

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT KISII

ADOPTION CAUSE NO. 2 OF 2021

IN THE MATTER OF BABY SO..... INFANT

AND

DNA.....1ST APPLICANT

MMN..... 2ND APPLICANT

RULING

1. Before me is an application by the applicants **DNA** and **MMN** seeking to have **JGA** of P.O. Box xxx Keroka to be appointed as a Guardian *ad litem*. During his interview in Court JA informed the court that D is his brother and M his sister in law. He admitted that he does not stay with the applicants and that during the holidays he stays with the child at Masaba.

2. **Section 160** of the **Children Act 2016** provides for the duties of the guardian *ad litem*. The proposed guardian *ad litem* is a relative of the applicant and child. For one to do an objective and independent report, the proposed guardian *ad litem* should in my view be an objective and an independent person. The applicants need to look for a guardian *ad litem* who will be objective and independent as that which is required of him or her must be a report that details his/her investigations relevant to the proposed adoption with a view of safeguarding the interests of the child and to report on matters stated by the applicants.

3. Being a relative of the applicants it is my view that he would not be objective or give an independent report. Further he does not stay with the applicants in the USA where they reside. The guardian *ad litem* should be a neutral and independent person.

4. On the stated reasons, I reject the proposed guardian *ad litem*.

DATED, SIGNED AND DELIVERED AT KISII THIS 28TH DAY OF SEPTEMBER, 2021

R.E. OUGO

JUDGE

In the presence of:

Mr. Bitok for the applicants

Rael Court Assistant