

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-judgments/>

**IN THE FAMILY COURT
AT AUCKLAND**

**I TE KŌTI WHĀNAU
KI TĀMAKI MAKĀURAU**

**FAM-2022-004-000374
[2023] NZFC 1665**

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| IN THE MATTER OF | THE ADOPTION ACT 1955 |
| BETWEEN | [KATE HAYWARD] [CARL MATTHEWS] Applicant |
| AND | [WILLIAM HAYWARD] Child or Young Person the application is about |

Hearing: 22 February 2023

Appearances: A Malone and B Kulach for the Applicants

Judgment: 22 February 2023

ORAL JUDGMENT OF JUDGE B R PIDWELL

[1] Today, I have a very special boy in my courtroom. His legal name now is [William Hayward]. He was born on [date deleted] 2014 so he is eight years old. He is here with his mother, [Kate Matthews] and her husband [Carl Matthews]. They jointly seek to adopt [Will] to secure their family unit legally. They also have a daughter, [Evie], who is here today. She is six and she is, of course, [Will]'s little sister.

[2] Mrs and Mr [Matthews] were married on 6 February last year but have been in a relationship since before [Will] was born. Mr [Matthews] has been [William]'s father for his entire life.

[3] The applicants are New Zealand citizens. They live in New Zealand and are of the requisite age. [Will] is a child, he is under the age of 20, which he has to be for the adoption to proceed, and he certainly is that. Therefore the jurisdictional requirements are met.

[4] Mrs [Matthews] is, of course, [William]'s mother and in the somewhat uncomfortable position of having to essentially adopt her own child but that is just a technicality and just the requirements of this old piece of legislation that we are operating under.

[5] [Will]'s biological father is a man called [Jacob Geizler]. He has signed the necessary consent. It has been certified as required, establishing he has had the right legal advice by a lawyer and understands the effects and implications of the consent. He has also filed an affidavit, which is not strictly required, but provides a good explanation and insight into his view and has confirmed that he is of the view that this is right for [William] and it is in [William]'s best interests and welfare. He is not on the birth certificate and therefore is not a guardian. I am satisfied that the consent complies with the legal requirements and is legal valid.

[6] I turn now to s 11 of the Act which requires me to be satisfied that the applicants are fit and proper people to have the role of providing day-to-day care and have a sufficient ability to bring [Will] up and maintain him. That is always an uncomfortable inquiry for a Family Court Judge to make. We do not make that inquiry of parents having their children naturally but it is in the law as it is written now. I also need to be satisfied that [Will]'s welfare and best interests will be promoted by the adoption and that is what [Will] himself wants.

[7] To that end I have a report from Oranga Tamariki and also the evidence from the applicants themselves. Mr [Matthews] is a social worker with [workplace deleted] and Mrs [Matthews] is a teacher at [school deleted].

[8] The necessary checks have been done, there is no medical or financial or police issues that are of any concern. The home environment has been looked at and the parent's relationship and all is positive. The report has explored [Will]'s iwi connections and I note the birth father and family are open to engagement with [Will] at his pace and the door will be left open for that to occur.

[9] In those circumstances I am satisfied that the applicants are fit and proper people. The evidence is that [Will] has a strong relationship with Mr [Matthews] and the motivation for the adoption is to provide [Will] with a sense of security and stability. The alternative option legally is to provide for a parenting order and an additional guardianship order under the Care of Children Act but that only lasts for the duration of a childhood, not for the lifetime. That is the point of difference.

[10] In addition, an adoption order secures the sibling relationship for life and that is an important factor I am sure in this scenario for [Will] and [Evie].

[11] [Will] himself wants the adoption and has said to the social worker that it was important for the judge, me, to know that and has confirmed that to me today. I am fully satisfied that the adoption is in [William]'s best interests and welfare and it will simply make the reality of his life legal.

[12] I turn now to whether I should make an interim or final order at the first instance and historically the purpose of an interim order was simply to test the bondage and establishment of the relationship within the new family. That has been done here a long time ago as Mr [Matthews] is the only father that [Will] has ever known. There is no need for monitoring, there is no need for any further restriction and in particular given the delay from the Court receiving the s 10 report.

[13] In those circumstances I am wholly satisfied that the application should be granted. I make an adoption order which provides for Mrs [Matthews] and Mr [Matthews] to be [William]'s parents and I make that order final in the first instance. I am satisfied that those special circumstances exist. I direct the birth certificate to issue without the words "adoptive parents" on it and from now on [William]'s name will be [William Matthews].

[14] The s 10 report will be released to parties.

Judge BR Pidwell
Family Court Judge | Kaiwhakawā o te Kōti Whānau
Date of authentication | Rā motuhēhēnga: 14/03/2023