IN THE SUPREME COURT
OF THE
REPUBLIC OF THE MARSHALL ISLANDS

STEPHEN DRIBO, Appellant, vs. IRUMNE BONDRIK, Appellee/Cross-Appellant, BILLIET EDMOND, First Intervenor, Appellant, EZRA RIKLON, Second Intervenor, Appellant.	S.Ct. Civil Appeal No. 2008-009 OPINION

BEFORE: Daniel N. Cadra, Chief Justice; J. Michael Seabright, Associate Justice;[1] and Barry M. Kurren, Associate Justice.[2]

CADRA, C.J., with whom Justices SEABRIGHT and KURREN concur:

I. INTRODUCTION

On November 3, 2008, the High Court entered a "Final Judgment" determining that appellant Stephen Dribo is the proper person to hold the "alab title, rights and interest" on six

[1] Hon. J. Michael Seabright, United States District Court Judge, District of Hawaii, sitting by designation of the Cabinet.

[2] Hon. Barry M. Kurren, United States Magistrate Judge, District of Hawaii, sitting by designation of the Cabinet.

wetos[3] and six islands[4] located within Kwajalein and Lae Atolls. The High Court's "Final Judgment" further declared that appellant Irumne Bondrik is the proper person to hold the "alab title, rights and interest" on the remaining weto in dispute.[5]

In reaching its "Final Judgment," the High Court adopted a determination by the Traditional Rights Court that Stephen Dribo was the proper person to hold the alab interest on twelve lands at issue and that Irumne Bondrik was the proper person to hold the title on the remaining weto. The High Court reviewed the record and found that the Traditional Rights Court's determination was "not clearly erroneous or contrary to law." Having accepted the Traditional Rights Court's opinion, the High Court found it unnecessary to proceed to a further "trial" because there were no non-customary issues remaining to be decided.

All parties appeal. We have jurisdiction pursuant to Article VI, Section 2 of the Marshall Islands Constitution, and we affirm.

II. PROCEEDINGS BELOW

This land title dispute arises out of a determination by Iroijlaplap Imata Kabua that Irumne Bondrik is alab on each of the disputed lands. In response to that determination, Stephen Dribo commenced suit on April 4, 2002, by filing a complaint against Bondrik seeking

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[3] The High Court's judgment declared Stephen Dribo alab on Monnen weto on Ebeye, Kwajalein Atoll; Mwinbitrik weto, Mwinluial weto on Eonene in Kwajalein Atoll; Loran weto on Ebadon, Kwajalein Atoll; Moja weto and Kejelab weto on Lae Atoll.

[4] The High Court's judgment declared Stephen Dribo alab on Komle Island, Meik Island, Kidenen Island, Enewetak Island and Nene Island in Kwajalein Atoll; and Enerein Island in Lae Atoll.

[5] The High Court's judgment declared Irumne Bondrik alab on Monbon Rear weto, Kwajalein Atoll.

declaratory and injunctive relief. Dribo's complaint alleged that he was the successor to his father's (Handle Dribo's) title of alab on Meck Island, Omlek Island (Komle), Gillinam Island (Kindene), Enewetak Island, Monbon Rear weto and Lorran weto, all located within Kwajalein Atoll. Dribo further alleged that Mwinbitrin weto, Muininluial weto, Omlek Island, Enewetak Island, Gilliam Island and Meck Island are *Kabijuknen* land from Lijimjim and that Litweta was alab and senior dri jerbal on these lands. Dribo's complaint further alleged that the alab and dri jerbal rights descended to Litweta's children and Handle Dribo exercised the alap right on these lands after Litweta died. Monbon Rear weto was alleged to be *ninnin* land from Lerele to his children and that under custom Stephen Dribo is the person to hold the alab title to both the *kabijuken* and *ninnin* lands. Stephen Dribo subsequently amended his complaint claiming Monbon Rear weto, Monnen weto, Moja weto, Kejelab weto and Enerin Island are *Ninnin* (*Botoktok*) lands from Laibat to his children and that he was the proper person to succeed to the alab title to these lands.

On April 8, 2002, the High Court held a hearing on Dribo's application for a preliminary injunction to restrain the Department of Finance from distributing Kwajalein land use payments on the disputed lands. The injunction was granted.

On September 23, 2002, the High Court, Associate Judge Dee Johnson, issued an Order of Certification to the Traditional Rights Court. The certification was subsequently amended on December 5, 2002 and July 21, 2005 to include additional lands. The question certified was "What person or persons is/are the proper person(s) under Marshallese traditional law and customary practices to be the alab for each of the lands named?"

On February 25, 2005, Billiet Edmond filed a motion to intervene, along with an answer

and counter-claim. The High Court, Associate Justice Richard Hickson, granted intervention on May 30, 2005. Billiet Edmond claims the alab title on Mwinbitrik weto, Mwinluial weto, Komle Island, Meik Island, Kiderene Island, Enewetak Island and Nene Island, all located on Kwajalein Atoll. Edmond alleges these lands were bwij lands of Libokeia of the Ri-Meik jowi, the common ancestor of Stephen Dribo and himself.

Proceedings before the Traditional Rights Court commenced on November 9, 2005. On November 18, 2005, Ezra Riklon moved to intervene. That motion was granted on November 22, 2005.

A number of Traditional Rights court hearings were then held jointly with the High Court in both Majuro and Ebeye. Proceedings before the Traditional Rights Court concluded with the filing of written closing arguments in August and September of 2007.

The Traditional Rights Court issued its "Opinion in Answer" on December 13, 2007. That opinion determined that Stephen Dribo was the proper person to hold the alab title on each of the disputed lands but that Irumne Bondrik "can have a share" from Monbon Rear weto. A hearing was held pursuant to Traditional Rights Court Rule of Procedure 9 on May 30, 2008. The High Court, Associate Justice James Plasman, determined there was no need to refer the matter back to the Traditional Rights Court and no need to modify its opinion, except to clarify its determination as to Monbon Rear weto. Motions for reconsideration filed by Dribo and Riklon were denied on August 25, 2008.

A status conference was held on August 27, 2008, at which time the High Court ordered further briefing on the "interpretation of Marshall Islands Traditional Rights court Rules of Procedure, Rule 9 and the scope of a 'trial' held pursuant to its provisions."

On November 3, 2008, the High Court issued its "Final Judgment." The High Court found that a further "trial" before the High Court was not required by Traditional Rights Court Rule of Procedure 9 under the circumstances presented by this case where the customary issues had been fully litigated before the Traditional Rights Court and where no non-customary issues remained to be decided. The High Court further found the opinion of the Traditional Rights Court was not "clearly erroneous or contrary to law" and adopted its opinion. The High Court declared that "among and between the parties and those claiming through them, Stephen Dribo is the holder of the alab title, rights and interests on the subject lands in this case except for Monbon Rear weto on Kwajalein Atoll." The High Court declared that "among and between the parties and those claiming through them Irumne Bondrik is the holder of the alab title, rights and interests on Monbon Rear Weto." All parties timely appealed.

Appellant Stephen Dribo contends the High Court erred in adopting the Traditional Rights Court's opinion because the overwhelming evidence is that he, not Irumne Bondrik, is the rightful alab for Monbon Rear weto under custom. Dribo argues the evidence clearly indicates that a bwilok occurred affecting Langrine (Irumne Bondrik's direct line ancestor) and Litia (Riklon's direct line ancestor) and that the lands, including Monbon Rear Weto, were given to Litweta, (Dribo's direct line ancestor). Under custom, Stephen Dribo is therefore the proper person to hold the alab rights on Monbon Rear weto. Even in the absence of a finding of a bwilok, Dribo contends that the circumstantial evidence indicates, as the Traditional Rights Court implicitly found, that something occurred to change the customary pattern of succession. It was therefore inconsistent or contradictory for the Court to find that he was the alab on all the lands but not for Monbon Rear weto.

Appellant Irumne Bondrik contends the High Court erred in not proceeding to trial pursuant to Traditional Rights Court Rule 9. As a result, Bondrik claims his procedural due process rights have been violated and a remand for further proceedings is necessary. Bondrik also contends that it was inconsistent for the Traditional Rights Court to apply the principle of iroij im jela as to Dribo's rights but not to recognize the Iroij's determination as to Bondrik's rights.

Appellant Billiet Edmond claims the Traditional Rights Court's opinion is clearly erroneous because its finding that all the lands in dispute originally belonged to Libol Joase is not supported by the evidence. Edmond contends the evidence indicates that the lands claimed by him were bwij lands for whom the original owner was Libokeia of the Ri-Meik Jowi, not botoktok lands from Liabat. The evidence supports a finding that Edmond is alab on the seven lands he claims.

Appellant Ezra Riklon contends the Traditional Rights Court's decision is clearly erroneous because it did not find a bwilok, lia or other occurrence sufficient to cut off Bondrik's rights to the alab interest in these lands. In the absence of a bwilok, the matrialineal custom of descent requires that he be found alab.

III. STANDARD OF REVIEW

The Marshall Islands Constitution, Article VI, section 4(5) mandates that "when a question has been certified to the Traditional Rights Court for its determination, its resolution of the question shall be given substantial weight in the certifying court's disposition of the legal controversy before it; but shall not be deemed binding unless the certifying court concludes that justice so requires." Pursuant to this section, the High Court must adopt the decision of the

Traditional Rights Court unless that decision is "clearly erroneous" or contrary to law. *Bulele v. Morelik*, Supreme Court Case No. 2006-008 (2009); *Abija v. Bwijmaron*, 2 MILR 6, 15 (1994).

Factual determinations of the High Court are reviewed under the "clearly erroneous" standard. *Zaion v. Peter*, 1 MILR (Rev.) 228, 233 (1991); *Lobo v. Jejo*, 1 MILR (Rev.) 224, 255 (1991). Under the "clearly erroneous" standard, the trial court's findings of fact are presumptively correct. *Bulele,* citing *King v. Brown*, 8 F.3d 1403, 1408 (9th Cir. 1993). The appellant, therefore, has the burden of persuading the reviewing court that a factual finding is "clearly erroneous." *Bulele,* citing *Henderson v. Comm'r*, 143 F.3d 497, 500 (9th Cir. 1998).

"A finding is 'clearly erroneous' when although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been committed." *Bulele,* citing *Anderson v. City of Bessemer*, 470 U.S. 564, 573 (1985); *Zion*, 1 MILR (Rev.) at 232.

The "clearly erroneous" standard does not entitle a reviewing court to reverse the finding of the trier of fact simply because it is convinced that it would have decided the case differently; the reviewing court's function is not to decide the factual issues *de novo*. *Id.* Where there are two permissible views of the evidence, the fact finder's choice between them cannot be clearly erroneous. *Id.* "On appeal, we view the evidence in the light most favorable to the [trial] court's ruling and must uphold any [trial] court finding that is permissible in light of the evidence." *Exxon Corp. v. Gann*, 21 F.3d 1002, 1005 (10th Cir. 1994).

Purely or predominately legal issues are reviewed *de novo*. *Bulele, supra,* citing *Stanley v. Stanley*, 2 MILR 194, 199 (2002); *Jack v. Hisaiah*, 2 MILR 206, 209 (2002).

IV. DISCUSSION

A. The High Court Did Not Err In Deciding Not To Proceed With Further Proceedings On The Customary Issues Fully Litigated Before The Traditional Rights Court And High Court Sitting Jointly.

Appellant Irumne Bondrik contends the High Court erred by adopting the findings of the Traditional Rights Court without proceeding to a "trial" before the High Court on "all of the issues in the case, including those questions submitted to the Traditional Rights Court" as required by Traditional Rights Court Rule of Procedure 9.

Traditional Rights Court Rule of Procedure 9 states in relevant part:

> If there be no necessity for re-submission, then the High Court judge shall proceed to trial and judgment of all of the issues in the case, including those questions submitted to the Traditional Rights Court, but the High Court, in disposing of the case before it, shall give substantial weight to the opinion of the Traditional Rights Court on the questions referred to it as required by the Constitution.

The High Court found that under the circumstances of this case, there is no right to trial before the High Court of issues already fully litigated before the Traditional Rights Court under Traditional Rights Court Rule 9.

1. We review the High Court's interpretation of Rule 9 under the "abuse of discretion" standard.

We must first determine the proper standard of review and the amount of deference owed the High Court in its interpretation of TRC Rule 9. We hold that the proper standard of review is "clearly erroneous."

27 MIRC, Chpt. 2, sec. 218, allows the High Court to make rules for regulating procedures before the Traditional Rights Court. Traditional Rights Court Rule 9 was promulgated by the High Court pursuant to that rule making authority. The High Court was thus

presented with interpreting its own rule in this case. A high degree of deference is given to a trial court's interpretation of its own rules. In reviewing rulings of a district court regarding local practice and rules, the appropriate standard of review is "abuse of discretion." *See, e.g., Guam Sasaki Corp. v. Diana's Inc.*, 881 F.2d 713, 715-16 (9th Cir. 1989); *see also Lance, Inc. v. Dewco Servs.*, 422 F.2d 778, 783 (9th Cir. 1970) ("When the tribunal which has promulgated a rule has interpreted and applied the rule which it has written, it is hardly for an outside person to say that the author of the rule has misinterpreted it . . . we do think that Local Rules are promulgated by District Courts primarily to promote the efficiency of the court, and that the Court has a large measure of discretion in interpreting and applying them.")

We hold that the appropriate standard of review of the High Court's interpretation of Traditional Rights Court Rule 9 is "abuse of discretion." Under this standard, this Court will reverse only where no reasonable person would act as the trial court did. *Pacific Basin, Inc. v. Mama Store*, 3 MILR 34, 36-37 (2007).

2. The High Court's interpretation of Rule 9 was not an "abuse of discretion."

Bondrik argues that Traditional Rights Court Rule 9 requires the High Court to hold a trial, even though the Traditional Rights Court already held one. The High Court reasoned that adoption of Bondrik's position would undermine the constitutional assignment of roles between the Traditional Rights Court and the High Court. Under the circumstances presented by this case, we agree.

The Republic of the Marshall Islands Constitution, Art. VI, Sec. 4(3), confers jurisdiction upon the Traditional Rights Court to determine "questions relating to titles or to land rights or to

other legal interests depending wholly or partly on customary law and traditional practice in the Republic of the Marshall Islands." Art. VI, Sec. 4(5) requires that resolution of a question certified to the TRC "shall be given substantial weight in the certifying court's disposition of the legal controversy before it; but shall not be binding unless the certifying court concludes that justice so requires."

Under the Constitution, the High Court has a very limited role in the determination of questions within the Traditional Rights Court's jurisdiction. It is well settled that the High Court's duty is to review and adopt the decision of the Traditional Rights Court unless that decision is "clearly erroneous or contrary to law." *See, e.g., Tibon v. Jihu,* 3 MILR 1 (2005); *Abija v. Bwijmaron,* 2 MILR 6, 16 (1994).

The High Court complied with its Constitutional duty in this case. The High Court reviewed the Traditional Rights Court's decision and found it was "not clearly erroneous or contrary to law." To the extent that Traditional Rights Court Rule 9 requires a "trial" before the High Court on the issues already fully litigation before the Traditional Rights Court and High Court sitting jointly, that Rule would undermine the constitutional assignment of roles between the Traditional Rights Court and the High Court. The High Court's interpretation of Traditional Rights Court Rule 9 was not an abuse of its discretion.

Bondrik argues the word "trial" must be given its plain, common, ordinary meaning in construing Rule 9. Bondrik contends the plain meaning of the word "trial" requires that the High Court should retake evidence already admitted before the Traditional Rights Court, allow the introduction of additional evidence and allow opening and closing arguments. In essence, Bondrik argues for a new trial.

Even if we were to give the word "trial" its plain, ordinary and commonly understood meaning and review the High Court's interpretation of Traditional Rights Court Rule 9 *de novo* as a question of law, we still do not find that the Rule required further proceedings before the High Court under the circumstances presented by this case.

We may look to dictionary definitions when ascertaining the plain and ordinary meaning of undefined terms in a statute. *Fruitt v. Astrue*, 604 F.3d 1217, 1220 (10th Cir. 2010) ("If the words of the statute have a plain and ordinary meaning, we apply the text as written. We may consult a dictionary to determine the plain meaning of a term.") (quoting *Conrad v. Phone Directories Co.*, 585 F.3d 1376, 1381 (10th Cir. 2009)); *San Jose Christian Coll. v. City of Morgan Hill*, 360 F.3d 1024, 1034 (9th Cir. 2004) (stating that dictionaries may be used to determine the "'plain meaning' of a term undefined by a statute"); *Halloran v. Bhan*, 683 N.W.2d 129, 132 (Mich. 2004). The meaning of a court rule, however, "does not depend on the niceties of definition but upon the reasonable intendment of the language in light of the purpose to be effectuated." *Johnson v. State*, 333 A.2d 37, 43 (Md. 1975).

"Trial" is defined by Webster's II, New Riverside University Dictionary, as "examination of evidence and applicable law by a competent tribunal to determine the issue of specified charges or claims." "Trial" is similarly defined by Black's Law Dictionary (8th ed. 2004). as "a formal judicial examination of evidence and determination of legal claims in an adversary proceeding." The definition of "trial" is broad enough to include a procedure, as employed in this case, where the evidence produced before the Traditional Rights Court is examined by the High Court and a determination made whether that evidence supports the Traditional Rights Court's "opinion in answer" to the question certified to it. The parties were afforded the right to

be heard on whether the evidence supported the Traditional Rights Court's decision prior to the High Court's entry of final judgment. The procedure followed by the High Court was "an adversarial examination of the evidence and determination of the legal claims of the parties." The parties were given a "trial."

It has long been recognized that the literal meaning of a statute will not be followed when it produces absurd results. *See, e.g., Lamie v. United States Trustee,* 540 U.S. 526, 534 (2004) ("It is well established that 'when the statute's language is plain, the sole function of the courts – at least where the disposition required by the text is not absurd – is to enforce it according to its terms.'") (quoting *Hartford Underwriters Ins. Co. v. Union Planters Bank, N.A.*, 530 U.S. 1, 6 (2000)); *see also Helvering v. Hammel,* 311 U.S. 504, 510-11 (1941); *Sorrells v. United States*, 287 U.S. 435, 446 (1932). We are to avoid constructions that produce "odd" or "absurd results" or that are "inconsistent with common sense." *See Public Citizen v. United States Dep't of Justice*, 491 U.S. 440, 454 (1989); 2A N. Singer, Sutherland Statutes and Statutory Construction, sec. 45:12, at 92 (6th ed. 2000).

Applying the definition of trial and adopting the procedure urged by Bondrik would lead to an absurd result. It is inconsistent with common sense to proceed to a "trial" or further evidentiary proceedings before the High Court after the parties have already been afforded the opportunity to present all their evidence and arguments supporting their respective positions on the customary issues before both the Traditional Rights Court and the High Court and where there are no non-customary issues to be determined. Such a procedure would be unnecessarily time-consuming and expensive to the litigants and the court alike.

Under the circumstances presented by this case, we do not find the High Court abused its

discretion in finding that there is no right to "trial" before the High Court of issues fully litigated before the Traditional Rights Court and High Court sitting jointly and where there are no non-customary issues to be decided.

3. The procedure adopted by the High Court did not violate due process.

Bòndrik argues the High Court violated his due process rights by not proceeding with a "trial." We disagree.

The fundamental aspects of procedural due process are notice and an opportunity to be heard. *See, e.g., Navarro v. Chief of Police*, 1 MILR (Rev.) 161, 165 (1989); *see also Goldberg v. Kelly*, 397 U.S. 254, 268-69 (1970). Beyond the minimum requirements of notice and an opportunity to be heard, due process "is flexible and calls for such procedural protections as the particular situation demands." *Morrissey v. Brewer*, 408 U.S. 471, 481 (1972).

Keeping the flexibility of the due process requirements in mind, we conclude that the process afforded the parties by the procedure adopted by the High Court was adequate. The parties were afforded a full, trial-type hearing on the customary issues presented by this case before the Traditional Rights Court and the High Court sitting jointly. That hearing process spanned several years. All parties were afforded the opportunity to present evidence in support of their respective positions on the customary issues. They were allowed the opportunity to cross examine adverse witnesses and meet evidence contrary to their positions. They were allowed opening statements, and to make closing and rebuttal arguments. We find that there was no procedural due process violation by the procedure the High Court employed in this particular case.

B. The Traditional Rights Court's Opinion Is Not "Clearly Erroneous or Contrary to Law."

We again emphasize the narrow and limited extent of our review in this land rights case. As the reviewing court we are to accept the decision of the High Court and Traditional Rights Court unless those decisions are "clearly erroneous." We afford the Traditional Rights Court's and High Court's findings the proper deference owed even if we would have resolved the case differently. We recognize that the Traditional Rights Court is in a unique position to determine matters of custom and tradition. The judges are conditioned in Marshallese culture thereby bringing specialized knowledge of custom and traditional practice to the dispute resolution process. It is for that reason that both the High Court and this Court are to give proper deference to the decisions of the Traditional Rights Court. *See, e.g., Zion v. Peter*, 1 MILR 176, 180 (1991).

After reviewing the record and holding the above-stated principles in mind, we conclude the Traditional Rights Court's findings are supported by evidence in the record and are not "clearly erroneous."

The Traditional Rights Court found that all these lands originally belonged to Leroij Libol Joase. Libol gave Laibat Joase, her oldest son, the weto named Monnen. Libol retained control of the other lands which were her *mona* lands. Laibat Joase had a son named Lobeie. Lobeie had a daughter named Lieojed. Lieojed had a daughter named Litweta. Litweta's bwij has become extinct but the *botoktok* of her bwij which started with Handle Dribo survives. Stephen Dribo is the son of Handle Dribo. Stephen Dribo being the *tor in botoktok* is the proper person to have the alab title on these lands. While the genealogies and the applicable custom were hotly

contested and while the Traditional Rights Court does not specify what testimony and evidence it relied upon to draw its findings and conclusions, there is evidence in the record to support each of these findings.

The Traditional Rights Court gave great weight to a genealogy chart which it characterized as the "key" to the case. According to that chart, Laibat had two children, a son named Lobeie and a daughter named Liboklan. Lobeie, Boklan (Liboklan) and Liojeed are all botoktok. Willie Mwekto, an expert in the custom, testified that after Liabat died, his rights would go to Lobeie and Liboklan. Lobeie had a daughter named Liojeed. Lobeie also had a daughter named Lydia. Lydia is younger than Liojeed. After Lobeie and Liboklan passed away, the botoktok would run to Liojeed. The botoktok line became extinct with Liojeed. Under custom, the rights would then go to the bwij of the children of Lobeie. Mwekto testified that the rights would go from Liojeed and then to Liojeed's children. When the children of Liojeed deceased, the alab rights would then go to the children of Liojeed's younger sister, Lydia. After the children of Lydia died, the rights would then go to the grandchildren of Liojeed. Liojeed had children, Tuweta and Lajlok. Lydia had many children including Ezra Riklon. Under custom, Ezra and Tuweta would be "like brother and sister" being in the same generation. Handle Dribo was the child of Tweta. Under the custom as testified to by Willie Mwekto, it would thus appear that the rights would go to Ezra Riklon before going to Tuweta's child, Handle Dribo. The Traditional Rights Court recognized this by stating:

> Intervenor Riklon's claim is that because Litia, his mother, was younger than Lieojed then it is right and proper that the title of alab should have gone to him. He is right in saying this. There is no questioning it. He had presented evidence to prove that he is the proper person to hold the alab right. The question is, why wasn't he? Only Lobeie and the iroijs know. This court of custom does not know why this came to be and it believes only the

iroijs of these lands can answer this question. The iroijs had recognized Litweta as the alab for all the islands and wetos in dispute.

There was evidence introduced that a bwilok or lia occurred but the Traditional Rights Court made no finding in that regard other than to note that Iroijlaplap Jeimata's book did not document a bwilok.

It is apparent, however, that there was an alteration of the customary pattern of descent of the alab title on these lands. The Traditional Rights Court found that Litweta was recognized by Iroij Lejolang Kabua as alab. Iroij Lejolang Kabua gave Litweta the alab rights on these lands as is evidenced by the Kwajalein Atoll land determination. After Litweta's death, Handle Dribo became the alab on these lands and remained so for many years until his death. There is no evidence that Handle Dribo's alab title was ever challenged prior to his death. It can, thus, be inferred that his alab title was accepted by all persons having an interest in these lands.

In *Binni v. Mwedriktok*, 5 TTR 451 (TTHC 1971), the Trust Territory Court held that without a clear showing that a special arrangement which breaks or interrupts normal succession only was intended to be an interest for one lifetime, such interest does not revert but continues in the lineage of the appointee under the special arrangement that terminated or upset the normal course of succession. This case, although not binding upon us, supports the Traditional Rights Court's implicit finding that the normal pattern of succession was interrupted by Iroij Lejolang Kabua's placement and recognition of Liweta as alab on these lands. There has been no showing that this alteration of custom was intended for only one lifetime and the recognition of Handle Dribo subsequent to her death indicates that its was not.

The Traditional Rights Court found that Litweta's bwij has now become extinct but the

botoktok of that bwij which started with Handle Dribo lives on. The Traditional Rights Court found Stephen Dribo, the son of Handle Dribo, is the *tor in botoktok* and is the proper and closest person to hold the alab title to these lands with the exception of Monbon Rear weto. This finding is supported by the record and is not clearly erroneous.

The Traditional Rights Court found that Monbon Rear Weto belonged to Langrine and that Irumne Bondrik has rights in that land. The present Iroij recognizes Irumne as alab on that land. We are not persuaded this finding by the Traditional Rights Court and High Court is "clearly erroneous." We, therefore, affirm.

V. CONCLUSION

While the evidence may be construed to support a finding that any one of the parties holds the alab title to these lands, we find that the Traditional Rights Court's findings are supported by the record and are not "clearly erroneous."

We therefore AFFIRM the High Court's "Final Judgment" which accepted the Traditional Rights Court's determination that Stephen Dribo is alab on all the dipsuted lands with the exception of Monbon Rear weto on which Irumne Bondrik holds the alab title.

Dated: 9/10/10

Daniel Cadra, Chief Justice

J. Michael Seabright, Associate Justice

Barry Kurren, Associate Justice