



FOR PUBLICATION



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Joseph Norita Camacho

IN THE SUPERIOR COURT FOR THE
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

ESTATE OF
DAVID NGIRAROIS CAMACHO,

Decedent.

CIVIL ACTION NO. 19-0232

ORDER FINDING BY CLEAR AND
CONVINCING EVIDENCE THAT A
BABY CONCEIVED OUT OF
WEDLOCK AND BORN AFTER THE
DEATH OF THE BIOLOGICAL
FATHER CAN INHERIT AS AN
AFTERBORN HEIR PURSUANT TO
8 CMC § 2917

I. INTRODUCTION

THIS MATTER came before the Court on March 5, 2020 for an Evidentiary Hearing on Administratrix’s Motion for Determination of Paternity and Heirship. Administratrix Adrienne Deleon Guerrero Flores (“Adrienne”) claims that Decedent, David Ngirarois Camacho (“David I” or “Decedent”),¹ is the biological father of her son, David Ngirarois Camacho II (“David II”),² who was born after David I died. Administratrix, Adrienne Deleon Guerrero Flores, appeared personally and through counsel, Christopher Heeb.

The Court heard testimony from three witnesses: Adrienne Deleon Guerrero Flores, Nieves Suze Duenas Babauta, and Shinae Josepha Techur. Two Exhibits were admitted into evidence: David I’s death certificate (“Exhibit A”) and David II’s birth certificate (“Exhibit B”).

¹ David I is pronounced David the First.
² David II is pronounced David the Second.

By order of the Court, Judge Joseph N. Camacho

1 Based upon the witnesses' sworn testimonies and the admitted documentary exhibits,
2 the Court makes the Following Findings of Fact and Conclusion of Law.

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4 **II. FINDINGS OF FACT**

- 5 1. In March 2018, David I entered into an intimate relationship with Adrienne.
6 2. David I and Adrienne were unmarried but lived together until David I's death.
7 3. David I and Adrienne also lived with two (2) of David I's biological minor children
8 from a previous relationship and five (5) of Adrienne's biological minor children from
9 a previous relationship.
10 4. David I was active in the lives of all seven (7) of the minor children that lived with
11 him and Adrienne.
12 5. David I and Adrienne and the seven (7) minor children functioned as a family unit.
13 6. During her relationship with David I, Adrienne did not have sexual intercourse with
14 anyone else.
15 7. In July 2018, four months after entering a romantic and sexual relationship with David
16 I, Adrienne became pregnant.
17 8. David I was aware of Adrienne's pregnancy.
18 9. David I publicly held himself out as the father of Adrienne's unborn child and
19 expressed excitement at the pending birth of the child.
20 10. Adrienne testified that she and David I discussed and planned for the upcoming birth
21 of their child.
22 11. Adrienne testified she and David I also informed their families and friends of the
23 pregnancy and upcoming birth.
24 12. The Court finds Adrienne's testimony credible.
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1 13. Nieves Suze Duenas Babauta (“Nieves), age 30, is the oldest biological child of David
2 I.

3 14. Nieves testified that she learned about the pregnancy from David I and Adrienne.

4 15. Nieves testified that her father David I was excited about Adrienne’s pregnancy and
5 the upcoming birth of the baby.

6 16. Nieves testified that she considered David II her brother and part of David I’s family.

7 17. The Court finds Nieves’ testimony credible.

8 18. Shinae Josepha Techur (“Shinae”) is a relative of the David I.

9 19. Shinae testified that she and her boyfriend, Benter Castro, would meet up and spend
10 time together with David I on a regular basis.

11 20. Shinae testified that she observed David I’s positive excitement about Adrienne’s
12 pregnancy on numerous occasions.

13 21. Shinae also testified that David I and Adrienne asked her to be the godmother of their
14 baby.

15 22. The Court finds Shinae’s testimony credible.

16 23. On March 1, 2019, a year after entering a romantic and sexual relationship with
17 Adrienne, David I died in the Commonwealth of the Northern Mariana Islands³.

18 24. On April 14, 2019, one month after David I died, Adrienne gave birth to a baby boy.

19 25. Adrienne named the baby boy David Ngirarois Camacho II.
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23 **III. LEGAL STANDARD**

24 The Court has jurisdiction over all subject matter relating to the estates of decedents
25 including determination of heirs and successors of decedents. 8 CMC § 2202; *see also In re*
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³ David I was born on July 18, 1971. David I was 47 years old when he died.

1 *Estate of Deleon Guerrero*, 3 NMI 253, 258 (1992); *In re Estate of Tudela*, 4 NMI 1, 4-5
2 (1993). The Court’s authority to determine heirs and successors of decedents includes
3 resolving paternity issues.⁴ *Tudela*, 4 NMI at 5 (stating that “not only does the probate code
4 provide the probate court with the means to establish paternity regarding intestate succession,
5 [...] the establishment of paternity *after* the alleged father’s death *must* be done within the
6 purview of the probate code” (emphasis in original)). This includes the establishment of
7 paternity for afterborn heirs.⁵

8 Paternity established after the death of the father must be proven by clear and
9 convincing evidence. 8 CMC § 2918(b)(2); *see also Deleon Guerrero*, 3 NMI at 258. Clear
10 and convincing proof is an intermediate standard of proof that is greater than the
11 preponderance of the evidence standard, but less than the beyond a reasonable doubt standard.
12 *Commonwealth v. Tinian Casino Gaming Control Comm’n*, 3 NMI 134, 149 (1992) (citation
13 omitted). “It is that degree of proof which will produce in the mind of the trier of fact a firm
14 belief or conviction as to the allegations sought to be established, and requires the existence
15 of a fact be highly probable.” *Id.* (citation omitted).
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17 In *Deleon Guerrero*, the Supreme Court of the Commonwealth of the Northern
18 Mariana Islands found that the same rationale used in paternity proceedings under the Uniform
19 Parentage Act (UPA) also applies in heirship proceedings where paternity is at issue. *Deleon*
20 *Guerrero*, 3 NMI at 266. Evidence that Commonwealth Courts may use to establish paternity
21 include: (1) evidence of sexual intercourse between the mother and the alleged father at any
22 possible point of the conception, 8 CMC § 1712(a), (2) testimony regarding one’s birth out of
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⁴ Since David I and Adrienne were not married, there is no presumption of paternity. 8 CMC § 1704.

⁵ Afterborn heirs are relatives of the decedent conceived before his death but born thereafter. Afterborn heirs inherit as if they had been born in the lifetime of the decedent. 8 CMC § 2917.

1 wedlock, *see Deleon Guerrero*, 3 NMI at 266, and (3) any other evidence relevant to the issue
2 of the paternity of the child, 8 CMC § 1712(e).

4 IV. ANALYSIS

5 The Court finds that the evidence provides clear and convincing proof that David II is
6 the biological son of Decedent. Consistent with the guidance of *Deleon Guerrero*, the Court
7 considered the following evidence:

8 The Court heard credible testimony that Adrienne, the mother of David II, had sexual
9 intercourse with only David I during the period of David II's conception. Because Adrienne
10 only had sexual intercourse with David I during the time in which David II was conceived,
11 David I is the only possible biological father of David II.

12 Additionally, the Court heard credible testimony from Nieves and Shinae that David
13 I, before his death, publicly held out that he was the father of Adrienne's unborn child, which
14 included informing family and friends of Adrienne's pregnancy, and that he was excited about
15 the upcoming birth of the baby.

16 Finally, the Court also heard credible testimony from Nieves that David I's family
17 members recognized David II as also a member of her and her father David I's side of the
18 family.

21 V. CONCLUSION

22 For the reasons stated above, the Court finds by clear and convincing evidence that
23 David Ngirarois Camacho is the biological father of David Ngirarois Camacho II. As such,
24 David Ngirarois Camacho II is an afterborn heir of Decedent pursuant to 8 CMC § 2917.

25 Furthermore, pursuant to 8 CMC § 1715(b), a new birth certificate shall be issued for
26 David Ngirarois Camacho II listing Decedent, David Ngirarois Camacho, as his father.

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Finally, David Ngirarois Camacho II is hereby deemed an heir of the Estate of David Ngirarois Camacho.

IT IS SO ORDERED this 18th day of May 2020.

/s/
JOSEPH N. CAMACHO, Associate Judge