

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 WELLINGTON**

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

**FAM-2023-085-000440
[2024] NZFC 598**

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| IN THE MATTER OF | THE ADOPTION ACT 1955 |
| BETWEEN | CHIEF EXECUTIVE OF ORANGA TAMARIKI—MINISTRY FOR CHILDREN Applicant |
| AND | [CONOR HICKMAN] [ANDY DAVIES] Applicants |
| AND | [HENRI HICKMAN-DAVIES] [FINDLAY HICKMAN-DAVIES] Children or Young Persons the application is about |

Hearing: 19 January 2024

Appearances: L van der Peet on behalf of C Setefano for the Chief Executive
S Dalley for the Applicants (via AVL)
M Lemuelu as Social Worker

Judgment: 19 January 2024

ORAL JUDGMENT OF JUDGE C MONTAGUE

[1] [Findlay Hickman-Davies] and [Henri Hickman-Davies], welcome to the Family Court in New Zealand. I am Judge Montague and you are appearing today before me by video link in the arms of your parents: [Henri], with your father, [Andy], and [Findlay], with your father, [Conor].

[2] You are currently in Mexico where you were born on [date deleted] 2023. Your fathers today are seeking a final adoption order under New Zealand law following your birth, which occurred by way of international surrogacy in [Mexico].

[3] [Findlay] and [Henri], your parents have undertaken a very special journey to bring you into the world. You have been in their care from the moment you were born as their much longed for sons. They are very eager to bring you home to New Zealand. They will explain to you one day that you were born through a commercial surrogacy arrangement with the assistance of an egg donor and a surrogate, [Isabela Alvarado], and that your father, [Conor], is your biological father.

[4] I am being asked as a judge today to make a final adoption order under The Adoption Act 1955 so that your parents can bring you home to New Zealand as soon as possible. Before I make that order, I have to go through some legal steps, which I will now record.

[5] Your parents are married having provided the Court with evidence of their marriage on 8 June 2018. They are at least 25 and 20 years older than you as babies, and they are both New Zealand citizens with their habitual residence being New Zealand. This is a country that they have made home and where they will live with you which makes it your habitual residence too. I record, therefore, that the Adoption (Intercountry) Act 1997 does not apply because although you were born in Mexico, you will acquire the habitual residence of your parents.

[6] I am satisfied that Ms [Alvarado], the surrogate, has signed a consent document which has been translated into Spanish and provided to her after meeting with a notary public in Mexico. I am satisfied that she has been given advice by that notary public, as required by law, and an affidavit, which I have also seen, confirms her consent and advice received, faithfully and accurately translated and provided to the Court.

[7] I am satisfied that Ms [Alvarado] has understood what it means to consent to the adoption.

[8] I have an affidavit from a New Zealand lawyer, Kelly Young, confirming a videocall that has taken place on 18 December 2023 which confirms the translation. The translator has provided copies of all the documents signed by Ms [Alvarado] both in English and in Spanish.

[9] I am satisfied that Ms [Alvarado] has understood the effect of the adoption order as explained to her by the notary, and the implications of her consent to it.

[10] I have also received an affidavit from a New Zealand lawyer, Yewon Jun dated 15 January 2024, which confirms that your birth certificates have been accurately translated from Spanish to English and I have those before me telling me that everything is in order.

[11] I am also aware, through the evidence filed, that Ms [Alvarado] has no conditions about your religious practice and wishes for your parents, [Conor] and [Andy], to now make all further decisions for you both without her further involvement.

[12] Finally, when I am making an adoption order, I need to be sure of three other matters.

[13] First, that your parents are fit and proper people to raise, maintain and educate you both, second, that the order is in your welfare and best interests and third that your welfare and best interests will be promoted by the adoption.

[14] I have no doubt that all three matters have been fully addressed for the following reasons.

[15] Both of your parents have filed affidavits. They have been very clear to the Court about their desire to become parents and it is quite apparent to me how much you were both wanted and how much they love you. They have much to offer you in the context of the life they will provide for you including the richness of their heritage.

Your father, [Andy], has dual British and New Zealand citizenship and your father [Conor], Irish and New Zealand citizenship. I am sure that will present many adventures for you both in years to come.

[16] I have read a report from the social worker from Oranga Tamariki in New Zealand, who was asked to write about your parents. It is a glowing report. It speaks of how you will both benefit from their love and care and how they are both thrilled to welcome you into their lives. Your parents say to the social worker that they feel your birth has made them the luckiest two people in the world.

[17] The social worker has recommended that there are special circumstances in this case to make a final parenting order and I agree.

[18] I make a direction that the social work report should be shown to you both when your parents think the time is right because it forms an important part of your birth story and your life history.

[19] Those are all of the legal matters I have to deal with, [Findlay] and [Henri]. It is now time for me to make the joint adoption order as sought.

[20] Mr Dalley, I am satisfied that the documents you have filed are in order.

[21] I now make an adoption order in favour of the applicants for [Findlay Hickman-Davies] and [Henri Hickman-Davies], born on [date deleted] 2023.

[22] The names to appear on the birth certificates shall be as per the application, [Findlay Hickman-Davies] and [Henri Hickman-Davies].

[23] The words “adoptive parents” shall not be noted on the birth certificate.

[24] The order is to issue as soon as possible and sealed today if possible so that it can be made available to Mr Dalley and then to the children’s parents so that they can come home to New Zealand and start their life here with the support of their family and friends as soon as possible.

[25] I wish you well boys, and a safe journey home.

Judge C Montague

Family Court Judge | Kaiwhakawā o te Kōti Whānau

Date of authentication | Rā motuhēhēnga: 02/02/2024