

**THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
FAMILY CAUSE NO. 218 OF 2010
IN THE MATTER OF MUGISHA CALEB (INFANT)
AND
IN THE MATTER OF AN APPLICATION TO BE APPOINTED LEGAL
GUARDIANS OF**

MUGISHA CALEB BY FOERSTER LISA MARIE AND FOERSTER JOHNNY RAY.

BEFORE: HON. MR JUSTICE B.KAINAMURA.

Application-Notice of motion-legal guardianship-article 139(1) of the constitution-section 14 of the judicature act,sections 2,3,4,5 and 6 of the children's act-Order 59 and 52 rules 1 and 3 of the civil procedure rules.

RULING

This is an application for Legal guardianship under Article 139(1) of the Constitution of the Republic of Uganda, 1995, Section 14 of the Judicature Act cap. 13, Sections 2, 3, 4, 5 and 6 of The Children Act cap. 59 and Order 52 Rules 1 & 3 of the Civil Procedure Rules SI 71-1.

The application is by Notice of Motion and seeks for Orders that:-

a)

Foerster Lisa Marie and Foerster Johnny Ray be appointed Legal guardians of Mugisha Caleb.

b) The applicants be allowed to immigrate with the infant to the USA where they reside so as to fulfill their parental responsibilities.

c) Costs of this application be provided for.

The application is based on the grounds that;

1.

The child is in need of proper care and protection.

2. The applicants are ready and willing to provide the child with a loving home and family.

3. The applicants are responsible persons working for gain and capable of catering for the child's needs.

4. It is in the best interests of the child that the applicants be granted legal guardianship over him.

5. It is fair, just and equitable that this application be allowed.

The application is supported by the affidavits of the applicants and the affidavit of Tumwine Steven, the probation officer of Mbarara District and that of Amy Blevins, the Foster coordinator at Amani Baby Cottage, all which are on court record and attest to the following facts;

The child –Mugisha Caleb, was born on the 11th June 2009 to a one Asimwe Merab. The said Asimwe abandoned the infant at Mbarara Hospital after giving birth when the child developed

medical complications. The social worker at the hospital then reported the matter to the probation officer of Mbarara. The child being in urgent need of care and protection was placed temporarily in the care of Amani baby Cottage. The probation officer also attempted to trace for the mother of the infant but failed.

Amani Baby Cottage then took out a Care Order in respect of the child on 7th July 2009, vide Care Order No. 155 of 2009, by which the child was formally placed in the care of the said Home. In an attempt to trace for the child's parents or relatives, Amani home placed an advert in the Daily Monitor Newspaper of Tuesday 15th September 2009 but no one came up to claim the child. The probation officer recommends the applicants for an order of legal guardianship.

The applicants are adult American Citizens of sound mind resident at 1970 E. Laredo Place, Chandler, Arizona 85225, USA. The applicants got married to on February 28, 2009 in Chandler, Arizona. They have no biological children between themselves but each has got a daughter from a previous relationship. Both girls are aged 15 years now. The applicants don't consider having a biological child as an option because Lisa has miscarried one pregnancy and has diabetes.

The applicants got to know the plight of the child from Amy Blevins, the Foster Coordinator at Amani Baby Cottage and they offered to provide hm with a good home and family.

The applicants have a monthly net income of \$9,890. The applicants have medical insurance through Aetna which provides 100% coverage. The applicants were also subjected to criminal background checks which revealed no criminalrecord. The Home Study Report also reveals no record of child abuse or neglect by the applicants.

The Home Study Report recommends the applicants as suitable adoptive parents and states that, "It is respectfully recommended that John and Lisa Foerster be certified as acceptable to adopt children in the State of Arizona."

I am satisfied that the applicants on the facts available to me are suitable legal guardian of the child.

I am satisfied that it is in the infant's best interest to grant the application and accordingly, the application by **Foerster Lisa Marie and Foerster Johnny Ray** to be appointed Legal guardian of **Mugisha Caleb** is granted.

The appointed legal guardians are permitted to immigrate with the child to the United States of America in order to fulfill their obligations as legal guardians.

The applicants are ordered to submit a report on the state and welfare of the child to the Registrar Family Division of the High Court of Uganda at Kampala every six months until the child is 18 years old or until directed otherwise.

The applicants will pay the costs of this application.

.....

B. KAINAMURA
JUDGE