

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

COMMONWEALTH OF THE NORTHERN )  
MARIANA ISLANDS, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
RONALDO CATAP, )  
 )  
 )  
Defendant. )  
\_\_\_\_\_ )

Criminal Case No. 98-172

**ORDER DENYING  
DEFENDANT RONALDO  
CATAP'S MOTION TO  
SUPPRESS, OR IN THE  
ALTERNATIVE, TO DISMISS**

**I. PROCEDURAL BACKGROUND**

This matter came before the Court on September 30, 1998, in Courtroom A on Defendant's motion to suppress, or in the alternative, to dismiss. Aaron Williams, Esq. appeared on behalf of Plaintiff. Brien Sers Nicholas, Esq. appeared on behalf of Defendant Ronaldo Catap. The Court, having reviewed the memoranda, declarations, and exhibits, having heard and considered the arguments of counsel, and being fully informed of the premises, now renders its written decision.

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**II. FACTS**

On May 7, 1998, agents from the CNMI Department of Labor and Immigration (hereinafter referred to as "DOLI") conducted a warrantless search of United International Corporation's (hereinafter referred to as "UIC") construction site in San Vicente, Saipan. The search was conducted after DOLI received information from a confidential informant who indicated that UIC

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was employing over-stayed and undocumented aliens at the site to construct a house for UIC's President and General Manager, James Lin.

Due to the presence of the DOLI agents at the construction site, Defendant Ronaldo Catap (hereinafter referred to as "Defendant") was called to the site.<sup>1</sup> Upon arrival, Defendant was met by DOLI officer Peter San Nicolas who questioned Defendant about the workers present at the site. It was at this time that Defendant was notified that DOLI had obtained various documents from the premises, including time sheets, logbooks, and service contracts. Defendant requested that Officer San Nicolas return the documents, but Officer San Nicolas refused. However, Defendant was told by Officer San Nicolas that he could pick them up later that afternoon at his office. Defendant went to the DOLI office later that day to pick up the documents and was again questioned by Officer San Nicolas about the workers arrested during the search of the construction site.

On May 26, 1998, Defendant was arrested by DOLI agents pursuant to an arrest warrant and charged with unlawfully employing illegal aliens at the construction site. Defendant was subsequently released on a \$5,000 unsecured bond.

On September 16, 1998, Defendant filed the instant motion whereby he seeks to have the documents and statements obtained by DOLI suppressed, or in the alternative, have the case dismissed altogether.

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### III. ISSUES

1. Whether Defendant has standing to challenge the search of the UIC work site and seizure of the employment documents?
2. Whether the statements made by Defendant to Officer San Nicolas should be suppressed?

### IV. ANALYSIS

#### A. Suppression of documents

In support of the instant motion, Defendant argues that DOLI's administrative search was actually a guise to investigate criminal activity. As such, a warrant was required. Since the search was conducted without a warrant, the records seized as a result of the search must be suppressed.

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<sup>1</sup> It is unclear from the record who actually summoned Defendant to the UIC work site.

In opposition, the government contends that Defendant lacks standing to challenge the search or the seizure of the records.

1. Standing

Fourth Amendment rights are personal rights that may not be vicariously asserted. Rakas v. Illinois, 439 U.S. 128, 133, 99 S.Ct. 421, 425, 58 L.Ed.2d 387 (1978). Thus, to establish a Fourth Amendment violation, one must demonstrate a personal and legitimate expectation of privacy in the area searched or the property seized. Without such a showing, a criminal defendant cannot benefit from the exclusionary rule's protections because one cannot invoke the Fourth Amendment rights of others. United States v. Salvucci, 448 U.S. 83, 86-87, 100 S.Ct. 2547, 2550-2551, 65 L.Ed.2d 619 (1980).

In the case at bar, Defendant has failed to demonstrate that he had a legitimate expectation of privacy in the area searched by the DOLI agents. Defendant makes no claim whatsoever that the area searched or where the records were located involved a place reserved for his exclusive personal use or that he had any expectation of privacy in such an area. See Mancusi v. DeForte, 392 U.S. 364, 369-370, 88 S.Ct. 2120, 2124, 20 L.Ed.2d 1154 (1968). In fact, not only does the record fail to [p. 4] indicate where at the site the alleged search took place, the record also fails to indicate where at the site the records were obtained.<sup>2</sup>

The Court also finds that Defendant has failed to demonstrate a personal and legitimate expectation of privacy in UIC's employment records. Other than noting his position as an architect at UIC, the record is void of any evidence that Defendant controlled, possessed, prepared or had any responsibility for the documents obtained from UIC. Defendant's simple request for the return of

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<sup>2</sup> The government contends that the records were produced at the site after the DOLI agents requested the same pursuant to its labor agreement with UIC. See Application to Employ Non-Resident Worker(s) and Employer's Non-Resident Worker Agreement, dated September 24, 1997, attached as Exhibit A to Opposition to Motion to Suppress. Section B(1)(I) of the Agreement states that Employer agrees:

To maintain and keep complete and accurate records in English of all workers including workers covered under this Agreement and *shall, upon demand, immediately present the same to the Chief for his authorized representative all records required to be kept under the Nonresident Workers Act, Wage and Hour Act, and rules and regulations.*

It should also be noted that UIC's Non-Resident Worker Agreement identifies its business as "garment manufacturer".

the records coupled with his trip to DOLI to retrieve them, without more, is insufficient to establish his privacy interest in the records.

Based on the foregoing, the Court finds that Defendant lacks standing to challenge the search of the UIC premises or the seizure of its records. As such, the Court will not address the issue of whether the warrantless search in this case was valid under the Fourth Amendment.

#### B. Suppression of statements

Defendant contends that the statements he made to Officer San Nicolas at the work site and at the DOLI office were not preceded by the warnings required in *Miranda v. Arizona*<sup>3</sup> and therefore must be suppressed. In opposition, the government contends that the statements should not be excluded as Defendant was not in custody during either instance of questioning.

*Miranda* warnings must be given when a defendant is subject to police interrogation while in custody. Commonwealth v. Ramangmau, 4 N.M.I. 227, 235 (1995). In determining whether custody exists, a court must decide whether there was a “formal arrest or restraint on freedom of movement [p. 5] of the degree associated with a formal arrest.” *Id.* The test to be applied is whether a reasonable person in the defendant’s position would believe that he or she was in police custody of the degree associated with formal arrest. *Id.* The factor of particular concern is whether the atmosphere was “police dominated.” *Id.*

In the instant case, Officer San Nicolas questioned Defendant shortly after Defendant’s arrival at the UIC work site. However, other than questioning Defendant about his knowledge of the workers at the site, there is no evidence that Officer San Nicolas restrained Defendant or otherwise restricted his movement. Moreover, there is no evidence that Defendant was the specific focus of the investigation nor was he placed under arrest at the termination of his questioning. Despite the fact he was not physically detained, Defendant contends that he did not feel he could walk away from Mr. San Nicolas given his immigration status. However, despite Defendant’s status, this factual scenario does not support the conclusion that a reasonable person would have felt the pressures of police domination of the type to which *Miranda* and its progeny speak. *See*

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<sup>3</sup> 384 U.S. 436, 86 S.Ct. 1602, 16 L.Ed.2d 694 (1966).

Ramangmau, supra, at 82. As such, the Court finds that the questioning was non-custodial and therefore *Miranda* warnings were not required.

As to the questioning at the DOLI office, the Court again finds no indication that the questioning by Officer San Nicolas took place in a context where Defendant's freedom to depart was restricted in any way. Not only did Defendant go voluntarily to the DOLI office, but after being questioned by Officer San Nicolas, he left the office without hindrance. See Guam v. Palomo, 35 F.3d 368 (9<sup>th</sup> Cir.1994). As such, it is clear that Defendant was not in custody as defined in *Miranda*.

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#### V. CONCLUSION

For all the reasons stated above, Defendant's motion to suppress the evidence and his statements, or in the alternative, to dismiss is **DENIED**.

So ORDERED this 28 day of December, 1998.

/s/ Timothy H. Bellas  
TIMOTHY H. BELLAS, Associate Judge