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FOR PUBLICATION

**IN THE SUPERIOR COURT
OF THE
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**

OFFICE OF THE ATTORNEY GENERAL and DIVISION OF IMMIGRATION SERVICES,) Civil Action No. 05-0023E
)
)
Petitioners,)
)
v.) ORDER OF DEPORTATION
)
HONG YE ZHANG,)
)
Respondent.)
)
)
)
_____)

This matter came on for hearing May 12, 2005, at 1:30 p.m. pursuant to the Government's Petition for Order to Show Cause as to why the Respondent should not be deported to China. Assistant Attorney General Ian Catlett appeared on behalf of the Government. The Respondent appeared and was represented by counsel, Stephen Woodruff. Mr. Dennis Tse appeared as translator.

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I. BACKGROUND

The Respondent, Hong Ye Zhang, (“Zhang”) is a Chinese citizen and is an alien in the CNMI as defined in 3 CMC § 4303(a) of the Commonwealth Entry and Deportation Act of 1983, 3 CMC §§ 4301, *et seq.* Zhang came to the CNMI pursuant to the issuance of a Section 706K Non-Resident Worker’s Entry Permit (“Permit”), which has not expired. The Permit entitled Zhang to work as a hand sewer and expired on January 12, 2005. The Permit has not been renewed and Zhang represents that she seeks a new contract with another garment factory.

Beginning in October 2004, CNMI Immigration Enforcement Officers began to observe Zhang frequent the area of the DFS Galleria in Garapan, Saipan. The Government contends that Zhang’s presence in the area was for the purpose of soliciting the area’s male tourists for prostitution, in violation of the law and the terms of her entry Permit.

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II. EVIDENCE PRESENTED

The evidence presented by the Government included a video tape produced by DFS Galleria, which showed the Respondent’s solicitation activities, testimony by a DFS manager regarding the video tape and his own observations; the testimony of Masaaki Nakamura, an undercover Department of Labor officer, who is shown in the video tape being approached by Zhang on two occasions; and testimony by an expert on prostitution activity.

The video tape established the following:

1. Zhang was frequently observed loitering in and around DFS Galleria in the evening hours;
2. Zhang approached Asian males, spoke with them, and was seen escorting them to the Joy Hotel;
3. Zhang did not approach women.

1 In addition to the video tape, Nakamura testified that Zhang's interactions with him were
2 for the purpose of offering him sex for money; and the Government's expert witness testified that
3 the Joy Hotel is a known place of prostitution and that Zhang's activities were consistent with
4 prostitution.
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6 Zhang did not present any evidence whatsoever to rebut the Government's position that she
7 is a deportable alien. Zhang did not present any pay records, work schedules, or otherwise show that
8 she was working for her employer of record, instead Zhang simply relied on the premise that the
9 Government should not make assumptions.
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11 **III. FINDINGS OF FACT**

12 Although the Government contends Zhang was engaged in prostitution, the Government is
13 not seeking to deport Zhang for engaging in criminal activity. Rather, the Government alleges that
14 Zhang violated 3 CMC § 4340(e) and (f), and 3 CMC § 4437(d) and (e), which prohibit a non-
15 resident worker from engaging in commercial activity other than that designated on a Section 706K
16 Non-Resident Worker's Entry Permit. In addition, this proceeding is pursuant to an Order to Show
17 Cause why Zhang should not be deported for violating the conditions of her entry into the CNMI.
18 However, because the proceeding is a deportation proceeding premised on violation of the CNMI's
19 immigration statutes, the standard of proof is that of clear and convincing evidence. Applying that
20 standard, the Court finds that, in viewing the totality of the circumstances presented, it is clear that
21 Zhang was involved in prostitution activity, which is outside the job category of that of a hand
22 sewer, as allowed under her entry Permit. The Court further finds such evidence to be convincing.
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25 Zhang's argument that the Government is trying to circumvent the criminal law by failing
26 to criminally prosecute the Respondent is without merit. Although the CNMI Legislature, in its
27 campaign against the prostitutes that loiter and infest our tourist areas with their presence, has passed
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1 laws providing for criminal prosecution of a variety of prostitution activities, there is no requirement
2 that a nonresident worker that has violated the CNMI's immigration laws must first be criminally
3 prosecuted before she can be deported. Indeed, the CNMI has declared a campaign against the
4 growing blight of prostitution and its infestation of Saipan's tourist areas, which, according to
5 common knowledge, is having a significant adverse effect on the CNMI's tourist industry. If the
6 Government finds it more feasible to proceed against nonresident workers engaged in prostitution
7 by commencing deportation proceedings pursuant to work permit violations, it is the Government's
8 prerogative to do so and the Court finds no impropriety in such actions. It follows that when the
9 facts are so blatantly clear and convincing that a nonresident worker, issued a Permit as a hand
10 sewer, is engaged in prostitution activities, as in this case, the Court will order such person to be
11 deported.
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14 IV. CONCLUSION

15 For the aforementioned reasons, the Court finds that Hong Ye Zhang is a deportable
16 nonresident worker pursuant to 3 CMC § 4340(e) and (f) and 3 CMC § 4437(d) and (e), and Orders
17 that Hong Ye Zhang be deported for violating the terms of her work entry Permit.
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19 **SO ORDERED** this 18th day of May 2005.
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21 /s/
22 DAVID A. WISEMAN
23 Associate Judge
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