

of the *bwij* (and plaintiff and those he represents are members of the *bwij*) nor without the approval, for good cause, of the *iroij erik* and the *droulul*. Accordingly, it is

Ordered, that defendant Likebelok be and hereby is restrained from interfering with plaintiff's use and occupancy of a portion of Uninekjab *wato*, Rita Village, Majuro Atoll, and that plaintiff may complete construction of his house on the premises.

Further ordered, that plaintiff is denied relief for his claim for a share of rental income from the land but that he may renew his claim to this Court after a determination of his entitlement by the *droulul* on "*Jebrik's side*" of Majuro Atoll.

**In the Matter of the Adoption of TIANNA SAMUEL,
a Female Child**

Civil Action No. 1189

Trial Division of the High Court

Ponape District

June 22, 1971

Review of record of District Court in adoption case where no appeal was taken. The Trial Division of the High Court, H. W. Burnett, Chief Justice, held that the consent of the natural mother to the adoption cannot be withdrawn once the decree has been entered.

1. Illegitimate Children—Generally

The father of an illegitimate child has no legal claim to it.

2. Domestic Relations—Adoption—Consent of Natural Mother

In the absence of a clear showing of fraud, duress, or lack of jurisdiction in the court, the consent of a natural mother to the adoption of her child cannot be withdrawn after the decree has been entered.

BURNETT, *Chief Justice*

By decree of the Ponape District Court, entered December 29, 1970, Tianna Samuel, an infant, was adopted by

IN RE ADOPTION OF SAMUEL

John and Elaine Trotta. On February 1, 1971, that decree was set aside, and the petitioners ordered to give notice of the proceedings to one Robert Fulo, reported in birth records as the father. Thereafter, on March 15, upon the court's determination that the child was illegitimate, the Order of February 1 was quashed, and the original decree reinstated.

The matter now comes before this Court for review, pursuant to 6 T.T.C. 354, which requires review on the record of every final decision of the District Courts in adoption cases where no appeal has been taken. This statutory mandate has been supplemented by request for review by the natural mother, Dolores Samuel, and one Charles Massey who, it appears, is now her husband.

In the course of my review I include consideration of various documents and letters filed both with me and with the District Court following entry of the decree. In general, it may be said that these add nothing.

The most serious contention made by the natural mother is that she never wished to consent to the adoption, but did so as a result of pressure from her family. There is no claim of duress on the part of the Trottas. Yet, even granting "pressure" from the family, what could be more natural than family desire to so insure the welfare of the unfortunate illegitimate through such an adoption? Dolores was still unmarried at the time of the adoption, and at the time the entire matter was submitted for review.

[1] Dolores' contentions as to her own adoption and her "discovery" that her name is really Lolida Kastor have no bearing on the issue, nor does her present statement that it was a different man than the one she named at the time of Tianna's birth, who is the father. Whoever he may be, the father of an illegitimate child has no legal claim to it.

It is intimated that Dolores knew nothing of the proceedings, since the papers were drawn in English. It is enough to say that, while her consent to the adoption was in English, she actually appeared and testified as to her consent on hearing, all of which was in Ponapean.

[2] The basic question here is whether the natural mother's consent, once given, can be withdrawn after the decree has been entered. I hold that it cannot, in the absence of a clear showing of fraud, duress, or a lack of jurisdiction in the court; none of these are here present.

In so holding, I follow the weight of authority in American jurisdictions. See, for example, *In re Sipes*, 167 P.2d 139 (Wash. 1946), where the court denied an attempt to withdraw consent after entry of an interlocutory decree, and before a final decree.

The reason for such a position was well expressed by the Court of Appeals for the District of Columbia:—

“. . . It is apparent that if in particular cases the unstable whims and fancies of natural mothers were permitted, first, to put in motion all the flow of parental love and expenditure of time, energy and money which is involved in adoption, and then, as casually, put the whole process in reverse, the major purpose of the statute would be largely defeated. . . . A premium would, instead, be put upon the emotional instability which produces illegitimates. . . .”

Re Adoption of a Minor, 144 F.2d 644; 156 A.L.R. 1001. See also the annotation, 156 A.L.R. 1011.

Dolores Samuel consented to this adoption in open court and with the court's approval.

“The parent's consent to adoption, once voluntarily given, and acted upon by the adopting parents, cannot be withdrawn without good cause.”

In re adoption of D....., 252 P.2d 223, 224 (Utah 1953).

And, finally, I endorse the view expressed in *Smith v. Welfare Department*, 355 P.2d 317, 320 (Colo. 1960).

MASSEY v. TRUST TERRITORY

“Policy dictates that persons assuming the role and responsibility of adoptive parents be assured that in doing so they are not adopting a law suit in the bargain.”

Various statements contained in letters placed on file by Dolores Samuel come perilously close to constituting contempt of court. Obviously, however, they were not written by her but by another, a stranger to the proceedings. Certainly there can be no substance to any claims of impropriety on the part of the District Court.

It is, therefore, ordered, that the Decree of Adoption entered herein be and it hereby is approved. The Decree is now absolute.

CHARLES E. MASSEY, Plaintiff

v.

TRUST TERRITORY OF THE PACIFIC ISLANDS,
DISTRICT DIRECTOR OF EDUCATION, PONAPE,
DIRECTOR OF EDUCATION, SAIPAN,

and

DISTRICT ADMINISTRATOR, PONAPE, Defendants

Civil Action No. 469

Trial Division of the High Court

Ponape District

August 26, 1971

Hearing on Government employees motion for reinstatement. The Trial Division of the High Court, Arvin H. Brown, Jr., Associate Justice, held that where disciplinary proceedings brought against a Government employee were not in conformity with the Personnel Manual, they were without force.

Trust Territory—Personnel Policy

Regarding disciplinary actions against a Government employee, the Government must follow the procedures set out in the Personnel Manual and if those proceedings were not in accord with the Manual they are without force.