

**IN THE HIGH COURT OF MEZAM DIVISION**  
**HOLDEN AT BAMENDA**

**BEFORE HIS LORDSHIP JUSTICE BIKELLE THERESE**  
**WITH MRS. AGWENJANG FRIDA AS REGISTRAR-IN- ATTENDANCE**  
**THIS MONDAY 12<sup>th</sup> DAY OF SEPTEMBER 2011**

**“REPUBLIC OF CAMEROON”**

**“IN THE NAME OF THE PEOPLE OF CAMEROON”**

**SUIT No. HCB/152M/2011**

**BETWEEN**

1. ABONG EMMANUEL FUSI }  
2. TANGANG MONICA AKWANO }..... PETITIONER

**AND**

1. THE PEOPLE OF CAMEROON }  
2. TUBAH COUNCIL }..... RESPONDENT

**PARTIES:**

**APPEARANCES:**

**RULING**

The Applicant through counsel filed a motion on notice for

1. An order that the Bamenda II Council should draw up a new birth certificate for Fusi Soliver Che, having as date and place of birth 25/12/1993 at Mankon – Mezam
2. And for any other order (s) that the court may deem fit and proper to make in the circumstances.

Attachment to the motion paper are eight paragraphs of affidavit with a lone exhibit – the birth certificate in issue. They were adopted and relied on by counsel for the Applicant Barrister Suh Benjamin. Submitting orally, counsel for the Applicant referred the court to some regulatory texts in order to substantiate the grant of the application. In his further submissions counsel said upon service on the Respondents, the 2<sup>nd</sup> Respondent never reacted and he urged the court to hold that the 2<sup>nd</sup> Respondent are not opposed to the

application. Concerning the counter – affidavit of the 1<sup>st</sup> Respondent, Applicant’s counsel contended that the issues raised therein have been taken care of the affidavit. Counsel finally urged the court to grant the application.

The 1<sup>st</sup> Respondent The People of Cameroon were represented by the Legal Department who were present in court and said they were ready to proceed. Magistrate Nde Daniel acknowledged receipt of the motion paper and its attachment. He adopted and relied on the eleven paragraphs of his counter affidavit with no further submissions.

Per the proof of service in the file the 2<sup>nd</sup> Respondent were served. They never attended court and did not file any reply. The logical inference to be drawn is that the 2<sup>nd</sup> Respondent are not opposed to the application.

I have considered the affidavit evidence, the exhibit and the submissions of both counsel. From the facts I am satisfied thus:

That the Applicants who are the biological parents of Fusi Soliver Che have deposed that Fusi Soliver Che was born on 25/12/1993 at Mankon – Mezam and not on 25/12/1997. It is Applicants’ contention in the course of procuring Exhibit “A” the birth certificate, Fusi Soliver Che’s date of birth was wrongfully stated by the official of the Civil Status Registry. The Applicants have equally contended that unknown to them, implications pertaining to jurisdiction and competence, they seized the Tubah Council (2<sup>nd</sup> Respondent) for the establishment of Soliver’s birth certificate (Exhibit “A”) whereas competence is reserved for the Bamenda II Council because the child was born Mankon – Mezam. It is for these reasons that the Applicants filed the present application with the prayers sought.

Considering that per section 31 (2) of Ordinance No. 81/02 of 29/06/1981 as amended on Civil Status Registration in Cameroon birth certificate shall be drawn at the place of birth of the child, upon noting that Fusi Soliver Che was born on 25/12/1993 at Mankon – Mezam which jurisdiction is within the competence of Bamenda II Council and not Tubah Council, therefore the birth certificate No. BK8/845/98 dated 09/01/98 drawn by Tubah Council in the names of Fusi Soliver Che, is irregular on the ground of jurisdiction. Once the birth certificate is declared as null, the person concerned could

obtain or caused to be obtained a new birth certificate, having regards to jurisdiction and procedural rules.

In the light of the foregoing the court grants the application and rules as follows:  
That the birth certificate No. BK8/845/98 drawn up on 09/01/1998 at the Civil Status Registry of Tubah Council, bearing the names of Fusi Soliver Che, is hereby declared as null and void.

**REGISTRAR-IN-ATTENDANCE**  
**EGBE PAULINE**

**J U D G E**  
**JUSTICE BIKELLE THERESIA**