

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

(FAMILY DIVISION)

ADOPTION CAUSE NO. 93 OF 2015

IN THE MATTER OF AN APPLICATION FOR ADOPTION OF BABY S

JUDGEMENT

1. The applicants, T K N and P A N, are American citizens, and a married couple. They have been residents in Kenya since 1988, save for three years in between, working at the Rift Valley Academy as missionary teachers. By their Originating Summons dated 9th April 2015, they seek to adopt a female child called Baby S.

2. The subject child was found abandoned at [Particulars withheld] Estate by a Good Samaritan on 10th September 2013 apparently shortly upon delivery. She is a twin to the child in HCAC No. 94 of 2015. The matter of the abandonment was reported at the Kamukunji Police Station the same day. She was subsequently released to the Thomas Barnados House for care and protection, to which institution she was to be later formally committed by the Nairobi Children's Court. According to police records her parents were not traceable. She was placed with the applicants on 13th November 2014. It is estimated that she was born on 10th September 2013.

3. This adoption is being arranged by the Kenya Children's Homes adoption Society, who have filed relevant reports in court. The agency declared the child free for adoption by its certificate number [Particulars withheld] dated 15th April 2014.

4. To facilitate this adoption, the applicants have been assessed by the Kenya Children's Homes, the guardian *ad litem*, L K, and the Director of Children Services. All three have compiled and filed their reports in court. The report by the Director of Children Services is dated 9th August 2016, while that by the Kenya Children's Homes is dated 5th May 2015. The report of the guardian *ad litem* is dated 20th November 2015.

5. All these reports are favourable and recommend the proposed adoption. The applicants have demonstrated that they have the financial capacity and emotional capability and capacity to take care of the child. The child appears to have bonded well with them and she considers them to be her parents. I note that the applicants have two biological children of their own, and have also adopted two other children in Kenya. I note too that they are in the process of adopting the twin brother of the child in HCAC No. 93 of 2015.

6. There are documents on record from the applicants' country of origin, the United States of America, vouching for their suitability as prospective adopters. There are two separate documents from the Criminal Justice Information Services Division of the Federal Bureau of Investigations in the US Department of Justice, dated 13th and 14th March 2014 indicating that the applicants have no criminal record in the USA. There are complementary certificates from the Kenya Police, both dated 10th March 2014, indicating that they have similarly no criminal record in Kenya. There is also a letter dated 14th April 2014 from the Field Office Director of the US Citizenship and Immigration Services, Nairobi, Kenya, indicating that a Kenyan child adopted by a US citizen through a local resident adoption process in Kenya would be allowed entry into the United States of America and eventual residency and citizenship status. J V and L V have consented to act as the legal guardians of the child.

7. In the opinion of this court it would be in the best interests of the child that she is adopted by the applicants. The applicants will be able to provide a home and a family for the child to grow up in and thereafter become a useful member of the family and the society at large. Consequently, the applicant shall assume all parental rights and duties of the biological parents in respect of the adopted child; they shall treat the adopted child as if she was born to them. The applicants have been made aware that once the adoption order is made it shall be final and binding during the lifetime of the child and that the child shall have the right to inherit their property. The applicants cannot give up the child owing to any subsequent unforeseen behaviour or other changes in the child.

8. I am persuaded that the applicant has satisfied the requirements for a resident local adoption, and I therefore make the following orders:-

(a) That the applicants, T K N and PA N, are hereby allowed to adopt the child Baby S, who shall hereafter be known A F N;

(b) That the said child shall be presumed to be Kenyan by birth; her date of birth is estimated to be 10th September 2013.

(c) That J V and L V, of [Particulars withheld], are hereby appointed legal guardians of the child in the event something untoward happens to the applicants;

(d) That the Registrar-General is hereby directed to enter this adoption order in the adoption register; and

(e) That the guardian *ad litem* is hereby discharged.

DATED, SIGNED and DELIVERED at NAIROBI this 25TH DAY OF NOVEMBER, 2016.

W. MUSYOKA

JUDGE