

(MLSC PETITIONS FEDERAL COURT)

SAIPAN, AUGUST 26 (MNS) PLAINIFFS IN THE CONTINENTAL HOTEL ASE HAVE PETITIONED THE UNITED STATES COURT OF APPEALS FOR A REHEARING IN THEIR CASE AGAINST CONTINENTAL HOTEL ON SAIPAN, ACCORDING TO MARIANAS VARIETY, ONE OF SAIPAN'S WEEKLY NEWSPAPERS.

ATTORNEYS FOR THE MICRONESIAN LEGAL SERVICES CORPORATICR FILED THE PETITION ON BEHALF OF THE TEN SAIPAN RESIDENTS AND HAVE NAMED TT HIGH COMMISSIONER EDWARD E. JOHNSTON AND OTHER U.S. OFFICIALS INCLUDING CONTINENTAL AIRLINES INC., AS DEFENDANTS IN THE SUIT.

"WE'RE ASKING THE FEDERAL COURT TO GO AHEAD AND ALLOW THE CASE TO BE HEARD IN A FEDERAL COURT RATHER THAN MOVING IT BACK TO THE (TRUST TERRITORY) HIGH COURT," ED KING, DEPUTY DIRECTOR OF MLSC SAID. "THE REASON IS THAT WE BELIEVE THAT THERE'S A FEDERAL QUESTION INVOLVED IN THE TRUSTEESHIP AGREEMENT..."

THE UNITED STATES NINTH CIRCUIT COURT OF APPEALS RULED LAST MONTH THAT THE CASE BE RETURNED TO THE TRUST TERRITORY HIGH COURT. THE TEN SAIPAN RESIDENTS HAVE BEEN ATTEMPTING TO STOP CONTINENTAL AIRLINES FROM COMPLETING ITS SAIPAN HOTEL ADJACENT TO MICRO BEACH.

ACCORDING TO THE VARIETY, MLSC ATTORNEYS CONTEND THAT PLACING THE DECISION ON TT HIGH COURT CHIEF JUSTICE HAROLD BURNETT PLACES HIM IN AN AWKWARD POSITION, SINCE HIGH COURT JUSTICES SERVE "AT THE PLEASURE OF THE SECRETARY OF THE INTERIOR."

THE PETITION STATES THAT "WE QUESTION...WHETHER IT IS NECESSARY OR FAIR TO PLACE ANY JUDGE IN THIS POSITION."

SINCE THE TT CHIEF JUSTICE OPERATES UNDER THE JURISDICTION OF THE SECRETARY OF THE INTERIOR, AND SINCE THE SECRETARY OF THE INTERIOR HAS MAINTAINED THAT, "...THE GOVERNMENTAL ACTIONS IN QUESTION DO NOT CONSTITUTE A BREACH OF THE TRUSTEESHIP AGREEMENT," THEN THE PLAINTIFFS MAINTAIN THERE IS A FUNDAMENTAL LACK OF DUE PROCESS INVOLVED IF THE DECISION RESTS IN THE TT HIGH COURT.

THE PLAINTIFFS ORIGINALLY HAD TAKEN THEIR CASE TO THE TRUST TERRITORY HIGH COURT IN 1972. THE HIGH COURT RULED THAT TRUST TERRITORY OFFICIALS WERE NOT SUBJECT TO THE PROVISIONS OF THE NATIONAL ENVIRONMENTAL POLICY ACT (NEPA) AS THE PLAINTIFFS HAD CONTENDED.

THE ACT SAYS THAT THE FEDERAL GOVERNMENT MUST ISSUE AN ENVIRONMENTAL AND CULTURAL IMPACT STATEMENT BEFORE ANY MAJOR CONSTRUCTION ACTIVITY BEGINS ON PUBLIC LAND. THE SITE OF THE CONTINENTAL HOTEL IS PUBLIC LAND, AND THE HICOM DID NOT ASK FOR AN IMPACT STUDY BEFORE HE SIGNED THE LEASE AGREEMENT ALLOWING CONTINENTAL TO BEGIN CONSTRUCTION.

THE PLAINTIFFS THEN TOOK THEIR CASE TO THE U.S. DISTRICT COURT IN HAWAII. THE DISTRICT COURT DISMISSED THE CASE ON THE GROUNDS THAT THE TT GOVERNMENT IS NOT A U.S. FEDERAL AGENCY AND UPHELD THE TT HIGH COURT'S RULING THAT NEPA REGULATIONS THEREFORE DID NOT APPLY TO THE TT.

WHEN IT RULED, THE DISTRICT COURT SAID THAT THE U.N. TRUSTEESHIP AGREEMENT, THROUGH WHICH THE U.S. ADMINISTERS MICRONESIA, CANNOT BE USED BY MICRONESIANS TO TAKE EITHER THE TT GOVERNMENT OR THE HICOM TO COURT FOR ALLEGED VIOLATIONS OF THAT AGREEMENT.

THE APPEALS COURT ALSO HELD THAT A MICRONESIAN CITIZEN MAY, IF ALL LEGAL CHANNELS WITHIN THE TRUST TERRITORY HAVE BEEN EXHAUSTED, TAKE HIS CASE TO A UNITED STATES FEDERAL COURT.

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THIS LEGAL AVENUE, HOWEVER, CAN BE USED ONLY IN CASES INVOLVING VIOLATIONS OF THE TRUSTEESHIP AGREEMENT.

(BOAT CAPSIZES IN PINGELAP)

PINGELAP, AUGUST 26 (MNS)---A SIXTEEN FOOT MOTOR BOAT CAPSIZED IN PINGELAP CHANNEL, PONAPE DISTRICT LAST WEEK. THE BOAT CAPSIZED WHILE UNLOADING PASSENGERS AND CARGO FROM THE M/V TRUK ISLANDER WHICH ARRIVED FROM PONAPE AND NOKIL.

ACCORDING TO A REPORT FROM PONAPE RADIO STATION WSZD, THE BOAT THAT CAPSIZED WAS DRIVEN BY SALLE MARTIN, AN AGRICULTURE EXTENSION AGENT CURRENTLY STATIONED ON PINGELAP.

AMONG THE PASSENGERS ON THE BOAT WERE SENATOR AMBILOS IEHSI, FLOOR LEADER OF THE SENATE, CONGRESS OF MICRONESIA; SADIRO SANTOS, COORDINATOR OF THE PONAPE CAA MOBILE EDUCATION TEAM; HALVERSON JOHNNY, USZD STATION MANAGER; RISHA EHAS OF THE CARPENTER SHOP, AND THREE TWO-YEAR-OLD CHILDREN AND THEIR MOTHERS.

THE ACCIDENT OCCURED WHEN THE BOAT APPROACHED THE CHANNEL AT LOW TIDE. ACCORDING TO HALVERSON JOHNNY, THE SEA CURRENT THAT MORNING WAS QUIET STRONG, MAKING IT DIFFICULT FOR BOATS TO ENTER THE CHANNEL.

NO ONE WAS HURT BUT A SONY TAPE RECORDER BELONGING TO WSZD, A CAMERA, SUNGLASSES, WATCHES AND SOME MONEY WERE LOST WHEN THE BOAT SANK.

OLDER RESIDENTS OF PINGELAP HAVE INDICATED THAT THIS IS NOT THE FIRST TIME THAT SUCH AN ACCIDENT HAS OCCURED. SEVERAL OTHER BOATS HAVE CAPSIZED TRYING TO ENTER THE PINGELAP CHANNEL. PINGELAP HAD A LONG DOCK REACHING INTO DEEP WATER FROM SHORE, BUT HIGH WAVES DESTROYED IT EARLY LAST YEAR.

(TAIWAN BOAT AGROUND)

KOROR, AUGUST 26 (MNS)---MICRONESIA'S REEFS CLAIMED ANOTHER FISHING VESSEL THIS MONTH, THE THIRD IN AS MANY WEEKS. THE LATEST VICTIM IS A TAIWANESE FISHING VESSEL, THE F/V HONG FU SHONG NO. 13, WHICH WENT AGROUND AT NGERCHELONG MUNICIPALITY IN NORTHERN BABELTHUAP, PALAU DISTRICT ON OR ABOUT AUGUST 15.

RIN FUN CHEN, CAPTAIN OF THE FISHING BOAT, TOLD PALAU DISTRICT INFORMATION OFFICER DAVID NGIR MIDOL THAT THE SHIP ENCOUNTERED ENGINE TROUBLE AND DRIFTED IN THE AREA FOR NEARLY FOUR HOURS BEFORE IT WENT AGROUND.

THE 18 CREWMEN WADED TO MEETCHUR ISLAND AND WERE TAKEN TO OLLEI WHERE THE INCIDENT WAS REPORTED TO KOROR BY RADIO..

THE 51-TON SHIP WAS ON ITS WAY TO THE ISLAND OF ESPIRITO SANTO IN THE NEW HEBRIDES, ACCORDING TO THE SHIP'S CAPTAIN, WHERE IT WAS TO JOIN THE OTHER 12 FISHING VESSELS OWNED BY NAN TEN FU, A PROMINENT BUSINESSMAN IN KAOSIUNG PROVINCE IN TAIWAN. NAN TEN FU IS THE SPEAKER OF THE KAOSIUNG LEGISLATURE, ACCORDING TO NGIR MIDOL.

INVESTIGATION INTO THE POSSIBLE VIOLATION OF TERRITORIAL WATER IS STILL GOING ON. THE SHIP'S CAPTAIN AND CREW MEMBERS ARE IN THE CUSTODY OF THE POLICE.

EARLIER THIS MONTH, A 69-TON JAPANESE FISHING BOAT WENT AGROUND ON MINTO REEF, PONAPE DISTRICT. THE SAME WEEK, A 954-TON KOREAN FISHING BOAT GOT STUCK ON NGULU ATOLL, YAP DISTRICT.

(JUDGE TURNER RETIRING)

SAIPAN, AUGUST 26 (MNS)---THE PLANNED RETIREMENT OF ONE OF THE ASSOCIATE JUSTICES OF THE TT HIGH COURT WAS REVEALED THIS WEEK BY CHIEF JUSTICE HAROLD BURNETT.

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INTERVIEWED ON THE RADIO PROGRAM "DIALOGUE FOR MICRONESIA," BURNETT SAID THAT ASSOCIATE JUSTICE KELLY D. TURNER WILL RETIRE FROM FEDERAL SERVICE SOON. JUDGE TURNER HAS BEEN ON THE HIGH COURT BENCH SINCE SEPTEMBER 1, 1967.

A SPOKESMAN FOR THE TT PERSONNEL DEPARTMENT SAID JUDGE TURNER'S INTENTION IS TO RETIRE EFFECTIVE SEPTEMBER 14. THE JUDGE, WHO IS A U.S. CIVIL SERVICE EMPLOYEE, HAS BEEN ASKED TO COMMUNICATE DIRECTLY WITH THE CIVIL SERVICE COMMISSION IN WASHINGTON, D.C., REGARDING HIS RETIREMENT.

THE DEPARTURE OF JUDGE TURNER WILL LEAVE A VACANCY ON THE FOUR-MAN COURT WHICH WILL BE FILLED BY APPOINTMENT. ALL TT HIGH COURT JUSTICES ARE APPOINTED BY THE SECRETARY OF THE INTERIOR.

KELLY TURNER CAME TO THE TRUST TERRITORY IN APRIL, 1966 FROM SCOTTSDALE, ARIZONA TO TAKE A POSITION AS AN ASSISTANT ATTORNEY GENERAL ON SAIPAN. HE WAS NAMED AN ASSOCIATE JUSTICE IN 1967, AND WAS INITIALLY BASED ON SAIPAN. HE ALSO SERVED FOR A TIME IN KOROR BEFORE BEING ASSIGNED TO MAJURO, IN THE MARSHALL ISLANDS, WHERE HE HAS BEEN BASED SINCE NOVEMBER, 1970.

(EMMET KAY TO BE RELEASED)

SAIPAN, AUGUST 26 (MNS)---THE COMMUNIST PATHET LAO HAS CONFIRMED THAT IT WILL RELEASE PILOT EMMET KAY, WHO FORMERLY OPERATED MICRONESIAN AIRLINES BETWEEN GUAM AND THE TRUST TERRITORY. THE RELEASE IS SCHEDULED FOR SEPTEMBER 12, ACCORDING TO A NEWS ACCOUNT IN MONDAY'S PACIFIC DAILY NEWS (AUG. 26).

KAY WAS EMPLOYED BY CONTINENTAL AIR SERVICES INC., WHEN HE RAN LOW ON FUEL AND BAD WEATHER FORCED HIM TO LAND HIS SINGLE ENGINE PLANE IN A COMMUNIST CONTROLLED AREA OF NORTHERN LAOS MAY 7, 1973.

KAY IS A WELL-KNOWN PILOT IN MICRONESIA. HE FLEW MANY "MISSION OF MERCY" FLIGHTS TO PAGAN ISLAND IN THE NORTHERN MARIANAS AND ULITHI ATOLL IN YAP DISTRICT. IN 1968 KAY RISKED HIS LIFE BY LANDING ON A SHORT RUNWAY ON PAGAN ISLAND AT NIGHT TO TRANSPORT A SICK BOY TO SAIPAN.

THE CONGRESS OF MICRONESIA PASSED A RESOLUTION DURING ITS SPECIAL SESSION ON SAIPAN URGING THE STATE DEPARTMENT TO REQUEST KAY'S RELEASE THROUGH DIPLOMATIC CHANNELS.

(EXHIBIT COLLECTORS HERE)

SAIPAN, AUGUST 26 (MNS)---THREE JAPANESE GRADUATE STUDENTS IN ANTHROPOLOGY ARE CURRENTLY TOURING THE TRUST TERRITORY COLLECTING MARINE RELATED EXHIBITS FOR DISPLAY AT "EXPO-75," THE INTERNATIONAL OCEAN EXPOSITION BEING HELD IN OKINAWA NEXT YEAR.

THE THREE ARE SHUZO ISHIMORI OF KYOTO UNIVERSITY, MOTEI NAKANURA OF KONAN UNIVERSITY, AND KENICHI SUDO OF TOKYO METROPOLITAN UNIVERSITY. THE THREE MEN ARE WORKING UNDER A SPECIAL COMMISSION FROM THE JAPANESE GOVERNMENT GIVEN TO NIPPON AUDIOVISUAL PRODUCTIONS, WHICH CHARGES THAT COMPANY WITH BUILDING THE OCEAN CULTURE PAVILION AT THE EXPOSITION.

THE TRIO WILL BE COLLECTING UTENSILS, FISHING IMPLEMENTS, SHELLS, AND OTHER ITEMS THAT RELATE TO MARINE LIFE AND THE USE OF MARINE RESOURCES BY THE PEOPLE OF MICRONESIA. AFTER SPENDING THREE DAYS ON SAIPAN LAST WEEK, THEY SPLIT UP TO FLY TO THE DISTRICTS ON SUNDAY (AUG. 25). ISHIMORI WILL BE IN THE MARSHALL ISLANDS, AND INDICATED HE HOPES TO VISIT AT LEAST ONE OF THE

OUTLYING ATOLLS, PREFERABLY MILI. NAKAMURA WILL DO HIS COLLECTING IN YAP AND PALAU DISTRICTS, WHILE SUDO WILL COVER TRUK AND PONAPE. THE MEN WILL COORDINATE THEIR VISITS AND COLLECTING WITH THE DISTRICT ADMINISTRATOR'S OFFICE IN EACH DISTRICT.

"EXPO-75" IS SCHEDULED TO OPEN JULY 20, 1975 IN JAPAN'S NEWEST PREFECTURE, OKINAWA, AND RUN THROUGH JANUARY 13, 1976. THE THEME OF THE EXPOSITION IS "THE SEA WE WOULD LIKE TO SEE," AND IT IS PLANNED AS A MAJOR INTERNATIONAL EXPOSITION OF THE RESULTS OF OCEAN EXPLORATION AND FUTURE VISIONS OF OCEAN DEVELOPMENT. THE JAPANESE GOVERNMENT HAS SENT INVITATIONS TO 140 COUNTRIES AND 34 INTERNATIONAL ORGANIZATIONS TO TAKE PART IN THE EXPOSITION.