

UGANDA / JUDGMENT

Re: In The Matter Of Tumwebaze Emmanuel (child) (Family Cause No. 273 of 2010) [2011] UGHC 13 (14 January 2011) [2011] UGHC 13

COURT

High Court of Uganda

CASE / FILE NUMBER

Family Cause No. 273 of 2010

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\b\f0\fs24\insrsid1722193\charrsid3433913 IN THE HIGH COURT OF UGANDA AT KAMPALA

\par FAMILY CAUSE NO. 273 OF 2010

\par IN THE MATTER OF TUMWEBAZE EMMANUEL (CHILD)

\par AND

\par IN THE MATTER OF AN APPLICATION TO BE APPOINTED LEGAL

\par GUARDIAN OF

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TUMWEBAZE EMMANUEL BY JOHN MICHAEL HEWETT AND KIMBERLY DAWN THOMAS HEWETT.

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\ltrch\fcs0 \b\f0\fs24\ul\insrsid1722193\charrsid3433913 HON. MR JUSTICE B. KAINAMURA}
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legal guardianship-article 139(1) of the constitution-section 14 of the judicature act,sections 2,3,4,5 and 6 of the children\quote s act-Order 59 and 52 rules 1 and 3 of the civil procedure rules.

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This is an application for Legal guardianship under Article 139(1) of the Constitution of the Republic

of Uganda, 1995, Section 14 of the Judicature Act cap. 13, Sections 2, 3, 4, 5 and 6 of The Children Act cap. 59 and Order 52 Rules 1 & 3 of the Civil Procedure Rules SI 71-1.

\par The application is by Notice of Motion and seeks for Orders that:-

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\par {\listtext\pard\plain\ltrpar \s15 \rtlch\fcs1 \af0 \ltrch\fcs0 \insrsid1722193\charrsid3433913 \hich\af0\dbch\af0\loch\f0 b)\tab}}\pard \ltrpar\s15\qj \fi-360\li720\ri0\sa200\sl360\smult1 \widctlpar\wrapdefault\aspalpha\aspnum\faauto\ls1\adjustright\rin0\lin720\itap0\pararsid3433913 \contextualspace {\rtlch\fcs1 \af0\afs24 \ltrch\fcs0 \f0\fs24\insrsid1722193\charrsid3433913

The applicants be allowed to immigrate with the infant to the USA where they reside so as to fulfill their parental responsibilities.

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\par }\pard \ltrpar\s15\qj \li0\ri0\sa200\sl360\smult1\widctlpar\wrapdefault\aspalpha\aspnum\faauto\adjustright\rin0\lin0\itap0\pararsid3433913\contextualspace {\rtlch\fcs1 \af0\afs24 \ltrch\fcs0 \f0\fs24\insrsid1722193\charrsid3433913

\par The application is based on the grounds that;

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The child was abandoned and efforts to trace for his parents or relatives have proved futile.

The child being in need of care and protection was committed to the care of

Mercy Child Care Ministry.

The applicants are ready and willing to immigrate with the child to the USA where they reside and provide the child with love, warmth and a healthy family environment.

The applicants have been found to be suitable adoptive

parents by the Probation and welfare offices in their country of origin.

It is in the best interests of the child that the applicants be granted legal guardianship over him.

The application is supported by the affidavits of the applicants and the affidavit of

Wilfred Rugumba

as well as the Report of the probation and social welfare officer of Wakiso district, all

which are on court record

attest to the facts outlined hereunder;

The child

TUMWEBAZE EMMANUEL

, now aged about 4year

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ned in Nansana West 1 Zone in Nansana Town Council by unk}\rtlch\fcs1 \af0\afs24 \ltrch\fcs0
\f0\fs24\insrsid11230364\charrsid3433913 nown persons on}\rtlch\fcs1 \af0\afs24 \ltrch\fcs0
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\ltrch\fcs0 \f0\fs24\insrsid11230364\charrsid3433913 . The local council officials and the police
then requested that the child be admitted to the care of Mercy }\rtlch\fcs1 \af0\afs24 \ltrch\fcs0
\f0\fs24\insrsid2887093\charrsid3433913 Child}{

\rtlch\fcs1 \af0\afs24 \ltrch\fcs0 \f0\fs24\insrsid11230364\charrsid3433913 Care Ministry. The child
was then admitted to Mercy Child Care Ministry on the 7}\rtlch\fcs1 \af0\afs24 \ltrch\fcs0
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\rtlch\fcs1 \af0\afs24 \ltrch\fcs0 \f0\fs24\insrsid11230364\charrsid3433913 March 2007. Mercy
Child Care Ministry took out a Care Order on the 22}\rtlch\fcs1 \af0\afs24 \ltrch\fcs0
\f0\fs24\super\insrsid11230364\charrsid3433913 nd}\rtlch\fcs1

\af0\afs24 \ltrch\fcs0 \f0\fs24\insrsid11230364\charrsid3433913 February 2010 by which the child
Tumwebaze was formally committed to the care of the Ministry vide Care Order No. 4 of 2010. }
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\par }\rtlch\fcs1 \af0\afs24 \ltrch\fcs0 \f0\fs24\insrsid11230364\charrsid3433913 The said Ministry
also made efforts to trace for the parents and relatives of the child by placing an advert in a local
Newspaper}\rtlch\fcs1 \af0\afs24 \ltrch\fcs0

\f0\fs24\insrsid2887093\charrsid3433913 (Bukedde) on the 4}\rtlch\fcs1 \af0\afs24 \ltrch\fcs0
\f0\fs24\super\insrsid2887093\charrsid3433913 th}\rtlch\fcs1 \af0\afs24 \ltrch\fcs0
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November 2010, but no one has come forward to claim the child. }\rtlch\fcs1 \af0\afs24
\ltrch\fcs0 \f0\fs24\insrsid10308072\charrsid3433913 The probation and welfare offi

cer of Wakiso recommended that if the order is granted, it will be in the best interests and for the
welfare of the child.

\par }\rtlch\fcs1 \af0\afs24 \ltrch\fcs0 \f0\fs24\insrsid1722193\charrsid3433913 The applicants are
adult American Citizens and they got married on the }\rtlch\fcs1 \af0\afs24 \ltrch\fcs0
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th} June 1985} in} Little Rock Arkansas.

The applicants got to know of the child-Tumwebaze Emmanuel when their son John Michael was on a missionary trip with Come Let's Dance Ministries. The said John Hewett discussed the child

s situation with the applicants who felt compassion for the child and purposed to love the child as their own and become his legal guardians.}

The applicants have one biological child- Dawn Michael Hewett Von Tersch aged 24years and four adopted children to wit;

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{\listtext\pard\plain\ltrpar\s15\rtlch\fcs1\af0\ltrch\fcs0\loch\af3\dbch\af0\hich\f3\b7\tab}Nathaniel Shane Hewett aged 11 years

{\listtext\pard\plain\ltrpar\s15\rtlch\fcs1\af0\ltrch\fcs0\loch\af3\dbch\af0\hich\f3\b7\tab}Alexis Michaela Ranae Hewett aged 10 years and

{\listtext\pard\plain\ltrpar\s15\rtlch\fcs1\af0\ltrch\fcs0\loch\af3\dbch\af0\hich\f3\b7\tab}Hannah Joy Hewett aged 6 years.

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\rtlch\fcs1\af0\afs24\ltrch\fcs0\f0\fs24\insrsid10121843\charrsid3433913 John is employed as a counselor at People Inc. in Oklahoma and also provides general oversight and promotes a ministry called Arms of Compassion. Kimberly is a stay home mum.}}

\rtlch\fcs1\af0\afs24\ltrch\fcs0\f0\fs24\insrsid12209398\charrsid3433913 The app

licant- John Hewett earns \$30 per hour at People Inc. and approximately \$200 - \$300 per week at Arms of Compassion. According to the Home Study Report, an adopted child would be covered on the

Hewetts' health insurance. He also reveals no record of criminal history or child abuses save for an allegation and investigation of child neglect which occurred in 2002. The report however states that the applicants have since demonstrated a response that offered the highest level of protection to their children. This is demonstrated by the fact that in 2004, the applicants were granted an adoption order in respect of another child- Hannah. The applicants are free from any communicable, physical or mental impairment that could endanger the child.

The Home Study Report recommends the applicants as suitable adoptive parents of the child and states as follows,

"John and Kim have satisfactorily met the guidelines and requirements of the State of Oklahoma and heritage family services. They appear to be emotionally and financially prepared to be parents. They demonstrate a strong marriage and a strong desire to parent another child."

I am satisfied that the applicants on the facts available to me are suitable legal guardian of the child.

I am satisfied that it is in the infant's best interest to grant the application and accordingly, the application by

John Michael H

ewett and Kimberly Dawn Thomas H
ewett
of TUMWEBAZE EMMANUEL is granted.

to be appointed Legal guardian
s
of TUMWEBAZE EMMANUEL is granted.

The appointed legal guardians are permitted to immigrate with the child to the United States of America in order to fulfill their obligations as legal guardians.

The applicants are ordered to submit a report on the state and welfare of the child to the Registrar Family Division of the High Court of Uganda at Kampala every six months until the child is 18 years old or until directed otherwise.

The applicants will pay the costs of this application.

B. KAINAMURA

JUDGE

14.01.2011

5689811a183c61a50f98f4babebc2837878049899a52a57be670674cb23d8e90721f90a4d2fa3802cb35762680fd800ecd7551dc18eb899138e3c943d7e503b6

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{*\colorscememapping 3c3f786d6c2076657273696f6e3d22312e302220656e636f64696e673d225554
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617020786d6c6e733a613d22687474703a2f2f736368656d61732e6f70656e786d6c666f726d6174732e6f7
2672f64726177696e676d6c2f323030362f6d6169

6e22206267313d226c743122207478313d22646b3122206267323d226c743222207478323d22646b322220616363656e74313d22616363656e74312220616363

656e74323d22616363656e74322220616363656e74333d22616363656e74332220616363656e74343d22616363656e74342220616363656e74353d22616363656e74352220616363656e74363d22616363656e74362220686c696e6b3d22686c696e6b2220666f6c486c696e6b3d22666f6c486c696e6b222f3e}

{*latentstyles\lsdstimax267\lsdlockeddef0\lsdsemihiddendef1\lsdunhideuseddef1\lsdqformatdef0\lsdprioritydef99{\lsdlockedexcept \lsdsemihidden0 \lsdunhideused0 \lsdqformat1 \lsdpriority0 \lsdlocked0 Normal;

\lsdsemihidden0 \lsdunhideused0 \lsdqformat1 \lsdpriority9 \lsdlocked0 heading 1;\lsdqformat1 \lsdpriority9 \lsdlocked0 heading 2;\lsdqformat1 \lsdpriority9 \lsdlocked0 heading 3;\lsdqformat1 \lsdpriority9 \lsdlocked0 heading 4;

\lsdqformat1 \lsdpriority9 \lsdlocked0 heading 5;\lsdqformat1 \lsdpriority9 \lsdlocked0 heading 6;\lsdqformat1 \lsdpriority9 \lsdlocked0 heading 7;\lsdqformat1 \lsdpriority9 \lsdlocked0 heading 8;\lsdqformat1 \lsdpriority9 \lsdlocked0 heading 9;

\lsdpriority39 \lsdlocked0 toc 1;\lsdpriority39 \lsdlocked0 toc 2;\lsdpriority39 \lsdlocked0 toc 3;\lsdpriority39 \lsdlocked0 toc 4;\lsdpriority39 \lsdlocked0 toc 5;\lsdpriority39 \lsdlocked0 toc 6;\lsdpriority39 \lsdlocked0 toc 7;

\lsdpriority39 \lsdlocked0 toc 8;\lsdpriority39 \lsdlocked0 toc 9;\lsdqformat1 \lsdpriority35 \lsdlocked0 caption;\lsdsemihidden0 \lsdunhideused0 \lsdqformat1 \lsdpriority10 \lsdlocked0 Title;\lsdpriority1 \lsdlocked0 Default Paragraph Font;

\lsdsemihidden0 \lsdunhideused0 \lsdqformat1 \lsdpriority11 \lsdlocked0 Subtitle;\lsdsemihidden0 \lsdunhideused0 \lsdqformat1 \lsdpriority22 \lsdlocked0 Strong;\lsdsemihidden0 \lsdunhideused0 \lsdqformat1 \lsdpriority20 \lsdlocked0 Emphasis;

\lsdsemihidden0 \lsdunhideused0 \lsdpriority59 \lsdlocked0 Table Grid;\lsdunhideused0 \lsdlocked0 Placeholder Text;\lsdsemihidden0 \lsdunhideused0 \lsdqformat1 \lsdpriority1 \lsdlocked0 No Spacing;

\lsdsemihidden0 \lsdunhideused0 \lsdpriority60 \lsdlocked0 Light Shading;\lsdsemihidden0 \lsdunhideused0 \lsdpriority61 \lsdlocked0 Light List;\lsdsemihidden0 \lsdunhideused0 \lsdpriority62 \lsdlocked0 Light Grid;

\lsdsemihidden0 \lsdunhideused0 \lsdpriority63 \lsdlocked0 Medium Shading 1;\lsdsemihidden0 \lsdunhideused0 \lsdpriority64 \lsdlocked0 Medium Shading 2;\lsdsemihidden0 \lsdunhideused0 \lsdpriority65 \lsdlocked0 Medium List 1;

\lsdsemihidden0 \lsdunhideused0 \lsdpriority66 \lsdlocked0 Medium List 2;\lsdsemihidden0 \lsdunhideused0 \lsdpriority67 \lsdlocked0 Medium Grid 1;\lsdsemihidden0 \lsdunhideused0 \lsdpriority68 \lsdlocked0 Medium Grid 2;

\lsdsemihidden0 \lsdunhideused0 \lsdpriority69 \lsdlocked0 Medium Grid 3;\lsdsemihidden0
\lsdunhideused0 \lsdpriority70 \lsdlocked0 Dark List;\lsdsemihidden0 \lsdunhideused0
\lsdpriority71 \lsdlocked0 Colorful Shading;

\lsdsemihidden0 \lsdunhideused0 \lsdpriority72 \lsdlocked0 Colorful List;\lsdsemihidden0
\lsdunhideused0 \lsdpriority73 \lsdlocked0 Colorful Grid;\lsdsemihidden0 \lsdunhideused0
\lsdpriority60 \lsdlocked0 Light Shading Accent 1;

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\lsdpriority63 \lsdlocked0 Medium Shading 1 Accent 1;

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\lsdsemihidden0 \lsdunhideused0 \lsdpriority73 \lsdlocked0 Colorful Grid Accent 1;
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\lsdsemihidden0 \lsdunhideused0 \lsdpriority66 \lsdlocked0 Medium List 2 Accent 5;

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