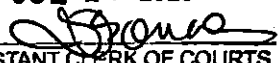


TRADITIONAL RIGHTS COURT
REPUBLIC OF THE MARSHALL ISLANDS
MAJURO ATOLL

FILED
JUL 17 2023

ASSISTANT CLERK OF COURTS
REPUBLIC OF THE MARSHALL ISLANDS

SAILASS MALACHI,) Civil Action No. 2013-00213
)
Plaintiff,)
v.) ANSWER TO SUPPLEMENTAL
) QUESTION
)
TERRY ABON,)
)
Defendant.)
_____)

PANEL MEMBERS: Hon. Grace L. Leban
Presiding Judge, TRC

Hon. Nixon David
Associate Judge, TRC

Hon. Milton Zackios
Associate Pro Tem Judge, TRC

PLACE OF HEARING: Majuro Courthouse
Uliga, Majuro Atoll
Marshall Islands

DATE(S) OF HEARING: August 10-13, 16, 31, 2021

ADDITIONAL QUESTIONS TO THE TRC PANEL (SECOND REFERRAL):

- If, as the TRC panel recognized in its Amended Opinion, at 4, Neijab adopted Sailass Malachi “as her own son or *kaninlujen*”, and “Sailass Malachi’s rights in the line of succession should not be terminated or be solely determined upon, the absence of a kalimur,” then in the absence of a kalimur by Neijab in favor of Sailass, what were Sailass’ rights and what are his descendants’ rights in “the line of succession?”

- Why are descendants of Sailass, who was adopted as *kaninlujen*, not in line to be Senior DriJermal — that is, do they not have the same rights as natural children?
- Is it the case that Sailass' descendants, as descendants of "a patrilineal line, can live on Mokeo but cannot be the Senior Dri-Jermal?

The Court understands that the TRC had already determined that Mokeo is “*Imon Bwij*” and that through Taklemen, Terry Abon holds/exercises the Alap and Senior Dri-Jermal rights. However, the Court, parties involved, and counsel need to know what rights do the descendants of Sailass have, if any, and why?

SECOND TRC PANEL SUPPLEMENTAL ANSWER

Under the custom Sailass Malachi, his children and grandchildren cannot hold the Alap and Dri-Jermal rights and interest(s) on Mokeo weto. Mokeo weto was an “*Imon Bwij*” owned by Neijab and Taklemen. The elderly women did not have natural or biological children. However, they had adoptions from outside of their bwij and jowi. Neijab adopted Sailass Malachi and Taklemen adopted Neimako Abon. Because of their love, care, and respect of their adopted son and daughter, they considered them as “*Kobban Lojeirro*”, even though they knew and were mindful of the truth and fact that they did not deliver or give birth to them. Under the custom the term “*Kanin Lujen*” does not mean Sailass Malachi and Neimako Abon were flesh and blood son and daughter of Neijab and Taklemen. Therefore, Sailass Malachi and Neimako Abon cannot inherit the rights and interests of the bwij and jowi of Neijab and Taklemen. They cannot be considered as descendants of Neijab and Taklemen’s bwij and jowi to be able to inherit the bwij rights and interest(s) on Mokeo weto. There is nothing in the custom that will substitute or change the meaning of “Flesh and

Blood”. An adopted person, even though considered “Kanin Loje”, cannot be considered flesh and blood son or daughter.

The other reason under the custom that prevents Sailass Malachi and his children and grandchildren from exercising any right on Mokeo weto is “Lot in Bwij” or “Elot Bwijeo”. This custom requires that if the bwij becomes extinct, the rights and land shall return to the possession of the Irojlaplap, to be given or awarded to another person or to any bwij he chooses. (Amata pages 21-22).

Mokeo weto was an “Imon Bwij” to Neijab and Taklemen. The elderly women did not have any biological children. They also did not have any younger (male or female) siblings. For this reason, they had adoptions from outside of their bwij and jowi. When Taklemen passed away the bwij became extinct. Taklemen’s death brought the end of the rights on Mokeoweto. However, the Irojlaplaps of this weto, by virtue of their power of authority under the custom, approved Taklemen’s will for her daughter, Neimako Abon, to exercise the Alab and Dri-Jerbal rights and interests on Mokeo weto. The approval was not by one Irojlaplap only, but included all the Irojlaplaps since the time of Irojlaplap Joba Kabua. If Sailass Malachi, his children and grandchildren, were to exercise rights on Mokeo weto, it will be a violation of the orders and arrangements put in place by the Irojls of the weto in accordance with custom.

CUSTOMARY TITLES AND INHERENT RIGHT BY AMATA KABUA

Page 21 says, “Bwij becomes extinct and transfer of land rights by Irojlaplap to a new bwij of close relatives will be in order. If not, Land Rights refer back to him for reassignment to another distant bwij of his choice”.

Page 22 says “By Irojlaplap’s decree a new bwij is installed, if not the land might refer back to him for reassignment.”

This answer, as a whole, and in accordance with custom, will clarify “Sailass Malachi’s rights in the line of succession should not be terminated” is not true and correct. This statement on information came from the inaccurate translation of the TRC Opinion from Marshallese to English. There is no where in the Marshallese version that says Malachi’s right will not be terminated. The full and entire TRC Answer to the High Court’s second referring order, states and fully explained the reason Sailass, his children, and grandchildren, cannot inherit any right on Mokeo weto.

Dated: June 16, 2023

/s/ Grace L. Leban
Presiding Judge, TRC

/s/ Nixon David
Associate Judge, TRC

/s/ Milton Zackios
Associate Pro Tem Judge, TRC