

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

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**IN THE FAMILY COURT
AT WELLINGTON**

**I TE KŌTI WHĀNAU
KI TE WHANGANUI-A-TARA**

**FAM-2021-085-000390
[2022] NZFC 1257**

IN THE MATTER OF	THE ADOPTION ACT 1955
BETWEEN	[SPENCER LOWE] [TRAVIS MAYNARD] Applicants
AND	[ADAM MAYNARD-LOWE] Child or Young Person the Application is About

Hearing: 11 February 2022

Appearances: E Lewes for the Applicants

Judgment: 11 February 2022

ORAL JUDGMENT OF JUDGE C MONTAGUE

[1] This is an application for an adoption order today. The applicants are [Spencer Lowe] and [Travis Maynard]. They are the parents of [Izzy Maynard-Lowe], her birthday is on [date deleted] 2017.

[2] Both Mr [Maynard] and Mr [Lowe] are here today with [Izzy] and also with [Adam], the child they seek to adopt. [Adam] was born on [date deleted] 2021 and is

here in full flight today together with his sister. His current full name is [Adam Maynard-Lowe]. That will not need to be changed.

[3] [Adam] was born as a result of gestational surrogacy and is the biological child of Mr [Lowe] and an egg donated through Fertility Associates.

[4] I need to go through a few formal steps today, in order to make an adoption order.

[5] The surrogate's name is [name deleted – the surrogate]. She is a friend of the parties. At law, she is presumed to be [Adam]'s mother under the Status of Children Act 1969. The Adoption Act 1955 is required to unravel that presumption in order to create the new parentage, confirming [Adam] as a full member of his family and that his parents are Mr [Maynard] and Mr [Lowe].

[6] Mr [Maynard] and Mr [Lowe] are already well aware of this process, having adopted [Izzy], who is thrilled I am sure to have a little brother to be a big sister to.

[7] I need to be satisfied of some things jurisdictionally.

[8] The applicants need to be in a relationship or married. They are married. I have a copy of their marriage certificate on file confirming their date of marriage to be [date deleted] 2020.

[9] They are both New Zealand citizens, they are both of age and clearly [Adam] is a baby.

[10] I need to be satisfied that [the surrogate] has signed the requisite consent. She has provided consent appropriately certified by Maurice Casey, solicitor. In addition to that she has filed an affidavit setting out the circumstances of her involvement in the birth of [Adam], endorsing in more detail, the consent that she has provided. It is clear to me that [the surrogate] consents to the legal presumption of her motherhood to be extinguished today. I am satisfied that the consent she has provided is legally valid.

[11] I now need to consider whether the applicants are fit and proper people, which seems a little odd given that they have already been well and truly previously approved as fit and proper people, having undertaken this process with [Izzy]. It is apparent to me from reading the social worker's report that they are entirely fit and proper. It is a comprehensive report. I have already released it to the parties so that they have it to show to [Adam] when they consider it appropriate. It is an important part of his birth story. It explains the journey of the surrogacy and identifies that there are no issues for Mr [Maynard] and Mr [Lowe] in terms of their background, their finances, their work history, their medical history and of course their parenting.

[12] I now need to consider whether the adoption is in [Adam]'s best interests and welfare. Well it plainly is. He is where he should be. He is with his biological family, his sister and his two parents. This order will confirm the legal scaffolding around that. As I say, he has come to court today in a matching outfit with his sister [Izzy] and the two of them look quite fabulous.

[13] The last thing I need to consider, as raised by Ms Lewes, is whether this should be an interim or a final order. To make a final order I am required to exercise a discretion, which I am more than happy to do today. An interim order is only usually made when there needs to be further oversight from a social worker to monitor bonding of the child with his or her parents and so forth, as the parties know. [Adam] has been with his parents since the day he was born. That bonding has already taken place. The social worker supports a final order.

[14] In those circumstances, I am fully satisfied that [Adam] should be confirmed by way of a final adoption order as the legal child of the applicants, [Spencer Lowe] and [Travis Maynard]. The order will also create the legal sibling relationship which I think is very important for him and for his sister, [Izzy].

[15] [Adam]'s name does not need to be changed, however, the birth certificate is not to include the words "adoptive parents".