

SUPREME COURT OF GUAM

SH Enterprises, Inc. v. Territory of Guam; General Services Agency,
Department of Administration; and the Office of Public
Accountability

2025 Guam 10 · No. CVA24-001 · Decided December 15, 2025

SUMMARY

The Supreme Court of Guam held that the Office of Public Accountability lacked jurisdiction to review the Chief Procurement Officer’s decision not to debar SH Enterprises, Inc. The court concluded that SH’s remaining due process and statutory-violation arguments were moot and reversed the Superior Court’s decision affirming the debarment.

CASE DETAILS

COURT	Supreme Court of Guam
WRITING FOR THE COURT	F. Philip Carbullido; Robert J. Torres, Chief Justice; F. Philip Carbullido, Associate Justice; Katherine A. Maraman, Associate Justice
JURISDICTION	Supreme Court of Guam
DECIDED	December 15, 2025
DOCKET	CVA24-001
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	SH Enterprises appealed from the Superior Court of Guam's decision affirming the Office of Public Accountability's order debarring SH for one year. The Supreme Court reviewed the OPA's statutory authority to review a Chief Procurement Officer decision not to debar a contractor in the context of procurement protests.
STANDARD OF REVIEW	Legal conclusions of the Superior Court are reviewed de novo, factual findings for clear error, and whether an administrative body possesses powers under its enabling statute is reviewed de novo. The Public Auditor's legal conclusions receive great weight and the benefit of reasonable doubt, while factual findings are disturbed only if arbitrary, capricious, fraudulent, clearly erroneous, or contrary to law.
PRECEDENTIAL VALUE	Published and precedential

PARTIES

SH Enterprises, Inc. v. Territory of Guam, General Services Agency,
Department of Administration, Office of Public Accountability

TOPICS

bid protests government contracts judicial review of agency action statutory interpretation
appellate jurisdiction

PRACTICE AREAS

administrative law government contracts procurement law appellate procedure

QUESTIONS PRESENTED

1. Whether the Office of Public Accountability had statutory jurisdiction to review a Chief Procurement Officer decision not to debar a contractor.
2. Whether the OPA could review and impose debarment when the matter originated as a procurement protest rather than a debarment petition under 5 GCA § 5426.
3. Whether SH's due-process and substantial-evidence challenges could be reached after determining that the OPA lacked jurisdiction.

HOLDINGS

1. The OPA's statutory authority under 5 GCA §§ 5703 and 5705 extends to reviewing a written decision to debar or suspend under § 5426(c), not to reviewing a decision not to debar or a report issued under § 5426(f).
2. De novo review is a standard of review, not an independent source of jurisdiction; it does not authorize the OPA to review a matter that was not properly submitted under the Procurement Law.
3. A request for debarment included as a remedy in a procurement protest does not itself convert the protest into a § 5426 debarment petition or authorize OPA review of debarment.
4. SH's remaining due-process and substantial-evidence arguments are moot because the OPA lacked subject-matter jurisdiction to issue the debarment.

KEY QUOTATIONS

“We conclude that the plain language of the statutory scheme allows a debarred person to appeal when the CPO debars under subsection (c) of section 5426, but that no appeal will lie from a decision not to debar or from a report explaining the findings of fact and action taken under subsection 5426(f).” ([27])

“However, the reviewing body can give deference only if it already has the authority to review. De novo review does not vest the OPA with jurisdiction if a decision not to debar is not “properly submitted” to the OPA.” ([38])

“A statute which creates an administrative agency and invests it with powers restricts it to the powers granted. The agency has no powers except those mentioned in the statute.” ([40])

“We hold that the Superior Court erred when it determined that the OPA has jurisdiction to review a decision not to debar. Because the OPA lacked subject matter jurisdiction, SH’s other claims are moot. We therefore REVERSE and REMAND for further proceedings not inconsistent with this opinion.” ([54])

FACTUAL BACKGROUND

SH Enterprises and Basil Food Industrial Services Corporation competed for Guam government food-service contracts. SH failed to disclose a prior contract termination and later donated temporary use of its Hakubotan building to house a government facility; Basil alleged that the donation violated procurement-ethics provisions and sought SH's debarment. The Chief Procurement Officer denied Basil's protests and did not debar SH, but the Office of Public Accountability treated the matters as supporting debarment proceedings and ultimately debarred SH for one year.

PROCEDURAL HISTORY

Basil Food Industrial Services Corporation filed procurement protests challenging contract awards to SH and requested that SH be debarred or suspended. The Chief Procurement Officer denied the protests and did not issue a written decision debarring SH. The OPA consolidated the matters, conducted proceedings, and independently debarred SH for one year. The Superior Court affirmed, concluding that the OPA had jurisdiction and that its findings were not arbitrary or capricious. The Supreme Court reversed and remanded because the OPA lacked statutory jurisdiction; it deemed SH's remaining due-process and merits arguments moot.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Reverse the Superior Court's decision and remand for further proceedings not inconsistent with the opinion.

CASES CITED

- People v. Farata, 2007 Guam 8 ¶ 14
- Data Mgmt. Res., LLC v. Off. of Pub. Accountability, 2013 Guam 27 ¶ 16
- Basil Food Indus. Servs. Corp. v. Guam, 2019 Guam 29 ¶¶ 8-9
- Carlson v. Guam Tel. Auth., 2002 Guam 15 ¶ 9
- Port Auth. of Guam v. Civ. Serv. Comm'n (Susuico), 2015 Guam 14 ¶ 12
- Guam Fed'n of Tchrs. v. Gov't of Guam, 2013 Guam 14 ¶¶ 68-73
- People v. Natividad, 2005 Guam 28 ¶ 1
- Aguon v. Gutierrez, 2002 Guam 14 ¶ 6
- People v. Quichocho, 1997 Guam 13 ¶ 15
- Amerault v. Intelcom Support Servs., Inc., 2004 Guam 23 ¶ 14
- In re Estate of Leon Guerrero, 2023 Guam 10 ¶ 45

- Heirs of Ellis v. Estate of Ellis, 71 S.W.3d 705, 713 (Tenn. 2002)
- San Agustin v. Superior Court, 2024 Guam 2 ¶¶ 16, 50
- In re Teleguam Holdings, L.L.C., OPA-PA-13-016 (Dec. & Order Jan. 7, 2014)
- Carl Corp. v. State, Department of Education, 997 P.2d 567, 581 (Haw. 2000)
- Alii Security Systems, Inc. v. Professional Security Consultants, 383 P.3d 104, 111 (Haw. Ct. App. 2016)
- Mankato Aglime & Rock Co. v. City of Mankato, 434 N.W.2d 490, 492-93 (Minn. Ct. App. 1989)
- Sawyer v. Department of Workforce Services, 2015 UT 33, ¶ 9, 345 P.3d 1253
- People v. Angoco, 2006 Guam 18 ¶ 8
- Sloan v. Department of Transportation, 666 S.E.2d 236, 240 (S.C. 2008)
- Leon Guerrero v. Moylan, 2002 Guam 18 ¶ 18
- Kleen Energy Systems, LLC v. Commissioner of Energy & Environmental Protection, 125 A.3d 905, 912 (Conn. 2015)
- Wheelabrator Lisbon, Inc. v. Department of Public Utility Control, 931 A.2d 159, 168 (Conn. 2007)
- American Federation of Government Employees National Office v. D.C. Public Employee Relations Board, 237 A.3d 81, 86 (D.C. 2020)
- City of Arlington v. FCC, 569 U.S. 290, 298 (2013)
- United States v. Cortez, 930 F.3d 350, 358 (4th Cir. 2019)
- People v. Blas, 2016 Guam 19 ¶ 17
- Town House Department Stores, Inc. v. Ahn, 2000 Guam 32 ¶ 9
- In re Request of Leon Guerrero, 2023 Guam 11 ¶¶ 20, 33
- Town House Department Stores, Inc. v. Department of Education, 2012 Guam 25 ¶¶ 24-29
- In re Niaspan Antitrust Litigation, 67 F.4th 118, 135 (3d Cir. 2023)
- In re Vermont Yankee Nuclear Power Station, 2003 VT 53, ¶ 13, 175 Vt. 368, 829 A.2d 1284
- DMR, 2013 Guam 27 ¶¶ 28-30
- Castino v. G.C. Corp., 2010 Guam 3 ¶ 57
- In re Request of the People, 2024 Guam 17 ¶ 55
- Carlson v. Perez, 2007 Guam 6 ¶¶ 61, 64
- In re Guardianship of Ulloa, 2014 Guam 32 ¶ 39
- Town House Department Stores, Inc. v. Ahn, 2000 Guam 32 ¶ 9