



**OFFICE OF THE GOVERNOR
HAGÁTÑA, GUAM 96910
U.S.A.**

EXECUTIVE ORDER NO. 2016-06

**RELATIVE TO THE REMOVAL OF JOHN-JOHN WIA,
A NONIMMIGRANT ALIEN AND CITIZEN OF
THE FEDERATED STATES OF MICRONESIA**

WHEREAS, the Compact of Free Association (COFA) Act of 1985 [U.S. Public Law 99-239], is a law that approved a joint resolution agreement between the United States, the Federated States of Micronesia (FSM), and the Republic of the Marshall Islands (RMI) which established the FSM and RMI as independent nations and provided them with economic assistance, military defense, and other benefits given by the United States in exchange for certain operating rights in the FSM and RMI; and

WHEREAS, the original 1985 Compact agreements with the FSM and the RMI were subsequently amended by the COFA Amendments Act of 2003 [Public Law 108-188] and became effective in 2004; and

WHEREAS, pursuant to the Section 141(a) of Article IV of the 2003 Amended Compacts (aka "Compact II"), FSM and RMI citizens may be admitted to the U.S. and its territories and possessions as nonimmigrant aliens for the privilege of residing, seeking employment, or pursuing education; and

WHEREAS, further, Section 141(f) of the Amended Compacts state that the U.S. Immigration and Nationality Act (INA) [Title 8 U.S.C.], as amended, applies to Compact entrants, including the INA provisions governing exclusion and deportation; and



WHEREAS, further, Section 141(g) of the Amended Compacts state that any authority possessed by the Government of the United States may also be exercised by the Government of a territory or possession of the United States such as Guam in cases where the INA does not apply, to the extent such exercise of authority is lawful under a statute or regulation of such territory or possession that is authorized by the laws of the United States; and

WHEREAS, under INA Section 237 [8 U.S.C. § 1227], Compact entrants must obey the laws of the United States and of the state and locality in which they reside, or else be subject to removal and deportation; and

WHEREAS, under INA Section 237(a)(4)(A)(ii) [8 U.S.C. § 1227(a)(4)(A)(ii)], Compact entrants who engage in criminal activity, which endangers public safety or national security are deportable; and

WHEREAS, under Section 141(f)(1) of the Amended Compacts, INA Section 237(a)(5) is required to be construed and applied to Compact entrants such that a Compact entrant is subject to deportation as a "public charge" if he or she "cannot show that he or she has sufficient means of support in the United States"; and

WHEREAS, pursuant to the immigration regulations promulgated by the U.S. Department of Homeland Security (DHS) at 8 C.F.R. Section 214.7(a)(7) and Section 214.7(e)(1)(i), a Compact entrant is subject to removal from the United States and its territories if he or she has not been self-supporting for a period exceeding 60 consecutive days;

WHEREAS, pursuant to 8 C.F.R. Section 214.7(e)(1)(iii), a Compact entrant is subject to removal from the United States and its territories if he or she is in violation of INA Section 237(a)(5) [8 U.S.C. § 1227(a)(5)] which governs the deportation of a public charge who cannot show sufficient means of support in the United States; and



WHEREAS, at a hearing held February 10, 2015 before the Superior Court of Guam in Criminal Case No. CF0292-14, a defendant identified as "John-John Wia" entered a plea of guilty to the charge of Attempted Second Degree Robbery (as a 2nd Degree Felony) in violation of 9 G.C.A. Sections 40.20(a)(3) and (b) and Section 13.10; and

WHEREAS, on February 11, 2016, the Superior Court of Guam entered a Judgment in CF0292-14 convicting John-John Wia as to the charge of Attempted Second Degree Robbery (as a 2nd Degree Felony) and sentencing him to serve a term of five (5) years imprisonment, all but three (3) years direct time at the Guam Department of Corrections with credit for time served, and to pay a \$100 fine, perform 100 hours of community service and be placed on parole for three (3) years following completion of his sentence; and

WHEREAS, while incarcerated pursuant to his conviction in CF0292-14, John-John Wia did not take advantage of opportunities to participate in educational advancement programs offered at the Guam Department of Corrections; and

WHEREAS, John-John Wia is a nonimmigrant alien and a citizen of the FSM state of Chuuk who is residing in Guam, and is further a "habitual resident" as described in the immigration regulations at 8 C.F.R. Section 214.7(a)(4)(i), having been admitted to Guam pursuant to Section 141(a) of the Amended Compact with the FSM; and

WHEREAS, John-John Wia was not attending any school or university prior to his arrest and conviction, and further was not otherwise engaged in the pursuit of any available educational opportunities; and

WHEREAS, John-John Wia cannot show that he has sufficient means of support in the United States or Guam; and



WHEREAS, John-John Wia is a deportable alien because he has violated, and continues to be in violation of, the Amended Compact with the FSM, the U.S. Immigration and Nationality Act, and the DHS immigration regulations by virtue of being a public charge who cannot show that he has sufficient means of support in the United States or Guam, and by failing to be self-supporting for a period exceeding 60 consecutive days, and by engaging in and being convicted of felony criminal activity that endangers public safety or national security; and

WHEREAS, the U.S. Immigration and Customs Enforcement (ICE) agency and the DHS have not placed an immigration detainer or notice of action on John-John Wia as of July 22, 2016; and

WHEREAS, in light of Guam's unique geographic, economic, and political status, the peace and welfare of the island community depends on its ability to control public safety; and

WHEREAS, the Amended Compact with the FSM explicitly states at Section 104(e)(1) [48 U.S.C. § 1904(e)(1)] that, "In reauthorizing the U.S.-FSM Compact ... it is not the intent of the Congress to cause any adverse consequences for an affected jurisdiction" such as Guam. *See also*, 48 U.S.C. § 1921c(e) (same); and

WHEREAS, despite the language of Amended Compact Section 104(e)(1) and 48 U.S.C. § 1921c(e), there is no known or reasonably foreseeable plan by the U.S. government to enforce the Compact provisions governing the removal and deportation of public charges or of otherwise alleviating the adverse consequences caused; and

WHEREAS, Section 1422 of the Organic Act of Guam, Title 48 United States Code, provides that the Governor "shall be responsible for the faithful execution of the laws of Guam and the laws of the United States applicable in Guam"; and



WHEREAS, pursuant to the authority granted by Organic Act Section 1422 to enforce federal laws applicable to Guam, the Governor "has the residual authority to enforce the immigration laws of the United States in default of performance by the Immigration and Naturalization Service of the United States." *See, Ex parte Rogers*, 104 F. Supp. 393, 396 (D. Ct. Guam 1952); and

WHEREAS, further pursuant to Organic Act Section 1422, the Governor has the authority to "grant pardons and reprieves. . . for offenses against local laws."

NOW, THEREFORE, I, EDDIE BAZA CALVO, I Maga'Låhen Guåhan, Governor of Guam, by virtue of the authority vested in me by the Organic Act and laws of Guam, do hereby order and direct as follows:

1. **Removal and deportation.** (a) John-John Wia, a citizen of Chuuk State, FSM, is ordered to be removed and deported from Guam forthwith.

(b) All Government of Guam agencies, including the Guam Police Department, the Department of Corrections, Guam Homeland Security/Office of Civil Defense, the Department of Customs & Quarantine, the Guam International Airport Authority, the Department of Administration, and the Bureau of Budget & Management Resources, are ordered to coordinate together to make immediate arrangements for his one-way repatriation to Chuuk, FSM.

1. **Commutation of sentence.** Subject to the condition of Permanent Bar Against Reentry set forth below in this Executive Order, the removed individual, John-John Wia, is granted a reprieve and commutation of sentence to time served and satisfied as of the date of verification of his return to, and arrival in, Chuuk.



2. **Release from Custody.** John-John Wia is released from the custody of the Guam Department of Corrections (DOC) as of the date of verification of his return to, and arrival in Chuuk, said release to be effected in Chuuk as soon as administratively possible or within a reasonable period to allow for proper release processing pursuant to applicable policies and procedures.

3. **Permanent Bar Against Reentry.** (a) As a condition of the commutation of sentence and release from custody contained in this Executive Order, John-John Wia shall be, and is, permanently barred from reentering, attempting to reenter, or from transiting through Guam. All Guam ports of entry and law enforcement agencies shall keep a permanent record of his fingerprints, photograph, biometrics, and any other individually identifiable information.

(b) In the event that John-John Wia reenters, or attempts to reenter, or transits through Guam, the commutation of sentence granted by this Executive Order shall be automatically revoked and void from the beginning. John-John Wia shall be immediately placed in physical custody by law enforcement personnel and returned to the Guam Department of Corrections to serve out the balance of all terms and conditions of his sentence and incarceration remaining at the time of commutation.

4. **Costs of Removal.** (a) Any costs associated with this removal shall be borne by the Government of Guam, which may seek reimbursement of such costs from the appropriate federal authorities.

(b) If it is determined that the removed individual has reentered or attempted to reenter, or attempted to transit through Guam, he shall be detained and held pending his immediate re-removal at the



earliest opportunity on a vessel or aircraft owned by the owner of the vessel or aircraft on which the individual arrived in Guam. The owner of the vessel or aircraft shall also bear all transportation, detention, and maintenance costs associated with the re-removal.

SIGNED AND PROMULGATED at Hagåtña, Guam, this _____ day of July, 2016.

EDDIE BAZA CALVO

I Maga'Låhen Guåhan

Governor of Guam



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SIGNED AND PROMULGATED at Hagåtña, Guam, this 22nd day of July, 2016.

A handwritten signature in black ink, appearing to read "Eddie Baza Calvo".

EDDIE BAZA CALVO
I Maga'Låhen Guåhan
Governor of Guam

