

1 **FOR PUBLICATION**

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8 **IN THE SUPERIOR COURT**
9 **OF THE**
10 **COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**

11 **IN RE THE MATTER OF THE ADOPTION) FCD AD CIVIL ACTION NO. 05-0050B**
12 **OF B.G.S.,**)

13 **Minor Child,**)

14 **By:**)

15 **SUSANA SANTOS CASTRO AND EDWIN**)
16 **ALDAN CASTRO,**)

ORDER DENYING PETITION FOR
ADOPTION

17 **Petitioners.**)

18 This matter came on for an adoption hearing on April 12, 2006. Susan Santos Castro and
19 Edwin Aldan Castro (“Petitioners”) appeared in court and were represented by Reynaldo O.
20 Yana, Esq. The minor child and his biological parents, Wenifreda Gijan and Tomas David
21 Santos, Jr., were also present in court. Based on the testimony proffered at the hearing, the
22 Court ruled from the bench DENYING the *Petition for Adoption* for the reasons set forth
23 below.

24 The Petitioners, husband and wife, are U.S. citizens and residents of Saipan. The natural
25 parents, husband and wife, are non-U.S. citizens who have resided in Saipan since 2005. The
26 minor child was born on February 13, 1999, in Tarlac City, in the Philippines, but has resided
27 in Saipan since January 19, 2005. Currently, his immigration status is a tourist.
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1 The natural parents filed consent to the adoption with the Court and the minor’s biological
2 mother, Wenifreda, testified at the hearing. During the testimony, the Court inquired as to why
3 the natural parents were terminating their parental rights. The natural mother informed the
4 Court that she believes her son would receive a better education, live a more comfortable life,
5 and be provided “better shelter” as the adopted son of her sister-in-law Susan Santos Castro.
6 The natural mother also highlighted the improbability of sending her son to college after high
7 school due to the natural parents’ financial constraints.
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9 In light of the above, the Court finds the termination of the natural parental rights
10 inappropriate for two reasons. First, it is not in the best interest of the child to terminate the
11 parental rights of his natural parents, as they appear to be good parents. Second, the Court
12 deducts from the natural mother’s testimony that the adoption is to obtain a different
13 immigration status, other than a tourist, and/or to obtain permanent U.S. residency, citizenship,
14 or CNMI immediate relative status. An adoption for these reasons is illegal, as it undermines
15 the legitimate reasons for adoptions and the immigration process.
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17 **I. In the Absence of Abuse, Neglect, or Abandonment, it is not in the Best Interest**
18 **of the Child to Terminate Natural Parental Rights.**

19 Guided by the statute that governs adoption procedures, the Court finds it is not in the “best
20 interest of the child” to grant this adoption. 8 CMC §§ 1401 *et seq.* The effect of a final
21 decree of adoption is to abolish the parental rights and responsibilities of the natural parents,
22 and terminate all legal relationships between the adopted individual and his relatives. 8 CMC
23 § 1412(a) (1). After reviewing the adoption petition and considering the natural mother’s
24 testimony, the Court finds that the natural parents will not be abdicating their rights and
25 responsibilities, and as such, this adoption would be a fiction.
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27 Traditionally, the termination of parental rights is reserved for severe situations, such as
28 child abuse or abandonment. Although financial constraints are taxing on family relations, in

1 the absence of abuse or neglect, it remains in the best interest of the child to remain under the
2 guidance and care of his natural parents.

3 Neither the natural parents nor the Petitioners have provided convincing testimony as to
4 why it would be in the best interest of the child to terminate the parent-child relationship at this
5 time. There was no indication of child abuse, neglect, or abandonment. Nor was the Court
6 presented with evidence of drug or alcohol abuse by either parent.
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8 The natural mother testified that the child's living condition in the Philippines was poor.
9 However, no evidence was provided to support these subjective observations. What is poor to
10 one person may be perfectly suitable to another. Further, the Court cannot take judicial notice
11 of the child's poor living conditions in the Philippines. Evidence and proof must be furnished
12 to the Court, as the quality of living conditions can be classified as a disputed fact. Testimony
13 without further evidence is insufficient. Thus, in the absence of evidence, the Court is not
14 convinced it would be in the child's best interest to terminate his natural parents' rights.
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16 To the contrary, the Court believes it is in the child's best interest to remain with his natural
17 parents. The natural parents appear to deeply love and care for the child. The natural mother
18 testified that she loved her child to such an extent that physical separation would be extremely
19 difficult. When natural parents have such a healthy, loving bond with their child, financial
20 reasons do not justify terminating the parental rights naturally bestowed to the biological
21 parents.

22 Further, this Court does not find it necessary to terminate the parental rights for financial or
23 education reasons. The natural mother testified that an adoption would likely provide her child
24 with a better education and a more comfortable lifestyle. However, the benefits of financial
25 security can be gifted to the child regardless of who has legal parental rights. Surely, the
26 Petitioners, who earn \$71, 500.00 per annum, can afford to provide the child with a better life
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1 and an education, whether the child lives in Saipan or the Philippines. That said, the only other
2 benefit the child would receive through the adoption is a change in his immigration status.

3 **II. The Intended Purpose of an Adoption is not to Circumvent Immigration Laws.**

4 In the recent past, the Court has received an upsurge of adoption petitions from petitioners
5 who wish to adopt a family member from another country. The traditional plot entails a young
6 person arriving in the CNMI as a tourist, and a year later, a relative, who is either a U.S.
7 citizen, married to a U.S. citizen or a long-term resident of the CNMI petitions to adopt that
8 young person.
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10 Concerned about this trend, the Court would like to highlight 8 CMC § 1420, which reads:
11 “[A] person commits the offense of immigration fraud when he or she adopts another or
12 intentionally induces a person to adopt another for the purpose of gaining immigration benefits
13 by either the person to be adopted or the person to adopt, under the Commonwealth or United
14 States law.” 8 CMC § 1420(c). This code is applicable to parents and relatives who seek an
15 adoption for their foreign child or relative. In the absence of abuse, neglect, abandonment, or
16 an orphan situation, from which this child does not appear to suffer, it appears as though the
17 natural parents are attempting to sidestep the immigration process. This is a violation of the
18 law.
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20 It is important to preserve adoptions for the purposes for which they are intended.
21 Adoption is intended to provide legal parental rights to those who care for a child in need of a
22 parental figure. To grant an adoption in order to obtain a change in immigration status is an
23 abuse of the process, and it is a violation of the laws of the Commonwealth and United States.
24

25 **III. Conclusion**

26 Therefore, the Court hereby **DENIES** this *Petition for Adoption* because none of the parties
27 provided the Court with a convincing explanation as to why the natural parents’ rights should
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1 be terminated, and in the absence of such an explanation and in light of the circumstances,
2 granting the adoption would be a violation of the law.

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4 **IT IS SO ORDERED** this 15th day of May, 2006.

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7 /s/
8 KENNETH L. GOVENDO
9 Associate Judge