

JUN 20 2002

For The Northern Mariana Islands
By _____
(Deputy Clerk)

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN MARIANA ISLANDS

UNITED STATES OF AMERICA,)
)
Plaintiff)
)
v.)
)
JUNG YAO TSAI;)
CHUNG-MAO TSAI, also known as)
"Amao;" LAWRENCE M.)
FLEMING; and, MARY JANE DE)
LEON FLEMING,)
)
Defendants)
)

Criminal No. 01-00010

NOTICE OF ORDER:
(1) DISMISSING AS MOOT
THE MOTION TO DISCLOSE
THE IDENTITY OF INFORM-
ANTS; and
(2) DENYING MOTION TO
DISMISS INDICTMENT AND
PETIT JURY PANEL OR
VENIRE

THIS MATTER came before the court on Thursday, June 20, 2002, for hearing of defendant Mary Jane Fleming's motion to dismiss the indictment and to quash the petit jury panel or venire and her motion to disclose the identity of

1 confidential informants. Defendants Chung Mao-Tsai and Jung-Yao Tsai
2 joined in the motions. Plaintiff appeared by and through Assistant U.S.
3 Attorney John J. Rice; defendant Chung-Mao Tsai appeared by and through his
4 attorney, Danilo T. Aguilar; defendant Jung-Yao Tsai appeared by and through
5 his attorney, Colin Thompson; defendant Mary Jane De Leon Fleming
6 appeared by and through her attorney, G. Anthony Long; and, defendant
7 Lawrence M. Fleming appeared by and through his attorney, Timothy H.
8 Bellas.
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12 THE COURT, having considered the written and oral arguments of
13 counsel, ruled as follows:
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15 Defendant Mary Jane Fleming's motion to compel disclosure of the
16 confidential informants was dismissed as moot, the information having already
17 been supplied to defendants by plaintiff.
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19 Defendant Mary Jane Fleming's motion to dismiss the indictment and
20 quash the petit jury panel or venire was denied. Defendant argued that 28
21 U.S.C. § 1865, which requires, *inter alia*, that jurors be United States citizens, is
22 unconstitutional as applied in the Commonwealth because in the
23 Commonwealth, unlike the mainland United States, the great majority of adult
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1 residents are not citizens.

2 Section 1865 is clear on its face that, to serve on a jury in a district
3 court, the juror must be a United States citizen. 28 U.S.C. § 1865(b)(1).

4 Further, it has been held that Congress' decision to prohibit resident aliens (as
5 opposed to, here, non-resident alien workers) from participation in democratic
6 political institutions is rationally related to its legitimate power to define the
7 extent of the rights of non-citizens prior to their obtaining citizenship. *See e.g.*
8 Sugarman v. Dougall, 413 U.S.634, 648, 93 S.Ct. 2842, 2850-2851 (1973); United
9 States v. Wilson, 158 F.Supp. 442 (D.C.Ala. 1958), *aff'd* 255 F.2d 686 (5th Cir.),
10 *cert. denied*, 358 U.S. 865, 79 S.Ct. 97 (1958) (reaffirming that Congress has the
11 power to establish qualifications for federal jurors without regard to juror
12 qualifications established by state legislative bodies). Thus, "Congress, with its
13 broad powers in dealing with aliens, may validly require citizenship as a
14 prerequisite to service on federal juries." United States v. Gordon-Nikkar, 518
15 F.2d 972, 978 (5th Cir. 1975). This principle has been in place for well over a
16 century. *See* Charge to Grand Jury, Treason Fed.Cas. No. 18,274 (D.C. Mass.
17 1864). Accordingly, defendant Mary Jane Fleming's motion to dismiss the
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indictment was denied.

IT WAS SO ORDERED.

DATED this 20th day of June, 2002.



ALEX R. MUNSON
Judge