

**THE REPUBLIC OF UGANDA**

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

**IN THE MATTER OF THE CHILDREN ACT, CAP 59 AS AMENDED BY ACT No.16  
OF 2016**

**ADOPTION CAUSE No. 33 OF 2018**

**IN THE MATTER OF A PETITION FOR THE ADOPTION OF APOLOT BETTY BY  
LINNEA ANNE CARLSON**

**BEFORE: HON. LADY JUSTICE OLIVE KAZAARWE MUKWAYA**

**RULING**

The petitioner, Linnea Anne Carlson, is seeking to solely adopt the child, Apolot Betty, a minor aged approximately two and a half years. This Court received the affidavits of the petitioner, a Mr. Kaleebu Joseph, a Social worker with Peace Transitional Home, Ms. Aidah Nkinzi, the Director of Peace Transitional Home and a Ms. Leila Zalwango, of Kisenyi II Kampala Central in support of the petition.

The petition before this Court is in regard to Apolot Betty, her background can be established by the aforesaid affidavits on court record and is as follows; On the night of 1<sup>st</sup> September 2015, Ms. Leila Zalwango who was a resident of Salaama Road in Makindye Division, returned home late and found the child, the subject of this petition and an older girl seated outside, on a verandah, near her house. There was a heavy down pour that night and her neighbours had locked the two stranded girls outside. Ms. Zalwango opened the door and let the girls in. She stated in her affidavit that the baby was crying, shivering and had diarrhoea.

She gave the baby some medicine to stop the diarrhoea and mobilised her neighbours to give the girls clothes and food. The older girl told Ms. Zalwango that she was called Esther Akwi and the baby was Apolot Betty. Esther continued that they were originally from Katakwi and their sister was admitted as a patient at Mulago Hospital. They had been sent to buy food (for the patient) and had lost their way, got exhausted and decided to sleep on the verandah. There was a language barrier since Esther was communicating in a language that Ms. Zalwango did not

understand. The following morning Ms. Zalwango took the girls with her to Owino Police Post where she left them under the management of the Police. The only person who has come to her inquiring after them since that day has been Mr. Joseph Kaleebu, a Social Worker from Peace Transitional Home. Ms. Zalwango affirmed in her affidavit that the girls were unknown to her prior to the night of the 1<sup>st</sup> September 2015.

The Senior Probation and Social Welfare Officer of Luwero District, Ms. Joyce Namigadde got to learn of Apolot Betty's predicament when the matter was brought to her attention by Ms. Nkinzi of Peace Transitional Home. She advised Ms. Nkinzi to obtain a care order for the child and have the child settled in a Home. Ms. Namigadde further advised Ms. Nkinzi to send out her social workers to make every effort to find the child's parents so she could be reunited with them. Mr. Kaleebu stated in his affidavit that he was sent to carry out this investigation and he made a detailed report on the efforts he made that saw him travel to Katakwi District. Nothing was to come of it however. The person named as father of the girls, one Opio Richard denied having children of the ages of the girls. In the end, it appeared to have been a wild goose chase which had the advantage of discrediting the story of the older girl, Esther.

Mr. Kaleebu stated in his report that his interactions with a Social Worker called Judith Alupot Emily revealed that she was familiar with Esther Akwi. According to Ms. Alupot, Esther Akwi had previously been admitted to Retrak in Kawempe Division. This was on the 2<sup>nd</sup> September 2015. Esther spent only 7 days at the Home and escaped to an unknown destination on the 9<sup>th</sup> September 2015. Ms Alupot added that Esther was prone to telling stories and changing her story from time to time. The investigation report was marked 'H'. Newspaper adverts and Radio announcements did not yield any results either. It does not come as a complete surprise to this Court that the information Esther shared with Retrak did not lead to the parents of Apolot Betty.

Peace Transitional Home forwarded Apolot Betty's file for consideration as a child in need of a family. She was eventually paired with the petitioner and started fostering the child on the 15<sup>th</sup> December 2016. According to Peace Transitional Home, the petitioner appointed Ms, Nkinzi Aidah as her attorney for the fostering of the child since she had to return to the USA to work.

It was this Court's duty under the Children's Act, Cap 59 as amended by Act 9 of 2016 to determine whether the petitioner qualified to be granted an adoption order. S. 45(1) provides that

an adoption order may be granted to a sole applicant, where the applicant has attained the age of twenty five years and is at least 21 years older than the child. S. 46 of the Act provides that a person who is not a citizen of Uganda, may, in exceptional circumstances, adopt a Ugandan child if she has stayed in Uganda for at least one year; has fostered a child for at least one year under the supervision of a Probation and Social welfare officer (PSWO); does not have a criminal record; has a recommendation concerning his/her suitability to adopt from his/her country's PSWO or other competent authority; and has satisfied the Court that her country of origin will respect and recognize the adoption order.

This is Linnea Anne Carlson's second application to adopt a female child; her first application was for the adoption of Marta Isabelle Carlson, a Haitian child. That application was successful having been concluded in 2010, and she appeared with Marta in Court. Ms. Linnea Anne Carlson is an American citizen and a resident of 4611, 15<sup>th</sup> Street North, Unit B Arlington, Virginia 22207, United States of America. She is 58 years old, birth certificate attached and marked 'C'. She works at the Mount Olivet United Methodist Church as Director of Children's and Family Ministries with an annual salary of USD 51,300, letter from the Church attached and marked 'F'. She is not married. The Arlington Police Department confirmed that she had no criminal record ('E2').

A Pre-Placement Assessment (Home Study) was conducted by the 'ABC' adoption services (a subsidiary of Carolina Adoption Service) to establish the petitioner's suitability as a foster parent. The Agency approved the petitioner's home as a suitable placement for the adoption of a female Ugandan child aged 2-4 years old. The Home Study was attached to the petition and marked 'G'. The PSWO, Luwero, Ms. Namigadde Joyce recommended the adoption of Apolot Betty into the petitioner's family.

The petitioner told this Court that she was unable to foster the child for 12 months and she appointed an attorney, Ms. Nkinzi to do so on her behalf. All the while though, she provided all the needs for the child and she visited three times for two weeks on each occasion to bond with the child, proof of the visits were availed to this Court upon request. This Court observed the interaction between the petitioner, her daughter Marta and Apolot Betty and it was clear that the three had already bonded.

It is this Court's opinion that the petitioner would provide Apolot Betty with a warm, loving and stable home, just like she has for Marta, for the last 8 years. Her parents could not be traced and this opportunity to be adopted by the petitioner is in the child's best interest. This Court finds exceptional circumstances to waive the 12 month requirement for physical fostering of the child and finds that the petitioner qualifies to be granted an adoption order.

It is accordingly ordered as follows:

1. An order of Adoption of the Child Apolot Betty by the petitioner, Ms. Linnea Anne Carlson is allowed.
2. Petitioner is allowed to change the child's name from Apolot Betty to Apolot Betty Carlson.
3. The Registrar General of births and deaths shall make an entry recording this adoption in the Adopted Children Register.
4. The Adoption Order shall be furnished to the Consular Department in the Ministry of Foreign Affairs.
5. Costs of the Petition to be provided for by the petitioner.

DATED AT KAMPALA THIS 13<sup>TH</sup> DAY OF JUNE 2018

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**Olive Kazaarwe Mukwaya**

**JUDGE**