Fact and Conclusions of Law on July
4 7, 2015. As per the Court's findings, DPHSS was ordered to return certain items seized. See
5 Finds. Fact & Concl. L. at 5 (July 7, 2015). The Court issued its Amended Findings of Fact and
6 Conclusions of Law on October 30, 2015.
7

8 On December 14, 2015, the Court issued its Judgment, incorporating by reference its
9 previously issued Findings of Fact and Conclusions of Law. Prior to this, on November 19,
10 2015, the Government formally filed its Motion for Entry of Judgment. On December 23, 2015,
11 Movant filed its Motion to Vacate Judgment. On December 30, 2015, the Government filed its
12 Reply on its Motion for Entry of Judgment, and on January 5, 2016, Movant filed its Reply
13 Memorandum in Support of its Motion to Vacate Judgment.
14

15 At a further proceeding on January 7, 2016, the Court vacated its previously entered
16 Judgment and set the matter for a hearing on the Government's Motion for Entry of Judgment.
17 The Court heard oral arguments on February 5, 2016 on the Government's Motion and
18 subsequently took the matter under advisement.
19

20 DISCUSSION

21 The Government moves this Court to enter a Judgment in this matter, arguing that "an
22 entry of judgment in a special proceeding is necessary in order to determine the rights of the
23 parties." Govt.'s Mot. Entry Judgment at 2 (Nov. 19, 2015). The Government stresses that,
24 under Rule 52 of the Guam Rules of Civil Procedure, a court is required to enter its findings of
25 facts and conclusions of law, as well as its judgment, "[i]n all actions tried upon the facts
26 without a jury. Id. (quoting Guam R. Civ. P. 52 (2014)).
27
28

1 Movant opposes the Government's Motion for Entry of Judgment, noting that this
2 matter is particularly unique given the fact that Movant had initially attempted to file its Motion
3 for Return of Property Seized under the Superior Court of Guam search warrant case (SW40-
4 13). Movant's Mot. Vacate Judgment at 5 (Dec. 23, 2015). Movant attempted to file its motion
5 pursuant to 8 GCA § 35.45(a).¹ Id. Because this attempt was apparently unsuccessful, Movant
6 notes that his motion was eventually assigned a special proceeding case number and
7 subsequently processed as a special proceeding. Id. at 6. For this reason, Movant argues that "an
8 order [rather than a judgment] would be the proper resolution, as there was no complaint or
9 petition pending before the Court, only a motion." Id. at 6. Movant further notes that, under
10 Rule 7(b)(1) of the Guam Rules of Civil Procedure, the filing of a motion by a party is an
11 "application to the court for an order" Id. at 7.
12

13
14 In its Reply, the Government stresses that Movant's filing "initiated a cause of action,
15 regardless of its title." Govt.'s Reply at 1 (Dec. 30, 2015). The Government further argues that
16 "[o]ne cannot bring a motion without a pre-existing cause of action, initiated by a Pleading,
17 regardless of whether the initiating pleading is properly denominated." Id. at 3. Therefore, it is
18 the Government's position that Movant's initial filing was equivalent to a complaint. Id. at 2.
19 With regards to Movant's claim that he filed his motion under 8 GCA § 35.45(a), the
20 Government notes that 8 GCA was intended to be applied in "the criminal context," and
21 "[s]ince no criminal proceedings were brought, the court properly addressed this matter as a
22 civil proceeding in the nature of a special proceeding." Id. at 6. Because this Court conducted a
23 "trial without a jury," the Government concludes that a judgment should be issued. Id. at 3.
24

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26 ¹ § 35.45. Returned of Seized Property; How Sought.

27 (a) A person aggrieved by an unlawful search and seizure may move the court for the return of the property on the
28 ground that he is entitled to lawful possession of the property which was illegally seized. The judge shall receive
evidence on any issue of fact necessary to the decision of the motion. If the motion is granted the property shall be
restored and it shall not be admissible in evidence at any hearing or trial. A motion for return of property may also
be treated as a motion to suppress under § 65.15.

1 The Guam Rules of Civil Procedure clearly state that “[i]n *all* actions tried upon the
2 facts without a jury or without an advisory jury, the court shall find the facts specially and state
3 separately its conclusions of law thereon, and *judgment* shall be entered pursuant to Rule 58 . . .
4 .” Guam R. Civ. P. 52(a) (emphasis added). Furthermore, under Rule 58, “[e]very judgment and
5 amended judgment must be set forth on a separate document . . .” Guam R. Civ. P. 58(a)(1).
6

7 Here, an evidentiary hearing was conducted and this Court issued its Findings of Fact
8 and Conclusions of Law based on the evidence presented. With regards to the Court’s issuing of
9 such findings and conclusions, the Rules make no distinction between special proceedings and
10 civil matters. Therefore, because this matter was an “action tried upon the facts without a jury,”
11 this Court is required, under Rule 52(a), to enter a *judgment*. Notwithstanding Movant’s
12 argument that its initial filing was a “motion,” this Court agrees with the Government that
13 Movant essentially initiated a cause of action, equivalent to a complaint. It is the Court’s
14 position that Movant should have addressed any issues as to form *prior* to this Court’s
15 conducting of an evidentiary hearing. Because an evidentiary hearing was conducted, this Court
16 will enter its judgment as required under the Guam Rules of Civil Procedure.
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19 Accordingly, the Court hereby **GRANTS** the Government’s Motion for Entry of
20 Judgment.

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CONCLUSION

By preponderance of the evidence and based on the foregoing reasons, the Court GRANTS the Government's Motion for Entry of Judgment.

SO ORDERED this 30 day of MARCH, 2016.



HONORABLE ANITA A. SUKOLA
Judge, Superior Court of Guam

SERVICE VIA COURT BOX

I acknowledge that a copy of the original hereto was placed in the court box of

Mitchell Thompson
A.G. P. Thompson
3/30/16 Time: 4 p.m.


Deputy Clerk, Superior Court of Guam