

IN THE TRADITIONAL RIGHTS COURT

REPUBLIC OF THE MARSHALL ISLANDS

ATIKOL KIOS,
)
)
 Plaintiff,)
)
 vs.)
)
 KOLEJ KIOS,)
)
 Defendant.)
)
 _____)

CIVIL ACTION NO. 2000-080

SUMMARY OF OPINION IN ANSWER

The members of the Traditional Rights Court panel who heard the trial in Civil Action No. 2000-080 were Associate Judge Berson Joseph, Associate Biliet Edmond, and Chief Judge Riley Albertter, who presided over the trial. The trial was held in the Courthouse in Uliga, Majuro Atoll. The trial was held on January 4-5, 2000.

A. The questions that were certified to the Traditional Rights Court are as follows:

1. Who is the most proper person to hold the Alab and Senior Dri-gerbal rights on Tobikien Weto?

a) For the alab seat it is Atikol Kios. Reason, because Atikol is the oldest son of the previous alab, Nead.

b) With respect to the senior dri-gerbal seat it is Kolej Kios. The reason, because Kolej Kios is younger than Atikol Kios who is also Nead's son.

c) The mother of a family, can she really disown her own children and prevent them from inheriting her rights on the land? She will never, never do that. This opinion is based on the fact that it has never happened in the history of the Marshall Islands. This customary saying of "*Jined ilo Kebo*" makes it clear.

B. Names and addresses of Plaintiff's witnesses:

1. Atikol Kios (Plaintiff), Rita, Majuro Atoll
2. Order Kios, Ajeltake, Majuro Atoll

C. Names and addresses of Defendant's witnesses:

1. Jimmy Kios, Arrak, Majuro Atoll
2. Kolej Kios (Defendant), Laura, Majuro Atoll

D. Other evidence admitted:

1. Plaintiff's Exhibit No. 1 - Nead's genealogy chart

E. Other factors that need to be considered:

1. Nead's genealogy chart clearly shows where Atikol Kios and Kolej Kios are in the family lineage.

2. ***The traditional inheritance of land rights - the custom of Jined ilo Kebo and the custom of Bedbed ijin Bedbed ijen.***

The opinion of this Court is based on the fact that Nead's genealogy chart listed Atikol Kios and Kolej Kios as brothers. They are both the sons of Nead who was the alab for this weto, Tobikien, and there was no other alab after her. The older of the two is Atikol Kios and under the custom, he is the proper person to succeed Alab Nead to the alab seat, and Kolej Kios, the younger, he will hold the senior dri-jerbal seat. If Nead had had a younger sister or brother, then it would have been that sibling who would occupy the alab seat and Nead's oldest son would be the senior dri-jerbal. This the custom for inheriting land rights. ***Jined ilo Kebo*** is the custom that shows the great love that a mother has for her children. Even if they disobey and disappoint her, and no matter how angry a mother will get at her children but because she really loves them she will never disown or cut off her children or consider that they are not her

children. Therefore, to consider that Nead, Atikol Kios' mother, had disowned him as a son, is very hard to accept as a fact because it has never happened in the history of the Marshall Islands and under our custom. According to the testimony of Order Kios, he testified that Atikol was not even on Majuro when his mother passed away. According to the defendant, he testified that because his older brother was not present at the time of their mother's death, therefore, he can't inherit his mother's rights (Nead). Only him (defendant) who is the right and proper person to inherit Nead's rights because he had looked after and cared for her until she died. The custom of *Bedbed ijin Bedbed ijen* provides that even if a person was absent from an important family event, such as death, it does not mean that the person will lose his or that he cannot inherit the rights he's entitled to under custom.

From the defendant's own testimony, he first testified that the *lia* or disowning and cutting off of Atikol Kios occurred as a result of disobeying the summons by his mother and Lerioj Tarjikit. He further testified that he is preventing Atikol Kios from living on these lands belonging to Nead because it is the wish of by his mother that Atikol should not ever set foot on her lands, where she held the alab right on. Subsequently, Kolej testified that the only piece of land that he doesn't want Atikol Kios to set foot on is this weto, Tobikien. Eventually, he has no problems regarding the other lands under the domain of Kaibuki.

In considering the testimony of Kolej Kios, this Court finds it very difficult to see any truth in them. The period of time that Nead spoke the words, according to his own testimony, was sometime between 1960 and 1975. Looking at that time frame, almost all the wills were in written form. Order Kios, the youngest son of Nead, in his testimony, testified that he never heard his mother mention anything about any *lia* or disowning of Atikol during all the time she

lived with him in Ajeltake. It is only Kolej who is claiming that his mother told him about that.

Therefore, it is the opinion of this Court that Atikol Kios is the alab today and Kolej Kios is the senior dri-jerbal in accordance with their own lineage.

Dated: 2/12/01



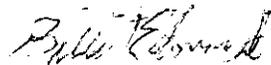
RILEY ALBERTTAR
Chief Judge, Traditional Rights Court
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BERSON JOSEPH
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REPUBLIC OF MARSHALL ISLANDS



BILLIET EDMOND
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