

1 appropriate disposition of the combined matters, together with an order that Respondent
2 Warfield pay an assessment.

3 Rule 10 of the Attorney Discipline Rules states as follow:

4 **Rule 10. Assessments.**

5 Upon recommendation of the hearing counsel, the Ethics
6 Committee may assess a respondent-attorney who has been
7 determined to have committed an act or omission which provides a
8 basis for the imposition of discipline under Rule 11, below, for all
9 the expenses and costs which were incurred in a disciplinary
10 proceeding before the Committee, including the cost of
11 depositions, transcripts and witnesses; and also for attorney fees.
12 The Supreme Court may assess a respondent-attorney, if discipline
13 is imposed under Rule 12 of these rules, for all the expenses and
14 costs which were incurred in a disciplinary proceeding before the
15 Court.

16 Respondent Warfield has been assessed by the GBEC an amount of \$980.00 for expenses
17 and costs incurred while these ethics matters remained pending before the GBEC. Such payment
18 shall be paid through the office of Prosecuting Counsel, made payable to the Judiciary of Guam,
19 within 120 days of the date of this order.

20 Finally, pursuant to Rule 12(d) of the Attorney Discipline Rules, the court hereby orders
21 the publication of a notice of public discipline, with the cost for such publication to be paid by
22 Respondent Warfield. GBEC Prosecuting Counsel is directed to coordinate publication of two
23 notices -- one in the Pacific Daily News and one in the Guam Daily Post, which shall state as
24 follows:

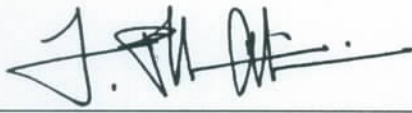
25 NOTICE OF ATTORNEY DISCIPLINE

26 PLEASE BE ON NOTICE that, pursuant to an order issued by the
27 Supreme Court of Guam on September 2, 2015, former Guam attorney JEFFERY
28 L. WARFIELD, SR., has been issued a PUBLIC REPRIMAND for violating
29 several of the Guam Rules of Professional Conduct applicable to attorneys
30 regarding competence, diligence, and communication, relative to his
31 representation of two clients in criminal cases while he was an attorney. He has

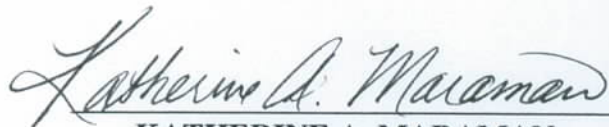
1 also been ordered to pay an assessment of \$980 towards the costs associated with
2 investigation and prosecution of the matters. More information can be found on
3 the Supreme Court of Guam's website at www.guamcourts.org

4 All submissions made in this Attorney Discipline matter before this court, which form the
5 basis of this order and which were previously sealed, shall immediately be unsealed and made
6 part of the public record in this case.
7

8 **SO ORDERED** this 4th day of September, 2015.
9

10
11 

12 **F. PHILIP CARBULLIDO**
13 Associate Justice


11 

12 **KATHERINE A. MARAMAN**
13 Associate Justice

14 

15 **ROBERT J. TORRES**
16 Chief Justice

17
18 I do hereby certify that the foregoing is a full true
19 and correct copy of the original on file in the
office of the clerk of the Supreme Court of Guam.

20 SEP 04 2015 

21 By **AARON T. QUITUGUA**
22 Deputy Clerk
23 Supreme Court of Guam
24

GUAM BAR ETHICS COMMITTEE
Office of the Ethics Prosecutor
Judicial Center Building, Second Floor
Hagåtña, Guam 96910

FILED
2015 AUG 21 PM 3:11
SUPREME COURT
OF GUAM

IN THE SUPREME COURT OF GUAM

IN RE:

JEFFERY L. WARFIELD, SR.,

Respondent.

Supreme Court Case No. ADC15-⁰⁰⁷
Related GBEC Matters: EC13-036 &
EC14-014

SUBMITTED UNDER SEAL

**REQUEST FOR APPROVAL AND
IMPOSITION OF PUBLIC REPRIMAND;
REQUEST FOR APPROVAL OF
ASSESSMENT**

This Court has made clear that the Guam Bar Ethics Committee (“GBEC”) is authorized to impose discipline on Guam attorneys through private reprimands. However any greater discipline must be approved and imposed by this Court. As such, the Court’s approval is respectfully sought regarding the GBEC’s determination pursuant to Rules 16 and 19 of the Bar of Guam Ethics Committee’s Rules of Procedure for Disciplinary Proceedings (“Rules”) that a public reprimand should issue to Respondent Warfield herein, and that the Court proceed with imposing such discipline. Additionally, to the extent necessary, the Court’s approval is sought regarding the GBEC’s order imposing an assessment against Respondent Warfield.

SUBMISSION UNDER SEAL

In an abundance of caution, this matter has been submitted under seal. However, notwithstanding this preliminary care, it is suggested that since the GBEC has determined that probable cause exists supporting the allegation that Respondent Warfield engaged in misconduct, there appears no basis for its continued sealing.

When formal proceedings occur before the Adjudication Committee in an attorney discipline matter the proceedings are confidential. However if that body determines that a public reprimand should be imposed such discipline is recommended to this Court in a proposed order which is a public filing. (See Rule 2.) This is true regardless of the possibility that this Court could reject the public reprimand recommendation and instead impose a private reprimand or dismiss the matter entirely. This approach appears premised on the fact that probable cause to believe misconduct occurred was determined by the GBEC. Thus it seems the present recommendation ought to be public as well.

PUBLIC REPRIMAND

Rules 16 and 19 state, in relevant part:

Rule 16. Disposition following Investigation-Criteria.

Following investigation by the hearing counsel, a matter may be disposed of by:

- (a) Dismissal, if there is no probable cause to believe misconduct has occurred;
- (b) Reprimand, public or private, in the discretion of the Committee, if there is probable cause to believe misconduct has occurred,

Rule 19. Reprimand-Imposition.

(a) If the matter is to be concluded by either public or private reprimand, the Committee shall notify the respondent in writing of the proposed disposition and of his right to demand in writing that the matter be disposed of by a formal proceeding if his written objection is filed within fifteen (15) days of the receipt of notice.

(b) If the respondent files a timely objection the admonition shall become void and the matter shall be disposed of by a formal proceeding.

Rule 19 was amended as recently as March 2009. This Court has empowered the GBEC to consider the propriety of imposing public reprimands in attorney discipline matters, subject to the Court's approval.

EC13-036

A letter dated August 9, 2013 was received by prosecuting counsel on August 20, 2013 from a female inmate then-incarcerated at the Department of Corrections. A copy of the letter, redacted as appropriate, is attached hereto as Exhibit "A." She asked for help because she had been in custody on "a simple JP case" since May 2013 waiting for rescheduled hearings and waiting for her lawyer while she had to "sit and rot in jail." Attorney discipline matter EC13-036 commenced upon the GBEC's motion as contemplated by Rules 3 & 10 as well as Title 7 GCA § 9A203(a). The woman was released from custody on August 15, 2015 after admitting the PINS petition in the JP case.

Prosecuting counsel undertook a screening of the matter as directed by Rule 12. Following screening it was recommended to the GBEC that further investigation be authorized. The GBEC agreed, authorizing further investigation by prosecuting counsel.

On May 12, 2014, prosecuting counsel sent Notice to Respondent Warfield pursuant to Rule 14. Respondent Warfield responded on June 12, 2014.

EC14-014

Information came to the GBEC's attention regarding a male inmate who may have been in custody at the Department of Corrections several months longer than required by his sentence. Attorney discipline matter EC14-014 commenced upon the GBEC's motion as contemplated by Rules 3 & 10 as well as Title 7 GCA § 9A203(a).

Prosecuting counsel undertook a screening of the matter as directed by Rule 12. Following screening it was recommended to the GBEC that further investigation be authorized. The GBEC agreed, authorizing further investigation by prosecuting counsel.

On October 20, 2014 prosecuting counsel first wrote to Respondent Warfield as part of the investigation. Several emails were then exchange between prosecuting counsel and Respondent Warfield, followed by Respondent Warfield's December 12, 2014 response to the October 20, 2014 letter.

On December 15, 2014 prosecuting counsel sent Notice to Respondent Warfield pursuant to Rule 14. Respondent Warfield responded on January 16, 2015. On February 11, 2015 prosecuting counsel sent a follow-up letter to Respondent and on May 5, 2015 Respondent Warfield responded.

Disposition of Combined Matters EC13-036 & EC14-014

Prosecuting counsel provided final reports and recommendations to the GBEC in each matter suggesting that the GBEC consider, pursuant to Rule 16, whether probable cause existed to support a finding of misconduct and whether a private or public reprimand may be an appropriate disposition. Prosecuting counsel asserted that, notwithstanding Respondent Warfield's responses in each matter, the alleged facts appeared to support a finding that probable cause existed in each matter to believe misconduct occurred through violation of the following provisions of the Guam Rules of Professional Conduct in each matter:

GRPC 1.1: Competence

GRPC 1.3: Diligence

GRPC 1.4: Communication

GRPC 8.4(a) & (d): Misconduct

The GBEC determined that probable cause existed supporting a finding of misconduct in each matter providing grounds for discipline pursuant to Rule 11(b) of this Court's Rules for the Discipline of Attorneys. As described below, the GBEC also determined that issuance of a public reprimand is an appropriate disposition of the combined matters, together with an order that Respondent Warfield pay an assessment.

Rule 9 of the GBEC's rules instructs the GBEC to consider several factors listed in Rule 9(b) to determine an appropriate sanction. The GBEC is also instructed to fashion any discipline, "in light of the purpose of attorney discipline as set forth in Rule 1." Rule 1 states:

Purpose of Rules.

The purpose of these rules is to maintain appropriate standards of professional conduct in order to protect the public and the administration of justice from attorneys who have demonstrated by their conduct that they are unable or are likely to be unable to properly discharge their professional duties.

Rule 9(b) states:

(b) In determining the nature and extent of the discipline to be imposed or recommended by it, the Committee shall consider:

- (1) The seriousness and circumstances of the offense;
- (2) The avoidance of repetition;
- (3) The deterrent effect upon others;
- (4) The maintenance of respect for the honor and dignity of the legal profession; and
- (5) The assurance that those who seek legal services will be insulated from unprofessional conduct.

The GBEC, upon considering the Rule 9(b) factors in light of Rule 1, determined that the appropriate discipline in this matter is a public reprimand.

The GBEC lent significant weight to the fact that Respondent Warfield is no longer a practicing attorney on Guam, and thus “the avoidance of repetition” is highly probable. (Given similar facts regarding a practicing attorney, the GBEC would likely consider more serious discipline to be appropriate.) Additionally, reaching final and public discipline efficiently, in the interest of preserving resources, is important to the proper functioning of the lawyer discipline system. Finally, public discipline serves the purposes of deterring other lawyers from similar misconduct while demonstrating to the public that action will be taken when misconduct by attorneys occurs. This is thought to contribute greatly to assuring those who seek legal services they will be protected from unprofessional conduct to the extent possible.

A combined Rule 19 Notice regarding both matters was sent to Respondent Warfield on June 24, 2015 at his last address of record with the GBA as contemplated by Rule 5(e) of this Court’s Rules for the Discipline of Attorneys. A copy of the Notice, redacted if deemed appropriate, is attached here as Exhibit “B.” A courtesy copy of the Rule 19 Notice was also emailed to Respondent Warfield on August 5, 2015 to an email address regularly used by prosecuting counsel to communicate with him. Respondent Warfield did not submit an objection to the Public Reprimand within the fifteen-day deadline, nor has an objection been submitted after the deadline.

Respondent Warfield’s failure to object to the public reprimand is essentially consent to imposition of the public reprimand. Therefore the discipline is final before the GBEC; however it is subject to this Court’s approval. Such approval is sought herein. If approved, the GBEC requests that the public reprimand be imposed in a manner to be determined by the Court.

ASSESSMENT

Rule 10 of this Court's Rules for the Discipline of Attorneys states as follows:

Rule 10. Assessments.

Upon recommendation of the hearing counsel, the Ethics Committee may assess a respondent-attorney who has been determined to have committed an act or omission which provides a basis for the imposition of discipline under Rule 11, below, for all the expenses and costs which were incurred in a disciplinary proceeding before the Committee, including the cost of depositions, transcripts and witnesses; and also for attorney fees. The Supreme Court may assess a respondent-attorney, if discipline is imposed under Rule 12 of these rules, for all the expenses and costs which were incurred in a disciplinary proceeding before the Court.

Exhibit B hereto makes clear that the GBEC assessed Respondent Warfield an amount of \$980 for the expenses and costs incurred while the matters remained pending before the GBEC. Such assessment was ordered paid through the office of prosecuting counsel, payable to the Judiciary of Guam, within thirty (30) days of this Court's issuance of the public reprimand, if approved and administered by the Court.

PUBLICATION

Finally, Rule 12(d) of this Court's Rules for the Discipline of Attorneys contemplates publication of the public discipline with the cost for such publication to be paid by the respondent. The GBEC suggests that the Court direct prosecuting counsel to coordinate publication of notice twice, one in each of the Pacific Daily News and the Marianas Variety, stating as follows:

NOTICE OF ATTORNEY DISCIPLINE

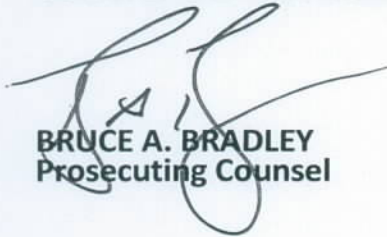
PLEASE BE ON NOTICE that, pursuant to an order issued by the Supreme Court of Guam on [DATE], former Guam attorney JEFFERY L. WARFIELD, SR., has been issued a PUBLIC REPRIMAND for violating several of the Guam Rules of Professional Conduct applicable to attorneys regarding competence, diligence, and communication, relative to his representation of two clients in criminal cases while he was an attorney. He has also been ordered to pay an assessment of \$980 towards the costs associated with investigation and prosecution of the matters. More information can be found on the Supreme Court of Guam's website at www.guamcourts.org.

CONCLUSION

This Court has adopted rules of procedure governing attorney discipline proceedings before the GBEC. Those rules expressly contemplate the GBEC determining when a public reprimand is an appropriate disposition of a matter, subject to this Court's approval. This Court has also adopted rules allowing for imposition of an assessment against a respondent. The GBEC respectfully requests and recommends that its imposition of a public reprimand against Respondent Jeffery L. Warfield, Sr., in this matter be approved and imposed and that the GBEC's assessment order be similarly approved. Finally, this entire matter should be public.

Respectfully submitted this 21st day of August, 2015.

GUAM BAR ETHICS COMMITTEE



BRUCE A. BRADLEY
Prosecuting Counsel

GUAM BAR ETHICS COMMITTEE



JEFFREY A. COOK
Chairman

RECEIVED
GUAM BAR ASSOCIATION
Office of the Ethics Prosecutor
Guam Judicial Center, Second Floor
120 W. O'Brien Drive

Date: 8-20-2013 11:24 AM

19 Aug. 2013

Dear Mr. Bradley:

I am [REDACTED]
currently a Detainee at the
Department of Corrections being
held on a simple TIP case and
having not seen a judge [REDACTED]
since May 2013. Every attempt
at a scheduled hearing is
always rescheduled a month later
all the while I sit and rot
in jail. My attorney is
Jeffrey L. Warfield and in July
was promised he'd get a hearing
for release to no avail. We
been in contact with [REDACTED]
[REDACTED] who sits in and has
expressed to him in which his
response was "It is unheard of" and
call me back if I don't call you. We
received no calls, visits or hearing.

RA

Exhibit "A"

CLARK ASSOCIATES
Office of the Ethics Prosecutor
120 W. Olive Street
St. Louis, MO 63101
Tel: 314.434.4400
Fax: 314.434.4401

date, please help.

Thank you.





GUAM BAR ASSOCIATION
 OFFICE OF THE ETHICS PROSECUTOR
 Guam Judicial Center, Second Floor
 120 West O'Brien Drive
 Hagåtña, Guam 96910
 Office: [671] 475-3167; Secure Fax: [671] 475-3400

PERSONAL & CONFIDENTIAL

June 24, 2015

Jeffrey Warfield, Sr.
 P.O. Box 3842
 Hagatna, GU 96932

RE: EC13-036 & 14-014; NOTICE Pursuant to Rules 16 & 19 of the Guam Bar Ethics Committee's Rules of Procedure

Dear Mr. Warfield:

Rule 16 of the Guam Bar Ethics Committee's Rules of Procedure ("Committee's Rules") includes the following:

Rule 16. Disposition following Investigation-Criteria.

Following investigation by the hearing counsel, a matter may be disposed of by: . . . (b) Reprimand, public or private, in the discretion of the Committee, if there is probable cause to believe misconduct has occurred

Rule 19 of the Committee's Rules 19 states as follows:

Rule 19. Reprimand-Imposition.

- (a) If the matter is to be concluded by either public or private reprimand, the Committee shall notify the respondent in writing of the proposed disposition and of his right to demand in writing that the matter be disposed of by a formal proceeding if his written objection is filed within fifteen (15) days of the receipt of notice.
- (b) If the respondent files a timely objection the admonition shall become void and the matter shall be disposed of by a formal proceeding.

COPY
 Exhibit "B"

Notwithstanding Rules 16 & 19, the Supreme Court of Guam's Rules for the Discipline of Attorneys ("Court's Rules") make it clear that the ethics committee is the final arbiter of private reprimands only; all other forms of discipline must be approved/imposed by the Supreme Court.

Upon careful consideration of these matters, the Ethics Committee has determined that there is probable cause to believe misconduct has occurred in each of the matters identified below and that you have violated the following provisions of the Guam Rules of Professional Conduct ("GRPC") in each matter:

EC13-036

- GRPC 1.1: Competence.**
- GRPC 1.3: Diligence.**
- GRPC 1.4: Communication.**
- GRPC 8.4(a) & (d): Misconduct.**

EC14-014

- GRPC 1.1: Competence.**
- GRPC 1.3: Diligence.**
- GRPC 1.4: Communication.**
- GRPC 8.4(a) & (d): Misconduct.**

The facts supporting the Committee's determinations are as follows:

EC13-036: On April 18, 2013 an answering hearing was held regarding a JP PINS case. You were the attorney in your office assigned to represent the indigent mother of the minor children involved in the case. The mother was not present at the April 18, 2013 hearing, which was covered by another attorney in your office. The hearing was continued one week to April 25, 2013. No proof exists that your client was provided notice of the April 18, 2013 hearing (although a CPS caseworker appears to have informed the court at that hearing that she told the parents about the hearing). On April 25, 2013 you attended the continued answering hearing. Your client was not present. Similarly, no proof exists that she was provided notice of the April 25, 2013 continued answering hearing. Notwithstanding the fact that no proof existed establishing that your client had been provided notice of either hearing, at the oral request of the Office of the Attorney General the court issued a warrant of arrest at the April 25, 2013 hearing commanding the arrest of your client. The warrant indicated on its face that its grounds were your client's failure to appear at the April 25, 2013 hearing.

On April 26, 2013, following your client's arrest on the warrant, a return-of-warrant hearing was held. You attended that hearing. The court stated that your client was "being held in this case until we get an answering on the PINS petition," and set a continued answering for May 9, 2013. Your response to the court was, "understood, your honor," nothing more. There appeared to be no legal or factual support for either the issuance of the April 25, 2013 warrant of arrest or the April 26, 2013 order of confinement. The court then issued a commitment order and set bail for \$1,000 cash for your indigent client. Notwithstanding your periodic absence from Guam for personal reasons between April and August 2013, this client remained your responsibility in her PINS case. You made no effort following your client's incarceration on April 26, 2013 until at least mid-August 2013 to secure her release from prison. She remained incarcerated until August 15, 2013 on the April 26, 2013 commitment order. On August 15, 2013 she admitted the allegations in the PINS petition and was released. Your client spent nearly four (4) months in prison based on an arguably legally insufficient order of confinement issued on April 26, 2013 resulting from an arguably legally insufficient order of arrest issued on April 25, 2013 with no action by you. August 12, 2013, you received an email from another attorney in your office about this client who stated, in part, that, "it is extraordinary to be held on a PINS case without a hearing. Even if she were held in contempt, she could only be held for 60 days." You responded, "We are working on it. . . . She is being held on a bench warrant for repeated failures to appear." The statement regarding her "repeated failures to appear" has no factual support in the record.

EC14-014: You attended an April 24, 2013 change of plea and sentencing hearing in CF [REDACTED] for your client, Mr. [REDACTED]. Your client was sentenced to 10 years in prison, all but 3 years suspended. He had 3 years of direct time to serve, meaning all of the time had to be served, and was given credit for time served. He had been in custody continuously on CF [REDACTED] since October 19, 2010. His release date should have been October 19, 2013.

You were the attorney responsible for representing Mr. [REDACTED] in CF [REDACTED] throughout the entire case. You signed the plea agreement on April 23, 2013. It was submitted to the court that day. At a hearing held the next day the court accepted the plea agreement and sentenced your client pursuant to the agreement. At the hearing the court noted that your client had about "half-a-year" left to serve. Consistent with the court's comment, you noted that your client had already served "about two-and-a-half years." At the end of the hearing the judge instructed the prosecutor present to prepare a judgment reflecting the terms discussed. The judge signed the plea agreement and it was filed at 3:32 p.m. that day. Your client had less than six months left to serve.

On April 25, 2013, a proposed judgment was promptly prepared by the Office of the Attorney General, signed by a prosecutor, and served on your office. That copy of the judgment remained in your "in box" for quite some time, was never filed with the court, and later went missing.

Mr. [REDACTED] called your office repeatedly during September and the first few weeks of October 2013 to inquire about his judgment as he was aware the DOC needed a copy to calculate his release date and let him go. You took no action relative to his calls. On October 17, 2013, just two days before his scheduled release date, you were included on an email exchange between your office and the Office of the Attorney General wherein the missing judgment was discussed. Still you took no action regarding the missing judgment, notwithstanding the fact that he was your client and the case was your responsibility. Records from your office indicate that you were not on leave during that time period, but rather were on a regular working schedule.

About five (5) months later, on March 14, 2014, you emailed the Office of the Attorney General asking about the missing judgment in reaction to a call you received from DOC as they needed it in order to release him. On March 21, 2014 the Office of the Attorney General signed the judgment and delivered it to your office. You took no action to obtain the judgment from March 14 to 21, 2014 although your client had already been in prison 5 months too long. You signed the judgment on March 25, 2014, four days after it was delivered to your office, and submitted it to the court on March 26, 2014. The court signed it on March 27, 2014. A copy of the filed judgment was provided to the DOC on March 28, 2014 and Mr. [REDACTED] was released from custody that day. He spent five months and nine days in prison beyond that required by his sentence.

These facts provide sufficient proof that you violated the GRPC as noted above. Considering your current status as a non-attorney on Guam (your five-year temporary license expired in May 2014), notwithstanding the serious nature of your misconduct in each of these matters the committee has determined that the appropriate disposition of the matters is through issuance of a **PUBLIC REPRIMAND**.

The committee has also determined that, pursuant to Rule 10 of the Court's Rules, an assessment of \$980 must be paid by you, through the office of disciplinary counsel, payable to the Judiciary of Guam, within thirty (30) days of issuance of the public reprimand. Such assessment is for the expenses and costs incurred while these matters have remained pending, including approximately seven (7) hours of investigative and prosecutorial work in each matter performed by disciplinary counsel.

As contemplated by Rule 19(a), you have fifteen (15) days from the date of receipt of this notice to object to the proposed disposition. An objection must be submitted to the

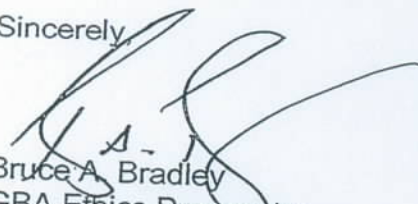
EC13-036 & EC14-014

June 24, 2015

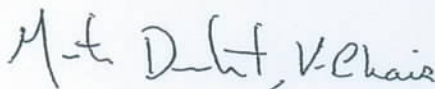
Page 5

office of disciplinary counsel, in writing. If a timely objection is submitted the discipline will become void. If you do not object, the Committee will submit its proposed order regarding your discipline to the Supreme Court of Guam for its consideration.

Sincerely,



Bruce A. Bradley
GBA Ethics Prosecutor




for Jeffrey A. Cook

Chair, Guam Bar Ethics Committee

GUAM BAR ASSOCIATION

Office of the Ethics Prosecutor
Guam Judicial Center, Second Floor
120 W. O'Brien Drive
Hagatna, Guam 96910-5174



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PITNEY BOWES
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0001865881 JUN 24 2015
MAILED FROM ZIP CODE 96910

Jeffrey Warfield, Sr.
P.O. Box 3842
Hagatna, Guam 96932