

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE N. 126 OF 2015

IN THE MATTER OF A C (MINOR)

U F D.....1ST APPLICANT

AND

T D.....2ND APPLICANT

JUDGMENT

1. The applicants in this adoption cause **M F D** and **T K D** through their amended Originating Summons dated 28th October 2015 are seeking to be authorized to adopt **A C** and to be known as **A A D**. That the court do order for a new certificate of birth bearing the names of the applicants **M F D** and **T D** and the minor to be changed to **A A D**. That **F D** and **M R K** be appointed as the legal guardians of the minor.

2. The applicants have been married since 2009 and reside at [particulars withheld] Apartments in Parklands Nairobi. Both are Kenyan Citizens by nationality. The minor's biological father is R C. The 2nd applicant who is the mother of the minor divorced the minor's biological father and she was awarded custody of the minor. The said R C has not been seen since their separation and divorce in October 2006. Neither has he contacted the minor nor maintained him.

3. The minor was declared free for adoption on the 15th September 2015. The report from a Change Trust adoption agency recommends the adoption. As per the report the child is in good health and identifies Dr. F M. D the 1st applicant as his father, the minor has not known any other father apart from Dr. D. That the minor and Dr. D relate well and the bond is that of a normal father son Relationship. The agency recommends the adoption.

4. The Director of Children Services filed their report on the 31/1/17. It gives their findings on the applicants background and current status. The 1st applicant as per the report is separated from his wife. He indicated the same in court. He has 2 children with his first wife. He takes care of his first family financial needs. The child the subject of this adoption cause is currently 13 years as per the report. He attends [particulars withheld] Academy and lives with the applicants and the siblings. The applicant is an ENT Specialist and owns a medical practice. The 2nd applicant is the head of finance at [particulars withheld]Hospital. Both are financially stable. They are in a 4 bedroom house and the home is well furnished. The home environment is conducive to bring up the minor. It is stated that the applicants understand the right of inheritance as pertains to an adopted child they have no objection to the minor inheriting the property. The report further states that the applicants are responsible, mature, emotionally and financially capable to provide for the child and provide for the child. They have presented certificates of good conduct serial numbers [particulars withheld], for M F D and [particulars withheld] for T D, which show that they have no criminal records. There appears to be perfect bonding between the child and the prospective applicants. In addition the minor relates well with his younger step siblings. It is stated further that the proposed adoption has the wider family and social support from their siblings and extended family.

5. The recommendation from the director is as follows; that this is a local adoption under the Children Act 2001, that the applicants have proved capable of taking on parental responsibility over the child since they have been taking care of the minor. That he has been under their continuous care and control and that they

qualify to be granted the adoption orders. That the adoption will offer the child a perfect alternative family as he stand to gain a parent and that the adoption will be in his best interest.

6. R N O the Guardian ad Litem in her report dated 1st March 2017 states that after her investigation she is satisfied that the adoption will be in the best interest of the minor. That the minor is the eldest of his siblings and is well adjusted to his role as a first born of the family.

7. I have considered the reports filed by the parties in this cause the evidence of the applicants in court and the law. This is a kinship adoption. The 2nd applicant is the mother of the child and is married to the 1st applicant. The applicants have been taking care of the child since their marriage and have bonded well. The minor considers the 1st applicant as his father. It is in the best interest of the child that the orders sought be granted. The applicants have met all the legal requirements under Section 158 of the Children Act. The consent of the biological father is dispensed with as he cannot be traced and has made no attempt to see the minor from October 2016. The applicants **M F D** and **T K D** are hereby authorized to adopt **A C** who shall be known as **A A D**. A new certificate of birth shall issue bearing both names of the applicants **M F D** and **T K D** and the minor to be known as **A A D. F D** and **M R K** shall be the legal guardian of the minor. The Guardian ad Litem is hereby discharged. It is so ordered.

Dated, signed and delivered this **30th** day of **June 2017**

R. E. OUGO

JUDGE

For the Applicants

Ms Charity Court clerk