

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
FAMILY CAUSE NO. 240 OF 2010
IN THE MATTER OF NAFAMBA JOYCE (CHILD)
AND
IN THE MATTER OF AN APPLICATION TO BE APPOINTED LEGAL
GUARDIAN OF
NAFAMBA JOYCE BY JASON ALLAN BRINKLEY AND AMY ELAINE
ZIMMERMAN BRINKLEY.
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) JASON ALLAN BRINKLEY AND AMY ELAINE ZIMMERMAN BRINKLEY** be appointed Legal guardians of **NAFAMBA JOYCE**.
- 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's father disappeared and the whereabouts of the child's mother are unknown and efforts to trace for the child's parents have proved futile.
2. The child's paternal grandmother failed to care for the child and the child being in need of care and protection was committed to the care of Robert Jacobson of Good Shepherd Fold.
3. The applicants are ready and willing to provide the child with love, warmth and a healthy family environment.
4. The applicants have been found to be suitable adoptive parents by the Probation and welfare offices in their country of origin.
5. It is in the best interests of the child that the applicants be granted legal guardianship over him.

The application is supported by the affidavits of the applicants, the affidavit of Claudia Arango, the affidavit of Mugumya Getu as well as the Report of the probation and social welfare officer of Mukono district, all which are on court record and attest to the facts outlined hereunder;

The child – NAFAMBA JOYCE, was abandoned by her father- Livingstone Mpambi. The said Mpambi abandoned the child to his mother Mugumye Getu, who is the child's grandmother and he has never returned to date. The said Mpambi never revealed who the child's mother was.

Mugumye looked after her grandchild but due to her old age and sickness, she was not able to properly cater for the child's needs. Mugumye then approached both Amani baby Cottage and Good Shepherd Fold and requested them to look after the child on grounds that the child's parents were dead.

The child was initially placed under the custody of Good Shepherd Fold, but later referred to Amani Baby Cottage by Good Shepherd Fold. Amani Baby Cottage then took out a Care Order by which the child was formally committed to its care vide Care Order No. 104 of 2006. The probation officer of Jinja District later wrote a letter to the Administration of Amani Baby Cottage asking them to release the child to Good Shepherd Fold on the 17th October 2007.

The child was formally committed to the care of Good Shepherd Fold on the 31st March 2008. Good Shepherd made efforts to trace for the parents of the child vide a local Newspaper advert of Bukedde on 22nd November 2010 but no one has come up to claim the child to date.

The probation officer of Mukono District recommends that if this order is granted, it shall be for the welfare and in the best interests of the child.

The applicants are adult American Citizens and they got married on the 28th May 2000 in Greensboro, North Carolina. The applicants have three biological children to wit;

- Caleb Allan Brinkley aged 8years
- Kealee Mikel Brinkley aged 6years and
- Cohen Michael Brinkley aged 2years.

The applicants got to know of the child -NAFAMBA JOYCE at the orphanage from Jimmy and Gayla Renslow, friends of the applicants who adopted a child from the same orphanage.

Jason is employed as a connections pastor for Daystar Christian Fellowship while Amy is employed as a teacher at Guildford County schools. The applicants earn a total net monthly income of \$ 5,794. The Criminal background checks reveal that the applicants have no criminal record at all. The applicants are free from any communicable, physical or mental impairment that could endanger the child.

The Home Study Report recommends the applicants as suitable adoptive parents of the child and states as follows,

“Jason and Amy Brinkley are a mature couple that has a happy and stable marriage. They are loving parents. In consideration of the facts cited in this assessment; the staff of Christian Adoption Services, Inc. supports and recommends Jason and Amy Brinkley for the adoption of a generally healthy female child from Uganda, who is two to seven years old.”

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

I am satisfied that it is in the infant's best interest to grant the application and accordingly, the application by Jason Allan Brinkley and Amy Elaine Zimmerman Brinkley to be appointed Legal guardians of NAFAMBA JOYCE 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.

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B. KAINAMURA

JUDGE

25.01.2011