

**THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA
HOLDEN AT MBALE**

HCT-04-CV-AC-0004-2014

**IN THE MATTER OF AKINYI DIANA (INFANT)
AND
IN THE MATTER OF AN APPLICATION FOR LEGAL GUARDIANSHIP
BY BENJAMIN CAIN BROWN AND MARY LYNN BROWN**

BEFORE: THE HON. MR. JUSTICE HENRY I. KAWESA

RULING

The applicants are **Benjamin Cain Brown** and **Mary Lynn Brown**. The child **Akinyi Diana**.

The grounds of this application and all necessary details are contained in the statutory declarations of applicants, affidavits of **William Edema, Mwanda Patrick, Naisanga Christine** and **Opio Ouma**.

In applications of this nature court considers;

1. Whether the grant of a guardianship order is in the best interest of the child.
2. Whether applicants are suitable to be granted the legal guardianship order for the child.

1. Whether the grant is in the best interest of the child.

I have examined the documents and the affidavits and declarations on record. The import of all of them satisfies the requirement that the paramount interest of the

child must be the overriding consideration. In this case the infant's father and relatives are unknown, the mother is mentally ill and incapable of caring for the child. The child was abandoned in a child care home since 2011. As held in Evelyn Atukwase Brianne Gamelin (Infant) FC No. 118 of 2010, and in RE.M. an infant SCCA No. 22/1994. This is a proper case for placing a child under legal guardianship.

I answer this issue in the positive.

2. Whether applicants are suitable persons for the grant.

From the record the applicants provided all necessary information about themselves showing them to be responsible citizens, happily married, parents, in gainful employment and mentally prepared to parent the child. J. Mukiibi in the Family Cause 76 of 2011, held that a guardian is at best a parent. He (guardian) should be a person who can reasonably be expected to take whatever action that may be necessary on behalf of the infant.

I examined the applicants.

They were very enthusiastic about their role of parenting the child as legal guardians.

I am satisfied that they are fit to undertake the role and do not hesitate so, to hold.

For reasons above I hereby grant the application with orders as herebelow;

1. Applicants be and are hereby appointed the legal guardians of the child
AKINYI DIANA.

2. They are permitted to emigrate with the child in order to carry out their obligations towards this child.
3. Adoption process be completed in the USA.
4. The applicant will submit annual reports on the state of health of the child to the Registrar High Court Kampala copied to Assistant Registrar Mbale, until the infant is 18 years or the adoption process is completed.
5. The Registrar High Court Mbale shall furnish a copy of this Ruling together with address of the legal guardians to;
 - a) Ministry of Foreign Affairs, Kampala.
 - b) Embassy of USA in Kampala.
 - c) Ministry of Justice and Constitutional Affairs of Uganda.
 - d) The Placing Agency which made the Home care Report.

Costs be met by applicants.

I so order.

Henry I. Kawesa

JUDGE

12.12.2014