

**THE REPUBLIC OF UGANDA**

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

**FAMILY DIVISION**

HCT-00-FD-FC-0091-2009

IN THE MATTER OF JOHN PAUL SIMEON AN INFANT

AND

IN THE MATTER OF AN APPLICATION FOR LEGAL GUARDIANSHIP BY JOHN  
MARK MANRY AND LORI MICHELLE MANRY

**BEFORE: THE HONOURABLE MR. JUSTICE FMS EGONDA-NTENDE**

**RULING**

1. The applicants are a married couple. They are citizens of United States living and working in Uganda. John is a missionary with New Testament Churches of Christ. Lori is a homemaker/housewife. They are blessed with 4 children. The applicants were appointed foster parents to John Paul Simeon, a 6 months old infant, on 15<sup>th</sup> June 2009 by the Family and Children Court sitting at Makindye.
2. Foster parent is defined under the Children Act, Section 1 (j) as,  
‘means a person not being the biological mother, father, or relative of the child who assumes parental responsibility of the child by way of a care order.’
3. Guardian is defined by the same Act, Section 1 (k) as,  
‘means a person having parental responsibility for a child.’
4. In my view it is clear from the foregoing that a foster parent, appointed by the Family and Children Court, is a guardian of the infant. A foster parent is a guardian of the infant by virtue of appointment as a foster parent. A foster parent has parental

responsibility for the child. A guardian is a person who has parental responsibility for a child. So a foster parent is a guardian.

5. It would appear to me that this application is superfluous given that at law the applicants are already guardians of the infant, albeit, as foster parents. Appointment of the applicants as guardians by this court adds no further value in law to their current status and responsibility as guardians/foster parents of the infant John Paul Simeon.
6. It is not in question whether this court has the power to appoint guardians. The Court of Appeal has in the cases of *In the Matter of Francis Palmer an Infant, Civil Appeal No. 32 of 2006*, and *In the matter of Howard Amani Little, an infant, Civil Appeal No.33 of 2006* held that this court has jurisdiction and authority to grant orders of legal guardianship. The decision is not clear in what circumstances this jurisdiction may be exercised. Two judges that agreed that this court has jurisdiction did not agree on the circumstances in which such jurisdiction may be exercised.
7. Under the common law this court has the jurisdiction to appoint guardians for infants both in respect to their persons and or to their estates. See *In the Matter of Kenneth Kintu an Infant: HCT-00-FD-FC-0112-2008 (unreported)*.
8. I have noted above that in law the applicants are legal guardians of the infant in question already. And that this application, at law, would be superfluous. However, since I am required to declare that which is the case already, for the avoidance of doubt, I do declare the applicants legal guardians of the infant, John Paul Simeon.

Signed, dated, and delivered at Kampala this 23<sup>rd</sup> July 2009

FMS Egonda-Ntende

Judge

