

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

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**IN THE FAMILY COURT  
AT NELSON**

**I TE KŌTI WHĀNAU  
KI WHAKATŪ**

**FAM-2020-042-000081  
[2022] NZFC 3022**

IN THE MATTER OF	THE ADOPTION ACT 1955
BETWEEN	[JOCELYN PALMGREN] [IVAN PALMGREN] Applicants
AND	[ADAM HEATH] Respondent
AND	[KELSEY DALE-HEATH] Child or Young Person the application is about

Hearing: 4 April 2022

Appearances: H A McKinnon for the Applicants  
No appearance by or for the Respondent

Judgment: 4 April 2022

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**ORAL JUDGMENT OF JUDGE G P BARKLE**

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[1] Ms [Jocelyn Palmgren] and Mr [Ivan Palmgren] make application for an adoption order in respect of [Kelsey Dale-Heath]. [Kelsey] was born on [date deleted] 2006 in [location deleted]. Ms [Palmgren] (“[Jocelyn]”) is [Kelsey]’s natural mother.

Mr [Palmgren] (“[Ivan]”) has been [Kelsey]’s long-term stepfather. Her father is [Adam Heath].

[2] [Jocelyn] and Mr [Heath] were in a relationship from approximately 2000 with their separation taking place in mid 2007. [Jocelyn] and [Ivan] have known each other for some years and began living together in August 2010. They married [in early] 2019. Their daughter, [Jade], was born on [date deleted] 2020.

[3] The application to adopt [Kelsey] was filed in February 2020. It is unclear to me, apart from the accepted impact of COVID-19, why it has taken such a lengthy period of time for the application to be considered by the Court.

[4] Unsurprisingly I have the required consent from [Jocelyn] to adopt her own daughter. There was, it seems, some prevarication on the part of Mr [Heath] but his consent has now been filed.

[5] Mr [Heath] has not had significant contact with [Kelsey] for many years. There was in existence a parenting order dated 26 February 2011 providing for Mr [Heath] to have contact with his daughter but that has now been discharged. I understand from the documentation filed that Mr [Heath] may have a number of other children. He lives in Auckland. [Kelsey] advises me that she recalls meeting one of her half-siblings once but otherwise has had no contact with them.

[6] As required in terms of the Adoption Act 1955 (“the Act”) a report pursuant to s 10 has been completed by Ms Tina Bowden, adoption social worker at Oranga Tamariki here in Nelson. She has spent time with [Jocelyn] and [Ivan] as well as [Kelsey]. The report is positive and sets out that [Ivan] has played a fulsome part in [Kelsey]’s upbringing for some years now.

[7] As is required by the Act, Ms Bowden has provided background information about [Jocelyn] and [Ivan] own families along with their current situation. Briefly, [Jocelyn] is a [occupation and workplace deleted] in Nelson and has held that role for some years. In addition she provides administrative assistance in [Ivan]’s business.

Relatively recently they have purchased [a business] where [Ivan] has worked for the last 15 or so years. He is a qualified [profession deleted].

[8] [Kelsey] attends [College] where she is in year 11. Apart from the usual academic subjects where she displays much diligence, she also has an artistic bent.

[9] Before the Court can make an adoption order I must be satisfied that the criteria in s 11 of the Act are met. Those criteria include that I am satisfied that [Jocelyn] and [Ivan], are fit and proper persons to have the role of providing day-to-day care of [Kelsey] and are of sufficient ability to bring up, maintain and educate her. Then I must be sure the welfare and interests of [Kelsey] will be promoted by the adoption and there remains the ability of a parent or guardian to require a condition around religious denomination and practice.

[10] As I have discussed with [Ivan] and [Jocelyn], as well as [Kelsey], there is some thinking that step-parent or family adoptions should be considered with caution. That is because there is a view, and in some cases it is appropriate, that providing a legal framework of additional guardianship and day-to-day care for the non-biological parent is more beneficial for the young person and will still leave alive their links to the other part of their family. Nevertheless I accept that the paramount interest involved is the welfare and best interests of [Kelsey]. Nor should there be any presumption for or against stepfamily adoption and each application must be considered on its own facts.

[11] The report from Ms Bowden together with the affidavit evidence I have from [Ivan] and [Jocelyn] provide abundant information to satisfy me that they are fit and proper persons to bring up [Kelsey] and as is quaintly put in s 11(a), are able to maintain and educate her. My meeting today with [Ivan] and [Jocelyn] has confirmed that position.

[12] From the documentation that has been filed I do not understand that there is any particular religious denomination that is of relevance.

[13] Most particularly the focus of my consideration requires that I am satisfied that there are sufficient benefits for [Kelsey] in making an adoption order and the other legal alternatives that I have referred to do not outweigh such an order being made.

[14] In the case of *B v G* the Court of Appeal stated that the enquiry under s 11(b) into the welfare and interests of [Kelsey] in this case is a broad based one.<sup>1</sup> As I have said, I must be satisfied that these particular adoptive parents will promote the best interests and welfare of [Kelsey]. That is an approach consistent with the United Nations Convention on the Rights of the Child and I accept I should have regard to such international obligations.

[15] I am aware that Mr [Heath] has now consented to the adoption, therefore one infers that he himself, the biological father of [Kelsey], regards it is in the welfare and best interests of her for the adoption to take place.

[16] It is also apparent from the documentation that has been provided, and confirmed by what [Kelsey] herself told me today, that [Ivan] has been the primary father figure in her life from an early age. She recalls him teaching her how to ride a bike, he also has taught her how to hunt and fish and I expect many other pursuits as she has grown from the young girl when they first met.

[17] There are also, I accept, important emotional and psychological benefits for [Kelsey] and her parents, referring to [Jocelyn] and [Ivan], in granting the application. They appear to me to be a very close-knit, caring, and loving family which now includes [Jade]. I have the impression that the adoption will allow [Kelsey] to feel totally part of this family unit.

[18] As I have discussed with [Ivan] and [Jocelyn] together with [Kelsey], there are alternatives to the granting of an adoption order. However, I am quite satisfied in this situation that [Kelsey] particularly regards it of much importance to her she be now adopted formally as [Ivan]'s daughter. It is apparent she together with [Jocelyn] and [Ivan] are aware of the legal implications of the making of an adoption order.

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<sup>1</sup> *B v G* [2002] 3 NZLR 233 (CA).

[19] Where there are special circumstances made out I can make a final adoption order today. I have already said this has been a lengthy process of just over two years from when the application was filed. [Ivan] has been [Kelsey]’s stepfather for many years. There seems to me to be no real reason why a final order should not be made. There is no suggestion that there needs to be some social worker oversight of the [Palmgren] family unit. The making of an interim order has little if any utility and I am quite comfortable that there are special circumstances in this situation to make a final adoption order.

[20] Against all of that background I, therefore, make the following orders:

- (a) There will be a final adoption order in favour of [Jocelyn Palmgren] and [Ivan Palmgren] with respect to [Kelsey].
- (b) This will be a final order.
- (c) The name which will appear on the birth certificate of [Kelsey] will be [Kelsey Palmgren].
- (d) The words “adoptive parents” are not to appear on the birth certificate of [Kelsey].

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Judge GP Barkle  
Family Court Judge | Kaiwhakawā o te Kōti Whānau  
Date of authentication | Rā motuhēhēnga: 08/04/2022