

Orphan Custody Struggle

Washington

The long tug-of-war over an 8-year-old Korean orphan named Kim Ji Yung, or Kim McElroy, or Kimta Francoise Taylor ended last week.

Under court order, she said goodbye to the middle-aged black couple she knew as her adoptive parents and left their Chattanooga home, where she had lived for four years, in the legal custody of an ex-GI declared by the courts of Tennessee to be her natural father.

Adoption authorities say the case, apparently unprecedented in the history of foreign adoptions, proves that courts automatically bow to the claim of natural parents even if it means separating a child from a familiar home and exposing her to possible traumas.

Kim was treated as if she were a "piece of property" charged John E. Adams, director of the Holt Adoption Program, the Eugene, Ore., agency that processed the thwarted adoption.

But Chancellor Ray Brock, the Tennessee trial judge who presided over the custody hearing, saw the case differently. He called the natural father's search for his child, which consumed hundreds of hours and cost nearly \$10,000, an "epic story of love."

Race was never an issue in the case, for like the adoptive parents, the natural father is black. Nor was there ever any dispute over the fitness of the respective homes.

The trial judge declared the adoptive parents "splendid people." He also called the natural father a "fit and proper person to have custody" of Kim.

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Richard L. Taylor, the ex-GI who proved to the satisfaction of the Tennessee courts that he fathered Kim while stationed with the U.S. Army near Seoul, contends that if there is a villain in the case, it is the adoption agency.

The Holt agency, which specializes in foreign adoptions, cared for Kim in its orphanage in Seoul after she was abandoned by her mother.

Then, Holt arranged for her to be placed for adoption with Walter and Virginia McElroy in Chattanooga.

Taylor, the father, blames Holt because only a month after processing Kim for adoption, the agency rebuffed his pleas for assistance in tracing his daughter. Though he sent Holt photographs and other information which, in his view, would have connected his missing child with the one placed with the McElroys, Holt officials told him they had never seen his daughter.

"They didn't want to find a connection," said Taylor, now the assistant office manager at a Chicago jewelry company. "The McElroys had paid Holt a substantial amount of money for

Kim, so Holt didn't try very hard to help me."

Adams, director of the adoption agency, denied Holt had been lax or had purposely concealed Kim's true identity.

Taylor "didn't have real proof" that he was the natural father, said Adams, who says he still is not wholly convinced.

No matter who is at fault, the fight for Kim has been a bruising ordeal for everyone concerned.

The McElroys, the parents of a teen-age boy, decided in 1971 to adopt a daughter when they were already in their 40s and it was clear they could not have another child of their own.

Mrs. McElroy had suffered four miscarriages, so as she told the trial court in pleading for the adoption to be approved, "Kim is my only chance."

Mrs. McElroy, now 47, and her husband, 46, a postman, gave up Kim only after they carried the issue all the way to the U.S. Supreme Court, and lost.

In a one-line order issued last month, the high court refused to hear the McElroys' contention that the Tennessee courts, out of respect for the Korean government, should never have inquired into Kim's paternity. Instead,

Settled

argued the McElroys, the so-called "act of state doctrine" required the state courts to honor the declaration of Korean officials that Kim had been abandoned and the claims of her natural parents terminated.

Soon after the high court action, lawyers for the McElroys and Taylor conferred by telephone in a conference call that included a judge of the chancery court in Chattanooga. They agreed that the McElroys could enjoy one last Christmas with Kim, but would then have to comply with the custody order and release her to her father.

"Kim was very brave and didn't cry," said Mrs. McElroy.

"She just said she didn't want to go. Mr. Taylor is a stranger to her, after all. He visited us once but that's the only time she remembers seeing him."

Taylor, who was married in 1973 and has a 7-month-old son, tried to ease the ordeal for Kim and the McElroys by holding out the prospect of future visits. "That made it a little easier for her," said Mrs. McElroy.

Now a merry-faced third-grader with long braids and a winning manner, Kim "takes things in stride," Taylor contends.

"She hasn't talked much about the McElroys. She has

wanted to know about her (Korean) mother and to see pictures of her."

Besides, Taylor argued, Kim would not have been with the McElroys so long "if Holt had been more cooperative at the beginning and hadn't dragged their feet. They did everything to stall this case. They got postponement after postponement. And when the McElroys lost in the trial court, Holt paid for the appeal, to drag it out even longer. They apparently hoped I'd eventually give up."

The case had its origins in a Seoul suburb in the summer of 1966, when then Army Specialist Taylor met Kim Kyong Cha, a slender, graceful Korean woman who had worked as a waitress and a maid. By September, they were living together and Kyong Cha was pregnant.

As an Army clerk, Taylor knew first-hand of the bureaucratic tangles facing servicemen who wanted to marry Korean women. So he returned to the United States in April, 1967, without marrying Kyong Cha, but with the understanding that he would get his discharge and return for her and their child.

On June 6, 1967, Kyong Cha gave birth to a daughter, named Kinta Françoise Taylor. Eight months later, Taylor returned, as promised, was married to Kyong Cha before a U.S. consular official and registered their daughter as a U.S. citizen at the American Embassy in Seoul.

When the young couple ran into difficulties in getting a visa for Kyong Cha, Taylor decided, as he later testified, that it would be best for him to go home to Chicago, with his wife and child to follow.

For two years Taylor corre-

sponded regularly with his wife. He sent baby clothes for Kim and regular checks for their support. At the custody trial, he produced stubs from cashier's checks and money orders to show that he sent at least \$1800 to Kyong Cha from 1967 to 1969. The actual total was higher, he said, but he had lost some receipts.

In return, Taylor received a string of letters, written by Kyong Cha with the help of an interpreter, and more than 100 photographs of Kim. Very much the doting father, Taylor kept every one — a lucky stroke, for these pictures later helped convince the judge that Kimta Françoise Taylor and Kim McElroy are one and the same.

Taylor's goal of bringing his wife and daughter to the United States once seemed within reach when, after saving the needed \$1600, he sent prepaid airline tickets to them. But his wife, insisting that she was still unable to get a visa, cashed the tickets.

At the trial, Taylor testified bitterly that this was obviously "one more of her long list of lies," for he had been notified by the State Department that his wife simply never picked up the visa that was awaiting her at the American Embassy.

Now he takes a more charitable view of Kyong Cha. "I think she was just afraid of the unknown, of coming to this country," he said last week.

Taylor last heard from Kyong Cha in June, 1970. After that, his letters, with checks inside, were returned unopened from Korea.

Finally, in early 1971, a neighbor of Kyong Cha wrote to tell Taylor that Kyong Cha had left the child the summer before with a babysitter, announced she

was going to do some shopping and never returned.

Then unemployed, Taylor could do nothing except write letters pleading with the babysitter, a family friend he knew only as Mamasan, to continue caring for Kim. By the fall of 1971, Taylor had divorced Kyong Cha under Illinois law, had saved enough money for Kim's airfare and had located a sympathetic airline employee to accompany his daughter, then 4 years old, to the United States.

But Kim slipped from his grasp.

The details are unclear, but Mamasan, very poor herself and unable to support Kim, apparently turned the child over to police officials.

About the same time, in July, 1971, a 4-year-old girl was delivered, by police, to the Holt orphanage in Seoul, along with a registration certificate issued by the mayor of Seoul. It listed her name as Kim Ji Yung, and said she was born June 6, 1967, and had been abandoned in the same neighborhood where Kimta Taylor had lived.

Holt was authorized by Korean officials to place Kim Ji Yung for adoption, and the agency did — with the McElroys, who had decided to adopt a mixed-race child from Korea because McElroy had served in the Korean war.

The McElroys' delight in their new daughter was soon clouded. Six weeks after she arrived, in February, 1972, they were notified by Holt officials that a man from Chicago had written to the agency informing them that he was Kim's natural father and intended to reclaim her. The long fight had begun.

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