

MISC APP 273/2023 2023 O. NO 1

IN THE HIGH COURT OF SIERRA LEONE

(FAMILY & PROBATE DIVISION)

BETWEEN

MR. QUINTIN ORIELLY

AND

REBECCA KANU (NEE JONES)

C.I. WILLIAMS Esq. for the Applicant

RULING DATED THE 12TH DAY OF JULY, 2023

This is an application for the adoption of ALISHA KANU (herein after referred to as the Juvenile) brought by QUINTIN O'RIELLY (herein after referred to as the Applicant).

This application is made pursuant to Section 2(2) of the Adoption Act, Act No. 9 of 1989. The Applicant is praying for the following orders:

1. That this Honorable Court do grant an Order authorizing the Applicant herein QUITIN O'RIELLY to adopt the juvenile herein ALISHA KANU
2. That this Order be registered with the Registrar-General's Office, Roxy Building Freetown and with the National Civil Registration Authority.
3. That the Applicant herein be at liberty to take the Juvenile out of the jurisdiction.
4. Any further relief(s) that this Honorable Court may deem fit and just.
5. That the cost of this action be borne by the Applicant.

The application was supported by two affidavits, the first one is sworn to by Rebecca Kanu dated the 9th day of May, 2023. She deposed that herself and the 2nd respondent are the biological parents of the Juvenile herein, who was born on the 11th day of November, 2008.

That the applicant has been providing for the up keep of the juvenile since her birth.

That herself and the biological father of the juvenile had agreed to hand over custody of the juvenile to the applicant, more so the applicant is having an affair with her own sister ROSALINE JONES. They are satisfied that the welfare of the child will be catered for by the applicants.

The second affidavit is sworn to by Quintin O'rielly dated the 9th day of May, 2023. The salient portion of the affidavit are as follows: That he is a sierra Leonean born on the 30th day of March, 1963.

That himself and his fiancé have been taking care and providing for the upkeep and wellbeing of the juvenile since she was born.

That they are desirous of adopting the juvenile and have communicated that to the respondents herein and they both have agreed and have handed over the custody of the juvenile to them.

That himself and his fiancé are intending to get married very soon. She is a medical professional and also a citizen of the United States of America.

BRIEF BACK GROUND OF THE CHILD

The child ALISHA KANU was born on the 11th October, 2008, to Mohamed Alie Kanu and Rebecca Kanu (nee Jones) who currently resides at No. 13 Flex Street, Waterloo, Western Rural District, Sierra Leone. The father is currently residing at No. 47 Off Blackhall Road, Freetown Sierra Leone.

According to the report from the Ministry of Social Welfare and Children's Affairs, the biological parents were customarily married but are currently staying apart. They both have three children including the adoptive child who now reside with the prospective adoptive parents.

The biological father is currently unemployed and is in no position to provide for the educational needs of the juvenile and her siblings.

BACKGROUND OF THE PROSPECTIVE ADOPTIVE PARENTS

The prospective adoptive parents Mr. Quintin O'rielly and his intended partner resides at No. 9 Decker Drive, Off Regent Road, Freetown Sierra Leone. He is a Sierra Leonean and holds a valid Sierra Leonean passport.

He is gainfully employed and owned the property where he stays. The prospective adoptive parent had a daughter of his own and they all reside at the above address together with the juvenile. He had cared for the juvenile since she was born. He is in a financially stable position to cater for the educational and social needs of the juvenile, something she can't get from her biological parent considering the economic situation they find themselves.

In considering whether to grant this adoption orders prayed for, two issues need to be considered.

1. Whether the prospective parents pass the fit and proper person test for them to be granted custody of the child.
2. Whether the application is in the best interest of the child.

The first issue is whether the prospective adoptive parent is fit and proper person to be appointed the adoptive parent.

Section 3 of the Adoption Act 1989 sets the conditions that the adoptive parents must fulfill before he/she can qualify to adopt the juvenile.

Section 3(1)a provides:

An adoption order shall not be made, unless the applicant, or in the case of joint application, one of the applicants

- a) Has attained the age of twenty-five and twenty-one year older than the juvenile.

The applicant and his partner herein are gainfully employed, he resides at No.9 Decker Drive, Juba Freetown. He was born on the 30th day of March, 1963. The juvenile on the other hand was born on the 11th October, 2008. It is very clear that the applicant is more than twenty-one years older than the juvenile, and he is more than twenty-five years of age. He therefore fulfills that requirement of the law and therefore qualifies to be granted the right to adopt the juvenile.

Section 4(3)b and (c) provides:

An adoption order shall not be made in respect of a juvenile unless:

- a) The applicant and the juvenile reside in Sierra Leone

- b) The juvenile has been in the continuous care and possession of the applicant for at least six consecutive months immediately preceding the date of the order.

In the instant case, the child has been in the care of the adoptive parent for well since she was a baby. They have always taken care of her. It was further submitted by counsel, that all the applicant want is to formalize their relationship and to be in a position to call the child their own. He will continue to provide and care for the child as he has always done.

The applicant met the requirements in both Section 4(a) and (b). They are both residing in Sierra Leone and the child has been in his care since she was a baby.

Am of the view that and going by the evidence adduced above, the adoptive parents fulfilled the requirement under the sub-section for them to be granted the right to adopt the juvenile.

The second issue for determination is whether the application is in the best interest of the child.

It is trite law that when making decision concerning children, the welfare of the child is of paramount importance.

Section 3(1) of the Child Right Act of 2007 provides:

The fundamental principle to be applied in the interpretation of this act shall be that in the short-term and long-term best interest of the child shall be the primary consideration in any decision or action that may affect the child.

The Court shall in particular have regard to the ascertainable wishes and feelings of the child. The child physical, emotional and educational needs. The age and sex of the child and other relevant circumstances.


In the instant case, there is evidence that the child who was born on the 11th October, 2008 has always been in the care and custody of the prospective adoptive parents and is attending one of the leading private schools in Freetown. From my chat with her in court she appears well kept and happy with the adoptive parent. She didn't come across as a child that is deprived of the basic needs a child in her position should enjoy.

The biological parents at the moment staying apart from each other and unemployed are not in position to provide more especially for the educational needs of the child and has given their consent for the adoption of their child.

I don't think it would be in the best interest of the child to deny this application. And it will be unfair on the adoptive parents with whom the child has basically known as her parent to separate them now by not granting the reliefs sought.

By reason of the above, I hereby make the following orders:

1. That the Applicant is allowed to adopt the juvenile
2. That the Order be registered with the Office of the Administrator and Registrar- General and with the National Registration Authority
3. That the Applicant is at liberty to take the juvenile out of the jurisdiction
4. No order as to cost.

 12/7/23
Hon. Justice Alfred A.T. Ganda J.