

SUPERIOR COURT
OF THE
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
FAMILY COURT DIVISION

IN THE MATTER OF THE ADOPTION)	FCD AD CIVIL ACTION NO. 97-0037
OF:)	
)	
JOSEPHINE ATIENZA BRIONES,)	
)	
Minor,)	ORDER DENYING PETITION TO
)	ADOPT
By: MIGUEL C. BRIONES and CYNTHIA)	
JEANNETTE C. BRIONES)	
)	
Petitioners.)	
_____)	

THIS MATTER came on for hearing on October 16, 1997 on a petition for the adoption of Josephine Atienza Briones (“JAB”) by Miguel C. Briones (“Miguel”) and Cynthia Jeannette C. Briones (“Cynthia”). Miguel and Cynthia (collectively “Petitioners”) were represented by Reynaldo O. Yana, Esq. The Court now makes its ruling on the petition and specifically on the issue of whether 8 CMC §1403 prohibits the granting of an adoption to a married couple where one of the parties is less than 10 years older than the child to be adopted.

A. Facts

Miguel and Cynthia were married on August 20, 1993. They are husband and wife. They petitioned the Court to adopt JAB, a minor child on August 19, 1997. Miguel was born on May 21, 1968 and at the time of the hearing was 29 years old; Cynthia was born on June 29, 1976 and at the time of the hearing she was 21 years old; and JAB was born on August 27, 1980 and at the time of the hearing was 17 years old.

B. Who May Adopt

(1) Husband and Wife Jointly.

The applicable code provision of who may adopt is provided under 8 CMC §1403 as follows:

Any adult individual who is a resident of the Commonwealth, not married, or any person married to the legal father or mother of a minor child, or a husband and wife jointly, may petition the Superior Court for leave to adopt an individual toward whom he or they do not sustain the legal relationship of parent and child and for a change of the name of the individual; provided, however, that the petitioner(s) shall be at least 10 years older than the child to be adopted. The petition shall be in such form and shall include such information as prescribed in section 1408 of this chapter and exhibits as may be prescribed by the Superior Court.

Id. (emphasis added).

It is clear that three distinct “categories” of persons are permitted under section 1403 to petition the Court for leave to adopt, to wit:

- (a) Any adult individual who is a resident of the Commonwealth, not married;
- (b) Any person married to the legal father or mother of a minor child; or
- (c) A husband and wife jointly.

The issue before the Court concerns the category of “husband and wife jointly.” However, as a preliminary matter, the Court addresses Petitioners’ suggestion that, section 1403 answers the question of “who may petition the court for leave to adopt,” which is a different question from “who may adopt.” Petitioners urge the Court for a liberal interpretation of section 1403 by arguing that section 1403 does not restrict the Court from allowing persons other than those identified in section 1403 to adopt. They state further that this Court should grant the adoption as the Court did in *In Re The Matter of Adoption of Jerson Santos Ocampo*, Adoption Case No. 94 (J. Manibusan, 1994). In effect, Petitioners request the Court to waive the age requirement expressly imposed under section 1403 or, at a minimum, to permit only Miguel to proceed as sole petitioner. In *Ocampo*, the husband of petitioner did not join the petition but, instead, signed a written consent for his wife to adopt the child. *In Re The Matter of Adoption of Jerson Santos Ocampo, supra.*

This Court is not bound by the *Ocampo* decision, preferring instead to take a more restrictive interpretation of 8 CMC §1403. In interpreting a statute, courts first look at the language of the statute.

Commonwealth Ports Authority v. Hakubotan Saipan Enter., Inc. 2 N.M.I. 212, 221 (1991).

Unless otherwise specified in the statute, courts should adhere to the rule that words be given their plain meaning. *Id.*; *Nansay Micronesia Corp. v. Govendo*, 3 N.M.I. 12, 18 (1992). While section 1403 does not indicate that the word “jointly” is meant to have a technical legal meaning, the Court must give it its plain meaning as a matter of statutory construction. The word “jointly” is defined as meaning “in a joint manner: as **a: TOGETHER, UNITEDLY . . .**.” *Webster’s Third New International Dictionary*, 1219 (1969) (emphasis in original). Likewise, “joint” is defined as “**JOINED, UNITED, COMBINED . . .**.” *Id.* Thus, “husband and wife jointly” must be construed to require both spouses to join as “co-petitioners” or, at a minimum, if only one spouse is a petitioner then the other must willingly consent to and thus “join” the petition and its end result. This conclusion is further supported by the presence of the conjunction “and” between “husband” and “wife” and by the plural of “petitioner,” as only under the category of “husband and wife jointly” does the plural of “petitioner” apply.

It is the Court’s view that one who is not authorized to petition to adopt is therefore prohibited to adopt. Accordingly, the Court rejects the Petitioners’ argument.

(2) The Age Requirement

Section 1403 requires that “petitioner(s) shall be at least 10 years older than the child to be adopted. 8 CMC §1403 (emphasis added). In this case, Cynthia, one of the petitioners, is 4 years older than JAB.

Petitioners insist on the Court to liberally construe the term “petitioner(s)” to be either “petitioner” or “petitioners,” such that only one of the spouses need be at least 10 years older than the child to be adopted. *Mem.* At 6. The Court disagrees and finds that the statute requires every petitioner to clear the age threshold and to do otherwise would be to go against the intent of the Legislature.

C. Conclusion

[p. 4] For the foregoing reasons, the Court concludes that Petitioners are precluded from going forward with their petition based on the fact that one of the spouses is not at least 10 years older than

the child to be adopted. The Court orders counsel for Petitioners to heed in the future the requirements of 8 CMC §1401, et seq. The Court therefore dismisses Petitioners' petition for adoption with prejudice.

SO ORDERED this 5th day of June, 1998.

/s/ Virginia Sablan Onerheim
VIRGINIA SABLAN ONERHEIM, Associate Judge