

FILED

IN THE HIGH COURT
OF THE
REPUBLIC OF THE MARSHALL ISLANDS

JUL 05 2012

ASST. CLERK OF COURT'S
REPUBLIC OF MARSHALL ISLANDS

MASAKI JACOB on behalf of his)
Older brother bob Meleran Jacob,)
Plaintiff,)
)
vs.)
)
REMIOS HERMIOUS,)
First Defendant,)
)
WILFRED KENDALL)
Second Defendant.)
_____)

CIVIL ACTION NO. 2008-221

SUMMARY OF CASE

MEMBERS OF COURT PANEL: Walter K. Elbon, Chief Judge
Botlang Loeak, Associate Judge
Grace Leban, Associate Judge

DATE OF THE HEARING: APRIL 24th and 25th, 2012

PLACE OF HEARING: Uliga Majuro Courthouse

ACTION TAKEN:

1. (a) Question No. 1 as presented: Which of the two, the Plaintiff Jacob and the Defendant Kendall, holds the Alap title for the 25 wetos in Wotje and Erkub Atoll as stated in this dispute?

(b) Opinion in Answer to Question No.1: WILFRED KENDALL

(c) Brief Statement of Reasoning regarding the Answer in which Question No 1 is based:

The evidence or Exhibit B, in which both the Plaintiff and the Defendant agreed upon, shows the line or generation in which Wilfred Kendall is listed on is older than the generation line in which the Plaintiffs are listed. In his testimony, IroiJlaplap Remios Hermios stated that

he recognized Wilfred Kendall as the Alap now and its proper for him to succeed Kendall or his father who held the last Alap in his generation. In his declaration, Defendant's Exhibit A, written in December 6, 2005, it is stated that "he was the last father of our generation line, therefore according to our traditional customs; we should recognize and respect him." There is no doubt that if Wilfred Kendall is the last one in line in the generation as it is in the family genealogy chart of Lijelik and her descendants, and also in Irojlaplap Remious Hermious' declaration, then the Alap rights after Wilfred Kendall passes or dies will pass on to the descendants who are listed next according to the genealogy chart of Lijelik's family or Defendant's Exhibit No. B.

Plaintiff Bob Meleran Jacob in his testimony stated that he is the rightful person to hold the Alap title at present. His main reason was because Wilfred Kendall was adopted by Alap Kendall Lojen. In his answer to the question "Kendall Lojen looked after Wilfred Kendall as his own child or as an adopted child?" He answered that Kendall Lojen looked after him as his own child. Wilfred Kendall in his own testimony said that he was not an adopted child, that he never heard from his father that he was an adopted child.

The TRC Panel in this case finds that there is not sufficient evidence to prove that Wilfred Kendall was an adopted child of Kendal Lojen. The generation line in which lists Wilfred Kendall name in the genealogy chart of LiJelik's family is greater than that of Bob Meleran Jacob and his siblings, and the declaration letter of Irojlaplap Remios Hermios written in December 6, 2005, the TRC Panel recognizes that it is right and proper for Wilfred Kendall to be the one to hold the Alap title today in the 25 wetos in Wotje and Erkub Atolls.

(d) Name and address of the Plaintiff's Witness testifying in regards to Question No. 1:

1. Bob Meleran Jacob, Majuro Atoll

(e) Name and addresses of the Defendant's Witnesses testifying in regards to

Question No. 1:

1. Remios Hermios
2. Wilfred Kendall
3. Important items of Tangible and Documentary Evidence Received:
 - (1) Plaintiff Exhibit A, Special Power of Attorney
 - (2) Plaintiff Exhibit B, Genealogy Chart of Lijelik's family
 - (3) Plaintiff Exhibit C, Kalimur of Kendal Lojen
 - (4) Defendant Exhibit A, Irojlaplap Remios Hermios Declaration Letter
 - (5) Defendant Exhibit B, Genealogy Chart of Lijelik's family
 - (6) Defendant Exhibit C, Authorization of 8/19/85

4. Other matters which the panel believes should mention:

- (1) If Manne Jacob were still alive today, she would have been the rightful

Alap for she was in the generation line of Wilfred Kendall, and her father and grandfather were older from Wilfred Kendall's father and grandfather according to the genealogy chart of Lijelik's descendants. Plaintiff Exhibit C says, "She (Manne Jacob) will oversee these wetos for my people as is in our traditional customs". These words my people include Wilfred Kendall. Defendant Exhibit C, which Alap Kendall and Irojlaplap Murjel Hermios signed, and now present Irojlaplap Remios Hermios testify that it authorized Abta Lorennij who is not actually from here and Wilfred Kendall who is also from these wetos but wasn't his time for the Alapship, and wouldn't have been if Manne were still alive. Manne Jacob is now deceased and since Wilfred Kendall is the only one alive from the generation line according to Defendant Exhibit A, and as the genealogy chart shows, the TRC Panel agrees that Wilfred Kendall is the rightful one to hold the Alap title in these wetos in Wotje and Erkub.

(2) Kannin Lujen: A child looked after or adopted as one's own natural child.

In his own testimony, Bob Meleran Jacob said that he thought Wildred Kendall was adopted by Kendall Lojen and he looked after him as if he were his own child. He did not tell this court who his real father was besides Kendall Lojen. If the truth is that Wilfred Kendall is an adopted child of Kendall Lojen and that he looked after him as if he were his own child, then this is a very different situation from the situation in *Amon v. Makroro 5TTR436*. In his testimony, Irojlaplap Remios Hermios stated that the words "Kannin Lujen" mean "as your own child". And since he was their last uncle in his generation line his rights were not weak but powerful. The Irojlaplap has the ultimate authority to attest as to who is the right and proper person to hold the Alap title. In the *Loeak v Loeak* case, it says only about the Irojlaplap rights, and that it is right to say that if you are not from the bloodline of the Iroj, you are not entitled to inherit the Irojlaplap title. Anyone can hold the title of Alap, but only if the Iroj acknowledges the person is right and proper.

/s/ WALTER K. ELBON, Chief Judge
Traditional Rights Court

/s/ BOTLANG LOEAK, Associate Judge
Traditional Rights Court

/s/ GRACE LEBAN, Associate Judge
Traditional Rights Court