

**THE REPUBLIC OF UGANDA  
IN THE HIGH COURT OF UGANDA HOLDEN AT KAMPALA**

**FAMILY CAUSE NO. 138 OF 2009**

**IN THE MATTER OF MUWANGUZI TOM ISAIAH (INFANT)**

**AND**

**IN THE MATTER OF AN APPLICATION FOR APPOINTMENT AS THE LEGAL  
GURADIANS OF  
MUWANGUZI TOM ISAIAH (AGED 3 YEARS) BY VAUGHAN JUSTIN MATTHEW  
AND SHAUNA NICOLE VAUGHAN**

**BEFORE: HON. LADY JUSTICE MARGARET C. OGULI OUMO**

**RULING:**

The applicants, Vaughan Justin Matthew and Shauna Nicole Vaughan, American citizens bring this application by Notice of Motion under Article 139(1) of the Constitution of Uganda, 1995, Sections 14, 33 and 39 of the Judicature Act Cap 13 and Sections of the Children Act, Cap 59 in which they are seeking for the following orders;

1. That the applicants be appointed legal guardians of the child, Muwangizi Tom Isaiiah (infant)
2. That the infant be allowed to migrate to USA to live with the applicants.
3. That cost of the application be provided for.

The application is supported by the Statutory Declarations of the applicants dated 19/09/09, the affidavits of; Barbara Nankya, the Administrator of Sanyu Babies Home dated 9/09/09, that of Koto Livingstone, the LCI Chairman of Namaasa village where the infant was abandoned dated 11/09/09 and Mukoza Henry, the Community Development Officer/Probation Officer, Nakasongola District dated 11/09/09.

The grounds of the application are as follows:

1. That the infant was abandoned at Namaasa village by an unknown person.
2. That the parents of the infant are not known.
3. That the infant is under the custody of Sanyu Babies Home.
4. That the applicants wish to provide the child with a home, parental care and love.
5. That this application is for the welfare and best interests of the child.

At the hearing of the application, the applicants were represented by Mr. Peter Nyombi, assisted by Dora Mirembe.

The High Court has original unlimited jurisdiction in all matters in Uganda.

**See: Article 139(1) of the Constitution.**

Section 14 of the Judicature Act on similar terms gives the same jurisdiction to the court. In the exercise of that jurisdiction, the High Court has powers to grant remedies absolutely or on such terms as it considers fit.

**See: Section 33 of the Judicature Act.**

Similarly, under section 98 of the Civil Procedure Act, the High Court has powers to grant such remedies as are necessary in the interests of justice and to prevent the abuse of court process. A child has been defined as any person below 18 years of age.

**See: Section 2 of the Children Act.**

The infant here is 3 years of age and therefore a child within the meaning of the Act.

In making any decision concerning a child, the welfare of the child is of paramount consideration.

**See Section 3 and paragraph 1(b) of the First Schedule of the Children Act Cap 59.**

**Issue No. 1— whether the grant will be for the welfare of the child?**

Mr. Nyombi, counsel for the applicant submitted that the child was on 8th May 2008 found abandoned at Namaasa along Kampala — Gulu Road, in Nakasongola District, by one Naziwa Aida and Joseph Okaba — see Annexure 'B', copy of the letter by the Chairman LC1, Namaasa — Nakasongola attached to Ms. Nankya's affidavit.

Mr. Nyombi submitted that 12th May, 2008, the Officer in Charge, Child and Family protection Unit, Nakasongola Police Station, referred the matter to the Community Development Officer, Nakasongola District — See Annexure 'C' attached to Ms. Nankya's affidavit.

Counsel submitted that on 22/05/08, the child was committed to Sanyu Babies Home. See order attached as Annexure 'D' to Ms. Nankya's affidavit. The photograph of the infant was advertised in the New vision of 17th September, 2009 and is attached as Annexure 'G' to Ms. Nankya's affidavit, but no one has come to claim him.

Consequently, the application if granted will be for the welfare and in the best interests of the child, Muwanguzi Tom Isaiah.

**The 2nd issue is whether the applicants are suitable guardians for the child?**

The applicants are American citizens. Copies of their passports are attached as Annexures "A" to their respective Statutory Declarations.

Counsel for the applicants submitted that the applicants are married and a notarized copy of their Marriage Certificate is attached to Matthew's Statutory Declaration as Annexure 'B'

The applicants have 4 children, namely Ashton Rose Vaughan aged 9 years, Hunter David Vaughan, 7 years, Dawson Mathew Vaughan, 15 years and Ann Lily Vaughan, 2 years. So the child will not have difficulty integrating into the applicants' family.

The first applicant is employed by a company called Pacific Power (PacifiCorp) as a lineman.

See Annexure 'C'.

The second applicant is a full time home maker.

The applicants have undergone a home study and have been recommended as suitable guardians. Consequently, court is of the view that the applicants are suitable guardians and the application is allowed in the following terms and conditions:

1. The applicants are appointed legal guardians of Muwangunzi Tom Isaiah with full parental rights and responsibilities.
2. The applicants are directed to register the order with the Registrar of Documents, Uganda Registration Services Bureau, Ministry of Justice and Constitutional Affairs, Kampala.
3. The applicants are directed to register the order with the United States Embassy in Kampala and the Ugandan Embassy in Washington.
4. The applicants are directed to obtain a Ugandan passport for the child and renew it from time to time as required by the law.
5. The applicants are permitted to travel out of Uganda with the child.
6. The applicants are directed to register the order with the authority responsible for children and family welfare in Grenada, California, USA and to file a report once every year with the Registrar, Family Division, High Court, Kampala, regarding the development and the state of the welfare of the child and continue to do so until the child is 18 years of age, or until directed otherwise.
7. The court makes no order as to costs.

**Margaret C. Oguli Oumo**

**JUDGE**

**02/09/09**

**Present**

1. Ms. Rebecca Mugabi-Counsel for the applicants
2. Nalongo Nandaula-Court clerk