

Crown Law  
24/11/14  
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IN THE SUPREME COURT OF TONGA  
FAMILY JURISDICTION  
NUKU'ALOFA REGISTRY

FA 192 of 2014

IN THE MATTER OF

an application by **Mr. 'Epeli Taione & Mrs. Salote Lupepau'u Taione** for Custody Order

**Applicants**

IN THE MATTER OF:

**Child X**, male child, born on 9<sup>th</sup> November, 2014.

**BEFORE THE JUSTICE CATO**

Mrs Stephenson for the Applicants

Mrs Lutui for the Child

**JUDGMENT AND INTERIM ORDERS OF THE COURT**

1. On the 20<sup>th</sup> November, 2014, I was asked to consider an application for interim custody and a guardian ship order for this child who was abandoned by its mother shortly after birth. The mother has not yet been located or identified. On the 14<sup>th</sup> November, Scott C J made the child a ward of Court. The child is currently being cared for at Viola Hospital.
2. The Applicants are persons who in my view are well suited to make this application. They are both mature age, are persons of standing in the Tongan community and both have had experience of parenting.
3. I have the welfare of the child to consider. No evidence has been put before me to suggest that there would be any health reason for the baby to remain further in the hospital, and indeed I consider there are advantages for the child to receive some close maternal support at this stage. Mrs Lutui suggested as an

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objection that making interim custody order may interfere with the police investigation into the mother's whereabouts, but I cannot see why this should be so. She also suggested that there may be other applicants associated with the mother's family but again, I do not see why this should impede my consideration of interim custody orders at this stage. The mother may or may not be identified, and to date there have been no other applicants. I consider the welfare of this child is presently paramount, and I must deal with the situation, as I now find it.

4. I see no objection to the applicants having interim custody of the child now as I have said. There is no evidence before me that suggests it would be injurious to the child's welfare to be placed forthwith with the applicants and leave hospital. I do not entertain the possibility of guardianship at this stage, but consider that the child should remain a ward of Court until matters become clearer. I appoint the Solicitor - General additionally as Guardian ad Litem to furnish the necessary reports. I also require the Guardian ad Litem to visit on a fortnightly basis the applicants to monitor and ensure that the child is progressing well, in his new environment.
5. The interim custody granted to the applicants is to be reviewed when the child's circumstances may become clearer and I set the 24<sup>th</sup> February 2015 at 9am when the parties should return to Court, for at least a further mention, and update of the situation.
6. The child is to remain a ward of Court and the Solicitor- General is to be appointed as Guardian ad Litem. The Guardian ad Litem is to monitor with the Applicants the child's position on a fortnightly basis, and present a report to the Court by the 24<sup>th</sup> February 2015.
7. There is to be no publication of these proceedings.

DATED: 20 NOVEMBER 2014

 *[Signature]*  
JUDGE