

KOIKE v. PONAPE ROCK PRODUCTS COMPANY, INC., et al.
Cite as 1 FSM Intrm. 496 (Pon. 1984)

THE SUPREME COURT OF THE
FEDERATED STATES OF MICRONESIA
TRIAL DIVISION-STATE OF PONAPE

FELIX KOIKE AND)	
SUSA KOIKE)	
)	
Plaintiffs,)	
)	
vs.)	CIVIL ACTION NO. 7-1983
)	
PONAPE ROCK PRODUCTS COMPANY)	
INC., et. al.)	
)	
Defendants.)	
)	
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WELERIANO SHAM and)	
SABINA SHAM)	
)	
Plaintiffs,)	
)	
vs.)	CIVIL ACTION NO. 51-83
)	
PONAPE ROCK PRODUCTS)	
COMPANY INC., JACK ADAMS)	
PONAPE AGRICULTURE AND)	
TRADE SCHOOL and the PONAPE)	
STATE GOVERNMENT)	
)	
Defendants.)	
)	
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IN THE MATTER OF THE)	
ESTATE OF)	
)	
LEO ETSCHUIT)	CIVIL ACTION NO. 66-80
)	
)	
)	

OPINION

Before Edward C. King
Chief Justice
Ponape, Caroline Islands 96941
June 19, 1984

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APPEARANCES:

(CIVIL ACTION NO. 7-1983)

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For Defendants:
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Ponape Agriculture and
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Ponape State Government: Edwin Rauzi
Special Counsel for State
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(CIVIL ACTION NO. 51-83 : Same appearances as in Civil
Action No. 7-1983)

(CIVIL ACTION NO. 66-80)

For temporary Adminis- : Robert L. Keogh
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OPINION AND ORDER

Plaintiffs Felix and Susa Koike in former Trust Territory High Court Civil Action No. 7-83, Plaintiffs Weleriano Sham and Sabina Sham in former Trust Territory High Court Civil Action No. 51-83, and Temporary Administrator, Robert Etscheit, of the Estate of Leo Etscheit, Deceased, for Trust Territory High Court Civil Action No. 66-80, all have taken steps seeking transfer of those cases to this Court. In each case, the movants contend that diversity of citizenship exists among the parties so that the case falls within the jurisdiction of this Court under Article XI, §6(b) of the Constitution of the Federated States of Micronesia.

Procedural Background

The procedures followed by movants in each case were substantially similar. Separate motions, supported by memoranda of points and authorities, were filed concurrently with this Court and the Trust Territory High Court.

The motions filed with the Trust Territory High Court were motions to transfer jurisdiction requesting transfer of each case from the High Court to this Court. The response of the High Court in each case was to transfer the case to the newly formed Ponape State Court. This was done without issuance of an opinion or explanation of any kind by the High Court.

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The movants in each case thereupon asked this Court to rule upon the motions filed here. Each motion is styled a "Motion to Assume Jurisdiction". In each instance, the motion is unaccompanied by a complaint or other document initiating the action as a case before this Court.

Legal Analysis

Having reviewed the motions and supporting memoranda, and having heard oral argument in all three cases, it appears that the issue sought to be raised in each case, that is, the proper court to exercise jurisdiction, is a serious and substantial question requiring interpretation of the Constitution.

However, it is equally apparent that the procedures followed have not appropriately placed the question before this Court. This is the first case in which a party has filed papers with this Court in an effort to place before us issues already pending in litigation before another court. It is understandable that litigants might encounter procedural difficulties in such a novel effort.

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There is some temptation to attempt to accommodate the parties and expedite proceedings by passing over the procedural difficulties and moving directly to the jurisdictional questions. That however would require that we disregard provisions in the Constitution as well as this Court's Rules of Civil Procedure.

Moreover, delicate questions of federalism are involved here. It is imperative that we proceed meticulously in these cases of first impression to establish proper approaches in conformity with normal procedural requirements and to set this Court on the course charted by the framers of the Constitution.

The standard method of obtaining a determination from this Court as to our jurisdiction over specific parties or issues is to file a civil or criminal action with the Court.

This Court's Rules of Civil Procedure confirm that the filing of a complaint is the essential first step for instituting civil litigation. FSM Civ. R. 3. Our Rules of Civil Procedure specify no other method whereby a party may obtain judicial action from this Court in civil litigation.

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In these three cases, only motions, but no complaints, were filed. In the absence of complaints initiating civil actions, no judicial grant of relief is permitted.

If for some reason a state court litigant seeking a ruling from the Federated States of Micronesia Supreme Court on a question of constitutional or national law cannot, or does not wish to initiate a civil proceeding in this Court's Trial Division for that purpose, the Constitution provides another procedure.

When a case in a state or local court involves a substantial question requiring the interpretation of the Constitution, national law, or a treaty, on application of a party or on its own motion the court shall certify the question to the appellate division of the Supreme Court. The appellate division of the Supreme Court may decide the case or remand it for further proceedings.

FSM Const. art. XI, §8.

Under this provision, a State Court receiving a proper motion is required to certify any substantial constitutional question to this Court's Appellate Division for proper disposition.

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Conclusion

Two methods exist for obtaining FSM Supreme Court action on questions of the kind tendered by movants in these three cases. Neither, nor any other proper method, has been employed here.

Therefore the motions to assume jurisdiction are denied, without prejudice to the right of any party to follow either of the procedures outlined in this opinion.

SO ORDERED the 8th day of June, 1984

/s/Edward C. King
Chief Justice
Supreme Court of the
Federated States of Micronesia

So entered this 19th day of June, 1984

/s/Emeliana J. Musrasrik
Chief Clerk of the Court