

1 FOR PUBLICATION

2
3 IN THE SUPERIOR COURT
4 OF THE
5 COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

6 OFFICE OF THE ATTORNEY GENERAL)
7 and DIVISION OF IMMIGRATION SERVICES,)
8 Petitioners,)
9 vs.)
10 JIN FU LIN AKA LING,)
11 Respondent.)
_____)

CIVIL ACTION NO. 06-0019E

**ORDER DENYING
RESPONDENT'S
MOTION TO DISMISS**

12
13 **THIS MATTER** was heard on April 6, 2006 at 1:30 p.m. in Courtroom 223A, pursuant to
14 Respondent's Motion to Dismiss. Assistant Attorney General Kevin Lynch appeared on behalf of the
15 Government. Respondent appeared and was represented by Stephen Woodruff, Esq.

16 Respondent's Motion to Dismiss is based on the fact that because he is serving a prison sentence,
17 that the Court will be unable to comply with the part of the statute that states in part as follows:

18 Makes a determination of deportability an order of deportation shall be
19 entered and the Respondent shall forthwith be deported 3 CMC §
4341(f).

20 Respondent's argument is that since the statute requires an alien to finish its prison sentence
21 prior to being deported, 3 CMC § 4340, and that since he is still in prison for at least two more years,
22 he can not be forthwith deported. He emphasizes that the "forthwith" mandate can not be complied
23 with, and hence, the deportation action is premature.

24 The Government, in opposition to Respondent's motion cites several references with respect to
25 the meaning and use of the word, "forthwith."

26 The Court finds that the word "forthwith," does not mean imminent in every situation using the
27

1 word, but rather for a Court to interpret it in the context of reasonableness, *U.S. v. Funds Representing*
2 *Proceeds of Drug Trafficking in Amount of \$75,868.62*, 52 F.Supp.2d 1160, 1168 C.D.Cal., 1999,
3 quoting *U.S. v. Bradley*, 428 F.2d 1013, 1015-1016 (C.A. Fl. 1970).

4 Respondent does concede, however, that if his release were imminent, then this action would
5 be appropriate. However, the Court, for reasons stated above, does not find imminency as set forth by
6 Respondent to be the controlling factor, but rather what is reasonable compliance with the, “forthwith,”
7 mandate on a case by case basis.

8 In this matter, the Court finds that Respondent’s deportation may occur at the first opportunity
9 possible after he completes the service of his sentence.

10 The Court is deeply concerned with Respondent’s reference in his footnote on page 2 of his
11 motion to Dismiss, indicating that there is a pending appeal in this matter. According to the Supreme
12 Court Clerk there is no appeal pending in this matter. If by some chance the Court is mistaken then it
13 stands corrected, however, if there is no mistake then Counsel is reminded of his obligations to this
14 Court pursuant to Rule 11 of the Commonwealth Rules of Civil Procedure.

15 Respondent’s Motion to Dismiss is hereby **DENIED**.

16 Respondent’s hearing on the **Order to Show Cause** is hereby scheduled for **May 11, 2006** at
17 **1:30 p.m. in Courtroom 223A**. Respondent is ordered to be present at that time.

18

19 **SO ORDERED** this 1st day of May, 2006.

20

21

/s/ _____
DAVID A. WISEMAN, Associate Judge

22

23

24

25

26

27

28