

## From Beyond the Grave

Bobbie Fischer is considered by many to be the greatest chess player of all time. He became a grandmaster at the early age of 15 and was the first American to become a world chess champion.

He died in Iceland in 2008.

Unfortunately for him, his battles continued from even beyond the grave.

During his lifetime, Fischer was married to Miyoko Watei. Apparently, Fischer had no children. However, after his death, a Filipina by the name of Marilyn Young came forward and sought to prove that her daughter was fathered by Fischer. To settle the issue, a district court in Iceland ordered the exhumation of his slumbering corpse in order to compare DNA samples. Ultimately, the results showed that the child was not Fischer's.

If this same scenario were to happen in the Philippines, which has long recognized DNA as a “dependable and authoritative form of evidence gathering”, would the deceased putative father be also ordered to be exhumed? Or will he be allowed to rest in peace?

A 2007 Supreme Court case *partially* answers this inquiry.

Rogelio and Jinky were live-in partners. From their cohabitation was born Joanne. For a time, Rogelio supported Jinky and the baby. However, after only 7 months, Rogelio abandoned them and refused to continue supporting Joanne. This forced Jinky to file a case in court to compel Rogelio to recognize Joanne as his child.

The case though dragged on for years and Rogelio died while the case was still pending. It was apparent though that Rogelio never left any written evidence acknowledging Joanne as her daughter.

Ultimately, the Supreme Court remanded the case to the lower courts for DNA testing. The ruling concluded that the death of Rogelio did not preclude DNA testing for as long as a “biological sample that is relevant to the case” is still in existence. This “biological sample” could, of course, include Rogelio's cadaver six feet under.

It should be noted however that in this case, Rogelio was still alive when the case was filed. This is important because a petition for compulsory recognition – which involves the presentation of evidence other than written admissions and public documents (such as DNA) – can *only* be filed during the lifetime of the putative father.

In fact, the Supreme Court in 2008 reaffirmed this distinguishing characteristic of compulsory recognition cases which are foreclosed by death.

Therefore, in the absence of a case that is in all fours with Bobby Fischer's, the prudent stand to take is that if DNA testing is the only means available to establish filiation, then it best be done while the alleged father is still alive.

In the meantime, the best course of action for moonlighting Don Juans would be to opt for cremation.

*(Based on G.R. No. 171713, December 17, 2007 and G.R. No. 174680, March 24, 2008)*