

**THE REPUBLIC OF UGANDA**

**IN THE HIGH COURT OF UGANDA AT SOROTI**

**FAMILY CAUSE 09 OF 2015**

**IN THE MATTER OF ROBERT OKOCHE .....AN INFANT**

**AND**

**IN THE MATTER OF AN APPLICATION FOR**

**LEGAL GUARDIANSHIP ORDER BY**

**DR. DANIEL TAYLOR GRAHAM AND**

**MRS. RACHEL ELIZABETH GRAHAM.....APPLICANTS**

**BEFORE HON. LADY JUSTICE H. WOLAYO**

**RULING**

This is an application brought under article 139 ( 1) of the Constitution , sections 14, 33, and 39 of the Judicature Act Cap 13; section 98 of the Civil procedure Act order 52 rules 1 and 3 of the Civil Procedure Rules.

The applicants seeks an order for appointment as legal guardians of the child Robert Okoche.

The application is supported with affidavits of the two applicants ; Robert Omolo LC1 Secretary for Children'a Affairs Wera Parish Aten village; John Orutor grandfather of the child; Evaline Asio sister to Jennifer Asio mother of the child; Amos Oluka Assistant Probation and Social Welfare Officer Soroti; and Simon Orugon a social welfare worker with AMECET.

Applicants were represented by Mr. George Mugume of Mugume& Nyakimwe Advocates .

In attendance were the applicants, and Probation and Social Welfare officer Soroti ; and Mr. Simon Orugen, Social worker with AMECET Youth with a Mission Children Home.

Counsel for the applicant filed written submissions and authorities that i have carefully considered.

The grounds for allowing an application for guardianship is that it is for the welfare of the child. In determining the welfare of the child, the court is enjoined to have regard to the principles set out in section 3 of the 1<sup>st</sup> schedule to the Children Act.

Of relevance to this application are:

The child's physical, emotional, and educational needs;

The likely effects of any changes in the child's environment,

The child's age and background,

Any harm the child has suffered or is at risk of suffering,

The capacity of the child's parents or others involved in his upbringing, in meeting the child's needs.

I have examined the affidavits and documents accompanying this application.

According to Simon Orugon, a Social Worker with AMECET Children Home, the child Robert Okoche born on 18<sup>th</sup> November 2013 according to a medical form attached to the affidavit of Orugon, was delivered to the Home on 24<sup>th</sup> April 2013 by John Orutor grandfather of the child and Mr. Robert Omolo Wera LC 1 Secretary for children affairs.

I their affidavits, John Prutor , Robert Omolo and Evaline Asio all confirm that the both mother and father of the infants, Jennifer Asio and Joel Ecimu are mentally unstable and therefore unable to care for the child. Medical reports are attached to the affidavit of Evaline Asio as proof of the mental state of the child's parents.

The Social and probation officer Soroti confirms this state of affairs in his detailed report attached to the affidavit of Amos Oluka .

Consequently, i find that the welfare of the child Robert Okecho is better served by appointing willing guardians more especially his own relatives took him to the Children's Home when he was a baby.

The Probation and Social Welfare Services Officer , Soroti, Mr. Oteko Ekalam in his report dated 12<sup>th</sup> July 2015 , confirms the above narrative and recommends that the infant is in need of care and protection.

With regards the circumstances of the applicants, i am satisfied that they are responsible residents of Soroti where the 1<sup>st</sup> applicant Dr. Daniel Taylor Graham is employed with Christian veterinary Mission and seconded to Clide as a missionary field worker while his wife the second applicant Mrs. Rachel Elizabeth Graham seconded to the same organisation as a missionary worker. The applicants are legally married and citizens of USA but have been resident in Soroti since 2012 at Plot 13 Oculoi , Soroti.

The applicants have demonstrated their financial security and their potential to accord the infant emotional , physical and educational needs in future.

All documents availed to court by the applicants concerning their financial status, marital status, suitability as adoptive parents, criminal clearance, medical clearance, and employment are duly authenticated.

For the above reasons and as the Probation and Social Welfare officer Soroti has certified that they are suitable persons to be appointed legal guardians, their application is allowed.

For the reasons given above, i am convinced that it is for the welfare of the child that this application be allowed . I hereby make the following orders:

**1. Dr. Daniel Taylor Graham and Mrs. Rachel Elizabeth Graham**

a) are appointed legal guardians to **Robert Okoche**

b) are to accord the child all the rights of the child under the law.

2. Should the legal guardians need to travel with the child outside the country, they will inform the Deputy registrar of the High Court Soroti and avail the address where the family will be staying and directed to obtain a Ugandan passport for the child in his names.

3. The two legal guardians are directed to register this order with the Registrar of Births and Deaths, Kampala.

**DATED AT SOROTI THIS 9<sup>TH</sup> DAY OF NOVEMBER 2015.**

**HON. LADY JUSTICE H. WOLAYO**