

DEC 21 2022

ASSISTANT CLERK OF COURTS
REPUBLIC OF THE MARSHALL ISLANDS

IN THE TRADITIONAL RIGHTS COURT
OF THE
REPUBLIC OF THE MARSHALL ISLANDS

<p>DARREL MALACHI, Plaintiff, vs. TERRY ABON, Defendant.</p>	<p>CIVIL ACTION NO. 2013-213 Opinion and Answer of the Traditional Rights Court to the Supplemental Question from the High Court</p>
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MEMBERS OF THE PANEL: Grace L. Leban
Presiding Judge, TRC

Nixon David
Associate Judge, TRC

Milton Zackios
Pro Tem Associate Judge, TRC

PLACE OF HEARING: Majuro Courthouse

DATES OF HEARING: August 10-13, 16 & 31

POINTS OF DISCUSSION AND SUPPLEMENTAL QUESTION(S):

This decision was referred back to the Traditional Rights Court to review its statements made on page 4, in the first paragraph on the top part of page 4. The question from the High Court states that in the first part of the paragraph, the TRC Panel stated that the descendants of Neijab (which includes Plaintiff Sailass Malachi and after his demise, the current Plaintiff Darrel Malachi) is unable to inherit the *Alap* and *Senior Dri Jerbal* titles, rights and interests on Mokeo Weto, because Neijab did not put or make a will for them as successors thereof. However, in the second part of the paragraph on page 4, the TRC seems to have a different answer.

The High Court also stated that in the second part of the paragraph on page 4, the TRC stated that the title, rights and interests of Sailass Malachi should not be terminated or be determined solely on the fact that he was not given a will. And that the line of succession began

with Neiboke and continued on to the current day of Darrel Malachi and Terry Abon. If this is the TRC's position, then why is Darrel Malachi, who is *Alap* Sailass Malachi's son, not the titleholder of the *Senior Dri Jerbal* today?

The whole of the paragraph on page 4 of the *Answer and Opinion Of The TRC* reads as follows:

Neijab and Taklemen were both childless, however both adopted children from outside the bwij. Neijab customarily adopted Sailass Malachi as her own son, and likewise, Taklemen customarily adopted Neimako. Neijab and Taklemen's mothers were sisters, and Neiboke was their natural mother. Neijab failed to leave a will or testament for Sailass Malachi to succeed the alapship and *Senior Dri Jerbal* titles, rights and interests for Mokeo Weto. As a result of that failure, Sailass Malachi's issues cannot and were not in a position to succeed Neijab. (See HCT CA 1999-288). The Panel recognizes and acknowledges that Sailass Malachi's rights in the line of succession should not be terminated or be determined solely upon the absence of a *kalimur*, but is also of the opinion that the line of succession, which started as an *Imon Ninnin* with Neiboke's line, continue in succession to the current generation today of Darrel Malachi and Terry Abon, in which Darrel Malachi is a descendant of a patrilineal line, whereas Terry Abon comes from a matrilineal line.

TRC Answer to the Supplemental Question(s):

After the Panel reviewed the supplemental question referred from the High Court, and after the Panel also reviewed its Answer in Opinion, filed November 23, 2021, the TRC Panel is still of the opinion that Terry Abon is the proper person to hold and exercise the two titles of *Alap* and *Senior Dri Jerbal* in accordance with the will that Alap Taklemen made bequeathing her adopted child, Neimako Abon, who is Terry Abon's mother, with the two land titles of *Alap* and *Senior Dri Jerbal* for Mokeo Weto.

With respect to the discussion on the line of succession under custom, it is apparent that Mokeo Weto changed from an *Imon Ninnin* to an *Imon Bwij* after Neiboke in whom a new bwij commenced. For this reason, the opinion of the TRC is that if the bwij line did not become extinct with Taklemen, then it follows that Terry Abon is from a matrilineal line and Darrel Malachi is from a patrilineal line. However, the bwij became extinct with no one to succeed Taklemen. After Taklemen, there was only the adopted children, and the authorization went to the Irojlaplap to certify the will *Alap Taklemen* made for her adopted child, Neimako Abon and her descendants to inherit the titles, rights and interests of *Alap* and *Senior Dri Jerbal* on Mokeo Weto to this day. In addition to *Irojlaplap* Joba's approval of the will, at the time, the signature of the successor-in-line to the *Iroj* title after Joba, Amata Kabua, was also acquired, as well as the *Irojdedrik's* signature, Telean. In addition to the will, after some time had passed, *Irojlaplap Jurelang Zedkeia* further affirmed this will in his speech during *Alap Taklemen's* post-burial ceremony (*eorak*). After Neimako Abon's demise, her son Terry Abon, then becomes the

beneficiary according to the written will and the words of the preceding *Iroiylaplaps* of Mokeo Weto.

Date: 12/19/22

 /s/
Grace L. Leban
Presiding Judge, TRC

 /s/
Nixon David
Associate Judge, TRC

 /s/
Milton Zackios
Associate Pro Tem Judge, TRC