

**I TE KOOTI WHENUA MĀORI O AOTEAROA
I TE ROHE O TE WAIARIKI**

*In the Māori Land Court of New Zealand
Waiariki District*

AP-20240000003552

WĀHANGA
Under

Sections 113 and 118, Te Ture Whenua Māori Act
1993

MŌ TE TAKE
In the matter of

Succession to Perry Ratahi Tai

NĀ
Between

TAMMY HOROPAPERA TAMAKU KOROUA
Te kaitono
Applicant

Nohoanga:
Hearing

11 December 2024, 329 Waiariki MB 71-89
(Heard at Ōpōtiki)

Whakataunga:
Judgment date

1 April 2025

TE WHAKATAUNGA Ā KAIWHAKAWĀ T M WARA
Judgment of Judge T M Wara

Hei tīmatanga kōrero*Introduction*

- [1] Perry Ratahi Tai sadly passed away on 16 October 2019 at New Plymouth.
- [2] Tammy Koroua has applied to succeed to the Māori land interests of her father, Perry. However, Tammy's paternity is disputed by Perry's sister, Evelyn Tai.
- [3] This Court must determine who is entitled to succeed to Perry Ratahi Tai.

He aha te kaupapa o tēnei kēhi?*What is this case about?*

- [4] Perry Ratahi Tai passed away on 16 October 2019 at New Plymouth. He was not in a relationship at the time of his death, and he did not leave a will.
- [5] It is not disputed that Perry has a son, Mina Gilmer, whose mother is Alice Mitai, or that he has a daughter, Danielle Taniwha, whose mother is Amelia Taniwha. He also has a tamaiti whāngai, Luana Taniwha, who is Amelia Taniwha's daughter.
- [6] This case is about Tammy, who says that she is also Perry's daughter. Her mother is Matepaki Koroua.
- [7] This application was originally heard by Judge Coxhead (as he then was) on 26 May 2020, when orders of succession were granted that included Tammy as a successor.¹ The succession orders were subsequently challenged by Evelyn Tai to the Chief Judge under s 45 of Te Ture Whenua Māori Act 1993, the succession orders were cancelled, and the matter was remitted back to the Court for a full hearing.
- [8] On 2 November 2021, the application was heard by Judge Wainwright, who directed that DNA testing be arranged, to ascertain whether Tammy was Perry's biological daughter.² In the meantime, Tammy sought mediation, and Judge Stone was appointed as the mediator, however mediation was adjourned around 20 February 2023 to await the outcome of the DNA evidence.

¹ 234 Waiariki MB 108-113 (234 WAR 108-113). Application number A20200002600.

² 265 Waiariki MB 271-281 (265 WAR 271-281). Application number A20210008278.

[9] The DNA evidence was delayed due to administration issues within the Court, identifying the best people to test for DNA, and administrative requirements within DNA Diagnostics.

[10] On 12 April 2024 the results from DNA Diagnostics were released. Those results were as follows:

- (a) A statistical analysis was performed from samples received from Mina (Rodney) Gilmer son of the deceased, Tammy and her mother Matepaki Koroua. The calculated value was 505, which indicates that Mina Gilmer and Tammy are 505 times more likely to be half-siblings rather than unrelated.
- (b) These results strongly support that Mina Gilmer and Tammy Koroua are half-siblings.

[11] Evelyn disputed the DNA results, and suggested that more conclusive results would be obtained if herself and her first cousin Michael Marino were tested.

[12] Under the Court's direction, the Registrar made further inquiries with DNA Diagnostics as to whether any further testing would be more conclusive.

[13] By email, DNA Diagnostics advised of the following:

- (a) The DNA evidence strongly suggests that Mina Gilmer and Tammy Koroua are half-siblings.
- (b) The minimum threshold is 100 for relationship cases. Their calculated value is out of 505. This means that it is 505 times more likely that Mina and Tammy are half-siblings than not.
- (c) If this value was converted to a percentage, it would be 99.8%, that the DNA evidence strongly supports that Mina and Tammy are half-siblings. They do not normally express results as a percentage and index value is never 100%.
- (d) Testing Evelyn may strengthen the result. Testing her biological cousin Michael Marino may not add anything further, as he is further removed.

[14] In spite of the DNA evidence, Evelyn continues to challenge Tammy's paternity.

Ngā kōrero a Evelyn

What does Evelyn say?

[15] Evelyn challenges the DNA evidence because of the commonality of whakapapa concerning the Tai / Koroua whānau and the Mitai / Tawhara whānau. Evelyn says that her father, Te Whiu Tai, and Tammy's great-grandfather on her mother's side, Pou Tai, are siblings. Evelyn is therefore an aunt of Matepaki Koroua, Tammy's mother, and a great-aunt of Tammy. Given the close whakapapa within the Tai whānau, Evelyn believes that the DNA evidence is flawed.

[16] Evelyn also has a theory as to who she says is Tammy's real father. Evelyn believes that Ronald Tawhara is Tammy's biological father. As Ronald is a first cousin to Perry's son Mina Gilmer (Mina's mother Alice is sister to Ronald's mother Te Auhi) this would affect the DNA results and render them inconclusive.

[17] Finally, Evelyn says that some of Perry's lands were inherited from their mother, Margaret, from the rohe of Tauranga Moana. Therefore, she believes that if DNA is tested from her cousin on her maternal side, a more accurate result would be produced.

[18] In addition to the concerns regarding the DNA evidence, Evelyn says:

- (a) The Court cannot rely on a birth certificate that identifies Perry as Tammy's father, as the birth certificate was issued after Perry had passed.
- (b) The Court cannot rely on Perry's death certificate as anyone's name can be included in the certificate without proof. Therefore, it is inconclusive.
- (c) The whānau did not have knowledge that Perry was Tammy's father. At a previous hearing, Mina Gilmer had advised the Court that his father had never spoken to him about Tammy being his biological sister. He was only aware of Danielle.
- (d) Tammy looks like a member of the Tai whānau because she is a Tai on her mother's side. Her grandfather is Perry's first cousin, so it is logical that she looks like a Tai.

Ngā kōrero a Tammy*What does Tammy say?*

[19] Tammy says that she first met Perry when she was 12 years old. When she was 21 she gave birth to her eldest son, and Perry came to meet him. Tammy says that her relationship with Perry was consistent with the relationships that he had with his other children – that he was in and out of their lives. Tammy maintained contact with Perry through Facebook, and when he passed, Tammy brought Perry back from Taranaki to Waioeka, and helped to organise his funeral affairs.

[20] With regard to the concerns raised about the birth certificate, Tammy advised that the reason that the certificate was sought after Perry's death was so that she could access her KiwiSaver to pay for the outstanding funeral costs. She advised that the funeral bill was \$3,896.00, and while WINZ paid a funeral grant of \$2,000.00, there was a shortfall. Tammy says that she reached out to the whānau to assist, however no one responded, and her grandmother paid. Therefore, she asked her uncle Matiu Tai if he could sign the birth certificate so that she could access her KiwiSaver to pay the remaining balance.

He aha te ture mō te whakahē ki te whakapapa?*What does the law say when paternity is challenged?*

[21] In *Coutts — Estate of James Pou*, Judge Ambler commented on paternity issues:³

[23] Paternity is by its nature a fraught issue. It is shrouded in the random biological act of conception and the intimacy (and often secrecy) of the relationship of the parents of the child. It is otherwise subjected to the speculative and ultimately hearsay views of the whanau and associates of the mother and the putative father. Paternity may be proved (in descending order of authority) by DNA blood testing, the testimony of the mother and the putative father and finally the hearsay evidence of the whanau and associates.

[24] Due to the fraught nature of paternity the law has developed certain presumptions. The presumption of paternity is now provided for in the Status of Children Act 1969.

[22] In *Kepa v Kautai*, the Court listed a number of factors that are relevant when addressing the issue of paternity:⁴

³ *Coutts — Estate of James Pou* (2008) 127 Whangarei MB 145 (127 WH 145) at [23]-[24].

⁴ *Kepa v Kautai – Succession to James Keepa* (2016) 52 Takitimu MB 256 (52 TKT 256) at [27].

- a. In circumstances where the alleged parent is named on the birth certificate that certificate is considered prima facie evidence that the person named as the father is in fact the father. The onus therefore falls on the parties claiming otherwise to displace that evidence.
- b. Where there are no details recorded on the birth certificate the onus is on the person claiming to be a child to prove their case on the balance of probabilities.
- c. A DNA test can only be undertaken with the consent of the parties.

[23] In adopting the approach set out in these decisions, the starting point is the birth certificate. While a birth certificate is ordinarily prima facie evidence of paternity, the circumstances regarding the birth certificate, in that it was issued after Perry's death and therefore without his consent, is sufficient to displace this evidence.

[24] Therefore, the DNA evidence is significant to the outcome of this determination. The DNA evidence is clear, there is a 99.8% likelihood that Mina and Tammy are half-siblings. The index value is never 100%. Evelyn's concerns were put to DNA Diagnostics, and their view was that testing her maternal cousin was unlikely to add anything further.

[25] Fundamentally, there is no evidence to support Evelyn's assertions regarding the whakapapa tainting the DNA evidence, and many of the matters raised by Evelyn are simply speculative.

Kupu whakataau

Decision

[26] For the reasons that I have outlined, I find in favour of the applicant, that she is the biological child of Perry Ratahi Tai. While Tammy seeks compensation or damages from Evelyn, I am not going to grant any additional orders. It is time for the whānau to heal.

[27] Orders are therefore granted as follows:

- (i) s 115 determining that Luana Jade Taniwha is a whāngai of the deceased without a relationship of descent to the deceased and therefore not entitled to succeed.
- (ii) s 113 determining that Mina Rodney Gilmer, Tammy Horopapera Tamaku Koroua and Danielle Tai Taniwha are entitled to succeed equally to Perry Ratahi Tai's Māori land interests.

- (iii) section 118 vesting Perry Ratahi Tai's Māori land interests in the persons determined entitled to succeed.

I whakapuaki i te 2:00pm i Rotorua, te tuatahi o te rā o Āpereira i te tau 2025.
Pronounced at 2:00pm in Rotorua on this 1st day of April 2025.

T M Wara
KAIWHAKAWĀ