

THE REPUBLIC OF UGANDA

IN THE HIGH COURT OF UGANDA HOLDEN AT KAMPALA

FAMILY CAUSE NO. 150 OF 2009

IN THE MATTER OF LUKAS SSENFUKA (AN INFANT)

AND

**IN THE MATTER OF AN APPLICATION BY SCOTT DENNIS RYDER AND REBECCA
JANE RYDER TO BE APPOINTED LEGAL GUARDIANS OF THE SAID MINOR**

BEFORE: HON. LADY JUSTICE MARGARET C. OGULI OUMO

RULING:

The applicants, American citizens, bring this application under section 14 of the Judicature Act, Cap 13, S. 98 of the Civil Procedure Act Cap 71, O. 52 rr 1 &2 of the Civil Procedure Rules S.I 71-1 and the Children Act, Cap 59 in which the applicants are seeking for the following orders:-

1. That they be appointed legal guardians of Lukas Ssenfuka (an infant) with the responsibility of taking the said infant into their care and provide the total well being and generally look after the minor as guardians would be reasonably called upon from time to time.

The application is supported by the affidavits of the applicants dated 22nd July, 2009.

The grounds of the application are:-

1. That the child Lukas Ssenfuka was found abandoned along Nabunya Road in Kayanja Triangle Zone LC1, Lubaga Parish, Lubaga Division in Kampala.
2. That the child was taken to the Child and Family Protection Unit, Old Kampala Police Station which later referred the child to Sanyu Babies Home which has been taking care of him to date.
3. That the child has no known biological parents or relatives that have made a claim to him and the applicants are desirous of fostering the child with a view to ultimately adopting him and making him a permanent member of their family when the time comes.

At the hearing of the application, the applicants were represented by Ms. Dorothy Kisaka.

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

See: Article 139 of the Constitution of Uganda, 1995

See: Section 14 of the Judicature Act.

In the exercise of that jurisdiction, the High Court has powers to make such orders as are necessary in the interests of justice and to prevent the abuse of court process.

See: Section 98 of the civil procedure Act.

The High Court has powers to grant remedies absolutely or on such terms as it thinks fit.

See: S.33 of the Judicature Act.

A child has been defined as any person below 18 years of age, according to section 2 of the Children Act.

The child here is now 3 years old. See Annexure “SJR21” the Probation and Social Welfare Officer’s report.

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 to the Children Act.

The First issue here is whether the grant will be for the welfare and in the best interest of the child?

Counsel for the applicants Ms. Dorothy Kisaka, submitted that the child was found abandoned by one Kitumba Faith, a resident of Lubaga on the 15/5/06.

That she reported to the area Local Council who reported the matter to Old Kampala Police Station under S.D No. 36/15/05/06.

Ms. Kisaka submitted that, the Police referred the matter to Sanyu Babies Home. That the Babies Home applied for a Care Order which was granted one on the 21/7/08. Ms. Kisaka submitted that on the 3/7/08, one Barbara Kasozi took the child briefly but found out that the

child had Sickle Cell Anemia and she returned him to Sanyu Babies Home. The child has been under the care of the Home since then to date.

Ms. Kisaka contended that Sanyu Babies Home took out an advertisement in the New Vision Newspaper of 7/4/09 in a bid to trace the parents or relatives of the child and since then, nobody has come up to claim the child. That the applicants are now applying to foster and take guardianship of the child.

In view of the fact that the child was abandoned and has no known parents or guardians and is right now in the care of an institution, court is of the view that the grant will be for the welfare and in the best interests of the child as it will provide him the opportunity to grow up in a home and not in an institution, which is not an ideal place for a child to grow up in.

The second issue is whether the applicants are suitable guardians for the child?

Ms. Kisakye, counsel for the applicants, submitted that the applicants are American citizens and copies of their passports are attached as Annextures “SJR2” & “3” respectively.

That the applicants are married and a copy of their Marriage Certificate is annexed as ‘SJR 1”.

That the applicants have 2 biological children, a boy and a girl aged 7 and 5 years old. A picture of the family is annexed as Annexure “SJR11” and “13”.

Counsel contended that the first applicant is a sheriff in Atlanta Georgia and a copy of his reference letter is attached as Annexure “SJR4”.

The second applicant is a full time home maker.

That the applicants have been cleared of any criminal record. See “SJR.15” and “16”.

That the applicants have also undergone a medical checkup and are said to be in good health. See “SJR.18”.

That the applicants are financially capable of providing for the child’s needs – see Annexure “SJR.19” their Income Tax Return for the year 2000.

Finally that the applicants have undergone a thorough Home study and been recommended as suitable guardians.

In view of the above, court is of the opinion that the applicants are suitable guardians as they will provide the child with a home and will find little difficulty integrating into it as they have other children. They will be able to take care of his welfare and needs since they have the financial means.

Consequently, the application is allowed in the following terms and conditions:-

1. The applicants, **Scott Denis Ryder** and **Rebecca Jane Ryder** are appointed legal guardians of **Lukas Senfuka**, 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 D.C.
4. The applicants are directed to obtain a Ugandan passport for the child and to 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 in Atlanta, Georgia in the United States of America and to submit a report, once every year regarding the development and state of the welfare of the child to the Registrar, Family Division, High Court of Uganda, Kampala and to continue to do so until the child is 18 years of age or until directed otherwise.
7. The court makes no orders as to costs.

Margaret C. Oguli Oumo

JUDGE

1/12/2009

Present:

1. Ms. Dorothy Kisaka, counsel for the applicants

2. The applicants
3. Nalongo Nandaula, court clerk
4. Nyakwebara Elizabeth, Research Assistant.