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

**ESTATE OF
 MARIA CONCEPCION CABRERA,**

CIVIL ACTION NO. 23-0139

Decedent.

**ORDER OF PRESUMPTIVE DEATH OF
 PERSON PURSUANT TO 8 CMC §
 2106(c) AS THE MISSING PERSON WAS
 TAKEN TO A LEPER COLONY IN THE
 PHILIPPINES IN 1940 AND EXPOSED
 TO A SPECIFIC PERIL OF DEATH
 DURING WORLD WAR II AND AFTER
 A DILIGENT SEARCH COULD NOT BE
 FOUND; FURTHERMORE, ORDER OF
 PRESUMPTIVE DEATH OF PERSON
 PURSUANT TO 8 CMC § 2106(d) AS
 THE INDIVIDUAL HAS BEEN MISSING
 FOR OVER EIGHTY YEARS AND
 AFTER A DILIGENT SEARCH COULD
 NOT BE FOUND**

I. INTRODUCTION

THIS MATTER came before the Court on August 3, 2023, at 10:00 a.m., in Courtroom 220A for a hearing on a Petition for the Presumption of Death of Maria Concepcion Cabrera (“Maria”). Petitioner Antonio B. Cabrera¹ was represented by Attorney Joey P. San Nicolas.

On July 17, 1912, Maria was born in Saipan. In 1940, Maria, a then-resident of Guam, was relocated by the United States Navy to the Culion Leper Colony, in the Philippines for treatment of leprosy. By December 8, 1941, the United States territories of Guam and the

¹ Petitioner Antonio B. Cabrera is the uncle of Daniel J. Cabrera, who is the grandson of Maria Concepcion Cabrera.

By order of the Court, Judge Joseph N. Camacho

1 Philippines were attacked by the Imperial Japanese Military forces². The Philippines was
2 eventually occupied by Japan by April 10, 1942. Maria has not been heard from since she was
3 relocated to the Philippines in 1940. Subsequent searches for Maria or her remains post World
4 War II and in the 1990s were unsuccessful. Petitioner Antonio B. Cabrera seeks an order
5 directing the Registrar of Vital Statistics to issue a death certificate pursuant to
6 Commonwealth law and the inherent authority of the Court.

7 The three witnesses who testified were Rev. Rey Rosal, Trinidad Dela Cruz Salas, and
8 expert witness Don A. Farrell, a Marianas Historian. The exhibits that were admitted into
9 evidence were: Birth Certificate of Maria Concepcion; Marriage Certificate of Maria
10 Concepcion and Mariano Gumataotao Cabrera; Family Tree of Jose Cruz Concepcion; Death
11 Certificate of Jose Cruz Concepcion; and CNMI Department of Public Lands Quitclaim Deed
12 to the Estate of Jose Cruz Concepcion.
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14 The Court having considered the evidence presented and the record on file hereby
15 enters this ORDER AND DECREE.

16 **II. FINDINGS OF FACT**

17 The Court FINDS the following facts were established by a preponderance of the
18 evidence.
19

- 20 1. Maria was born in Saipan, Northern Mariana Islands on July 17, 1912. See Exhibit
21 "Maria Concepcion Birth Certificate"³.
- 22 2. Maria's parents were Jose Cruz Concepcion and Trinidad Sablan Concepcion of
23 Saipan, Mariana Islands. Id.
- 24 3. On February 9, 1933, Maria married Mariano Gumataotao Cabrera ("Mariano") in
25 Saipan, Mariana Islands. See Exhibit "Maria C. Cabrera Marriage Certificate".
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² Other locations were also attack by the Imperial Japanese Military forces.

³ Maria Concepcion Cabrera's maiden name was Maria Sablan Concepcion.

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4. During the 1930s, Maria and Mariano moved to Guam to work and start a family.
5. On January 15, 1937, Maria gave birth to her son, Daniel Concepcion Cabrera in Agana, Guam. See Exhibit “Birth Certificate of Daniel C. Cabrera”.
6. In the late 1930s, Maria was diagnosed with leprosy, an infection caused by bacteria that affects the skin and nerves. See Exhibit “Declaration of Trinidad Dela Cruz Salas”.
7. In 1940, Maria was relocated from Guam by the United States Navy to be treated for leprosy at the Culion Leper Colony in Palawan, Philippines.
8. The Culion Leper Colony was established by the United States government to treat lepers in the United States territories of Guam and the Philippines.
9. On December 8, 1941, the United States territories of Guam and the Philippines were attacked by the Imperial Japanese Military forces.
10. The Imperial Japanese Military forces began occupying the Philippines on April 10, 1942.
11. The invasion and occupation by the Imperial Japanese Military forces resulted in the loss of thousands of lives and the physical destruction of infrastructure in the Philippines.
12. Maria, who was in the Philippines during the war, never returned to Guam (or Saipan).
13. Sometime in 1946, the United States Navy reported to Maria’s husband, Mariano, that Maria or her body could not be located.
14. In 1947, Mariano, relocated back to Saipan and married Esperanza S. Camacho. See Exhibit “Mariano Cabrera Marriage Certificate”.
15. On March 4, 1961, Maria’s father, Jose Cruz Concepcion, a person of Northern Marianas Descent, died in Saipan, Northern Mariana Islands. See Exhibit “Jose Concepcion Death Certificate”.

1 16. In the early 1990s Guam Speaker Antonio Unpingco and Guam Senator Ernesto
2 Espaldon conducted searches to find the remains of the Guam lepers in the Philippines,
3 but their search was unsuccessful.

4 17. On December 20, 2006, the CNMI Department of Public Lands granted a Quitclaim
5 Deed to the Estate of Jose Cruz Concepcion. See Exhibit “NMI Government Quitclaim
6 Deed to Estate of Jose Dela Concepcion”.

7 18. Despite searches and inquiry by the United States government in the Philippines after
8 the war, and by Guam officials in the 1990’s, Maria or her remains were never located.

9 19. As of the time of this hearing, it had been eighty-three years since anyone had seen
10 Maria.
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12 III. CONCLUSIONS OF LAW

13 The Northern Marianas Probate Code provides the applicable tests for the presumption of
14 death in Title 8 CMC § 2106(c) and (d) (Evidence of Death or Status)⁴.

15 1. Specific Peril

16 There is a presumption that a person has died when (1) a person is absent for a continuous
17 period during which the person has not been heard from; 2) the person’s absence is not
18 satisfactorily explained after diligent search or inquiry; and 3) the person has been exposed to
19 a specific peril of death. 8 CMC § 2106(c). Each of the three-prong test, including specific
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23 ⁴See generally *In the Matter of John Joseph Jones, A Missing Individual*, Case No. 19-0028-CV (NMI Super.
24 Ct. Mar. 22, 2019) (Order of Presumptive Death of Person Lost-At Sea Pursuant to 8 CMC § 2106(c) as Decedent
25 Was Exposed to a Specific Peril of Death and After a Diligent Search Could Not Be Found)(Camacho, AJ). *In*
26 *the Matter of Honorio Ricky Encabo II, A Missing Individual*, Case No. 21-0082-CV (NMI Super. Ct. Jul. 7,
2021) (Order of Presumptive Death of Person Lost At Sea Pursuant to 8 CMC § 2106(c) as Person Was Exposed
to a Specific Peril of Death and After a Diligent Search Could Not Be Found)(Camacho, AJ). *In Re Jianzhu*
Deng, Civil Action No. 22-0240-CV, (NMI Super. Ct. March 03, 2023) (Order of Presumptive Death of Person
Lost at Sea Pursuant to 8 CMC Section 2106(c) as The Missing Person was Exposed to a Specific Peril of Death
and After 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) (Camacho, AJ).

1 peril of death, must be satisfied before an individual may properly be presumed dead. *In the*
2 *Matter of Honorio Ricky Encabo II*, Civil Action No. 21-0082 (NMI Super. Ct. July 07, 2023)
3 (Order of Presumptive Death of Person Lost at Sea Pursuant to 8 CMC Section 2106(c) as
4 Person was Exposed to a Specific Peril of Death and After Diligent Search Could Not Be
5 Found at 8-10), (Camacho, AJ).

6 a) *A person is absent for a continuous period during which the person has not been heard*
7 *from.*

8 Marianas Historian Don A. Farrell stated that based on his research of Guam history from
9 1898 to 1945, Guam residents were routinely relocated to the United States-administered
10 Culion Leper Colony in Palawan, Philippines from 1922 to 1941. Here, Maria's niece,
11 Trinidad Dela Cruz Salas, testified that Maria was relocated from Guam to the Philippines in
12 1940 to be treated for leprosy, and was never heard from since. No evidence shows Maria
13 returned from the Philippines and made contact with any family members since her departure.
14 Since Maria's relocation to the Philippines to now in 2023, no one has heard from or seen
15 Maria. Maria has been absent from the Marianas for over eighty-three years during which
16 Maria had no contact with her husband, her son, her parents, or other family members.

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18 The Court finds that Maria has been absent for a continuous period during which she has
19 not been heard from.

20 b) *The person's absence is not satisfactorily explained after diligent search or inquiry.*

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22 In 1940 Maria was relocated to the Culion Leper Colony in Palawan, Philippines by the
23 United States Navy for treatment for her leprosy. A year later in 1941 war was declared
24 between the United States and Japan, joining other nations that were already at war in what
25 would eventually be called World War II. According to Trinidad Dela Cruz Salas, the United
26 States Navy in Guam informed Mariano in 1946 that Maria or her body was never found in
the Philippines after the war. Marianas Historian Don A. Farrell also stated there was an

1 attempt in the early 1990s by Guam Speaker Antonio Unpingco and Guam Senator Ernesto
2 Espaldon to find the remains of the Guam lepers in the Philippines, but their search was
3 unsuccessful.

4 The Court finds that Maria's absence is not satisfactorily explained after diligent search
5 or inquiry.

6 *c) The person has been exposed to a specific peril of death.*

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8 The Imperial Japanese Military forces invaded the Philippines in December 1941 and
9 occupied the Philippines in 1942 while Maria was at the Culion Leper Colony in Palawan,
10 Philippines. During the Imperial Japanese Military forces' occupation from April 10, 1942, to
11 the end of World War II in 1945 thousands of military personnel and civilians died in the
12 Philippines. The United States Navy in Guam notified Mariano in 1946 that Maria or her body
13 was never found. Marianas Historian Don A. Farrell's expert opinion was that all of the Guam
14 lepers who were present in the Philippines during Japan's invasion and occupation had died
15 in the Philippines. Maria was exposed to the specific peril of the Imperial Japanese Military
16 forces occupation on April 10, 1942. After the war, the United States Navy could not locate
17 Maria or her body. Since then, Maria has not been heard from by her family members.

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19 The Court finds that Maria was exposed to a specific peril of death which was the Imperial
20 Japanese Military forces' occupation of the Philippines on April 10, 1942.

21 Maria has been continually absent from the Mariana Islands for over eighty-three years
22 and no one has heard from her. Her absence was not satisfactorily explained by the United
23 States government and subsequently by the Guam officials despite their search and inquiry.
24 Finally, Maria was exposed to a specific peril of death which was the Imperial Japanese
25 Military forces' invasion and occupation of the Philippines which led to the loss of thousands
26 of lives. Since the specific peril was the Imperial Japanese Military forces' occupation of the

1 Philippines, Maria's date of death was April 10, 1942, when the occupation began. The Court
2 finds that the three prongs of 8 CMC § 2106(c) are satisfied.

3 **2. Missing more than five years**

4 The other type of presumption in 8 CMC § 2106(d) is based on the passage of time
5 which applies when (1) a person is absent for a continuous period of five years, during which
6 the person has not been heard from; and (2) the person's absence is not satisfactorily explained
7 after diligent search or inquiry. *In the Matter of the Estate of Deleon Guerrero*, 3 NMI 253,
8 261 n. 6 (1992) (the usual common law presumption is seven years but it was reduced to five
9 years by Section 2106(d)).

11 *a) A person is absent for a continuous period of five years, during which the person
12 has not been heard from.*

13 Marianas Historian Don A. Farrell stated that based on his research of Guam history
14 from 1898 to 1945, Guam residents were routinely relocated to the United States-administered
15 Culion Leper Colony in Palawan, Philippines from 1922 to 1941. Here, Maria's niece,
16 Trinidad Dela Cruz Salas, testified that Maria was relocated from Guam to the Philippines in
17 1940 to be treated for leprosy, and was never heard from since. No evidence shows Maria
18 returned from the Philippines and made contact with any family members since her departure.
19 Since Maria's relocation to the Philippines to now in 2023, no one has heard from or seen
20 Maria. Maria has been absent from the Marianas for over eighty-three years during which
21 Maria had no contact with her husband, her son, her parents, or other family members.

22 The Court finds that Maria has been absent for a continuous period during which she
23 has not been heard from.

25 *b) The person's absence is not satisfactorily explained after diligent search or
26 inquiry.*

26 In 1940 Maria was relocated to the Culion Leper Colony in Palawan, Philippines by
the United States Navy for treatment for her leprosy. A year later in 1941 war was declared

1 between the United States and Japan, joining other nations that were already at war in what
2 would eventually be called World War II. According to Trinidad Dela Cruz Salas, the United
3 States Navy in Guam informed Mariano in 1946 that Maria or her body was never found in
4 the Philippines after the war. Marianas Historian Don A. Farrell also stated there was an
5 attempt in the early 1990s by Guam Speaker Antonio Unpingco and Guam Senator Ernesto
6 Espaldon to find the remains of the Guam lepers in the Philippines, but their search was
7 unsuccessful.

8 The Court finds that Maria's absence is not satisfactorily explained after diligent
9 search or inquiry.

10 *c) Date of Death based on 8 CMC § 2106(d) Evidence of Death or Status.*

11 According to section 2106(d), it is presumed that the person's date of death occurs
12 after five years. However, the Court retains the ability to take into account relevant
13 information that may establish an earlier date of death. 8 CMC § 2106(d). Indeed, this
14 presumption as to the date of death is merely "a rule of necessity in the absence of evidence
15 indicating death at another time" and does not apply when evidence indicates an earlier date.
16 See *In re Mount Vernon Trust Co.*, 83 N.Y.S.2d 902, 903 (N.Y. Sup. Ct. 1948). Here, the
17 circumstances surrounding Maria's disappearance warrant a finding that she died on April 10,
18 1942, when the Imperial Japanese Military forces occupied the Philippines. First, Maria was
19 a patient at a United States government leper colony in Palawan, Philippines in 1940. The
20 Philippines, a United States territory at the time, was invaded by the Imperial Japanese
21 Military forces in December of 1941 and was eventually occupied by April 10, 1942. It may
22 be possible that Maria died before the Imperial Japanese Military forces invasion. It is also
23 possible Maria lived past 1942, but this may not be likely. The Imperial Japanese Military
24 forces' invasion and occupation resulted in the loss of thousands of lives and the destruction
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1 of the Philippines' infrastructure. After the war, in 1946 the United States Navy in Guam and
2 Guam officials in the 1990s were not able to locate Maria or her remains. Based on this
3 information, Maria's date of death is when the Imperial Japanese Military forces' occupation
4 of the Philippines began on April 10, 1942.

5 The Court therefore concludes that Maria died on April 10, 1942.

6 In sum, the Court finds that there is a presumptive death of a person pursuant to 8
7 CMC § 2106(c) as Maria Concepcion Cabrera was relocated to a leper colony in the
8 Philippines and was exposed to a specific peril of death during World War II and after diligent
9 searches could not be found. Furthermore, the Court finds that there is a presumptive death
10 of a person pursuant to 8 CMC § 2106(d) as Maria Concepcion Cabrera has been missing for
11 over five years and after diligent searches could not be found.

12 The Court having considered the evidence presented and the record on file hereby
13 enters this ORDER AND DECREE.
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15 IV. ORDER

16 IT IS HEREBY ORDERED:

- 17 1. The Registrar of Vital Statistics shall prepare a death certificate marked "Presumptive"
18 for Maria Concepcion Cabrera that shows she died on April 10, 1942;
- 19 2. The other facts required to complete the death certificate shall be based on the Findings
20 of Fact in this Order; and
- 21 3. The identity of this Court ("The Superior Court of the Commonwealth of the Northern
22 Mariana Islands") and the date of this decree shall be shown on the death certificate.
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26 **SO ORDERED** this 6th day November 2023.

/s/ _____
JOSEPH N. CAMACHO, Associate Judge