

**THE REPUBLIC OF UGANDA**

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

**FAMILY CAUSE NO. 155 OF 2010**

**IN THE MATTER OF SSESANGA DANIEL (INFANT)**

**AND**

**IN THE MATTER OF AN APPLICATION FOR APPOINTMENT AS LEGAL  
GUARDIANS OF SSESANGA DANIEL (1 YEAR) BY JEREMY LEE BOONE AND  
TAMARA LEIGH BOONE**

**BEFORE: HON. LADY JUSTICE MARGARET C. OGULI OUMO**

**RULING:**

The applicants bring this application under **Article 139(1)** of the Constitution of Uganda, **sections 14, 33 and 39** of the Judicature Act, ca 13 and **section 3** of the Children Act, for orders that:-

- a) Jeremy Lee Boone and Tamara Leigh Boone be appointed legal guardians of Ssesanga Daniel.
- b) The infant be allowed to immigrate to USA to live with Jeremy Lee Boone and Tamara Leigh Boone.
- c) Costs of the application be provided for.

The application is supported by the statutory declarations of the applicants; Nassanga Yudaya - the person who picked the child, William Edema - the Administrator of the Home where the infant has been staying, Kiwagama Kirisestomu- the area LCI Chairman of Katosi, Kawafu village, Ntege James -the Senior Probation Officer Jinja, Mr. Opio Ouma.

The grounds of the application are as follows:-

1. The infant was abandoned at the home of Yudaya Nasanga of Katosi-Kawafu LCI Koome sub county, Mukono by an unknown person.

2. That the infant's parents are not known.
3. That the applicants wish to provide the infant with a home, parental love and care.
4. That the application is for the welfare and benefit of the infant.

At the hearing of the application, the applicants were represented by Charles Majoli.

The High Court has original unlimited jurisdiction in all matters in Ugandan.

**See Article 139(1) of the Constitution.**

The Judicature Act, **Section 14**, on similar terms grants the same jurisdiction to the court.

In the exercise of that jurisdiction, the High court has powers to grant remedies absolutely or on such terms as it thinks fit.

**See: Section 33 of the Judicature Act.**

Under **Section 2** of the Children Act, a child has been defined as any person below 18 years of age.

The child here is one year old as per Annexure "A" on the court record, and therefore a child within the meaning of the Act.

**Issue No. 1 – whether the grant will be for the welfare and in the best interest of the child.**

In making any decision concerning a child, the welfare of the child is paramount.

**See: Section 3 and Paragraph 1(b) of the First Schedule to the Children Act.**

Counsel for the applicants submitted that, the child was abandoned at the home of one Nassanga Yudaya on 15/1/2010, in Katosi Kawafu, Mukono district.

Counsel submitted that the matter was reported to the LCI of the area, Mr. Kirisestomu Kiwagama who sought assistance for the child in need. This is confirmed by Annexure "A" on Kiwagama's affidavit.

That the matter was reported to Katosi Police Station and the child was later placed in the custody of Welcome Home for care vide a care order dated 21-5-2010 by the Family and children Court, Jinja.

Mr. Majoli submitted that, in an attempt to trace the relatives of the child, an advertisement was placed in the 28<sup>th</sup> May 2010, - New vision, Newspaper as per Annexure F, and no one has come to claim the child.

In view of the above, court is of the view that, the application, if granted will be for the welfare and in the best interests of the child.

### **Issue No. 2 – whether the applicants are suitable guardians for the child?**

Mr. Majoli, counsel for the applicants submitted that, the applicants are American citizens and this is confirmed by Annexure “A”, the photocopies of the passports on the court record.

That the first applicant is 34 years of age and the second applicant is 3 years of age, as per extracts of passports, Annexure “A”.

Counsel submitted that, the applicants are married and Annexure “B” is a copy of their marriage certificates and that the applicants have no biological children.

Counsel submitted further that the 1<sup>st</sup> applicant is employed by equip international, an NGO as a community health educator and he is a volunteer in the organizations, Jinja branch together with his wife, the second applicant.

Counsel contended that, the Probation Officer Jinja has recommended the applicants in his report marked Annexure “D”, stating that he has approved the applicants to be suitable adoptive parents of Ssesanga David.

Counsel submitted that the applicants have no criminal record and they have criminal clearance certificate marked Annexure “E” from the USA Embassy and they have also been recommend by the Presbyterian Church in the USA, as caring people and the Director of I Know Child.

That the applicants are bringing the application for the following reasons:-

1. The child was abandoned at the home of Nasanga Yudaya on the 15<sup>th</sup> January, 2010, at the door steps of her home, in Katosi village Kawanjuki, Mukono District.
2. That the matter was reported to the LCI Chairman of the area Mr. Kiwagama Kirisestomu as per his affidavit.
3. That the chairman together with Yudaya reported as per their affidavits.
4. That the child was subsequently placed in custody of welcome home for Care, vide a care order dated 21/05/2010, by the Magistrate Family Court, Jinja.
5. That in an attempt to trace the relatives of the child, an advert was placed in the new Vision Newspaper of May 28<sup>th</sup>, 2010 as per Annexure "F".
6. That the Probation Officer Jinja has also recommended the applicants.
7. That the infant has no known relatives and the applicants wish to fill that gap by providing him with a permanent home, love and care.

Mr. Majoli contended that, the application is for the welfare and benefit of the child and his best interest.

In view of the above, court is of the view that, the application, is for the welfare and in the best interest of the child.

Consequently, the application is allowed and the applicants are appointed legal guardians, in the following terms and conditions:-

1. The applicants are appointed legal guardians of the child, Ssesanga Daniel.
2. The applicants are directed to register the order with the Registrar of Document, Uganda Registration Services Bureau, Ministry of Justice and Constitutional Affairs, Kampala.
3. The applicants are directed to register the order with the United States Embassy in Kampala, and the Ugandan Embassy in Washington.
4. The applicants are directed to obtain a Ugandan passport for the child and renew it from time to time as required by the law.

5. The applicants are permitted to travel out of Uganda with the child.
6. The applicants are permitted to adopt the child in the USA.
7. The applicants are directed to register the order with the authority responsible for family and child welfare in Washington, and file a report once every year to the Registrar Family Division, High Court, and Kampala, regarding the state of the welfare and development of the child until the child is 18 years of age or until directed otherwise.
8. The court makes no orders as to costs.

**Margaret C. Oguli Oumo**

**JUDGE**

**21/10/2010**

Present:

1. Agnes Naziwa, for the applicant
2. Betty Lunkuse – court clerk
3. Oliver Nantamu, Research Assistant