

EDITORIAL NOTE: CHANGES MADE TO THIS JUDGMENT APPEAR IN
[SQUARE BRACKETS]

**NOTE: PURSUANT TO S 22A OF THE ADOPTION ACT 1955, ANY REPORT
OF THIS PROCEEDING MUST COMPLY WITH SS 11B, 11C AND 11D OF
THE FAMILY COURT ACT 1980. FOR FURTHER INFORMATION, PLEASE
SEE [https://www.justice.govt.nz/family/about/restriction-on-publishing-
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**IN THE FAMILY COURT
AT TOKOROA**

**I TE KŌTI WHĀNAU
KI TOKOROA**

**FAM-2020-077-000130
[2021] NZFC 8083**

IN THE MATTER OF	THE ADOPTION ACT 1955
BETWEEN	[BROOKE SHUTE] [SIMON DONALD] Applicants
AND	[LEE SHUTE] Child or Young Person the application is about

Hearing: 9 August 2021

Appearances: L Gamble for the Applicants
M Bodde-Phillips as Lawyer for the Child

Judgment: 9 August 2021

ORAL JUDGMENT OF JUDGE A C WILLS

[1] I am going to do a formal order with a proper decision that refers to the legislation and the Court of Appeal decision and all of those things that go along with that. I am entirely satisfied that regardless of the social work report and the social worker's views in this case that an adoption order should be made.

[2] [Lee] is a very lucky little girl because she has two families, well three families really, all of whom love her, care for her and wants to see the best for her. The only question is whether the responsibilities of her biological paternal side should be enshrined in a parenting order in conjunction with the making of the adoption order.

[3] There is no doubt that the paternal whānau have lots of contact - it is relatively regular; it is flexible, and the relationship is really positive. What I cannot do for [Lee] is to absolutely assure her of the ongoing nature of it if I make an adoption order final today. It is something that will need a little bit of work because Ms [Haynesworth], the paternal grandmother and in fact the paternal grandfather and his partner, all support this adoption order but I do not know whether they would be prepared to have a generic order which enabled contact to continue on that flexible basis but gave a lawful foundation for that.

[4] As a result, I am going to make an interim order today, but this is the important stage of the making of any adoption order. This is the time when whānau are present and there are many here today to support [Lee] and her whānau. The final adoption order is almost always something that is dealt with on the papers, so this is the important appearance today.

[5] I confirm that I am satisfied that the criteria are met. The relationship that exists between [Lee] and her Mum and Mr [Donald] is one of parents. I am satisfied that they are fit and proper persons in terms of the legislation to apply for an adoption order and I make an interim order of adoption.

[6] Now the name issue is one that I am being asked to address today and I am satisfied that it would be appropriate, given that the adoption order is being made, for [Lee] to have the name of the family in which she is living. The applicants' desire that [Lee]'s name will be [Lee Donald] and I am satisfied that that is an appropriate name change to reflect the family unit in which [Lee] is living.

[7] Although it is suggested that the words: "Adoptive parents" should not be in the birth certificate, it is my view that it is appropriate for adoptive parent to be included for Mr [Donald]. There is no shame in being an adoptive parent. It is a great

gift, in fact, that is being given to [Lee] - that opportunity to have an intact family unit and a relationship with her biological family as well.

[8] I make orders accordingly and directions as follows:

- (a) Over the period of six months before a final adoption order is made, I continue Ms Bodde-Phillip's appointment simply to enable her to discuss with Ms [Haynesworth] and Mr [Cleave] the issue of contact with [Lee], just in terms of legalising the opportunity for it. It may be that they do not seek to have their position formalised or legalised. I am clear from speaking with Ms [Shute] today that she understands why it is that it might be a useful thing. I accept entirely her indication that it has gone perfectly well for five years and there is no suggestion that it might change from that. That issue could be dealt with quite quickly by way of a consent memorandum and a pro-forma application that could be referred to me in chambers. I would not require affidavits to be filed in those circumstances and I say that for the registrar's benefit.
- (b) I direct a case management review in six weeks' time to monitor a report from Ms Bodde-Phillips and to receive any applications and consider them if they are filed. In those circumstances, I will need to hear from counsel at the time of the case management review to identify whether at that point I can make a final order in advance of the statutory period of six months. If I can make a final order at that time then I will.

Judge AC Wills

Family Court Judge | Kaiwhakawā o te Kōti Whānau

Date of authentication | Rā motuhēhēnga: 23/08/2021