

FILED  
 DATE: 6/28/13 TIME: am/pm  
 By: [Signature]  
 CLERK, FSM SUPREME COURT  
 KOSRAE  
 TRIAL DIVISION

IN THE SUPREME COURT OF THE  
 FEDERATED STATES OF MICRONESIA  
 TRIAL DIVISION- STATE OF KOSRAE

1 IN THE MATTER OF THE ESTATE, ) CIVIL ACTION NO. 2012-2008  
 2 CLAUDE PHILLIP, )  
 3 )  
 4 Deceased, )  
 5 )  
 6 FSM DEVELOPMENT BANK, ) JOINT REPLY TO THE  
 7 ) ORDER NOTICING  
 8 Petitioner, ) PROBABLE DISMISSAL  
 9 )  
 10 BETTY PHILLIP, )  
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This Court by its order of June 3, 2013, gave notice of probable dismissal of the above captioned matter to the parties in the above case for lack of subject matter jurisdiction. The decision of the court to issue its order of possible dismissal are set out in In re Estate of Edmond, Civil Action No. 2012-2004.

The same court order further provided, however that it may retain jurisdiction if there is diversity among the heirs, otherwise, dismissal will ensue in 30 days presumably after the date of the order. The 30 day time period is thereby due by July 1, 2013. This reply is submitted in response to the order.


1           The parties by this joint reply submit to this court  
2 that it has subject matter jurisdiction based on  
3 diversity. Diversity is met as one of the heirs of the  
4 late Claude H. Phillip (Gennell Yoma Phillip aka Gennell  
5 C. Phillip) was born at Hilo Hospital, Hawaii on November  
6 18, 1995 to Hilton M. Phillip and Maggie Yoma. Gennell  
7 Yoma Phillip or Gennell C. Phillip is therefore a U.S.  
8 citizen by law. See Exhibit A, a copy of which is  
9 attached and made part of this reply. Following her  
10 birth, she was customarily adopted by the deceased Claude  
11 H. Phillip and the Nominee. A copy of her adoption  
12 decree is marked Exhibit B and incorporated herein by  
13 reference.

14           The Constitution places diversity jurisdiction in  
15 the Supreme Court, despite the fact that the issues  
16 involve matters within State or local, rather than  
17 national, legislative powers. In re Nahsen, 1 FSM Intrm.  
18 97, 102 (Pon. 1982), Ponape Chamber of Commerce v. Neth  
19 Muni. Gov't, 1 FSM Intrm. 389, 392 (Pon. 1984).

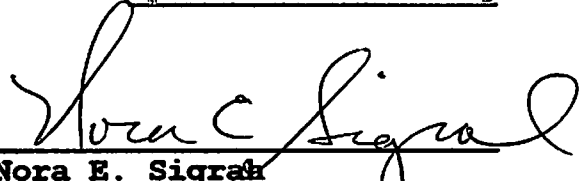
20           The requirement for diversity for purposes of  
21 jurisdiction is nominal diversity, which is the case at  
22 bar. This being the case, this court has jurisdiction  
23

1 over this matter and should therefore continue to  
2 exercise such authority. Thus, the parties have shown  
3 legal basis to establish subject matter jurisdiction by  
4 diversity in this matter and for that matter, the June 1,  
5 2013 order should therefore be vacated. The parties  
6 further request this court to extend the appointment of  
7 Betty K. Phillip from temporary to permanent  
8 Administrator and issue order accordingly.  
9

10  
11  
12 Dated: June 26, 2013.

  
\_\_\_\_\_  
Canney Palsis  
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13  
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19 Dated: June 26, 2013.

  
\_\_\_\_\_  
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# Fiilo Hospital

Fiilo, Hawaii

## BIRTH RECORD

This Certificate that GENNELL YOMA PHILLIP  
was born to MABLE JOHN & HILTON M PHILLIP in this Hospital  
at 1472 p.m. on Surgery the 18th day of November 1995



The Witness: Manager of the said Hospital has  
caused this Certificate to be signed by its duly  
authorized officer and its Special Seal to be  
hereunto affixed.

Jan A. Shevane  
Sponsoring Physician

John H. Westerman  
Administrator

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EX-A



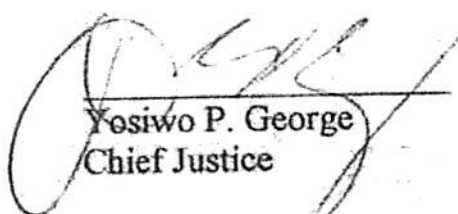
### FINDINGS

1. This Court has jurisdiction in this matter pursuant to Section 6.3101 of the Kosrae State Code.
2. Petitioners are citizens of the Federated States of Micronesia and residents of Kosrae State.
3. Respondents are citizens of the Federated States of Micronesia and residents of Kosrae State.
4. The subject minor is customarily adopted to the Petitioners and has been living with the Petitioners since birth.
5. The minor has been under the care, support, maintenance and custody of the Petitioners since the customary adoption in accordance with Kosraean custom and tradition.
6. Neither the relatives of the minor, nor the family members of the Petitioners have opposed Petitioners' petition.
7. It is in the best interests of the subject minor that his adoption by the Petitioners be confirmed by Court Decree.

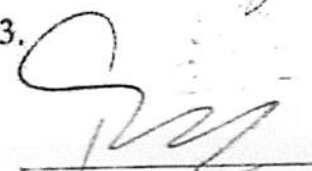
**ORDERED, ADJUDGED AND DECREED**

1. That the petitioners are the adoptive parents of Gennell Yoma Phillip.
2. That the adoption was confirmed on May 7, 2003, by Decree of Adoption entered by this Court on May 7, 2003.
3. That said child shall henceforth be regarded and treated in all respects as the child of the petitioners.
4. That said child be known and called by the name of Gennell Yoma Phillip.

SO ORDERED this 7<sup>th</sup> day of May, 2003.

  
Yosiwo P. George  
Chief Justice

ENTERED this 7 day of May, 2003.

  
Shrue C. Lonno  
Chief Clerk of Court

Service on: Petitioners  
Respondents