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APR-04 2002

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
FIRST JUDICIAL DISTRICT AT SITKA

LANDYE BENNETT
BLUMSTEIN LLP

SITKA TRIBE OF ALASKA, THOMAS)
YOUNG and CHRISTINE YOUNG,)
)
Plaintiffs,)
)
v.)
)
STATE OF ALASKA; KAREN PERDUE,)
Commissioner, Alaska)
Department of Health and)
Social Services; and AL)
ZANGRI, State Registrar,)
Bureau of Vital Statistics)
)
Defendants.)
)

FILED in the Trial Courts
State of Alaska, First District
SITKA

MAR 29 2002

Clerk of the Trial Courts
By Y24 Deputy

Case No. 1SI-01-61 CI

STIPULATION AND ORDER

Plaintiffs Sitka Tribe of Alaska, Thomas Young and Christine Young and defendant State of Alaska, by and through their respective undersigned counsel, hereby stipulate to the following findings of fact and conclusions of law and hereby request this Court to enter a judgment based on these findings and conclusions.

STIPULATED FINDINGS OF FACT

1. Plaintiff Sitka Tribe of Alaska ("Tribe") is a federally recognized Indian Tribe organized pursuant to the

STIPULATION AND ORDER

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Indian Reorganization Act. 25 U.S.C. § 476. The Tribe has not petitioned for reassumption of jurisdiction over Indian child custody proceedings under the Indian Child Welfare Act, 25 U.S.C. § 1918.

2. Plaintiff Thomas Young is a Tlingit Indian residing in Sitka, Alaska, and an enrolled member of the Tribe.

3. Plaintiff Christine Young is married to Thomas Young and is a resident of Sitka, Alaska.

4. The Child, whose birth certificate is sought by this action, was born to plaintiff Christine Young, biological mother, and A.C.J., biological father, who is a Tlingit Indian and an enrolled member of the Tribe. The Child is a Tlingit Indian and an enrolled member of the Tribe.

5. On October 5, 1999, the Sitka Tribal Court issued an order, terminating A.J.C.'s paternal rights to the child whose birth certificate is sought in this action (hereinafter "the Child"). (See Attachment A. Order for Termination of Parental Rights, STA Docket# 001-TPR-99, October 5, 1999.)

6. On February 24, 2000, the Sitka Tribal Court issued an adoption order, declaring Plaintiff Thomas Young

the father of the Child. (See Attachment B. Order for Adoption, STA Case# 300-ADP-99, February 24, 2000).

7. On March 23, 2000, the Plaintiffs, Sitka Tribe of Alaska and Thomas and Christine Young, biological mother of Child, submitted a request for a new birth certificate for the adopted Child from the Bureau of Vital Statistics by submitting the forms that were required by the Defendant under 7 AAC 05.700(b) for an adoption under tribal custom.

8. On March 30, 2000, the Bureau of Vital Statistics denied the Plaintiffs' request for a new birth certificate because the form did not bear the signatures of both biological parents establishing consent to the adoption, as required by 7 AAC 05.700(b).

9. On August 29, 2000, the Plaintiffs resubmitted a request for a new birth certificate, with a copy of the Sitka Tribal Court orders regarding the parental termination and adoption of the Child asserting that the signature of the biological father was not required.

10. On October 23, 2000, the Bureau of Vital Statistics again denied the request for a corrected birth certificate stating that 7 AAC 05.700(b) required the consent of both biological parents.

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11. On March 22, 2001, the Plaintiffs filed the complaint in the above-captioned case seeking, in part, a declaratory judgment that the Defendants are required to give full faith and credit to the adoption orders of tribal courts under the Indian Child Welfare Act, 25 U.S.C. § 1911(d) and AS 25.23.160. Further, the Plaintiffs requested an injunction requiring the Defendants to issue a corrected birth certificate for the Child.

12. On August 31, 2001, the Alaska Supreme Court issued a decision, *In the Matter of C.R.H.*, 29 P.3d 849 (Alaska 2001), in which the court recognized that child protection cases may be transferred to tribal courts, regardless of 25 U.S.C. 1918, and explicitly overruled *Native Village of Nenana v. State*, DHSS, 722 P.2d 219 (Alaska 1986), *In re F.P.*, 843 P.2d 1214 (Alaska 1992), and *In re K.E.*, 744 P.2d 1173 (Alaska 1987), to the extent that they are inconsistent with the holding of *C.R.H.*

CONCLUSIONS OF LAW

1. In *John v. Baker*, 982 P.2d 738, 748-749 (Alaska 1999), the Alaska Supreme Court held that Alaska Native tribes, by virtue of their inherent powers as sovereign

nations, possess the authority to resolve domestic disputes between their members.

2. The ruling of the Alaska Supreme Court in *In the Matter of C.R.H.*, 29 P.3d 849 (Alaska 2001), clarified significant aspects concerning jurisdiction in Indian Child Welfare Act cases, which include cases addressing the termination of parental rights and adoption. Under the Court's analysis in *C.R.H.*, it can be concluded that the Sitka Tribe has jurisdiction over child custody cases arising under the Indian Child Welfare Act despite the facts that the Tribe has not petitioned for reassumption of jurisdiction over Indian child custody proceedings under 25 U.S.C. § 1918 and did not acquire the case by transfer from state court. Furthermore, *C.R.H.* supports the conclusion that 25 U.S.C. § 1918 does not affect the obligation of the state to give full faith and credit to the judicial proceedings of an Indian tribe applicable to Indian child custody proceedings covered by the Indian Child Welfare Act.

3. The Indian Child Welfare Act's full faith and credit provision entitles Sitka Tribal Court adoption orders to recognition to the same extent that the state recognizes such orders from sister states and other foreign

orders, under 25 U.S.C. § 1911(d), AS 25.23.160 and 7 AAC 05.700(a).

4. The procedures for recognizing adoptions under tribal custom in 7 AAC 05.700(b) do not limit State authority and do not curtail the State's obligation to recognize Alaska Native tribal court adoptions that otherwise qualify for recognition under the Indian Child Welfare Act, 25 U.S.C. § 1911(d), AS 25.23.160 and 7 AAC 05.700(a).

5. The Sitka Tribal Court adoption order, dated February 24, 2000, which establishes Thomas Young as the adoptive father of the Child, is entitled to full faith and credit so that a new birth certificate should be issued upon the Defendants' receipt of a completed Report of Adoption, VS - Form 501 and the required \$35.00 fee.

6. Each party shall bear its own costs, including attorney's fees.

7. Based upon the above stipulated findings of fact and proposed conclusion of law, the parties consent to the entry of this Judgment that incorporates the same and is binding upon the parties as a matter of law.


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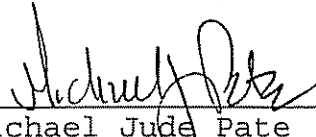
DATED: 3/27/02

LANDYE BENNETT BLUMSTEIN LLP
Attorney for Plaintiffs Thomas
Young and Christine Young

By: 
Cindy Thomas
Alaska Bar No. 0011086


DATED: 3/28/02

LAW OFFICE OF MICHAEL JUDE PATE
Attorney for Plaintiff Sitka Tribe
of Alaska

By: 
Michael Jude Pate
Alaska Bar No. 9409079

DATED: 3/28/02

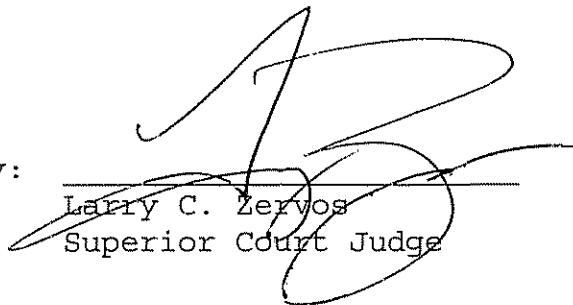
STATE OF ALASKA
Attorney for Defendant State of
Alaska

By: 
Kristen Bomengen
Assistant Attorney General
Alaska Bar No. 8811173

ORDER

The parties having stipulated to the above findings of
fact and conclusions of law and the Court having reviewed
the same, IT IS SO ORDERED.

DATED: April 1, 2002 By:


Larry C. Zervos
Superior Court Judge

STIPULATION AND ORDER

1 IN THE SITKA TRIBE OF ALASKA

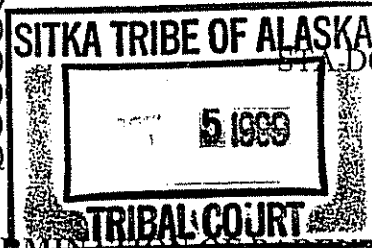
2 SITKA TRIBAL COURT

3 FILE

4 In the Matter of
Courtney Nicole Johnson,

5 A minor Indian child under the
6 age of eighteen (18) years,

7 Christine Young, Petitioner



STA DOCKET# 001-TPR-99

8 ORDER FOR TERMINATION OF PARENTAL RIGHTS

9 This matter having come to be heard by the Tribal Court for Sitka Tribe of Alaska on October
10 5, 1999. Appearing in person: Petitioner Christine Young, Biological Mother; Thomas Young III,
11 husband of Christine Young; Carol Shold, STA ICWA Caseworker; Patricia Alexander, Social
12 Services Director; Thomas D. Gamble, STA Tribal Court Clerk; Alicia Gassman, Director of Law and
13 Trust Department; Theodore Borbridge, STA Tribal Court Judge. Anthony C. Johnson Jr., Biological
14 Father, was notified by certified mail, return-receipt requested and was not present at the hearing.

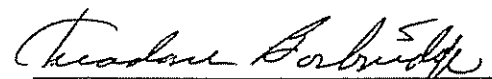
15 **THE COURT FINDS THAT:**

- 16
- 17 1. Termination of parental rights is least detrimental to the child's psychological and
18 physical well-being than all other available options; and
 - 19 2. Termination of parental rights is the only solution consistent with the court's mandate
20 to seek the least detrimental alternative.

21 **THEREFORE IT IS HEREBY ORDERED THAT:**

- 22 1. The parental rights of Anthony C. Johnson Jr., to Courtney Nicole Johnson are
23 terminated effective October 5, 1999.

24 **DONE BY COURT ACTION ON THE 5th DAY OF OCTOBER, 1999.**

25
26 
27 Theodore Borbridge
28 Tribal Court Judge

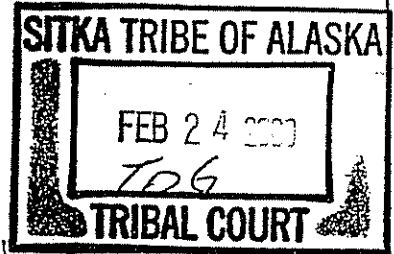
I hereby certify that this document is a true and correct copy of the Order for Termination of Parental Rights in STA Docket # 001-TPR-99


Mickey Pile 2/29/02

Sitka Tribal Court
456 Katlian Street
Sitka, Alaska 99835
(907) 747-3207 Phone (907) 747-4915 Fax

IN THE SITKA TRIBE OF ALASKA

SITKA TRIBAL COURT



In the Matter of the Adoption of)

Courtney Helen Nicole Johnson)

A Child Under the Age of)
Eighteen (18) Years.

Date of Birth: 2/18/92)

Thomas Young III. Petitioner)

CASE # 300-ADP-99

ORDER FOR ADOPTION

This matter having come to be heard by the Tribal Court for the Sitka Tribe of Alaska on the 24th day of February 2000. Appearing in person: Thomas Young III, Petitioner; Christine Young, Natural Mother; Carol Shold, ICWA caseworker; Philip Nielsen, ICWA caseworker; Patricia Alexander, Social Services Director; Thomas D. Gamble, STA Tribal Court Clerk; Theodore Borbridge, STA Tribal Judge.

THE COURT FINDS THAT:

1. The child is eligible and suitable for adoption.
2. The parent is suitable for adopting the child.
3. The biological mother has given her consent to adoption.
4. The adoption of the child is the least detrimental alternative.

THEREFORE IT IS HEREBY ORDERED THAT:

1. The adoption of this child be granted in favor of the Petitioner Thomas Young III.
2. The child's legal name shall be Courtney Helen Nicole Young

DONE BY COURT ACTION ON THE 24th DAY OF February 2000.

Theodore Borbridge
Theodore Borbridge
Tribal Court Judge

I hereby certify that this document is a true and correct copy of the Order for Adoption in STA Docket # 300-ADP-99

Michelle Pele 2/29/02

Sitka Tribe of Alaska
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I hereby certify that on this 2nd day of April, 2002, a true copy of the following document(s) **STIPULATION AND ORDER** were mailed/placed in box to:

M. Jude Pate (court box)
Kristen Bomengen (mail)
Cindy Thomas (mail)



Sharon L. Joseph