

UGANDA / JUDGMENT

In Re: Ethan Acaleri (an infant) (ADOPTION CAUSE NO. HCT-02-CV-MA-0130 OF 2012) [2013] UGHCFD 4 (18 March 2013) [2013] UGHCFD 4

COURT

HC: Family Division (Uganda)

BEFORE

Byabakama, J

CASE / FILE NUMBER

ADOPTION CAUSE NO. HCT-02-CV-MA-0130 OF
2012

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THE REPUBLIC OF UGANDA

IN THE HIGH COURT OF UGANDA

HOLDEN AT GULU

ADOPTION CAUSE NO. HCT-02-CV-MA-0130 OF 2012

IN THE MATTER OF THE CHILDREN ACT, CAP 59.

AND

IN THE MATTER OF ETHAN ACALERI (INFANT)

AND

IN THE MATTER OF JOINT APPLICATION FOR ADOPTION ORDER

BY ZANE MCCOURTNEY AND SUMMER MCCOURTNEY.

BEFORE: HON. JUSTICE BYABAKAMA MUGENYI

RULING

This petition is brought under section 44 (1), 45, 46 and 51 of the Children Act; section 14 of the Judicature Act and Rules 3,4,5,6 and 7 of the Children (Adoption of Children) Rules SI 59-1 The petitioners are seeking an order of adoption of Ethan Acaleri (infant) who is presently under their guardianship.

According to the petition, Zane Mccourtney & Summer Mccourtney are husband and wife. They were married at Romantic River Garters Roseburg in Douglas County, State of Oregon, on the 25th of August, 2001, in the United States of America. Zane Mccourtney is aged 32 years while Summer Mccourtney is aged 34 years. Both are American citizens. The couple has two biological children namely, Eryn Mccourtney aged 9 years and Ezekiel Mccourtney aged 7 years. The petitioners have been residing in Uganda since 2004. They are currently settled at Alango East Village, Alango Parish, Kitgum Town Council where , in addition to their biological children, they are also staying with eleven other Ugandan children, all infants, by virtue of orders of guardianship & adoption.

Zane Mccourtney is a pastor at Calvary Chapel Kitgum & the director of a local non-profitable organization known as Grown Team Uganda Limited. Summer Mccourtney is a stay-home mother looking after their biological children as well as the other children. They are adoptive parents to three of the children while eight are under their guardianship. The said children are aged between 3-10years.

The infant Ethan Acaleri is a Ugandan male aged 8 years, having been born on 16th of March 2005, to Larot Samuel & Acheng Mary of Lakon Village, Okuti Parish, Orom sub-county, Chua county, Kitgum District. Both parents are dead.

The petitioners have fostered the infant since the 26th of January 2009 under the supervision of the Probation & Social Welfare Officer. They also hold a guardianship order issued by this court at Kampala on the 22nd of September 2009.

The report of the Probation Social Welfare Officer Kitgum is highly favourable to the two petitioners in respect of the infant. It states the child is thriving under the care of the said couple, he is healthy and up to date on all immunizations and is currently in P.1 at Horizon International School.

After perusing the comprehensive pleadings in this application, I find that all the statutory requirements, conditions and restrictions which are contained in sections 45 and 46 of the Children's Act, Cap. 59, have been met by the two petitioners.

Appearing for the petitioners, Ms. Latigo Alice submitted, quite rightly, that in all matters concerning children the welfare of the child is paramount.

The infant in the instant application is a total orphan and the petitioners have clearly demonstrated their love and care for his wellbeing. The infant's parental uncle, Balu Dominic, was present in court and when interviewed he categorically stated he is unable to look after his nephew. (infant) as he has his own children plus other dependants to look after. He expressed no objection to the petitioners becoming adoptive parents to Acaleri Ethan.

Court also interviewed the infant who affectionately referred to Zane Mccourtney as 'daddy'. He told court he goes to Horizon School. When asked if he wished to live with his uncle he gave an emphatic 'no' and asserted he wanted to live with 'daddy'. It is note worthy, according to paragraphs 20 and 21 of the petition, the petitioners intend to stay with the child in Uganda at their current address and that they are in the process of acquiring Ugandan Citizenship. From the pleadings none of the petitioners has a criminal record in the US or here in Uganda.

As alluded to earlier, the paramount consideration in any application regarding a child is the welfare principle embedded in the Children Act. The infant is a total orphan who has found love, care and support at the hands of the petitioners. To separate him from them by denying the adoption order they seek, would seem to be an act of ultimate cruelty to the child.

In the result, therefore, the petitioners, namely Zane Mccourtney and Summer Mccourtney are jointly granted an adoption order in respect of Ethan Acaleri

(infant) with full parental rights and responsibilities, in the following terms and conditions:-

- 1- The petitioners are directed to register the order with the Registrar of Documents, Uganda Registration Services Bureau, Ministry of Justice and Constitutional Affairs, Kampala.
- 2- The petitioners are directed to register the order with the United States Embassy in Uganda and the Ugandan Embassy in Washington, USA.
- 3- The petitioners are directed to file a report once every year regarding the state of welfare and development of the child, with the Registrar Family Division, High court at Kampala, until the child is 18 years of age or until directed otherwise.
- 4- The petitioners are permitted to travel with the child out of Uganda.

Court makes no order to costs.

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BYABAKAMA MUGENYI SIMON

JUDGE.

18/03/2013.

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