

FILED

MAY 10 2005

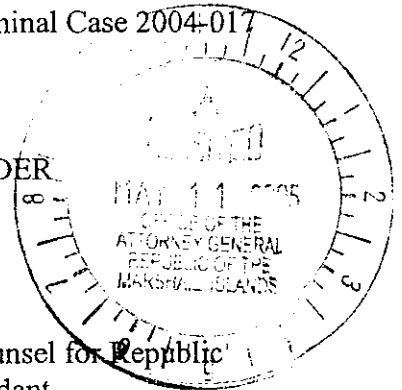
ASST. CLERK OF COURTS
REPUBLIC OF MARSHALL ISLANDS

IN THE HIGH COURT
OF THE
REPUBLIC OF THE MARSHALL ISLANDS

Republic of the Marshall Islands)
)
)
)
v.)
)
Selthia Komanta)
)
Defendant)
_____)

Criminal Case 2004-017

ORDER



Counsel: Whitlam Togame Assistant Attorney General counsel for Republic
Elsie Hudson Public Defender counsel for Defendant

The trial was conducted on May 4th, 2005.

Evidence

The Republic called Lynn Witmar who at the time of giving evidence was obviously pregnant. She testified that in December 2004, that Defendant had called her and asked her if she wished to put her un-born child up for adoption, through the agency that the Defendant worked for. She also testified that the Defendant had given her \$120.00 to pay for her passport and her childrens' passports. Finally in answer to a question from the court she advised that she had given up a child for adoption to the United States several years ago.

Lynn's husband testified that his wife had asked him about the possibility of adopting out the unborn child and he had told her it was her decision.

Randy Kaiser gave evidence hat he had received a telephone call from the Defendant asking to speak to Lynn. He had not immediately passed on the message, but had passed it on later.

Marilyn Peter of the central adoption agency advised she carried out counseling for prospective adoptive mothers and that she had not given counseling to Lynn. She did however advise that not all the counseling was done by her as there were other counselors.

The Defendant's husband took the stand and testified that he was the uncle of Lynn Witmar. He stated he did not know about a proposed adoption of Lynn's unborn child, but that he had provided \$120.00 for the purchase of passports.

The Defendant took the stand and denied the allegations. She admitted to previously work for an adoption agency, but had ceased that employment in 2001. She asserted that it was Lynn that contacted her to discuss the possibility of adoption.

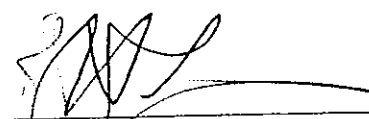
Findings

The court is unconvinced by the Defendant's denial of the allegations. The evidence of Lynn Witmar is preferred over that of the Defendant. Ms Witmar has no reason not to be truthful and as a person who had already given up one child for adoption, has an understanding of what adoption involves. The actions of the Defendant do amount to solicitation as defined under the adoption act. The Defendant is therefore guilty of count 1 solicitation for the purposes of adoption. The other charges should be merged with count 1 as there was only one transaction that gave rise to the allegations.

Sentence

The court moves directly to sentencing. The Defendant is fined \$1000.00, \$500.00 of the fine is suspended for a period of 12 months. The balance of the fine is to be paid by May 31, 2005. The Defendant shall be on probation for 12 months during which time she shall obey all laws of the Republic, especially the Adoption Act.

Dated May 10, 2005



Richard Hickson
Associate Justice

Service on:
Mr Togame counsel for Republic
Elsie Hudson Public Defender counsel for Defendant
Defendant Selthia Komanta