

UGANDA / JUDGMENT

Re: Sharon Asige (An Infant) (Adoption Cause No. 144 of 2009) [2009] UGHC 84 (1 November 2009) [2009] UGHC 84

COURT

High Court of Uganda

CASE / FILE NUMBER

Adoption Cause No. 144 of 2009

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UGANDA HOLDEN AT KAMPAL}{\b\f0\fs24\insrsid7282941 \hich\af0\dbch\af36\loch\f0 A}
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\par \hich\af0\dbch\af36\loch\f0 ADOPTION CAUSE NO. 144 OF 2009
\par \hich\af0\dbch\af36\loch\f0 IN THE MATTER OF THE CHILDREN ACT CAP 59
\par \hich\af0\dbch\af36\loch\f0 AND
\par \hich\af0\dbch\af36\loch\f0 IN THE MATTER SHARON ASIGE (AN INFANT)
\par \hich\af0\dbch\af36\loch\f0 BEFORE: }{\b\f0\fs24\ul\insrsid9447198\charrsid7411260
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{\f0\fs24\insrsid2822651\charrsid7411260 \hich\af0\dbch\af36\loch\f0 July, 1950 and Carol
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\hich\af0\dbch\af36\loch\f0 r, is 54 years old having been born on the 2}
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passports attached as Annextures '\93\loch\f0 \hich\f0 A\94\loch\f0 \hich\f0 and '\93\loch\f0
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Adoption order is a }{\f0\fs24\insrsid15404717\charrsid7411260 \hich\af0\dbch\af36\loch\f0 7 year
old }{\f0\fs24\insrsid2822651\charrsid7411260 \hich\af0\dbch\af36\loch\f0 citizen of Uganda and a
total orphan, having lost both parents when

\hich\af0\dbch\af36\loch\f0 she was of tender age \hich\f0 \endash \loch\f0 see }
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\loch\f0 H\hich\f0 \rquote \loch\f0 , report of the Probation and Social Welfare Services.

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{\f0\fs24\insrsid15404717\charrsid7411260 \hich\af0\dbch\af36\loch\f0 uncle, Pastor Richard
Osire }{\f0\fs24\insrsid2822651\charrsid7411260 \hich\af0\dbch\af36\loch\f0

and his wife at Buziga.}{\f0\fs24\insrsid4931899\charrsid7411260 \hich\af0\dbch\af36\loch\f0 The}
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{\f0\fs24\insrsid4931899\charrsid7411260 \hich\af0\dbch\af36\loch\f0 contact with the child
during th\hich\af0\dbch\af36\loch\f0

eir missionary visit to Uganda in 2006. The petitioners have seven biological children of their
own.}{\f0\fs24\insrsid2822651\charrsid7411260

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\f0\fs24\insrsid1320792\charrsid7411260 \hich\af0\dbch\af36\loch\f0 who is}
{\f0\fs24\insrsid4931899\charrsid7411260 \hich\af0\dbch\af36\loch\f0 self employed as a licensed
contractor with a monthly income of U\$ 4,300. The second petitioner }{

\f0\fs24\insrsid11353596\charrsid7411260 \hich\af0\dbch\af36\loch\f0 is}
{\f0\fs24\insrsid4931899\charrsid7411260 \hich\af0\dbch\af36\loch\f0 a }
{\f0\fs24\insrsid11353596\charrsid7411260 \hich\af0\dbch\af36\loch\f0
gradua\hich\af0\dbch\af36\loch\f0

te at Michigan with a High School Diploma and has enjoyed being a home}
{\f0\fs24\insrsid4931899\charrsid7411260 \hich\af0\dbch\af36\loch\f0 maker for several years}
{\f0\fs24\insrsid11353596\charrsid7411260 \hich\af0\dbch\af36\loch\f0

. Previous employment includes managing a group }{\f0\fs24\insrsid4020595\charrsid7411260
\hich\af0\dbch\af36\loch\f0 home for}{\f0\fs24\insrsid4931899\charrsid7411260
\hich\af0\dbch\af36\loch\f0 adolescent }{\f0\fs24\insrsid1009354\charrsid7411260

\hich\af0\dbch\af36\loch\f0 girls }{\f0\fs24\insrsid11353596\charrsid7411260
\hich\af0\dbch\af36\loch\f0 as well as being a licensed }{\f0\fs24\insrsid1009354\charrsid7411260
\hich\af0\dbch\af36\loch\f0 foster parent in Michigan.}{

\f0\fs24\insrsid4931899\charrsid7411260 \hich\af0\dbch\af36\loch\f0

\par }{\f0\fs24\insrsid8601836\charrsid7411260 \hich\af0\dbch\af36\loch\f0 The petitioners were
granted a f\hich\af0\dbch\af36\loch\f0 oster care order over the child in 2006. See copy of the
Foster Care Order}{\f0\fs24\insrsid11353596\charrsid7411260

\hich\af0\dbch\af36\loch\f0 attached as}{\f0\fs24\insrsid8601836\charrsid7411260
\hich\af0\dbch\af36\loch\f0 Annexure \hich\f0 \lquote \loch\f0 A\hich\f0 \rquote \loch\f0 to the}
{\f0\fs24\insrsid1838583\charrsid7411260 \hich\af0\dbch\af36\loch\f0

ir joint}{\f0\fs24\insrsid8601836\charrsid7411260 \hich\af0\dbch\af36\loch\f0 affidavit }
{\f0\fs24\insrsid1838583\charrsid7411260 \hich\af0\dbch\af36\loch\f0 dated 8}
{\f0\fs24\super\insrsid1838583\charrsid7411260 \hich\af0\dbch\af36\loch\f0 th}{

\f0\fs24\insrsid1838583\charrsid7411260 \hich\af0\dbch\af36\loch\f0 March, 2009.

\par }{\f0\fs24\insrsid8601836\charrsid7411260 \hich\af0\dbch\af36\loch\f0 At the hearing of the
petition, the petitioners were represented by Mr. Omoding.

\par \hich\af0\dbch\af36\loch\f0 Under section 45}{\f0\fs24\insrsid1838583\charrsid7411260
\hich\af0\dbch\af36\loch\f0 ({\f0\fs24\insrsid8601836\charrsid7411260 \hich\af0\dbch\af36\loch\f0
1}{\f0\fs24\insrsid1838583\charrsid7411260

\hich\af0\dbch\af36\loch\f0)}{\f0\fs24\insrsid8601836\charrsid7411260 \hich\af0\dbch\af36\loch\f0
(a) of\hich\af0\dbch\af36\loch\f0 the }{\f0\fs24\insrsid1838583\charrsid7411260
\hich\af0\dbch\af36\loch\f0 C}{\f0\fs24\insrsid8601836\charrsid7411260

\hich\af0\dbch\af36\loch\f0 hildren Act, the petitioners or one of them has to be at least 25 years
and 21 years older than the infant. In the instant case, the petitioners are 59 and 54 years of age,
and the child s 7 years old.

\par \hich\af0\dbch\af36\loch\f0 In view of the above, it is clear that the
peti\hich\af0\dbch\af36\loch\f0 tioners are over 25 years of age and 21 years }
{\f0\fs24\insrsid3544554\charrsid7411260 \hich\af0\dbch\af36\loch\f0 older than }}

\f0\fs24\insrsid8601836\charrsid7411260 \hich\af0\dbch\af36\loch\f0 the child and therefore fulfill
the requirement for Adopters.

\par \hich\af0\dbch\af36\loch\f0 Under section 45}{\f0\fs24\insrsid1838583\charrsid7411260
\hich\af0\dbch\af36\loch\f0 (1)(b){\f0\fs24\insrsid8601836\charrsid7411260
\hich\af0\dbch\af36\loch\f0 }, the child has to be under the care of the petitioners for }}

\f0\fs24\insrsid1838583\charrsid7411260 \hich\af0\dbch\af36\loch\f0 at least}
{\f0\fs24\insrsid8601836\charrsid7411260 \hich\af0\dbch\af36\loch\f0 36 months, under the
supervision of a Probatio\hich\af0\dbch\af36\loch\f0 n and }}

\f0\fs24\insrsid9064473\charrsid7411260 \hich\af0\dbch\af36\loch\f0 S}
{\f0\fs24\insrsid8601836\charrsid7411260 \hich\af0\dbch\af36\loch\f0 ocial }
{\f0\fs24\insrsid9064473\charrsid7411260 \hich\af0\dbch\af36\loch\f0 W}}{

\f0\fs24\insrsid8601836\charrsid7411260 \hich\af0\dbch\af36\loch\f0 elfare Officer}
{\f0\fs24\insrsid1838583\charrsid7411260 \hich\af0\dbch\af36\loch\f0 .}
{\f0\fs24\insrsid8601836\charrsid7411260

\par }{\f0\fs24\insrsid1838583\charrsid7411260 \hich\af0\dbch\af36\loch\f0 In the instant case,
the }{\f0\fs24\insrsid4790861\charrsid7411260 \hich\af0\dbch\af36\loch\f0 both parents of the
child}{\f0\fs24\insrsid8601836\charrsid7411260

\hich\af0\dbch\af36\loch\f0 are dead \hich\f0 \endash \loch\f0 see }
{\f0\fs24\insrsid9064473\charrsid7411260 \hich\af0\dbch\af36\loch\f0 their }
{\caps\f0\fs24\insrsid8601836\charrsid7411260 \hich\af0\dbch\af36\loch\f0 d}}{

\f0\fs24\insrsid8601836\charrsid7411260 \hich\af0\dbch\af36\loch\f0 eath }
{\caps\f0\fs24\insrsid8601836\charrsid7411260 \hich\af0\dbch\af36\loch\f0 c}
{\f0\fs24\insrsid8601836\charrsid7411260 \hich\af0\dbch\af36\loch\f0 ertificate}}{

\f0\fs24\insrsid9064473\charrsid7411260 \hich\af0\dbch\af36\loch\f0 s}
{\f0\fs24\insrsid8601836\charrsid7411260 \hich\af0\dbch\af36\loch\f0 }
{\f0\fs24\insrsid1838583\charrsid7411260 \hich\af0\dbch\af36\loch\f0 attached as}}{

\f0\fs24\insrsid8601836\charrsid7411260 \hich\af0\dbch\af36\loch\f0 Annexture \hich\f0 \lquote
\loch\f0 G1\hich\f0 \rquote \loch\f0 and \hich\f0 \lquote \loch\f0 G2\hich\f0 \rquote \loch\f0 , on
the court file. The child has been under the care of }}

\caps\f0\fs24\insrsid8601836\charrsid7411260 \hich\af0\dbch\af36\loch\f0 p}
{\f0\fs24\insrsid8601836\charrsid7411260 \hich\af0\dbch\af36\loch\f0 astor Richard Osire of Saints
Gate Cathe\hich\af0\dbch\af36\loch\f0

dral, Gaba, since 2005 and the petitioners as foster parents have been providing the child\hich\fo
\rquote \loch\fo s support and maintenance}\f0\fs24\insrsid1838583\charrsid7411260
\hich\af0\dbch\af36\loch\fo . The child}\f0\fs24\insrsid8601836\charrsid7411260 \hich\af0\dbch\af36\loch\fo know}

\f0\fs24\insrsid1838583\charrsid7411260 \hich\af0\dbch\af36\loch\fo s}
\f0\fs24\insrsid8601836\charrsid7411260 \hich\af0\dbch\af36\loch\fo the petitioners}\f0\fs24\insrsid1838583\charrsid7411260 \loch\af0\dbch\af36\hich\fo \rquote }

\f0\fs24\insrsid8601836\charrsid7411260 \hich\af0\dbch\af36\loch\fo family well and }
\f0\fs24\insrsid9064473\charrsid7411260 \hich\af0\dbch\af36\loch\fo has }{\f0\fs24\insrsid8601836\charrsid7411260 \hich\af0\dbch\af36\loch\fo been communicating with
them regularly}\f0\fs24\insrsid9064473\charrsid7411260 \hich\af0\dbch\af36\loch\fo . She}
\f0\fs24\insrsid1124492\charrsid7411260 \hich\af0\dbch\af36\loch\fo

is in good health and so are the petiti\hich\af0\dbch\af36\loch\fo ners.
\par \hich\af0\dbch\af36\loch\fo In the instant case, the Probation }
\f0\fs24\insrsid5575527\charrsid7411260 \hich\af0\dbch\af36\loch\fo and Social Welfare }
\f0\fs24\insrsid1124492\charrsid7411260 \hich\af0\dbch\af36\loch\fo Officer}\f0\fs24\insrsid5575527\charrsid7411260 \hich\af0\dbch\af36\loch\fo , Makindye Division, Mr.
Bukenyia Patrick}\f0\fs24\insrsid1124492\charrsid7411260 \hich\af0\dbch\af36\loch\fo state}
\f0\fs24\insrsid5575527\charrsid7411260 \hich\af0\dbch\af36\loch\fo d

}\f0\fs24\insrsid1124492\charrsid7411260 \hich\af0\dbch\af36\loch\fo in his report that the
petitioners have successfully completed the fostering process without the child\hich\fo \rquote
\loch\fo s welfare being abused and he is fully

\hich\af0\dbch\af36\loch\fo satisfied that they are suitable adoptive parents for the child.}
\f0\fs24\insrsid8601836\charrsid7411260
\par }\f0\fs24\insrsid1124492\charrsid7411260 \hich\af0\dbch\af36\loch\fo The petitioners are }
\f0\fs24\insrsid2907777\charrsid7411260 \hich\af0\dbch\af36\loch\fo American citizens and }
\f0\fs24\insrsid14176891\charrsid7411260 \hich\af0\dbch\af36\loch\fo

we shall }\f0\fs24\insrsid2907777\charrsid7411260 \hich\af0\dbch\af36\loch\fo examine whether
they fulfill the requirements for the }\f0\fs24\insrsid14176891\charrsid7411260
\hich\af0\dbch\af36\loch\fo I}\f0\fs24\insrsid2907777\charrsid7411260

\hich\af0\dbch\af36\loch\fo ntercountry adoption provided in the }
\f0\fs24\insrsid14176891\charrsid7411260 \hich\af0\dbch\af36\loch\fo C}
\f0\fs24\insrsid2907777\charrsid7411260 \hich\af0\dbch\af36\loch\fo hildren Act, section 46.}\f0\fs24\insrsid1124492\charrsid7411260

\f0\fs24\insrsid1124492\charrsid7411260 \hich\af0\dbch\af36\loch\fo The petitioners are }
\f0\fs24\insrsid2907777\charrsid7411260 \hich\af0\dbch\af36\loch\fo American citizens and }
\f0\fs24\insrsid14176891\charrsid7411260 \hich\af0\dbch\af36\loch\fo

we shall }\f0\fs24\insrsid2907777\charrsid7411260 \hich\af0\dbch\af36\loch\fo examine whether
they fulfill the requirements for the }\f0\fs24\insrsid14176891\charrsid7411260
\hich\af0\dbch\af36\loch\fo I}\f0\fs24\insrsid2907777\charrsid7411260

\hich\af0\dbch\af36\loch\fo ntercountry adoption provided in the }
\f0\fs24\insrsid14176891\charrsid7411260 \hich\af0\dbch\af36\loch\fo C}
\f0\fs24\insrsid2907777\charrsid7411260 \hich\af0\dbch\af36\loch\fo hildren Act, section 46.}\f0\fs24\insrsid1124492\charrsid7411260

\f0\fs24\insrsid1124492\charrsid7411260 \hich\af0\dbch\af36\loch\fo The petitioners are }
\f0\fs24\insrsid2907777\charrsid7411260 \hich\af0\dbch\af36\loch\fo American citizens and }
\f0\fs24\insrsid14176891\charrsid7411260 \hich\af0\dbch\af36\loch\fo

we shall }\f0\fs24\insrsid2907777\charrsid7411260 \hich\af0\dbch\af36\loch\fo examine whether
they fulfill the requirements for the }\f0\fs24\insrsid14176891\charrsid7411260
\hich\af0\dbch\af36\loch\fo I}\f0\fs24\insrsid2907777\charrsid7411260

\hich\af0\dbch\af36\loch\fo ntercountry adoption provided in the }
\f0\fs24\insrsid14176891\charrsid7411260 \hich\af0\dbch\af36\loch\fo C}
\f0\fs24\insrsid2907777\charrsid7411260 \hich\af0\dbch\af36\loch\fo hildren Act, section 46.}\f0\fs24\insrsid1124492\charrsid7411260

\f0\fs24\insrsid1124492\charrsid7411260

\par {\f0\fs24\insrsid2907777\charrsid7411260 \hich\af0\dbch\af36\loch\f0 Section 46 provides
t\hich\af0\dbch\af36\loch\f0 hat the court may in exceptional circumstances grant}
{\f0\fs24\insrsid3766611\charrsid7411260 \hich\af0\dbch\af36\loch\f0

an adoption order to a non citizen, where}{\f0\fs24\insrsid14176891\charrsid7411260
\hich\af0\dbch\af36\loch\f0 he or she-}{\f0\fs24\insrsid2907777\charrsid7411260

\par {\listtext\pard\plain\s15 \insrsid3766611\charrsid7411260 \hich\af0\dbch\af36\loch\f0
a)\tab}}\pard\plain\s15\qj\fi-360\li720\ri0\sa200\sl360\slmult1\widctlpar\aspalpha\aspnum\faauto\
ls1\adjustright\rin0\lin720\itap0\pararsid7411260

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{\f0\fs24\insrsid3766611\charrsid7411260 \hich\af0\dbch\af36\loch\f0 has lived in Uganda for }
{\f0\fs24\insrsid14176891\charrsid7411260 \hich\af0\dbch\af36\loch\f0

at least}{\f0\fs24\insrsid3766611\charrsid7411260 \hich\af0\dbch\af36\loch\f0 three years.

\par {\listtext\pard\plain\s15 \insrsid14176891\charrsid7411260 \hich\af0\dbch\af36\loch\f0 b)\tab}}
{\f0\fs24\insrsid14176891\charrsid7411260 \hich\af0\dbch\af36\loch\f0 f}
{\f0\fs24\insrsid3766611\charrsid7411260 \hich\af0\dbch\af36\loch\f0 ostered

\hich\af0\dbch\af36\loch\f0 the child for at least 36 months under the supervision of the
Probation and social welfare Offi\hich\af0\dbch\af36\loch\f0 cer.

\par {\listtext\pard\plain\s15 \insrsid14176891\charrsid7411260 \hich\af0\dbch\af36\loch\f0 c)\tab}}
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as no criminal record.

\par {\listtext\pard\plain\s15 \insrsid14176891\charrsid7411260 \hich\af0\dbch\af36\loch\f0 d)\tab}}
{\f0\fs24\insrsid14176891\charrsid7411260 \hich\af0\dbch\af36\loch\f0 h}
{\f0\fs24\insrsid3766611\charrsid7411260 \hich\af0\dbch\af36\loch\f0

as a recommendation from his country\hich\f0 \rqoute \loch\f0 s Probation and Welfare Officer
regarding his}{\f0\fs24\insrsid14176891\charrsid7411260 \hich\af0\dbch\af36\loch\f0 or }
{\f0\fs24\insrsid3766611\charrsid7411260 \hich\af0\dbch\af36\loch\f0

her suitability to adopt.

\par {\listtext\pard\plain\s15 \insrsid14176891\charrsid7411260 \hich\af0\dbch\af36\loch\f0 e)\tab}}
{\f0\fs24\insrsid14176891\charrsid7411260 \hich\af0\dbch\af36\loch\f0 h}
{\f0\fs24\insrsid3766611\charrsid7411260 \hich\af0\dbch\af36\loch\f0

er country of origin will accept and respect the adoption order issued by the court.

\par }\pard\plain \qj \li0\ri0\sa200\sl360\slmult1\widctlpar\aspalpha\aspnum\faauto\adjustright\ri
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\f0\fs24\insrsid3766611\charrsid7411260

\hich\af0\dbch\af36\loch\f0 Counsel for the petitioners \hich\af0\dbch\af36\loch\f0 submitted that
bearing in mind the welfare pri}{\f0\fs24\insrsid14039787\charrsid7411260
\hich\af0\dbch\af36\loch\f0 nci}{\f0\fs24\insrsid3766611\charrsid7411260

\hich\af0\dbch\af36\loch\f0 ple, it will be in the best inter}
\f0\fs24\insrsid14039787\charrsid7411260 \hich\af0\dbch\af36\loch\f0 e}
\f0\fs24\insrsid3766611\charrsid7411260 \hich\af0\dbch\af36\loch\f0 st of the infant tha}{

\f0\fs24\insrsid14039787\charrsid7411260 \hich\af0\dbch\af36\loch\f0 t}
\f0\fs24\insrsid3766611\charrsid7411260 \hich\af0\dbch\af36\loch\f0 this court be pleased to
grant}{\f0\fs24\insrsid14039787\charrsid7411260 \hich\af0\dbch\af36\loch\f0 an order for

}{\f0\fs24\insrsid3766611\charrsid7411260 \hich\af0\dbch\af36\loch\f0 adoption}
\f0\fs24\insrsid14039787\charrsid7411260 \hich\af0\dbch\af36\loch\f0 .}
\f0\fs24\insrsid3766611\charrsid7411260

\par }{\f0\fs24\insrsid14039787\charrsid7411260 \hich\af0\dbch\af36\loch\f0 Mr. Omoding
contended that exceptional circumstances }{\f0\fs24\insrsid9064473\charrsid7411260
\hich\af0\dbch\af36\loch\f0 existed in this case and }

\f0\fs24\insrsid14039787\charrsid7411260 \hich\af0\dbch\af36\loch\f0 are that the child
\hich\af0\dbch\af36\loch\f0 is a}{\f0\fs24\insrsid340156\charrsid7411260
\hich\af0\dbch\af36\loch\f0 n}{\f0\fs24\insrsid14039787\charrsid7411260

\hich\af0\dbch\af36\loch\f0 orphan, the petitioners have provided foster care for the child as per
attached }{\f0\fs24\insrsid2236942\charrsid7411260 \hich\af0\dbch\af36\loch\f0 Probation report, }
\f0\fs24\insrsid14039787\charrsid7411260

\hich\af0\dbch\af36\loch\f0 that }{\f0\fs24\insrsid2236942\charrsid7411260
\hich\af0\dbch\af36\loch\f0 although }{\f0\fs24\insrsid14039787\charrsid7411260
\hich\af0\dbch\af36\loch\f0 they have not been resident in Uganda for }

\f0\fs24\insrsid340156\charrsid7411260 \hich\af0\dbch\af36\loch\f0 at least}
\f0\fs24\insrsid14039787\charrsid7411260 \hich\af0\dbch\af36\loch\f0 3 years}
\f0\fs24\insrsid9064473\charrsid7411260 \hich\af0\dbch\af36\loch\f0 , }

\f0\fs24\insrsid14039787\charrsid7411260 \hich\af0\dbch\af36\loch\f0 have been resident in
Uganda for 26 months at Kambere, since 2006 and during \hich\af0\dbch\af36\loch\f0 this period
they have provided and fostered the child. }

\f0\fs24\insrsid9064473\charrsid7411260

\par }{\f0\fs24\insrsid14039787\charrsid7411260 \hich\af0\dbch\af36\loch\f0 Counsel Omoding argued that in the case of }{\i\fs24\ul\insrsid14039787\charrsid7411260 \hich\af0\dbch\af36\loch\f0 In Adoption Cause No }

\i\fs24\ul\insrsid6124612\charrsid7411260 \hich\af0\dbch\af36\loch\f0 I} {\i\fs24\ul\insrsid14039787\charrsid7411260 \hich\af0\dbch\af36\loch\f0 n the } {\i\fs24\ul\insrsid6124612\charrsid7411260 \hich\af0\dbch\af36\loch\f0 M}{

\i\fs24\ul\insrsid14039787\charrsid7411260 \hich\af0\dbch\af36\loch\f0 atter of } {\i\fs24\ul\insrsid6124612\charrsid7411260 \hich\af0\dbch\af36\loch\f0 the Children Act Cap 50 and in The Matter of }{\i\fs24\ul\insrsid14039787\charrsid7411260

\hich\af0\dbch\af36\loch\f0 Paula Robertson and }{\i\fs24\ul\insrsid6124612\charrsid7411260 \hich\af0\dbch\af36\loch\f0 Cynthia June}{\i\fs24\ul\insrsid14039787\charrsid7411260 \hich\af0\dbch\af36\loch\f0 Robertson,}{

\i\fs24\ul\insrsid6124612\charrsid7411260 \hich\af0\dbch\af36\loch\f0 an infant, } {\i\fs24\ul\insrsid11090942\charrsid7411260 \hich\af0\dbch\af36\loch\f0 Adoption Cause No\hich\af0\dbch\af36\loch\f0 .}{\i\fs24\ul\insrsid14039787\charrsid7411260

\hich\af0\dbch\af36\loch\f0 }{\i\fs24\ul\insrsid11090942\charrsid7411260 \hich\af0\dbch\af36\loch\f0 31/2004}{\f0\fs24\insrsid11090942\charrsid7411260 \hich\af0\dbch\af36\loch\f0 , }{\f0\fs24\insrsid14039787\charrsid7411260

\hich\af0\dbch\af36\loch\f0 the court held that }{\f0\fs24\insrsid6124612\charrsid7411260 \hich\af0\dbch\af36\loch\f0 t}{\f0\fs24\insrsid14039787\charrsid7411260 \hich\af0\dbch\af36\loch\f0 h}{\f0\fs24\insrsid6124612\charrsid7411260

\hich\af0\dbch\af36\loch\f0 e}{\f0\fs24\insrsid14039787\charrsid7411260 \hich\af0\dbch\af36\loch\f0 Provisions in S.46 of the } {\caps\fs24\insrsid14039787\charrsid7411260 \hich\af0\dbch\af36\loch\f0 c} {\f0\fs24\insrsid14039787\charrsid7411260

\hich\af0\dbch\af36\loch\f0 hildren }{\caps\fs24\insrsid14039787\charrsid7411260 \hich\af0\dbch\af36\loch\f0 a}{\f0\fs24\insrsid14039787\charrsid7411260 \hich\af0\dbch\af36\loch\f0 ct are }{\f0\fs24\insrsid11090942\charrsid7411260

\hich\af0\dbch\af36\loch\f0 not mandatory}{\f0\fs24\insrsid14039787\charrsid7411260 \hich\af0\dbch\af36\loch\f0 on account of the }{\f0\fs24\insrsid11090942\charrsid7411260 \hich\af0\dbch\af36\loch\f0 reason that the }

\f0\fs24\insrsid14039787\charrsid7411260 \hich\af0\dbch\af36\loch\f0 welfare principle, in section 3 of the }{\f0\fs24\insrsid11090942\charrsid7411260 \hich\af0\dbch\af36\loch\f0 C} {\f0\fs24\insrsid14039787\charrsid7411260 \hich\af0\dbch\af36\loch\f0

children Act }{f0/fs24\insrsid11090942\charrsid7411260 \hich\af0\dbch\af36\loch\f0 is paramount; }
{f0/fs24\insrsid14039787\charrsid7411260 \hich\af0\dbch\af36\loch\f0 he also cited the case of
\hich\f0 \endash \loch\f0 }

\i f0/fs24\ul\insrsid14039787\charrsid7411260 \hich\af0\dbch\af36\loch\f0 In the matter of J.}
{\i f0/fs24\ul\insrsid11090942\charrsid7411260 \hich\af0\dbch\af36\loch\f0 N}
{\i f0/fs24\ul\insrsid14039787\charrsid7411260 \hich\af0\dbch\af36\loch\f0 }

\i f0/fs24\ul\insrsid11090942\charrsid7411260 \hich\af0\dbch\af36\loch\f0 {
{\i f0/fs24\ul\insrsid14039787\charrsid7411260 \hich\af0\dbch\af36\loch\f0 an infant}
{\i f0/fs24\ul\insrsid11090942\charrsid7411260 \hich\af0\dbch\af36\loch\f0)}

\i f0/fs24\ul\insrsid14039787\charrsid7411260 \hich\af0\dbch\af36\loch\f0
Ci\hich\af0\dbch\af36\loch\f0 vil appeal No. 22/94,}{f0/fs24\insrsid14039787\charrsid7411260
\hich\af0\dbch\af36\loch\f0 where the application had not be granted be}

\f0/fs24\insrsid9855799\charrsid7411260 \hich\af0\dbch\af36\loch\f0 cause of non proof of
residence.}{f0/fs24\insrsid14039787\charrsid7411260 \hich\af0\dbch\af36\loch\f0 }
{f0/fs24\insrsid9855799\charrsid7411260 \hich\af0\dbch\af36\loch\f0 Court}

\f0/fs24\insrsid14039787\charrsid7411260 \hich\af0\dbch\af36\loch\f0 allowed the appeal and that
Odoki CJ in his ruling stated }{f0/fs24\insrsid9855799\charrsid7411260
\hich\af0\dbch\af36\loch\f0 that,}{f0/fs24\insrsid14039787\charrsid7411260

\hich\af0\dbch\af36\loch\f0 in adoption proceedings as in matters relating to children, the
guiding principle is the\hich\af0\dbch\af36\loch\f0 welfare of the child and the appeal was
granted}{f0/fs24\insrsid6698124\charrsid7411260

\hich\af0\dbch\af36\loch\f0 a}{f0/fs24\insrsid14039787\charrsid7411260
\hich\af0\dbch\af36\loch\f0 nd }{\i f0/fs24\ul\insrsid9855799\charrsid7411260
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\hich\af0\dbch\af36\loch\f0 he matter of }{\i f0/fs24\ul\insrsid5461207\charrsid7411260

\hich\af0\dbch\af36\loch\f0 Michael }{\i f0/fs24\ul\insrsid9855799\charrsid7411260
\hich\af0\dbch\af36\loch\f0 Benjamin Pietsch and In The Matter of An }
{\i f0/fs24\ul\insrsid6698124\charrsid7411260 \hich\af0\dbch\af36\loch\f0 Application}

\i f0/fs24\ul\insrsid9855799\charrsid7411260 \hich\af0\dbch\af36\loch\f0 for Adoption by }
{\i f0/fs24\ul\insrsid6698124\charrsid7411260 \hich\af0\dbch\af36\loch\f0 Christopher John
Pietsch and Sharon Pietsch}{\i f0/fs24\ul\insrsid5461207\charrsid7411260

\loch\af0\dbch\af36\loch\f0 \endash \loch\f0 }{\i f0/fs24\ul\insrsid6698124\charrsid7411260
\hich\af0\dbch\af36\loch\f0 Family Cause No.}{\i f0/fs24\ul\insrsid5461207\charrsid7411260
\hich\af0\dbch\af36\loch\f0 102/08}

\f0\fs24\insrsid5461207\charrsid7411260 \hich\af0\dbch\af36\loch\f0 \hich\f0 \endash \loch\f0 Justice Egonda Ntende, held that }\f0\fs24\insrsid2951987\charrsid7411260 \hich\af0\dbch\af36\loch\f0 altho\hich\af0\dbch\af36\loch\f0 ugh }

\f0\fs24\insrsid5461207\charrsid7411260 \hich\af0\dbch\af36\loch\f0 the petitioners ha} \f0\fs24\insrsid1717839\charrsid7411260 \hich\af0\dbch\af36\loch\f0 ve} \f0\fs24\insrsid5461207\charrsid7411260 \hich\af0\dbch\af36\loch\f0

not been resident for all 3 years, but court gave }\f0\fs24\insrsid2951987\charrsid7411260 \hich\af0\dbch\af36\loch\f0 a liberal interpretation}\f0\fs24\insrsid5461207\charrsid7411260 \hich\af0\dbch\af36\loch\f0 of S.46 of the Children Act }

\f0\fs24\insrsid13255431\charrsid7411260 \hich\af0\dbch\af36\loch\f0 while} \f0\fs24\insrsid5461207\charrsid7411260 \hich\af0\dbch\af36\loch\f0 considering the circumstances}\f0\fs24\insrsid2951987\charrsid7411260 \hich\af0\dbch\af36\loch\f0

of the case and that }\f0\fs24\insrsid5461207\charrsid7411260 \hich\af0\dbch\af36\loch\f0 interests of the child, were paramount.}\f0\fs24\insrsid14039787\charrsid7411260

\par }\f0\fs24\insrsid5461207\charrsid7411260 \hich\af0\dbch\af36\loch\f0 Mr. Omoding submitted that thou\hich\af0\dbch\af36\loch\f0 gh they}\f0\fs24\insrsid9064473\charrsid7411260 \hich\af0\dbch\af36\loch\f0 have }\f0\fs24\insrsid5461207\charrsid7411260

\hich\af0\dbch\af36\loch\f0 not been resident in Uganda for 3 years, they have nevertheless shown that they are able to provide the child}\f0\fs24\insrsid2951987\charrsid7411260 \hich\af0\dbch\af36\loch\f0 with}\f0\fs24\insrsid5461207\charrsid7411260

\hich\af0\dbch\af36\loch\f0 a home}\f0\fs24\insrsid2951987\charrsid7411260 \hich\af0\dbch\af36\loch\f0 where she has }\f0\fs24\insrsid9064473\charrsid7411260 \hich\af0\dbch\af36\loch\f0 an}\f0\fs24\insrsid2951987\charrsid7411260

\hich\af0\dbch\af36\loch\f0 opportunity to grow up and realize her full potential in life and that this is a situation}\f0\fs24\insrsid5461207\charrsid7411260 \hich\af0\dbch\af36\loch\f0 where the cou\hich\af0\dbch\af36\loch\f0

rt can exercise its discretion to grant the order sought}\f0\fs24\insrsid2951987\charrsid7411260 \hich\af0\dbch\af36\loch\f0 . }\f0\fs24\insrsid9064473\charrsid7411260

\par }\f0\fs24\insrsid5461207\charrsid7411260 \hich\af0\dbch\af36\loch\f0 } \f0\fs24\insrsid1717839\charrsid7411260 \hich\af0\dbch\af36\loch\f0 In the instant case, the petitioners came to Uganda in 2006 and met the child who had }

\f0\fs24\insrsid9064473\charrsid7411260 \hich\af0\dbch\af36\loch\f0 already } \f0\fs24\insrsid1717839\charrsid7411260 \hich\af0\dbch\af36\loch\f0 been in the hands of Pastor Osire for one year}\f0\fs24\insrsid9064473\charrsid7411260

\hich\af0\dbch\af36\loch\f0 , took}\f0\fs24\insrsid1717839\charrsid7411260
 \hich\af0\dbch\af36\loch\f0 out a foster care order for her in the same year,
 \hich\af0\dbch\af36\loch\f0 March, 2006, }\f0\fs24\insrsid8981020\charrsid7411260
 \hich\af0\dbch\af36\loch\f0 ({\f0\fs24\insrsid1717839\charrsid7411260 \hich\af0\dbch\af36\loch\f0
 a period of 36 months}\f0\fs24\insrsid8981020\charrsid7411260 \hich\af0\dbch\af36\loch\f0
 has elapsed since then even though they were not physically resident in Uganda all that time))
 {\f0\fs24\insrsid1717839\charrsid7411260 \hich\af0\dbch\af36\loch\f0
 and they have been providing for her needs and education and connecting with her regularly
 together with the rest of the othe\hich\af0\dbch\af36\loch\f0 r family members}
 {\f0\fs24\insrsid8981020\charrsid7411260 \hich\af0\dbch\af36\loch\f0 .}
 \f0\fs24\insrsid1717839\charrsid7411260 \hich\af0\dbch\af36\loch\f0 }
 {\f0\fs24\insrsid8981020\charrsid7411260 \hich\af0\dbch\af36\loch\f0 The}
 {\f0\fs24\insrsid1717839\charrsid7411260 \hich\af0\dbch\af36\loch\f0 Probation and Social
 Welfare Officer}
 \f0\fs24\insrsid6381972\charrsid7411260 \hich\af0\dbch\af36\loch\f0 , has supervised }
 {\f0\fs24\insrsid8981020\charrsid7411260 \hich\af0\dbch\af36\loch\f0 the Petitioners and the child
 though }\f0\fs24\insrsid6381972\charrsid7411260
 \hich\af0\dbch\af36\loch\f0 under }\f0\fs24\insrsid9064473\charrsid7411260
 \hich\af0\dbch\af36\loch\f0 the}\f0\fs24\insrsid6381972\charrsid7411260
 \hich\af0\dbch\af36\loch\f0 care }\f0\fs24\insrsid8981020\charrsid7411260
 \hich\af0\dbch\af36\loch\f0
 and }\f0\fs24\insrsid6381972\charrsid7411260 \hich\af0\dbch\af36\loch\f0 custody of }
 {\f0\fs24\insrsid8981020\charrsid7411260 \hich\af0\dbch\af36\loch\f0 P}
 {\f0\fs24\insrsid6381972\charrsid7411260 \hich\af0\dbch\af36\loch\f0 astor Osire.}
 \f0\fs24\insrsid1717839\charrsid7411260
 \par }\f0\fs24\insrsid6381972\charrsid7411260 \hich\af0\dbch\af36\loch\f0 In view of the
 authorities above, court is of the opinion that the }\f0\fs24\insrsid1276928\charrsid7411260
 \hich\af0\dbch\af36\loch\f0 provisions}
 \f0\fs24\insrsid6381972\charrsid7411260 \hich\af0\dbch\af36\loch\f0 of section 46 are }
 {\f0\fs24\insrsid1276928\charrsid7411260 \hich\af0\dbch\af36\loch\f0
 dire\hich\af0\dbch\af36\loch\f0
 ctory and provide the conditions for which the court may exercise its discretion to grant an
 adoption order but the guiding principle still remains the welfare principle.}
 {\f0\fs24\insrsid6381972\charrsid7411260

\par }{\f0\fs24\insrsid1276928\charrsid7411260 \hich\af0\dbch\af36\loch\f0 In the instant case, the petitioners have been in Uganda for 3 years, according to th\hich\af0\dbch\af36\loch\f0 e records on the court file and}}

\f0\fs24\insrsid15670989\charrsid7411260 \hich\af0\dbch\af36\loch\f0 according to the Probation Officer}{\f0\fs24\insrsid8981020\charrsid7411260 \hich\af0\dbch\af36\loch\f0 , }
{\f0\fs24\insrsid15670989\charrsid7411260 \hich\af0\dbch\af36\loch\f0

have fostered the child for }{\f0\fs24\insrsid8981020\charrsid7411260 \hich\af0\dbch\af36\loch\f0 at least}{\f0\fs24\insrsid9064473\charrsid7411260 \hich\af0\dbch\af36\loch\f0 36 months- s}
{\f0\fs24\insrsid15670989\charrsid7411260

\hich\af0\dbch\af36\loch\f0 ee Annext}{\f0\fs24\insrsid15674181\charrsid7411260
\hich\af0\dbch\af36\loch\f0 u}{\f0\fs24\insrsid15670989\charrsid7411260
\hich\af0\dbch\af36\loch\f0 re \hich\f0 \lquote }{\f0\fs24\insrsid8981020\charrsid7411260

\hich\af0\dbch\af36\loch\f0 A}{\f0\fs24\insrsid15670989\charrsid7411260
\loch\af0\dbch\af36\hich\f0 \rquote }{\f0\fs24\insrsid8981020\charrsid7411260
\hich\af0\dbch\af36\loch\f0 , a copy of the Foster Care Order. }
{\f0\fs24\insrsid9064473\charrsid7411260

\par }{\f0\fs24\insrsid4408240\charrsid7411260 \hich\af0\dbch\af36\loch\f0 C}
{\f0\fs24\insrsid15670989\charrsid7411260 \hich\af0\dbch\af36\loch\f0 ourt is satisfied that the petitioners have fulfilled the conditions set out in sectio

\hich\af0\dbch\af36\loch\f0 n 46 for the court to exercise its discretion to grant the order and it would be in the best interests and welfa}{\f0\fs24\insrsid4408240\charrsid7411260
\hich\af0\dbch\af36\loch\f0 re of the child who has been in }}

\f0\fs24\insrsid15670989\charrsid7411260 \hich\af0\dbch\af36\loch\f0 foster care and custody of other people}{\f0\fs24\insrsid15674181\charrsid7411260 \hich\af0\dbch\af36\loch\f0 . }
{\f0\fs24\insrsid15670989\charrsid7411260 \hich\af0\dbch\af36\loch\f0 }}

\f0\fs24\insrsid15674181\charrsid7411260 \hich\af0\dbch\af36\loch\f0 She}
{\f0\fs24\insrsid15670989\charrsid7411260 \hich\af0\dbch\af36\loch\f0 can }
{\f0\fs24\insrsid9064473\charrsid7411260 \hich\af0\dbch\af36\loch\f0 also }}

\f0\fs24\insrsid15670989\charrsid7411260 \hich\af0\dbch\af36\loch\f0 grow up in a home with loving parents and care.}{\f0\fs24\insrsid1276928\charrsid7411260

\par }{\f0\fs24\insrsid15670989\charrsid7411260 \hich\af0\dbch\af36\loch\f0 The pater\hich\af0\dbch\af36\loch\f0 nal uncle of the }{\f0\fs24\insrsid9064473\charrsid7411260
\hich\af0\dbch\af36\loch\f0 child, Pastor}{\f0\fs24\insrsid15670989\charrsid7411260

\hich\af0\dbch\af36\loch\f0 Osire was in court and consents to the application.

\par \hich\af0\dbch\af36\loch\f0 Consequently, the application is allowed in the following terms and conditions:-

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\par {\listtext\pard\plain\s15\qj \fi-360\li720\ri0\sa200\sl360\slmult1\widctlpar\aspalpha\aspnum\faauto\ls2\adjustright\rin0\lin720\itap0\pararsid7411260

\fs22\lang1033\langfe1033\loch\af36\hich\af36\dbch\af36\cgrid\langnp1033\langfenp1033
{\f0\fs24\insrsid13709285\charrsid7411260 \hich\af0\dbch\af36\loch\f0 The Petitioners, }
{\b\fs24\insrsid13709285\charrsid7411260 \hich\af0\dbch\af36\loch\f0

Ronald Gloetzner}{\f0\fs24\insrsid13709285\charrsid7411260 \hich\af0\dbch\af36\loch\f0 and }
{\b\fs24\insrsid13709285\charrsid7411260 \hich\af0\dbch\af36\loch\f0 Carol Gloetzner}
{\f0\fs24\insrsid13709285\charrsid7411260 \hich\af0\dbch\af36\loch\f0

are appointed adoptive parents of }{\b\fs24\insrsid13709285\charrsid7411260
\hich\af0\dbch\af36\loch\f0 Shar\hich\af0\dbch\af36\loch\f0 on Osige}
{\f0\fs24\insrsid13709285\charrsid7411260 \hich\af0\dbch\af36\loch\f0 .

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\par {\listtext\pard\plain\s15 \insrsid13709285\charrsid7411260 \hich\af0\dbch\af36\loch\f0

The petitioners are directed to register the order with the Registrar of Documents, Uganda registration Services Bureau, Ministry of Justice and Constitutional Affairs, Kampala.

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\par {\listtext\pard\plain\s15 \insrsid13709285\charrsid7411260 \hich\af0\dbch\af36\loch\f0 The petitioners are directed to obtain a Uganda passport for the
chi\hich\af0\dbch\af36\loch\f0

Id and renew it from time to time as required by the law.

\par {\listtext\pard\plain\s15 \insrsid13709285\charrsid7411260 \hich\af0\dbch\af36\loch\f0 4.
\par {\listtext\pard\plain\s15 \insrsid13709285\charrsid7411260 \hich\af0\dbch\af36\loch\f0 The }{\f0\fs24\insrsid8865156\charrsid7411260
\hich\af0\dbch\af36\loch\f0 petitioners}{\f0\fs24\insrsid13709285\charrsid7411260

\hich\af0\dbch\af36\loch\f0 are permitted to }{\f0\fs24\insrsid8865156\charrsid7411260
\hich\af0\dbch\af36\loch\f0 travel}{\f0\fs24\insrsid13709285\charrsid7411260
\hich\af0\dbch\af36\loch\f0 out of Uganda with the child}{

\f0\fs24\insrsid12717688\charrsid7411260 \hich\af0\dbch\af36\loch\f0 .}
{\f0\fs24\insrsid13709285\charrsid7411260

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{\f0\fs24\insrsid4340323\charrsid7411260 \hich\af0\dbch\af36\loch\f0

The petitioners are directed to register the order with the authority responsible for children}
{\f0\fs24\insrsid12153730\charrsid7411260 \hich\af0\dbch\af36\loch\f0 and family welfare in the
State o\hich\af0\dbch\af36\loch\f0

f New Mexico, USA and to file a report once very year regarding the development and state of the welfare of the child to the Registrar, Family Division, High Court, Kampala and to continue to do so until the child is 18 years of age or until directed othe

\hich\af0\dbch\af36\loch\f0 r\hich\af0\dbch\af36\loch\f0 wise.}

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 {\f0\fs24\insrsid6255769\charrsid7411260 \hich\af0\dbch\af36\loch\f0 The court makes no orders
 as to costs.

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{\b\f0\fs24\insrsid6255769\charrsid7411260

\hich\af0\dbch\af36\loch\f0 Margaret C. Oguli Oumo

\par \hich\af0\dbch\af36\loch\f0 JUDGE

\par }{\b\f0\fs24\insrsid5779148\charrsid7411260 \hich\af0\dbch\af36\loch\f0 02/11/09

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 Present:

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Prepared on 12 October 2026 · Esheria