

# Decision expands tribal court adoption powers

by Holly F. Reimer

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Tribal courts can now decide what will happen to Alaska Native children who are up for adoption or have to live with a foster family, according to a recent court decision.

Alaska Natives who have adopted a Native child under tribal recognition in the past weren't eligible for state aid, such as Aid to Families with Dependent Children, because the state didn't recognize tribal adoptions.

The 9th Circuit Court of Appeals ruled recently, however, that the adoptive parents are eligible.

The case stems from a woman from Venetie and a woman from Fort Yukon. Both filed suits against the state because one said she was denied state aid and the other was denied a substitute birth certificate because she wasn't recognized as the "legal mother."

Congress enacted the Indian Child Welfare Act in 1978 pursuant to the

national policy "to protect the best interests of Indian children or Alaska Native children and to promote the stability and security of Indian tribes or villages."

Bob Anderson, staff attorney at the Native American Rights Fund in Anchorage, said that already, federal courts say that Alaska Native villages under the Alaska Native Claims Settlement Act are "tribes." He said if they were already tribes then their rights were taken away in these adoption cases.

"This is the first case in the country to say that," Anderson said. "It's a significant argument."

Anderson also said that the analysis of how to define a tribe is being done on a practical modern-day level, and most villages in Alaska will fit into the category of tribe.

These first few villages to win their court cases are paving the way for other villages who are striving for the same sovereign recognition.

"This is a positive development toward tribal sovereignty," Anderson said.