

**THE REPUBLIC OF UGANDA**

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

**FAMILY DIVISION**

**HCT-00-FD-MA-0097-2009**

[Arising from HCT-00-FD-FC-0011-2005]

In the Matter of Adelynn Naomi Luckey and Janae Martha-Ann Luckey

And

In the Matter of Mark Weldon Luckey and Stacy Luckey

**BEFORE**

**THE HONOURABLE MR. JUSTICE FMS EGONDA-NTENDE**

**RULING**

1. The applicants, Mark Weldon Luckey and Stacey Luckey, are the adoptive parents of 2 infants, Adelynn Naomi Luckey and Janae Martha-Ann Luckey by virtue of an adoption order issued by my brother Kasule, J., on 27<sup>th</sup> day of May 2005. Included in that order was a directive that the adoptive parents  
‘shall submit progressive reports about each of the minors every year to the Probation and Social Welfare Office, Kampala Uganda and to the Registrar of the Family Division, High Court of Uganda Kampala for the first five years after which the court shall review the position.’

2. It is that the order that is the subject of this application for review. This application, made under Article 34 of the Constitution of Uganda, Sections 82 and 98 of the Civil Procedure Act, Sections 3, 4 and 5 of the Children Act, Order 46 and Order 52, Rules 1 and 3 of the Civil Procedure Rules, is stated to be supported by the affidavit of Mark Weldon Luckey.
3. The main ground upon which this application is made is that the original order granting adoption required the adoptive parents to submit progressive reports annually for 5 years to the court on the progress of the child which was understood by the U S authorities that it was not a final order for adoption. In consequence thereof the US authorities rejected the children's application for US citizenship.
4. The affidavit of Mark Weldon Luckey filed in support of this application provides sufficient proof of that position. Attached to the affidavit is a copy of the decision of the Department of Homeland Security. The relevant portion states,

‘The record reflects that you entered the United States on June 17<sup>th</sup>, 2007 as a non-immigrant (B-2) visitor for pleasure. You have not presented this service with a “FINAL adoption” to fulfil the requirement. Therefore you do not meet the requirement under Section 101(b) (1) of the law (as stated above). Your “Adoption Order” states the following: “The Adoptive parents shall submit progressive reports about the minor every year to the probation and social welfare office Kampala Uganda and to the Registrar Family Division, High Court of Uganda Kampala for the first five years of adoption, after which the court shall review the position.” This order was sealed the court judge on May 25<sup>th</sup>, 2005. Therefore after careful consideration this application must be and is hereby, denied.’
5. It could be possible to review this decision, as indeed the judge anticipated that there will be a review, for sufficient cause. The question of expediting the regularisation of the children's status in the United States is, in my view, sufficient ground to review the order of Kasule, J., and issue a final order of adoption for the children. This is

clearly in the children's best interests and not to do so would visit untold hardship on both the children and the adoptive parents.

6. I order that the fifth paragraph of the adoption order dated 27<sup>th</sup> May 2005 which imposes a reporting requirement for 5 years be reduced to 3 years and is hereby determined to have been fulfilled. In the result a final adoption order without any reporting conditions shall issue from this court in the statutory form immediately in favour of the applicants.

Signed, dated and delivered at Kampala this 17<sup>th</sup> day of June 2009

FMS Egonda-Ntende  
Judge