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September 24, 2010

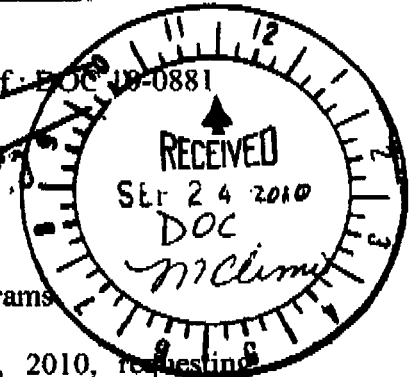
INFORMATION & GUIDANCE

TO: Major Crisostomo, Acting Director, Department of Corrections

FROM: Assistant Attorney General

SUBJECT: Prisoners Participating in Work Release and Educational Programs

Ref: DOC 10-0881



We are responding to your memorandum dated September 16, 2010, requesting clarification and guidance regarding certain inmates' eligibility to participate in work release and educational programs outside the confines of the prison. Our analysis appears below.

1. According to the Judgment, John M. Borja was convicted of Vehicular Homicide (2nd Degree Felony), 16 G.C.A. § 18111(b); and Misdemeanor DUI, 16 G.C.A. § 18102(a). The Safe Streets Act, 16 G.C.A. Ch. 18, does not restrict him from participating in work release and educational programs.

2. According to the Judgment, Michael G. Laguana was convicted of Second Degree Robbery (2nd Degree Felony), 9 G.C.A. § 40.20(a)(2); Special Allegation of Possession and Use of Deadly Weapon in Commission of Felony, 9 G.C.A. § 80.37; Kidnapping (2nd Degree Felony), 9 G.C.A. § 22.20(a)(2); and Third Degree Robbery (3rd Degree Felony) (7 counts), 9 G.C.A. § 40.30(a)(2). As to the Second Degree Robbery conviction, section 40.20(b) provides for no parole or work release before completion of a 5-year minimum term of imprisonment. As to the Special Allegation conviction, section 80.37 provides for no work release until he has served at least 5 years. According to the information you have provided, he has served 17 years and has therefore met the 5-year minimum. Consequently, he is eligible for work release. Also, the law does not restrict him from participating in educational programs.

3. According to the Judgment, Steven C. Seagraves was convicted of Possession of Firearm with Obliterated Identification (3rd Degree Felony), 10 G.C.A. §§ 60114(d) & 60121(d); Theft of Property (3rd Degree Felony), 9 G.C.A. §§ 43.20(b), 43.30(a) & 80.50; and Theft by Receiving Stolen Property (Motor Vehicle) (2nd Degree Felony), 9 G.C.A. §§ 43.50(a) & 43.20(a). As to the firearm-related conviction, section 60121(d) provides for a minimum 3-year term of imprisonment, and section 60121(i) provides for no parole or work release until the term of imprisonment has been completed. As to the Theft by Receiving conviction, section 43.20(a) provides for no parole or work release before completion of a 5-year minimum term of imprisonment; this restriction does not apply to a person sentenced as a first-time offender to not more than 5 years. According to the information you have provided, he is a recidivist. However, presumably due to a consolidated plea hearing covering multiple cases, the court sentenced him in the manner of a first-time offender to 3 years for Theft by Receiving. Therefore, the 5-year

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minimum of section 9 G.C.A. § 43.20(a) does not apply. The court sentenced him concurrently to 3 years for the firearm-related conviction, thus a 3-year minimum based on section 10 G.C.A. § 60121 does apply. According to the information you have provided, he has served 2 years, 8 months. Consequently, he is not yet eligible for work release. He will be eligible after serving 3 years. The law does not restrict him from participating in educational programs.

4. According to the Judgment, Patrick S. Sablan was convicted of Driving Under Influence of Alcohol with Injuries (3rd Degree Felony), 16 G.C.A. §§ 18102(c) & 18110; Driving Under Influence of Alcohol (BAC) with Injuries (3rd Degree Felony), 16 G.C.A. §§ 18102(d) & 18110; Driving Under Influence of Alcohol with Child on Board (3rd Degree Felony), 16 G.C.A. §§ 18102(a) & 18109; and several misdemeanor offenses under the Safe Streets Act, 16 G.C.A. Ch. 18. The Safe Streets Act does not restrict him from participating in work release and educational programs.

5. According to the Amended Judgment, Joseph T. Cruz was convicted of Possession of a Schedule II Controlled Substance (3rd Degree Felony), 9 G.C.A. §§ 67.401.2(a) & (b)(1). The Guam Uniformed Controlled Substances Act, 9 G.C.A. Ch. 67, does not restrict him from participating in work release and educational programs.

6. According to the Judgment, Richard F. Ken was convicted of Vehicular Homicide While Intoxicated (2nd Degree Felony), 16 G.C.A. § 18111(a). The Safe Streets Act, 16 G.C.A. Ch. 18, does not restrict him from participating in work release and educational programs.

7. According to the Judgment, Peter R. Manglona was convicted of Manslaughter (1st Degree Felony), 9 G.C.A. §§ 16.50(a)(1) & (b); and Special Allegation of Possession and Use of Deadly Weapon in Commission of Felony, 9 G.C.A. § 80.37. As to the Special Allegation conviction, section 80.37 provides for no work release until he has served at least 5 years. According to the information you have provided, he has served 14 years, 3 months. Therefore, he is eligible for work release. Also, the law does not restrict him from participating in educational programs.

8. According to the Judgment, Edwin B. Dydasco was convicted of Manslaughter (1st Degree Felony), 9 G.C.A. §§ 16.20, 16.50(a)(1) & (b). The law does not restrict him from participating in work release and educational programs.

9. According to the Amended Judgment, Joel T. Resurrecion was convicted of Manslaughter (1st Degree Felony), 9 G.C.A. § 16.50; Second Degree Robbery (2nd Degree Felony), 9 G.C.A. § 40.20; and Possession and Use of Deadly Weapon in Commission of Felony, 9 G.C.A. § 80.37. As to the Second Degree Robbery conviction, section 40.20(b) provides for no parole or work release before completion of a 5-year minimum term of imprisonment. As to the Deadly Weapon conviction, section 80.37 provides for no work release until he has served at least 5 years. According to the information you have provided, he has served 20 years, 6 months and has therefore met the 5-year minimum. Consequently, he is eligible for work release. Also, the law does not restrict him from participating in educational programs.

10. According to the Judgment, Sidney D. Borja was convicted of Second Degree Robbery (2nd Degree Felony), 9 G.C.A. § 40.20(a)(2); Kidnapping (2nd Degree Felony), 9 G.C.A. § 22.20(a)(2); Second Degree Robbery (2nd Degree Felony), 9 G.C.A. § 40.20(a)(2); and Third Degree Robbery (3rd Degree Felony), 9 G.C.A. § 40.30(a)(2) (7 counts). As to the Second Degree Robbery conviction, section 40.20(b) provides for no parole or work release before completion of a 5-year minimum term of imprisonment. According to the information you have provided, he has served 15 years and has therefore met the 5-year minimum. Consequently, he is eligible for work release. Also, the law does not restrict him from participating in educational programs.

11. According to the Judgment, Patrick Uncango was convicted of Third Degree Criminal Sexual Conduct (2nd Degree Felony), 9 G.C.A. §§ 25.25(a)(2). The law does not restrict him from participating in work release and educational programs.

12. According to the Judgment, Renster Diopulus was convicted of Burglary (2nd Degree Felony), 9 G.C.A. §§ 37.20(a) & (b) and 4.60; and Unauthorized Use of Motor Vehicle (Misdemeanor), 9 G.C.A. § 43.65(a). As to the Burglary conviction, section 37.20(b) provides for no parole or work release before completion of a 5-year minimum term of imprisonment; this restriction does not apply to a person sentenced as a first-time offender to not more than 5 years. According to the information you have provided, he is a first-time offender, was sentenced to 5 years, and has served 1 year, 4 months. Therefore, he is eligible for work release. Also, the law does not restrict him from participating in educational programs.

13. According to the Judgment, Patrick Uncango was convicted of Third Degree Criminal Sexual Conduct (2nd Degree Felony), 9 G.C.A. §§ 25.25(a)(1) and (b). The law does not restrict him from participating in work release and educational programs.

14. According to the Amended Judgment, Jesse F. Belen was convicted of Burglary (2nd Degree Felony), 9 G.C.A. §§ 37.20(a) & (b); Third Degree Criminal Sexual Conduct (2nd Degree Felony), 9 G.C.A. § 25.25(a)(2); and Kidnapping (2nd Degree Felony), 9 G.C.A. §§ 22.20(a)(2) & (3). As to the Burglary conviction, section 37.20(b) provides for no parole or work release before completion of a 5-year minimum term of imprisonment; this restriction does not apply to a person sentenced as a first-time offender to not more than 5 years. According to the information you have provided, he is a recidivist but has served 8 years, 7 months. Therefore, he has met the 5-year minimum and is eligible for work release. Also, the law does not restrict him from participating in educational programs.

15. According to the Judgment, William D. Sablan was convicted of Theft by Deception (2nd Degree Felony), 9 G.C.A. § 43.35; Theft by Deception (2nd Degree Felony), 9 G.C.A. § 43.35; Theft of Property Held in Trust (2nd Degree Felony) (35 counts), 9 G.C.A. § 43.60; and Theft (2nd Degree Felony), 9 G.C.A. § 43.20(a). As to the Theft conviction, section 43.20(a) provides for no parole or work release before completion of a 5-year minimum term of imprisonment; this restriction does not apply to a person sentenced as a first-time offender to not

more than 5 years. According to the Judgment, he is a recidivist. According to the information you have provided, he has served 16 years, 7 months. Therefore, he has met the 5-year minimum and is eligible for work release. Also, the law does not restrict him from participating in educational programs.

16. According to the Judgment, James C. Concepcion was convicted of Burglary (2nd Degree Felony), 9 G.C.A. §§ 37.20(a) & (b); Aggravated Assault (3rd Degree Felony), 9 G.C.A. §§ 19.20(a)(2) & (b); Theft (3rd Degree Felony), 9 G.C.A. §§ 43.20(b) & 43.30(a); Terrorizing (3rd Degree Felony), 9 G.C.A. §§ 19.60(a) & (b); and Possession of Schedule II Controlled Substance (3rd Degree Felony), 9 G.C.A. §§ 67.401.2(a) & (b)(1). As to the Aggravated Assault conviction, section 19.20(b) provides that he is not eligible for work release or educational programs outside the confines of prison.

17. According to the Judgment, Charles W. Weatherby was convicted of Vehicular Homicide While Intoxicated (2nd Degree Felony), 16 G.C.A. §§ 18111(b), 18102, 18102(e) & (f); Vehicular Negligence (3rd Degree Felony), 16 G.C.A. §§ 18102(c) & 18110; and Driving While Under Influence of Alcohol (BAC) (as a Misdemeanor). The Safe Streets Act, 16 G.C.A. Ch. 18, does not restrict him from participating in work release and educational programs.

18. According to the Judgment, Roque D. Dela Cruz was convicted of Terrorizing (3rd Degree Felony), 9 G.C.A. §§ 19.60(a) & (b); and Family Violence (3rd Degree Felony), 9 G.C.A. §§ 30.10(a)(2), 30.20(a) & (c)(3). The law does not restrict him from participating in work release and educational programs.

19. According to the Judgment, Roy S.N. Aguigui was convicted of Theft by Deception (2nd Degree Felony), 9 G.C.A. §§ 43.35(a)(1) & 43.20(a). Section 43.20(a) provides for no parole or work release before completion of a 5-year minimum term of imprisonment; this restriction does not apply to a person sentenced as a first-time offender to not more than 5 years. According to the information you have provided, he is a first-time offender, was sentenced to 3 years, and has served 5 months. Therefore, he is eligible for work release. Also, the law does not restrict him from participating in educational programs.

20. According to the Judgment, Roland Camacho was convicted of Aggravated Assault (3rd Degree Felony), 9 G.C.A. §§ 19.20(a)(2), (b) & 80.30. As to the Aggravated Assault conviction, section 19.20(b) provides that he is not eligible for work release or educational programs outside the confines of prison.

21. According to the information you have provided, Christine Toves has been released.

22. According to the information you have provided, Joseph R.C. Mallo has been released.

23. According to the Judgment, Kevin M. Jackson was convicted of Vehicular Homicide (2nd Degree Felony), 16 G.C.A. § 18111(b); Driving While Under Influence of Alcohol with

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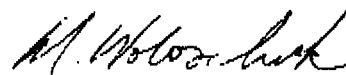
Injuries (BAC) (3rd Degree Felony), 16 G.C.A. §§ 18102(d) & 18110; and Driving While Under Influence of Alcohol with Injuries (BAC) (Misdemeanor), 16 G.C.A. § 18102(b). The Safe Streets Act, 16 G.C.A. Ch. 18, does not restrict him from participating in work release and educational programs.

24. According to the Judgment, Hank T. Salas was convicted of Child Abuse (3rd Degree Felony). The applicable statute is 9 G.C.A. §§ 31.30(a) and (b). Section 31.30 does not restrict him from participating in work release and educational programs.

25. According to the Judgment, Anthony J.M. Duenas was convicted of Murder; Possession and Use of Deadly Weapon During Commission of Felony; and Felony Escape (3rd Degree Felony). The applicable statutes are 9 G.C.A. § 16.40(b), 9 G.C.A. § 80.37, and 9 G.C.A. § 58.20(a). As to the Murder conviction, section 16.40(b) provides that he is not eligible for work release or educational programs outside the confines of prison.

26. Pedro C. Quichocho's parole was revoked and he returned to prison to continue serving the remainder of his sentence on the underlying conviction. According to the Judgment, he was convicted of Murder and Possession and Use of Deadly Weapon During Commission of Felony. The applicable statutes are 9 G.C.A. § 16.40(b) and 9 G.C.A. § 80.37. As to the Murder conviction, section 16.40(b) provides that he is not eligible for work release or educational programs outside the confines of prison.

If you have any questions, please do not hesitate to contact me at the telephone number indicated herein.



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