

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

(FAMILY DIVISION)

ADOPTION CAUSE NO. 131 OF 2017

IN THE MATTER OF AN APPLICATION FOR ADOPTION OF BABY F

RULING

1. According to the pleadings herein the child sought to be adopted is identified as F.
2. I have carefully perused through the documents lodged herein by the adoption agency arranging this adoption, Kenya Children's Homes, and noted that some of them refer to M and H C. The care agreement executed between the applicant and the T B H, approved by the Kenya Children's Home, dated 24th May 2017 is in respect of a child known as F and also known as H C. Yet the letters from the police and the Alice Nursing Home refer to a child called M. The letters are dated 13th February 2015, 14th February 2015 and 16th September 2015. There is also the Child Health Card dated 5th December 2014.
3. This means that the pleadings are not in sync with the documents that the applicant has placed on record and which she would like the court to rely on to determine the matter. The documents appear to be referring to different persons. One of the persons referred to in the documents is not mentioned at all in the pleadings. There is no knowing whether the child referred to as M is the same as F and H C.
4. Identity is everything for human beings. The name assigned to any human being identifies him. If there are double or multiple identities then all must be used at the same time to demonstrate that they refer to the same person. indeed, in these cases where it is alleged that the child in question was found abandoned and was subsequently assigned several names, all those names give the child his identity and all of them must be used in the proceedings, until the court assigns a name to him at adoption, which name then finds its way into the state adoption records.
5. As it is, I am not satisfied as to the identity of the child in question, for the documents presented here to support the pleadings do not tally with the said pleadings. The applicant ought to amend her pleadings to remedy the situation. That should be done within sixty (60) days, failing which the Originating Summons dated 7th September 2017 shall stand dismissed, in which event the child shall be returned to the institution.

DATED, SIGNED and DELIVERED at NAIROBI this 14TH DAY OF JUNE, 2018.

W. MUSYOKA

JUDGE