



# Office of the Attorney General of Guam

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FOR IMMEDIATE RELEASE

## OAG Files Motion to Dismiss Without Prejudice; Judge Grants Motion

### AG to “Promptly Pursue Re-Indictment”

October 26, 2015-Tamuning, Guam- The Office of the Attorney General (OAG) today filed a motion to dismiss without prejudice in the 1987 cold case homicide *People v. Scaggs* [CF179-14]. The OAG will seek to re-indict the defendant promptly.

On April 11, 2014, Gary Leon Scaggs was indicted on a single count of murder for the death of his wife, Tracey Berg Scaggs. He was extradited to Guam in August 2014. After waiving his right to a speedy trial for over a year, on September 15, 2015, he asserted his right to go to trial. A date was set by the judge for today, October 26, 2015.

“The persistence of the victim’s family in driving the Air Force Office of Special Investigations (OSI) and the Federal Bureau of Investigations to cooperate with the OAG brought this case forward. Only then were we, along with the Guam Police Department, able to proceed after new information was received,” said Chief Prosecutor Phillip J. Tydingco.

According to court documents, the two prior Assistant Attorneys General (AAG) assigned to handle this case are unable to take it to trial. Former AAG Henderson resigned in August, and the case was then reassigned to AAG Gallagher. Earlier this month, AAG Gallagher was removed from handling the case due to medical issues and other concerns.

As stated in The People’s motion “Due to the shortened time period for preparation due to AAG Gallagher’s serious medical condition, the People are unable to go forward with the trial in this matter...”

A thorough review of all evidence in this case by newly assigned AAG Jonathan Quan and the need to contact and bring numerous off-island witnesses to Guam to testify necessitated the filing of the motion to dismiss.

The family members of Tracey Berg Scaggs arrived on Guam last week to attend the trial. The Attorney General, Chief Prosecutor and the Prosecution team met with the family to express their apologies for the further pain caused by the decision to dismiss.

“This was a difficult decision to make. The victim’s family has traveled far and at great expense to be here for trial. They have been waiting for over 28 years for justice to be served in Tracey’s murder. This case is not over. We have informed them we will promptly pursue re-indictment,” said General Barrett-Anderson.

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