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

**IN RE JIANZHU DENG,**

**CIVIL ACTION NO. 22-0240**

**A MISSING INDIVIDUAL.**

**ORDER OF PRESUMPTIVE DEATH  
 OF PERSON LOST AT SEA  
 PURSUANT TO 8 CMC § 2106(c) AS  
 THE MISSING PERSON WAS  
 EXPOSED TO A SPECIFIC PERIL OF  
 DEATH AND AFTER A DILIGENT  
 SEARCH CANNOT BE FOUND,  
 FURTHERMORE PURSUANT TO 8  
 CMC § 2106(d) THE INDIVIDUAL HAS  
 BEEN MISSING FOR OVER FIVE  
 YEARS AND AFTER A DILIGENT  
 SEARCH CANNOT BE FOUND**

**I. INTRODUCTION**

**THIS MATTER** came before the Court on December 1, 2022 at 10:00 a.m. for a hearing on a Petition for Presumption of Death of a Missing Individual Believed to Be Dead. In the evening of September 7, 2015, Jianzhu Deng left home to go spearfishing in the ocean in the Banzai Cliff area in Saipan but did not return. His body was never found. Petitioner Kae Li Deng seeks an order directing the Registrar of Vital Statistics to issue a death certificate for Jianzhu Deng including findings of fact required to complete the death certificate.

At the Evidentiary Hearing, Petitioner Kae Li Deng was represented by Attorney Cong Nie. There was no responding party. Two witnesses testified: (1) Fuwen Zheng, and (2) Kae Li Deng. Three exhibits were admitted into evidence.

*By order of the Court, Judge Joseph N. Camacho*

1 The Court, having considered the evidence presented at the hearing, the admitted  
2 evidence, and the arguments by Counsel for the Petitioner, hereby enters the following  
3 ORDER AND DECREE.

## 4 II. FINDINGS OF FACT

5 The Court FINDS the following facts were established by a preponderance of the  
6 evidence.

7 1. On September 7, 2015, around 6 p.m., Jianzhu Deng (“Deng”) left his home  
8 to go fishing in the Banzai Cliff area of Saipan.

9 2. At that time, Deng, a Chinese citizen, was residing in Saipan and worked at  
10 an auto shop in Garapan.

11 3. Deng lived with his wife, Fuwen Zheng (“Zheng”), and the two youngest of  
12 their four children. The oldest of their children was in China, while the second oldest, who is  
13 the Petitioner Kae Li Deng, attended college in Seattle.

14 4. Deng often went fishing in the evening, such as cliff fishing and fishing at  
15 table-like rock formations at the foot of a cliff in the Banzai Cliff area and would usually  
16 come back home in the same evening.

17 5. On September 7, 2015, however, Deng did not return home in the same  
18 evening after going out fishing.

19 6. The next morning, Deng’s wife, Zheng, noticed that Deng was not at home  
20 and started to look for him.

21 7. Later, the car used by Deng<sup>1</sup> was found parked in the Banzai Cliff area, with  
22 Deng’s driver’s license left inside the car. Neither Deng, nor his key to the car, nor his  
23 fishing equipment, was found in the car.  
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<sup>1</sup> The car belonged to a friend of Deng’s, who let Deng use it.

1           8.       Zheng reported Deng's missing to the police. The police then engaged a one-  
2 week search, including using a helicopter to look for Deng in the ocean.

3           9.       Despite their search efforts, the police did not find Deng or his body. Nor did  
4 the police discover any travel activity of Deng suggesting that he had left the CNMI.  
5 However, the police did find Deng's spearfishing gun and showed it to Kae Li Deng, who  
6 recognized his father's spearfishing gun. The police informed Kae Li Deng that the  
7 spearfishing gun was found in one of the tide pools in the Banzai Cliff area.

8           10.      Ever since September 7, 2015, neither Deng's wife or his children has heard  
9 from, or seen, Deng.

10          11.      Deng led a happy family life and there was no issue between Deng and his  
11 family that would be a reason for him to abandon his wife and children. Deng's Chinese  
12 passport, U.S. social security card, and his other personal belongings were still at his home.  
13 There has not been any unexplained or abnormal withdrawal of funds or spending from  
14 Deng's bank account or credit card.

15          12.      Deng's wife, Fuwen Zheng, has not yet told Deng's parents, who are living in  
16 China, that Deng is missing. She fears that due to Deng's parents being very old that news of  
17 Deng's disappearance might cause extreme emotional stress.<sup>2</sup>

18          13.      The following information is required to complete a death certificate:  
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20           a.      Jianzhu Deng was a male born on February 15, 1965 in the Hunan  
21 Province of China.

22           b.      Deng's social security number was XXX-XX-0850.

23           c.      Deng never served in the military.  
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<sup>2</sup> The Court takes note that during her testimony that Fuwen Zheng was crying and very emotional.

- 1 d. Deng’s highest level of education was high school, and prior to his  
2 disappearance, had been working at an auto shop called Deng Auto Shop  
3 located in Garapan.
- 4 e. Deng’s usual residence was in the Village of Garapan, Saipan, at the  
5 same location as Deng Auto Shop, where he had lived for 16 years prior  
6 to his disappearance.
- 7 f. Deng was married and is survived by his wife, Fuwen Zheng, and their  
8 four children.
- 9 g. The name of Deng’s mother is Rong Xiu Liu; she survived Deng.
- 10 h. The name of Deng’s father is Hai Lin Deng; he survived Deng.
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### 12 III. DISCUSSION

13 This action is brought under the Commonwealth’s Vital Statistics Act of 2006, which  
14 is based on a Model Act, and is codified in 1 CMC Section 26001, *et seq.* Section 26013(h)  
15 provides:

16 When a death is presumed to have occurred within the CNMI but the body  
17 cannot be located, a death certificate may be prepared by the Registrar only  
18 upon receipt of an order of the CNMI Superior Court which shall include the  
19 finding of facts required to complete the death certificate. Such a death  
20 certificate shall be marked “Presumptive” and shall show on its face the date  
of death as determined by the court and the date of registration, and shall  
identify the court and the date of the decree.

21 The task before this Court is therefore to determine whether Deng is presumed to  
22 have died and, if he did, the date on which Deng died. Once these findings have been made,  
23 the Court may order the Registrar to prepare a death certificate. *See In the Matter of Honorio*  
24 *Ricky Encabo II, A Missing Individual*, Case No. 21-0082-CV (NMI Super. Ct. Jul. 7, 2021)  
25 (Order of Presumptive Death of Person Lost At Sea Pursuant to 8 CMC § 2106(c) as Person  
26 Was Exposed to a Specific Peril of Death and After a Diligent Search Could Not Be Found  
at 7); *In the Matter of John Joseph Jones, A Missing Individual*, Case No. 19-0028-CV

1 (NMI Super. Ct. Mar. 22, 2019) (Order of Presumptive Death of Person Lost-At Sea  
2 Pursuant to 8 CMC § 2106(c) as Decedent Was Exposed to a Specific Peril of Death and  
3 After a Diligent Search Could Not Be Found at 9).<sup>3</sup>

4 Probate law in the Northern Mariana Islands provides two types of presumption that  
5 aid in the finding of whether a person is dead. One type of presumption is based on a  
6 person's exposure to a specific peril of death. Section 2106 of Title 8 of the Commonwealth  
7 Code, entitled "Evidence as to Death or Status," provides at paragraph (c) that this type of  
8 presumption applies when: (i) a person is absent for a continuous period during which the  
9 person has not been heard from; (ii) the person's absence is not satisfactorily explained after  
10 diligent search or inquiry; and (iii) the person has been exposed to a specific peril of death. 8  
11 CMC § 2106(c). Each of the three prongs of this test, including specific peril of death, must  
12 be satisfied before an individual may properly be presumed dead. *In the Matter of Honorio*  
13 *Ricky Encabo II*, Case No. 21-0082-CV at 8-10; *In the Matter of John Joseph Jones*, 19-  
14 0028-CV at 10-11.

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16 The other type of presumption is based on the passage of time. Section 2106(d) of  
17 Title 8 of the Commonwealth Code provides that this type of presumption applies when (i) a  
18 person is absent for a continuous period of five years, during which the person has not been  
19 heard from; and (ii) the person's absence is not satisfactorily explained after diligent search  
20 or inquiry. 8 CMC § 2106(d); *In the Matter of the Estate of Deleon Guerrero*, 3 NMI 253,  
21 261 n. 6 (1992) (the usual common law presumption is seven years but it was reduced to  
22 five years by Section 2106(d)).

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24 In the present case, Deng has been missing after going fishing since September 7,  
25 2015 and therefore has been absent for a continuous period of at least five years. Thus, both  
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<sup>3</sup> The typo "Lost-At Sea" is a typo in the original title of the Order.

1 types of presumption of death discussed above may be applicable. The Court will discuss  
2 each type below, before addressing the date of death.

3 **Presumption of Death under Section 2106(c)**

4 The first element required by Section 2106(c) is that a person is absent for a  
5 continuous period during which that person has not been heard from. 8 CMC § 2106(c). At  
6 the time of the Evidentiary Hearing on December 1, 2022, Deng had been absent for a  
7 continuous period of more than seven years since he was last seen on September 7, 2015.  
8 During this period, there was no contact from him with his wife and four children. Deng left  
9 behind his personal effects, including his Chinese passport, U.S. social security card, and  
10 CNMI driver's license. There has not been any unusual or unexplained bank account or  
11 credit card activity that might suggest Deng is still alive. The Court finds that, with those  
12 facts, the first element of the test is met. *In the Matter of Honorio Ricky Encabo II*, Case No.  
13 21-0082-CV at 8 (10 months of absence coupled with lack of contact, personal effects being  
14 left behind, and absence of unexplained bank account activity); *In the Matter of John Joseph*  
15 *Jones*, 19-0028-CV at 10-11 (116 days of absence coupled with lack of contact, personal  
16 effects being left behind, and absence of unexplained bank account activity).  
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19 The second element required by Section 2106(c) is that the person's absence is not  
20 satisfactorily explained after diligent search or inquiry. 8 CMC § 2106(c). Despite diligent  
21 search efforts immediately after he went missing by police as well as private actors (the  
22 search by police lasted a week), Deng (or his body) was never found and his absence  
23 remains unexplained by anything other than his demise. Prior to his disappearance, Deng led  
24 a happy life with his family and had no reason to abandon his wife or his four children.  
25 Indeed, there was no travel activity, Deng's Chinese passport and his CNMI driver's license  
26 were left behind. Furthermore, Deng's bank accounts had no unexplained activity. The  
search for Deng that recovered Deng's spearfishing gun in one of the tide pools in the

1 Banzai Cliff area and included use of a helicopter to look for Deng in the ocean shows the  
2 diligence and thoroughness of the search efforts. Therefore, the Court finds that the second  
3 element under Section 2106(c) is met.

4 The third element required for a presumption of death under Section 2016(c) is that  
5 the missing person has been exposed to a specific peril of death. 8 CMC § 2106(c). Such  
6 exposure may be shown by circumstantial evidence. *See Skele v. Mutual Benefit Life Ins.*  
7 *Co.*, 485 N.E.2d 770, 772-73 (Ohio Ct. App. 1984) (affirming finding of death less than a  
8 year after disappearance of backpacker based on circumstantial evidence including the  
9 recovery of his backpack in a cold river). This Court has twice found that the sea “poses a  
10 specific peril of death.” *In the Matter of Honorio Ricky Encabo II*, Case No. 21-0082-CV at  
11 9; *In the Matter of John Joseph Jones*, 19-0028-CV at 10.

13 Here, Deng went missing after going fishing in the Banzai Cliff area. Deng’s  
14 spearfishing gun was found in one of the tide pools while his driver’s license was left in the  
15 car he parked in the Banzai Cliff area. He went spearfishing and did enter the ocean at the  
16 foot of a cliff, thus exposing himself to the precarious conditions of the open ocean.  
17 Therefore, the Court finds that the third element is met. Because all three elements are met,  
18 the Court finds that there is a presumption of death under Section 2106(c).  
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#### 20 **Presumption of Death under Section 2106(d)**

21 The first element required by Section 2106(d) is that a person is absent for a  
22 continuous period of at least five years during which that person has not been heard from. 8  
23 CMC § 2106(d). As discussed above, Deng had been absent for a continuous period of more  
24 than seven years during which there was no contact from him. He left behind his personal  
25 effects, including his government identifications such as his Chinese passport and CNMI  
26 Driver’s License. No unusual or unexplained bank account or credit card activity occurred

1 that can be attributed to him for over seven years since his disappearance. The Court finds  
2 that this first element is met.

3 The second element required by Section 2106(d) is the same as the second element  
4 required by Section 2106(c), that the person's absence is not satisfactorily explained after  
5 diligent search or inquiry. For the same reasons discussed above in connection with the  
6 presumption of death under Section 2106(c), the Court finds that this second element is met.

7 Therefore, the Court finds that there is a presumption of death under Section  
8 2106(d).

### 9 **Date of Death**

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11 When a presumption of death applies under Section 2106(c), the date that a missing  
12 person is subject to the specific peril of death involved and goes missing is generally  
13 determined as the date of death. *In the Matter of Honorio Ricky Encabo II*, Case No. 21-  
14 0082-CV at 10; *In the Matter of John Joseph Jones*, 19-0028-CV at 11. As to a person  
15 presumed to be dead based on the passage of time under Section 2106(d), his or her date of  
16 death is presumed to be the end of the five-year period, but the Court may consider facts  
17 establishing an earlier date of death. 8 CMC § 2106(d). Indeed, this presumption as to the  
18 date of death is merely “a rule of necessity in the absence of evidence indicating death at  
19 another time” and does not apply when evidence indicates an earlier date. *See In re Mount*  
20 *Vernon Trust Co.*, 83 N.Y.S.2d 902, 903 (N.Y. Sup. Ct. 1948) (finding that the date of death  
21 was the date a missing bomber pilot was last seen because the only evidence of death was  
22 that his aircraft was brought down in enemy territory on that date).

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24 For example, in *Johns v. Burns*, the Florida Supreme Court affirmed a finding that a  
25 retiree died on or about the time of his disappearance. 67 So.2d 765, 767 (Fla. 1953). The  
26 retiree in *John*, prior to his disappearance, often spent his time outdoors fishing and berry  
picking, staying in small hotels or rooming houses. *Id.* at 766. At the time of his



1 disappearance, the retiree was staying at a boarding house and went out to eat breakfast at  
2 another establishment. *Id.* He did not return after breakfast, and about two weeks later, his  
3 car was found in an open garage behind an apartment building owned by a son of the owner  
4 of the establishment where the retiree had breakfast on that morning. *Id.* His car keys,  
5 fishing tackle, and outdoor motor, which were usually kept in his car, were missing from the  
6 car. *Id.* Even though Florida law had a presumption of date of death that deemed death to  
7 have occurred at the expiration of a post-disappearance period of seven years (similar to the  
8 presumption of date of death under Section 2106(d)), the Florida Supreme Court explained  
9 that facts indicating death occurred at an earlier date may establish death on or about the  
10 date of disappearance, and held that the circumstances surrounding the retiree's  
11 disappearance warranted a finding that he died around that time, instead of seven years later.  
12 *Id.* at 767.

14 Here, the circumstances surrounding Deng's disappearance warrant a finding that he  
15 died on or about the date of his disappearance. As discussed above, Deng went missing after  
16 going fishing in the Banzai Cliff area. The car he was using was later found in the Banzai  
17 Cliff area, but neither the car key nor any fishing equipment was found in the car. Instead,  
18 Deng's spearfishing gun was found in one of the tide pools in the area. Deng entered the  
19 water for spearfishing and was exposed to the precarious conditions of the open ocean on  
20 September 7, 2015, and that Deng's death occurred on or about that day, instead of at the  
21 end of the five-year period. Therefore, the Court finds, as a matter of fact, that Deng died on  
22 September 7, 2015.

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**IV. ORDER AND DECREE**

**IT IS HEREBY ORDERED AND DECREED:**

1. The Registrar of Vital Statistics shall prepare a death certificate marked “presumptive” for Jianzhu Deng that shows that he died on September 7, 2015;
2. The other facts required to complete the death certificate shall be based on the Findings of Fact in this Order; and
3. The identity of this Court – The Superior Court of the Commonwealth of the Northern Mariana Islands – and the date of this order and decree shall be shown on the death certificate.

**SO ORDERED** this 3<sup>rd</sup> day of March, 2023.

/s/  
**JOSEPH N. CAMACHO**, Associate Judge