

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,)

CIVIL ACTION NO. 06-0019E

8 Petitioners,)

9 vs.)

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

10 JIN FU LIN AKA LING,)

11 Respondent.)
_____)

12
13 The Court's Order Denying Defendant's Motion to Dismiss of May 1, 2006 in the above
14 captioned matter is hereby amended to correct the Court's statement with respect to the issue of the
15 appeal of this matter.

16 Respondent in his memorandum supporting his motion made reference to the fact that the
17 underlying criminal case had been appealed. The Court received erroneous information to the effect that
18 there was no appeal filed in said criminal case which was the basis for the Court's statement beginning
19 on line 13 of page 2 of said Order. The Court also stated that it would stand corrected if it was mistaken.
20 Counsel for Respondent has shown to the Court a Notice of Appeal filed in this matter.

21 In view of the foregoing, the Order denying Respondent's Motion to Dismiss is hereby amended
22 to delete the Court's reference to said appeal and shall read as follows:

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

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

27 Respondent's argument is that since the statute requires an alien to finish its prison sentence

1 prior to being deported, 3 CMC § 4340, and that since he is still in prison for at least two more years,
2 he can not be forthwith deported. He emphasizes that the “forthwith” mandate can not be complied
3 with, and hence, the deportation action is premature.

4 The Government, in opposition to Respondent’s motion cites several references with respect to
5 the meaning and use of the word, “forthwith.”

6 The Court finds that the word “forthwith,” does not mean imminent in every situation using the
7 word, but rather for a Court to interpret it in the context of reasonableness, *U.S. v. Funds Representing*
8 *Proceeds of Drug Trafficking in Amount of \$75,868.62*, 52 F.Supp.2d 1160, 1168 C.D.Cal., 1999,
9 quoting *U.S. v. Bradley*, 428 F.2d 1013, 1015-1016 (C.A. Fl. 1970).

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

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

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

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18 **SO ORDERED** this 18th day of May, 2006.

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/s/ _____
DAVID A. WISEMAN, Associate Judge

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