

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KIAMBU

ADOPTION CASE NO 1 OF 2017

IN THE MATTER OF ADOPTION OF RMW, A MINOR

BY

JMN & MWK.....APPLICANTS

J U D G M E N T

1. This is a kinship adoption. The Applicants herein are **JMN** (male Applicant) and **MNK** (female Applicant). They are a married couple aged 38 years and got married in 2010. Both Applicants are gainfully employed. They ascribe to the Christian faith and have three children of their own **AMN** (male aged 8 years); **HKN** (male aged 5 years) and **JNN** (female aged 1 year). The subject minor **RMW** was born on 24th February 2010 to **LWM**, a sister to the male Applicant who succumbed to an illness in 2011. The said deceased parent was single and the subject's biological father is unknown. The Applicants therefore took over the responsibility of providing for and caring for the minor while they resided in Kenya. The Applicants moved to the United States of America on a Green Card visa in 2011 leaving the subject in the custody of maternal grandparents while they continued to support him.

2. The Applicants now wish to adopt the subject minor who was declared free for adoption by Change Trust, the adoption agency, on 20th March 2019 *vide* certificate No.00292.

3. The social enquiry report by the adoption agency and reports by the Children Officer Limuru Sub County and by the guardian *ad litem* confirm that the Applicants are in a stable marriage and emotionally and financially capable of caring for the subject minor having proved themselves through *local parentis* responsibility towards the subject and to their own minor children in respect of whom they exercise parental responsibility.

4. The Applicants appear motivated by the desire to continue with that responsibility for the benefit of the subject. The subject minor has had extended periods though intermittent, of living with the Applicants while they were visiting Kenya from the USA in 2014, 2017 and 2019. From the report by the Children Officer the subject child has bonded well with his adoptive parents and is looking forward to the adoption. His grandparents **JMN** and **HNM** who hitherto have been the subject's *de facto* guardians have given written consent to the adoption.

5. The Applicants are professionals, working as electrician and nurse respectively. They own some properties in Kenya and a home in Seattle Washington State, USA where they reside and work for gain. Their children though young appear to accept the subject minor as their own and the extended family supports the adoption.

6. In an application of this nature, the court is obligated to uphold the best interests of the child. See Article 53 of the Constitution and Section 4(3) of the Children Act. It is my considered view, having considered all the material on record, and especially the children officer's report and the social enquiry report that indeed the proposed Kinship adoption would serve the best interest of the Subject by giving him a home and parents capable of caring and providing for him. The Applicants do qualify for a local adoption as they are Kenyan nationals even though currently living and working for gain in the USA. In the circumstances, I grant prayers 2, 3 and 4 of the Originating Summons filed on 8th February 2017.

DELIVERED AND SIGNED ELECTRONICALLY THIS 23RD DAY OF JULY 2020

C. MEOLI

JUDGE