

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
[2022] NZFC 1783**

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

Judgment: 28 February 2022
(On the papers)

JUDGMENT OF JUDGE A C WILLS

[1] On 9 August 2021 last year an order was made providing that [Brooke Shute] and [Simon Donald] could adopt [Lee Shute].

[2] [Lee] is the biological daughter of Ms [Shute] and Mr [Blair Haynesworth]. Mr [Haynesworth] died on [date deleted] 2016. Mr [Donald] and Ms [Shute] have been in a relationship since 2017 and married on [date deleted] 2020. Mr [Donald] has been in a parenting role for [Lee] since 2017 and the adoption order that was made on 9 August last year reflects the reality of [Lee]’s situation.

[3] An interim order was made to give the opportunity to the paternal biological family to apply for leave and for a parenting order to ensure that they had a legal right to participate in [Lee]'s life following the adoption. With the guidance of Counsel to Assist the Court, an application for leave to apply for a parenting order and a parenting order providing for reasonable contact between [Lee] and her paternal family has been filed. A consent memorandum has been signed by all parties reflecting the positive relationship that exists.

[4] It is clear that [Lee], as she has grown older, has developed a much better understanding of her own whakapapa which has been encouraged by all those around her.

[5] With that application filed and the six-month time period having passed, it is now time to make the final orders that are sought. [Lee] is a much-loved little girl and these orders will reflect her day-to-day reality. That is, that her mum and dad are Ms [Shute] and Mr [Donald], and that although she has another father who is no longer living, she has the opportunity to know and have a relationship with his family.

Orders and Directions

Adoption

- (a) The final adoption order in favour of Ms [Shute] and Mr [Donald] is granted.
- (b) Although Ms [Shute] and Mr [Donald] expressed a preference that the birth certificate does not show the words "adoptive parents", the words "adoptive parent" should be included to record the legal position in respect to the relationship between [Lee] and Mr [Donald].
- (c) [Lee]'s name will be [Lee Donald].

Care of Children Act

[6] Orders by consent as follows:

- (i) Leave is granted to [Lee]’s grandparents, [Sarah Haynesworth] and [Grant Cleave], to apply for a parenting order.
- (ii) A parenting order providing that [Sarah Haynesworth] and [Grant Cleave] shall have reasonable contact with [Lee] as agreed upon between the parties.

Directions

[7] I have been asked to address slips and errors in the judgment given in August. The oral judgment, reserved judgment and notice of interim order all contain errors. Those are set in counsel’s memorandum of 11 November 2021 at paragraph 3 (a) – (d). The judgments and orders should be corrected as to slips and errors and re-issued to ensure that the record is accurate.

[8] As this finalises all matters for [Lee] I take this opportunity to recognise that the social work report provided did not recommend the adoption application be granted. That was primarily based around identity issues for [Lee] that might arise following the making of the order sought and I am satisfied that those identity issues have been resolved through the Care of Children Act orders that have been made.

[9] In circumstances where Ms [Shute] and Mr [Donald] have together maintained [Lee]’s relationship with her biological paternal family, and where they have formed a close and loving family unit including [Lee], I am satisfied that it is in [Lee]’s welfare and best interests that the orders sought are made.

Judge AC Wills

Family Court Judge | Kaiwhakawā o te Kōti Whānau

Date of authentication | Rā motuhēhēnga: 02/03/2022