

**THE REPUBLIC OF UGANDA**  
**IN THE HIGH COURT OF UGANDA HOLDEN AT KAMPALA**  
**FAMILY CAUSE NO. 177 OF 2009**  
**IN THE MATTER OF THE CHILDREN ACT CAP 59**  
**AND IN THE MATTER OF PAISELY ANN ECKERLE (AN INFANT)**  
**AND IN THE MATTER OF AN APPLICATION FOR LEGAL GUARDIANSHIP BY TAD**  
**ECKERLE AND CHRISTY ECKERLE**  
**BEFORE: HON. LADY JUSTICE MARGARET C. OGULI OUMO**

**RULING:**

The applicants bring this application under section 14 of the Judicature Act Cap 13 and section 3 of the Children Act Cap 59 in which the applicants are seeking for the following order:

1. That the applicants be appointed legal guardians of the child, Paisley Ann (an infant)

The application is supported by the affidavits of the applicants dated 21<sup>st</sup> December, 2009.

The grounds of the application are briefly that:-

1. The child was institutionalized in a children's home where she was referred after having been abandoned at Wampewo village and taken to Kasangati Police Post.
2. The child is in need of proper care and protection.
3. The applicants are ready and willing and able to provide the child with a loving home and family.
4. The applicants are responsible persons working for gain and capable of catering for the child's needs.
5. That it is in the best interest of the child that the applicants be granted legal guardianship in respect of the child.
6. It is also fair, just and equitable that this application be allowed

At the hearing of the application, the applicants were represented by Mr. Samuel Kiriaghe.

**The first issue is whether the application is for the welfare and in the best interests of the child?**

A child has been defined as any person below 18 years of age.

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

The child here is 8 months old – see Annextures “E”, “F” and her Birth Certificate on the court file.

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

**See: section 3 and paragraph 1(b) of the First Schedule to the Children Act.**

The child here was abandoned by unknown persons at Wampewo village and taken to Kasangati Police Post. She was committed to Amani Baby Cottage in Jinja for proper care – copies of the relevant documents to that effect are attached hereto as Annextures group D.

The applicants have been supporting the child who is now in the range of 7 and a half months by catering for her basic welfare and they have custody of the child. (see Annexture “E”- a copy of the Care Order)

Counsel for the applicants submitted that the child has no known biological parents or relatives as all attempts to trace them have proved futile – see Annextures Group “D” –copies of the Police correspondence from; the Child and Family Protection unit of Kasangati Police Station, Social and Probation Service-Kampala and news paper advertisements.

In view if the above, court is of the view that the grant of the application is for the welfare and in the best interest s of the child.

**Issue No. 2 – whether the applicants are suitable guardians for the child?**

The applicants are American citizens – see copies of their passports on the court file as Annextures “A”.

The applicants have been married since June 2000. See a copy of their Marriage Certificate attached as Annexture “B” to the first applicant’s affidavit.

The applicants have been resident in Uganda at Bunga Block 249 Plots 841, 842 land at Bunga, a copy of their Lease Agreement is attached as Annexure “C”.

Counsel for the applicant submitted that the applicants are ready and willing to look after the child as legal Ugandans. The applicants have no biological child but love children and enjoy being parents. The Probation and Social Welfare Officer Makindye Division where the applicants reside contended that they both have a desire to have children and recommended the applicants as suitable guardians for the child.

The first applicant is employed in the African Union Peace Keeping Mission, Somalia (AMISON) and the second applicant, according to counsel’s submission is home maker.

They are therefore in a position to look after the child.

Mr. Kiriaghe submitted that the applicants have no criminal record and have been cleared by the International Criminal Police Organization (Interpol) see Annexures “H” and “G” respectively.

In view of the above, court is of the view that the applicants are suitable guardians for the child.

Consequently, the application is allowed and the applicants are appointed legal guardians in the following terms and conditions:-

1. The applicants are appointed legal guardians of the infant Paisley Ann 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 affairs in Makindye Division, Kampala and to file a report once every year with

the Registrar, Family Division, Kampala regarding the development and state of the welfare of the child and to 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**

**9/3/2010**

Present

1. Mr. Samuel Kiriaghe holding brief for Mr. Samuel Tinyinondi- Counsel for the applicants
2. The applicants.
3. Nalongo Nandaula-Court Clerk
4. Nyakwebara Elizabeth-Research Assistant.