

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

**HCT-04-CV-AC-0003-2014**

**IN THE MATTER OF HODGKINS ISAAC (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**

Applicants **Benjamin Cain Brown** and **Mary Lynn Brown** desire to be appointed legal guardians of the infant Hodgkins Isaac.

Grounds of the application, the background of applicants and child are contained in the statutory declarations of applicants, affidavits of **William Edema, Kibanda Keneth** and **Opio Ouma**.

I have studied and examined all documents annexed as ‘A’, ‘B’, ‘C’, ‘D’, ‘E’, ‘F’, ‘G’, ‘I’, ‘J’ which constitute the placement reports, criminal background checks, medical examination report, marriage certificate etc. I am satisfied that the above annexures present all required information about the applicants as required by law.

Before court grants this application, it must be shown that;

1. The application is in the best interest of the infant as per section 3 of Cap. 59 (Childrens’ Act). See **Hogkins Andrew** and *in the matter of an application by*

Michael William Friedrich and Another FC No. 222 of 2013. The child is only 5 years. The parents and relatives are unknown. The child was abandoned and placed under the care of a children's home since 2011. Under the circumstances it is in the child's best interest that he be placed under a family setting where there will be provision of an environment for family, love, care and mentoring. This is as in the case of RE. M. an infant SCCA No. 22/94. J. Odoki as he then was, held that:

*“In matters relating to children, the guiding principle is that the best interest of the child is paramount.”*

2. The second consideration is whether the applicants are suitable persons to be granted a legal guardianship order.

In this application the applicants have satisfied the necessary legal checks necessary to be satisfied. I also interviewed the applicants, and found them mature, mentally alert, parental and enthusiastic about taking on the parenting role of the infant. As pointed out in the matter of Jane Nakinth and 2 Ors (infants), Mukwenda Elly Mukisa- Applicant (Unreported) by **Mukiibi Ag. J** as he then was, some of the attributes of a guardian were that a guardian should be a person fit to be entrusted with parental responsibility for a child.

*“A person who is ready to place himself or herself in relation to a child in Loco parentis for purposes of its care and welfare.”*

I find that applicants answer the above description.

For reasons above I grant the application with the following orders:

1. That **Benjamin Cain Brown** and **Mary Lynn Brown** be appointed legal guardians of **HODGKINS ISAAC**.
2. That the child be allowed to migrate to USA to live with **Benjamin Cain Brown** and **Mary Lynn Brown** to fulfil their parental obligations.
3. That the process of adoption of the infant be completed in the USA.
4. The applicants shall once a year a report on the state of health and welfare of the child to the Registrar High Court Kampala copied to Assistant Registrar Mbale, until the child attains the age of 18 years, or until the process of adoption is completed.
5. The Registrar High Court Mbale shall furnish a copy of this Ruling together with address of the legal guardians to;
  - a) The Ministry of Foreign Affairs Uganda at Kampala.
  - b) The Embassy of America.
  - c) The Ministry of Justice and Constitutional Affairs Uganda.
  - d) The Placing Agency which prepared the Home Study Report.

Costs be borne by applicants.

I so order.

**Henry I. Kawesa**

**JUDGE**

**12.12.2014**