

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
ADOPTION CAUSE NO. 3 OF 2005
IN THE MATTER OF THE CHILDREN’S ACT, CAP 59,
VOLUME 111, LAWS OF UGANDA.
AND
IN THE MATTER OF (i) PAUL JAMES NOAH KAWUKI }
(ii) JACKSON JONAH JUMBA AND } THE INFANTS
(iii) RITAH CAROLINE NAKANJAKO }
AND
IN THE MATTER OF A PETITION BY
ELVANSON ROVINCER NANTONGO GENTRY TO ADOPT THE INFANTS
BEFORE: REMMY KASULE, AG. JUDGE

RULING

The Petitioner, ELVANSON ROVINCER NANTONGO – GENTRY, petitions this court to adopt the three infants by the names of:

- (i) PAUL JAMES NOAH KAWUKI
- (ii) JACKSON JONAH JJUMBA and
- (iii) RITAH CAROLINE NAKANJAKO.

The Petitioner, aged 34, was born in Masaka-Uganda, but is now an American citizen by naturalisation, and is married to Mr. Jason Gregory Gentry, aged 53, also an American citizen.

The Petitioner and her husband have their home at Number 2 Regency Court, Little Rock, AR 72209. Arkansas, USA.

The Petitioner is a university graduate with a Bachelor of Science degree in Statistics, and is currently pursuing a doctoral degree in Pharmacy at the University of Arkansas for medical science, USA. Prior to joining this university, the Petitioner served in the US Army and Navy from 1995 to 1999. She has no children of her own. Before this court, the Petitioner appeared mature, and responsible.

The Petitioner's husband, Mr. Gentry graduated from Hotsprings High School, Arkansas in 1970, and then joined the US Navy for 12 years. After discharge from the Navy in 1984, he began working for the US Military Commissary in Germany. He has now retired from Government service and works part-time at Wal-Mart, USA. He has, in writing, consented to his wife, the Petitioner, adopting the three infants.

Evidence has been furnished to court that the Petitioner and her husband, jointly and or severally, earn enough monthly income, out of which, support can be given to the three infants.

Grace Adoptions, a state licensed child placement agency in Arkansas, USA, after a thorough investigation, have in a written report to this court, approved and recommended, the Petitioner and her husband, as having both met the requirements necessary for adoption of the three infants. The adoption order, if made, would be the accepted in Arkansas, USA.

The Petitioner is a parternal aunt to the three infants, being a sister to their natural farther, one Jackson Wasswa Tamale, late of Masaka, Uganda, now deceased.

The said father of the infants died on 9th January 2001, in Masaka –Uganda after a long illness. All along since 1993 when the said infants' father become sick, the three infants have been under the care, support and fostering of the Petitioner who has been doing so directly and also through her mother, grand mother to the infants, Ruth Namyalo Nalongo, with whom the infants have been staying in Nyendo, Masaka, Uganda.

The Masaka District Probation and Social Welfare officer confirms in his report to court the Petitioner is supporting and fostering the infants and recommends the Petitioner to adopt the infants.

On 20th May 2003, the Chief Magistrate's Court, Masaka, appointed the Petitioner to have permanent custody of the three infants. The Masaka Chief Magistrate's Court order to that effect has been furnished to this court.

The three infants, the subject of this petition, are citizens of Uganda.

The first infant, PAUL JAMES NOAH KAWUKI, a male, is aged 12 years and 7 months. Her mother, Robinah Najjeero is also dead.

The second infant, JACKSON JONAH JJUMBA is also male. He is aged 11 years. His mother Edith Ssanyu Namubiru Sempa is also dead.

The third infant, Ritah Caroline Nakanjako is female. Her age is 10 years and 5 months. Her mother Caroline Nabukeera Mulindwa is dead too. Each of the infants is currently schooling in primary in Masaka –Uganda. None of the infants owns any real property in Uganda, or any where else.

In court each of the three infants appeared healthy and intelligent and knew the Petitioner very well as the aunt who has been providing for them all along. The three appeared to love her very much; each one regarding her as his/her parent.

Each infant appeared to appreciate that an adoption order means that the Petitioner is to be his/her parent. Each of the infants appeared to approve this.

Counsel for the Petitioner submitted that the Petitioner had satisfied court that she was a fit and proper person to be appointed to adopt the infants and that she had complied with all the requirements of the law. Not to appoint her would cause jeopardy to the infants.

Having considered the submissions of Counsel for the Petitioner as well as the pleadings in support of the petition; and having seen and observed the Petitioner and the infants in court, this court is satisfied that all the statutory requirements set by the Children's Act have been met by the Petitioner.

In an adoption petition, like in all other cases, where the court makes decisions affecting children, the ensuring of the welfare; and the observance of the rights of the children to be affected by the decision to be made, are the paramount considerations the court has to consider, over any others. See section 3 of the Children's Act and SCCA No. 22/1994: *In Re M* (an infant) (unreported).

The court, taking into consideration the above principle of law, is satisfied that the petitioner is a fit and proper person to be appointed to adopt the three infants, given the fact that she has been supporting the said infants for a very long period, is closely related to them, and has on her own, or together with her consenting husband, sufficient means economic and otherwise, to provide for the infants as her own children.

The court is further satisfied, on the evidence availed, that the Petitioner, granted the adoption order, will ensure the welfare and protection of rights of the each of the infants. Not to issue the said order in her favour will most likely result in placing the said infants into serious jeopardy as to their welfare; which the court must not do. See High Court, Kampala, Adoption cause Number 31 of 2004. *In the matter of PAULA Robertson and Cynthia June Robertson – an infant* (unreported).

Accordingly, the petitioner Elvanson Rovincer Nantongo- Gentry, is granted an adoption order for the adoption of the infants: PAUL JAMES NOAH KAWUKI, JACKSON JONAH JJUMBA and RITAH CAROLINE NAKANJAKO.

The Adoption order shall be registered with the office of Registrar General, Ministry of Justice and Constitutional Affairs, and with the Consular Department in the Ministry of Foreign Affairs of the Government of the Republic of Uganda.

It is so ordered.

Remmy Kasule

Ag. Judge

14th May 2005.

Full ruling delivered in court on the 17th day of January 2005 at 2.30 p.m.

Remmy Kasule

Ag. Judge.

17th January 2005 at 2.30 p.m.