

EDITORIAL NOTE: NAMES AND/OR DETAILS IN THIS JUDGMENT HAVE BEEN ANONYMISED.

NOTE: PURSUANT TO S 22A OF THE ADOPTION ACT 1955, ANY REPORT OF THIS PROCEEDING MUST COMPLY WITH SS 11B TO 11D OF THE FAMILY COURTS ACT 1980. FOR FURTHER INFORMATION, PLEASE SEE [HTTP://WWW.JUSTICE.GOVT.NZ/COURTS/FAMILY-COURT/LEGISLATION/RESTRICTIONS-ON-PUBLICATIONS](http://www.justice.govt.nz/courts/family-court/legislation/restrictions-on-publications).

**IN THE FAMILY COURT
AT MANUKAU**

**FAM-2015-092-001040
[2016] NZFC 3507**

IN THE MATTER OF THE ADOPTION ACT 1955

BETWEEN BAI WONG
 LEI WONG
 Applicants

Hearing: 29 April 2016

Appearances: I Sapolu for the Applicants

Judgment: 29 April 2016

ORAL JUDGMENT OF JUDGE M L ROGERS

[1] This afternoon I am considering an application by Lei Wong and Bai Wong to adopt Daisy Jiang. Daisy was born on [date deleted] 2013 and her biological father is the brother of the female applicant Mrs Wong. Daisy's biological parents [family details deleted]. When Daisy was expected her biological mother approached Mrs Wong about adopting Daisy because the family simply did not feel able to cope with another child. This is a matter which was the subject of quite a lot of family discussion and planning and ultimately Mr and Mrs Wong assumed responsibility for Daisy's care from the moment she was born.

[2] Daisy's biological parents have provided the necessary consent to adoption and a detailed affidavit in which they explain why they decided that Mr and Mrs Wong would be the best people to care for Daisy.

[3] Although it has clearly not been an easy decision for the biological parents they have never resiled from their determination to see Daisy raised by Mr and Mrs Wong.

[4] I have received a report from the adoption unit at Child, Youth and Family and that report is extremely positive about Mr and Mrs Wong. They are described as, "Proud parents of Daisy." "When the applicants talked about having Daisy in their lives their faces lit up with love, pride and happiness. When Mr Wong was telling me about having Daisy into their family he became tearful and said he could not imagine their life without her."

[5] The report addresses formally the requirements of s 11 Adoption Act 1955 and says that Mr and Mrs Wong are indeed fit and proper people to have the care of Daisy. The social worker also confirms that it will be in Daisy's welfare and best interests for an adoption order to be made as Mr and Mrs Wong are the only parents that Daisy has ever known. There is a close and well-recognised bond between Daisy and the applicants.

[6] The social worker confirms that the adoption comes about as a result of a family agreement; it is noted that all of the adults concerned consider it extremely important that Daisy is part of Mr and Mrs Wong's family as a matter of law. This is not a situation where the families feel that orders under the Care of Children Act 2004 would be adequate.

[7] I am bound to note that this is an adoption which in the past would have been considered to inappropriately distort family relationships. Mr and Mrs Wong continue to enjoy a close relationship with Daisy's biological parents and biological siblings, it is therefore of significance that the making of an adoption order will end the legal ties with that family. In the past the Court have been uncomfortable about such arrangements because, as I say, it does distort the family structure but the Courts have also long recognised the need to acknowledge that different cultures

have different expectations and different arrangements as far as the care of children is concerned.

[8] In 1995 in the case of *Tuioti Appeal By, Re* [1995] NZFLR 773 (HC) Tomkins J noted that, "...full regard should be had to the cultural attitudes of the family concerned." In that case Tomkins J declared, "Thus an adoption that may be considered inappropriate in a European setting may well promote the welfare and interests of the child in a Polynesian family." That case has long been cited by the Family Court in dealing with applications, particularly by Pasifika families, to acknowledge unique family structures and I note that inter-family adoption has often been considered in that context.

[9] In this case the adults want Daisy to be fully acknowledged as the child of Mr and Mrs Wong. This is not just about temporal rights, I note that Daisy's biological family are Mormons and although Daisy is being raised with their consent as a Catholic her family of origin and their religion have particular expectations and requirements around unity in the afterlife and it is particularly important in the Mormon faith that children are adopted so that they can be sealed to people in the afterlife. As I say, Mr and Mrs Wong are raising Daisy as a Catholic in accordance with their own faith but I cannot overlook that background consideration for the family of origin.

[10] Having regards to the firm family arrangement which has been in place for some two years, Daisy's status as a child of Mr and Mrs Wong in all but law at this stage and the firm and ongoing support of the biological family for this arrangement I agree with the social worker's assessment that these are fit and proper people to have the care of Daisy and that the making of an adoption order will be in Daisy's welfare and best interests.

[11] Accordingly, it is my pleasure to grant Mr and Mrs Wong's application for an adoption order. As is usual practice the adoption order will in the first instance be an interim order; that is not to take anything away from the quality of care being provided by Mr and Mrs Wong, it is simply the usual first step.

[12] That does mean there is one small complicating factor and that is regarding Daisy's ability to travel outside of New Zealand. Ordinarily a child subject to an interim adoption order cannot be removed from New Zealand but Mr and Mrs Wong need to travel at short notice [details of reasons for travel deleted].

[13] I will grant leave to Mr and Mrs Wong to take Daisy out of New Zealand leaving tomorrow, 30 April, and returning on 14 May. [Details of reasons for travel deleted].

[14] I have recorded leave on the file and I ask the Court to expedite the sealing of a leave order so that Mr and Mrs Wong do not have any difficulties when they travel with Daisy.

[15] I would also ask the Court to seal the interim adoption order this afternoon if possible. Mr Registrar is just indicating that he will do that today, so I will ask Mr and Mrs Wong and their counsel to remain so they can take the orders from the Court with them.

[16] Mr and Mrs Wong, it is a happy day that Daisy is confirmed as your daughter. I am sorry it is at a sad time for you and I hope that you are able to travel tomorrow without any complications.

[17] It seems to me this is a lovely arrangement the family have made and it is very apparent to me that you treasure Daisy as your own little girl and I wish you all the best for the future.

M L Rogers
Family Court Judge