

HISTORY OF THE DISTRICT COURT OF GUAM



President Harry S. Truman signing the Organic Act of Guam in 1950, establishing the civil government for Guam and creating the District Court of Guam.

The establishment of a civil government on Guam was envisioned by President Harry S. Truman, who stated: “It is the announced aim of this Government to accord civil government and a full measure of civil rights to the inhabitants of its Pacific territories. The accomplishment of this objective will be furthered by the transfer of these territories to civilian administration and the enactment of

organic legislation at the earliest practicable date.”

In 1950, a civil government of Guam became a reality with the passage of the Organic Act of Guam (Pub.L. 81-630, codified at 48 U.S.C. § 1421 et seq. (1950)).

The Organic Act of Guam created a territorial court, the District Court of Guam, and vested it with original jurisdiction over cases arising under federal law and cases not

transferred by the Guam Legislature to local courts, as well as appellate jurisdiction as to be determined by the Guam Legislature. Congress later expanded the court's jurisdiction to include diversity jurisdiction.

Shortly after the enactment of the Organic Act, the Guam Legislature created its local court system. It also granted the District Court appellate jurisdiction over certain civil and criminal decisions coming out of the local court. In 1958, Congress approved of such local law by amending the Organic Act to require that appeals to the District Court of Guam be heard by an appellate division consisting of three judges. In 1974, the Guam Legislature created the Superior Court of Guam to replace the existing local court structure. Thus, beginning in 1974, the local courts exercised exclusive original jurisdiction over cases arising under local Guam law



The Guam Congress Building, located in Hagatna, Guam, served as the first home of the District Court of Guam from 1950 to 1968.



Left to right: U.S. Marshal Antonio Camacho Baza, Deputy Clerk Jesus A. Crisostomo, and Clerk of Court Roland Gillette selecting the first jury panel, February 1956.

(except cases also arising under federal law or related to Guam territorial income tax). As a result, the District Court of Guam was divested of original jurisdiction over cases arising under local law. Finally, upon the establishment of the Supreme Court of Guam in 1994 through the passage of the Frank G. Lujan Memorial Court Reorganization Act, the District Court of Guam was divested of appellate jurisdiction over all local matters.

Today, as a result of the above amendments to the Organic Act of Guam, the District Court of Guam exercises exclusive federal jurisdiction. It has the same jurisdiction as that of any Article III district court of the United States, to include federal question and diversity jurisdiction. In addition, the District Court of Guam has the

DISTRICT JUDGES

- Paul D. Shriver 1951 - 1959
- Eugene R. Gilmartin 1959 - 1961
- Paul D. Shriver 1961 - 1969
- Cristobal C. Duenas 1969 - 1991
- John S. Unpingco 1992 - 2004
- Frances Tydingco-Gatewood 2006 - Present

MAGISTRATE JUDGE

- Joaquin V.E. Manibusan, Jr. 2004 – present



The District Court of Guam's first jury trial commenced on February 21, 1956. The first jurors are shown here on February 22, 1956. Back row, left to right: Asuncion H. Santos, Antonio L.G. Perez, Gladys Victoria Bennett, Ricardo Torres Calvo, Jesus Martinez Perez, and Eliseo Escares Maravilla. Front row, left to right: Vicente Calvo Aflague, Kenneth Hodges, Lois F. Statler, Francisco B. Perez, Yuk Lan Moylan, and Irby John Baker. The defendants were charged with burglary in the first degree in an information filed on October 25, 1955. The jury acquitted the defendants that very same day. Mr. Richard Rosenberry, the Deputy Island Attorney, prosecuted the case, while Mr. Finton J. Phelan, Jr. was counsel of record for the defendants.



Judge Paul D. Shriver (1951 - 1959), with U.S. Marshal Antonio Camacho Baza and United States Attorney H. Gordon Homme, Jr.

jurisdiction of a United States bankruptcy court and as Guam's tax court.

The Court's Judicial Officers

The first judge appointed to the District Court under the Organic Act was **Paul D. Shriver**, a native of Colo-

rado. A hearing before the Senate Judiciary Committee was held on Shriver's nomination on February 27, 1951. The unpublished transcript of the hearing indicates that Shriver worked in government in Washington, D.C. and Colorado

prior to World War II; he served in Italy with the Military Government Division during World War II; and for approximately four years prior to the appointment to the District Court judgeship in Guam, he served in the Philippines as General Counsel for the Philippine War Damage Commission.

Shriver served two four-year terms as the District Judge for Guam. He was re-nominated to be Judge by President John F. Kennedy after Judge Eugene R. Gilmartin died in office in 1961. Court records show his term began in March of 1961 and terminated with the court in September 1969.

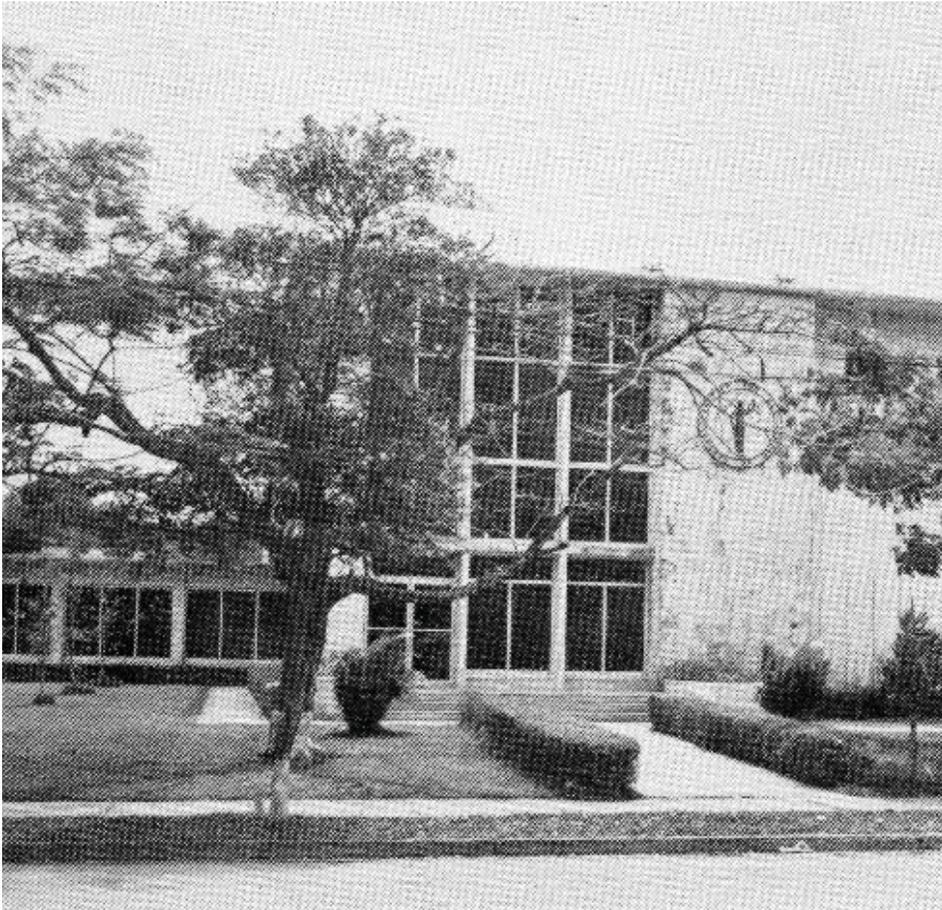
Eugene R. Gilmartin of Rhode Island succeeded Judge Shriver in 1959. After his appointment by President Dwight D. Eisenhower, Gilmartin's nomination hearing before the Senate



The court's second judge, Eugene R. Gilmartin, (second from left) celebrating with staff members.



From left to right: Judge Joaquin C. Perez, Island Court of Guam; Unknown Judge; Harold W. Burnett, High Court of the Trust Territory; Robert K. Shoecraft, Judge, High Court of the Trust Territory; Paul D. Shriver, Judge, District Court of Guam; and Judge Cristobal C. Duenas, Island Court of Guam.



The Courthouse of Guam, located in Hagatna, served as the second home of the District Court of Guam from 1968 to 1978. The building is now the Judicial Annex of the Judiciary of Guam, and houses the Probation Office and the Public Defender's Office.



The jury wheel and jury selection box used in the earliest jury trials at the District Court of Guam. The jury wheel is still in use.

Judiciary Committee took place on August 19, 1959. The unpublished transcript of the nomination hearing indicates that Gilmartin had been serving as the District Judge of Guam under a recess appointment that began on October 17, 1958. Prior to that appointment, Gilmartin had served as the Deputy High Commissioner of the Trust Territory of the Pacific Islands for seventeen months. Before that, Gilmartin served in a variety of private practice and government positions in Rhode Island, Massachusetts, and Washington, D.C. Judge Gilmartin died in office in 1961.

Cristobal C. Duenas, a graduate of the University of Michigan Law School, was appointed by President Richard M. Nixon on September 23, 1969 to be the next judge for the District Court of Guam. On December 10, he was confirmed by the Senate and commissioned the next day. By December 24, 1969, he was officially sworn in as the Judge of the District Court of Guam. In June of 1977, Judge Duenas was reappointed for a second term, and he retired as a Senior Judge in 1991. He died on February 14, 2010 after a long and distinguished judicial career.

President George W. Bush nominated **John Sablan Unpingco** to be the next judge for the District Court of Guam. The Senate confirmed the Presidential nomination on September 24, 1992 and the nominee was commissioned on October 9, 1992. An investiture ceremony was held on December 22, 1992 on the 6th Floor of the Pacific News building where the District Court of Guam was located.

Judge Unpingco received a Master of Laws degree, specializing in International Law, from Georgetown University, Washington, D.C.; Master of Business Administration and Juris Doctorate from New York University, New York City; Bachelor of Arts, magna cum laude from St. Louis University, St. Louis, Missouri. Judge Unpingco resigned from office effective April 30, 2004, after serving eleven years with the court.

Frances Marie Tydingco-

Gatewood's nomination by President George W. Bush, Jr., was announced in July of 2006. She was confirmed by the Senate on August 8, 2006. On October 30, 2006, she was officially sworn in as the new Chief Judge for the District Court of Guam, and became the first Chamorro female chief judge in the nation. She is currently a member of three Ninth Circuit Court committees: the Conference of Chief District Judges, the Conference of Chief Bankruptcy Judges, and the Pacific Islands Committee. She also serves as co-chairperson for the Pacific Judicial Council Education Committee. She earned a Bachelor of Arts degree in Political Science in 1980 from Marquette University in Milwaukee, Wisconsin and her Juris Doctorate from the University of Missouri-Kansas City School of Law in 1983.

Magistrate Judge

On February 9, 2004, **Joaquin V.E. Manibusan, Jr.** began his term as the first U.S. Magistrate Judge of the District Court of Guam and the first Chamorro Magistrate Judge in the nation. He was appointed to an eight-year term by then-Chief Judge John S. Unpingco. He received his Bachelor of Arts Degree in Political Science from the University of California, Berkeley in 1971 and his Juris Doctorate from Boalt Hall School of Law at University of California, Berkeley in 1974.



Ninth Circuit Chief Judge Mary M. Schroeder swearing in Chief Judge Frances Tydingco-Gatewood on October 30, 2006, accompanied by the Gatewood family. Chief Judge Mary Schroeder was the first female Chief Judge for the Ninth Circuit.



Magistrate Judge Joaquin V.E. Manibusan Jr., with Chief Judge Alex R. Munson from the District Court for the Northern Mariana Islands, Chief Judge Frances Tydingco-Gatewood, and Court Reporter Wanda Miles at the opening of the first Magistrate Courtroom of the District Court of Guam in 2007. The latest in digital evidence presentation technology is incorporated into this courtroom.



District Court Judge Cristobal C. Duenas administers the Oath of Office to Superior Court Judge Richard H. Benson, shown here with his family (photo circa 1970). Both Judge Duenas and Judge Benson were judges of the Island Court of Guam.

The First Executives

The first United States Attorney for the District of Guam was **James G. Mackey**. His name appears on court documents filed in early 1951.

The first United States Marshal for Guam was **Antonio C. Baza**, a native of Guam who had a long and illustrious career in law enforcement on the island. Marshal Baza's name appears on court documents from early 1951 through most of 1965.

The first U.S. probation officer for the District of Guam was **Frank Michael Cruz**, who was appointed by Judge Cristobal C. Duenas on June 19, 1978. On November 12, 1982, Mr. Cruz was appointed as the first Chief U.S.

Probation Officer by Judge Duenas. Prior to his appointment, probation and pretrial services were provided by the Superior Court of Guam.

The first Federal Public Defender was Attorney **Robert M. Hartsock**, who was appointed by the Ninth Circuit Court of Appeals in 2001. Prior to his appointment, federal public defender services for the district were provided by the Federal Public Defender for the District of Hawaii, and Mr. Hartsock served the District of Guam as an Assistant Federal Public Defender out of that office.



Judge Cristobal Duenas at his retirement party, 1989, with court staff members Flora McIntosh, Joselyn P. Camacho, Priscilla Quichocho, and Wanda Miles.

“I really enjoyed the years I spent on the bench in the District Court of Guam. There were times when I had my ups and downs. There were times when serious problems confronted me, and I did my own research. At times I feel that was not enough. So what do I do? I simply resort to the Supreme Law Giver, God. I knelt down and asked for His divine assistance to give me the courage and intelligence to render a just decision. And to this day, I am very grateful for everything that God has given me.”

Judge Cristobal C. Duenas
Annual District Conference
October 10, 2008

Significant cases of the District Court of Guam

Laguana v. Ansell, 102 F. Supp. 919 (D. Guam 1952)

Judge Paul Shriver concluded that the Guam territorial income tax was not a federal tax collected by the United States, but a territorial tax allowed by § 31 of the Organic Act. “I hold that the effect of Sec. 31 is to impose a territorial tax to be collected by the proper officials of the Government of Guam.”

Vicente R. Palomo v. United States, 188 F. Supp. 633 (D. Guam 1960)

A private landowner who had leased property to the United States filed suit against the federal government to recover for damage to his property. Judge Gilmartin determined that the landowner’s suit was allowed under tort or contract theory, and also under the Federal Tort Claims Act.

Andrew M. Gayle v. Governor of Guam, 414 F. Supp. 636 (D. Guam 1976)

In the aftermath of Typhoon Pamela, gubernatorial executive orders declared martial law and established a curfew for the island. Judge Duenas struck down these executive orders as unconstitutional, finding that “while the Organic Act authorized the Governor to declare martial law, he may exercise that authority only in case of rebellion or invasion, or imminent danger thereof.”

Territorial Prosecutor v. Superior Court of Guam, Civil Case No. 82-0215 (D. Guam App. Div. May 26, 1983) (unreported opinion)

Judges Duenas, Gilliam and Laureta, in an Appellate Division panel decision, struck down the Guam law that created the Office of Territorial Prosecutor. Judge Duenas, writing for the panel, found the Act to be “inconsistent with the mandate of Organic Act in that it impermissibly encroaches upon the Governor’s removal powers as set forth in 48 U.S.C. § 1422.”

Government of Guam v. Superior Court of Guam, Civil Case No. 91-00076 (D. Guam App. Div. Nov. 18, 1991) (unpublished order), aff’d, 998 F.2d 754 (9th Cir. 1993)

Dai-Ichi Hotel argued that an action for a rebate of income taxes under a provision of local contract law should be go forward in the Superior Court. Judges Goodwin, Crocker, and Munson, in an Appellate Division decision, held that “the Organic Act contemplated that all suits for a refund of income taxes, whatever the basis for the suit, be brought in the District Court.” The Ninth Circuit affirmed, writing that “a specific provision of the tax code need not be the central issue in the case; rather, taxes need only be involved.”

United States v. Mi Kyung Byun, Criminal Case No. 00-00049 (D. Guam May 3, 2007) (unpublished order), aff’d, 539 F.3d 982 (9th Cir. 2008)

After Mi Kyung Byun pleaded guilty to “importation into the United States of any alien for the purpose of prostitution,” Chief Judge Frances Tydingco-Gatewood determined that the defendant had committed a “sex offense” within the meaning of the Adam Walsh Child Protection and Safety Act of 2006. The Ninth Circuit affirmed this question of first impression, holding that importation of an alien for purposes of prostitution does indeed constitute such a “sex offense,” and therefore requires compliance with the Sex Offender Registration and Notification Act.



Hon. Paul D. Shriver
Judge, 1951-1959 and 1961-1969



Hon. Eugene Gilmartin
Judge, 1959-1961



Hon. Cristobal C. Duenas
Judge, 1969-1988
Senior Judge, 1988-1991