

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO. 103 OF 2014

IN THE MATTER OF THE CHILDREN ACT, 2001

AND

IN THE MATTER OF BABY C M

D K W1ST APPLICANT

C W K2ND APPLICANT

J U D G M E N T

The applicants, D K W and C W K, are husband and wife. They were married on 9th June 2001. The 1st applicant is a lecturer at *[particulars withheld]* while the 2nd applicant is a banker at *[particulars withheld]*. The applicants have not been blessed with any children of their own due to medical reasons. They have already adopted another child who was born on 21st October 2008 through this court. They wish to adopt another child. They have applied to this court to be allowed to adopt baby C M (the child). The child was presumed to have been born on 19th November 2012. She was born to one C M before arrival at the Kiambu District Hospital and was admitted at the hospital's new born unit. The child was abandoned by her mother the following day when she absconded from the hospital. A report on the abandonment was made to Kiambu Police Station on 13th December 2012. The child was discharged from the hospital and taken to Nest Children's Home on 14th December 2012 for care and protection. She was committed by the Kiambu Children's Court to the custody and care of the said children's home on 17th June 2013 pending formal adoption proceedings. The applicants were given custody of the child for mandatory foster care on 27th June 2013 pending adoption pursuant to a foster care agreement. Since then, the child has been under the continuous care and custody of the applicants.

Prior to the hearing of the adoption, the Adoption Society, Little Angels Network, prepared a report which is filed in court. They also issued a certificate declaring the child free for adoption. The certificate is dated 3rd July 2013. The Director of Children's Services has also prepared a report which is on record. The guardian ad litem, B W O', prepared a report which has been filed in court. All the reports are favourable and recommend that the court allows the applicants to adopt the child. I have evaluated the facts of this adoption. This is a local adoption. It is evident that the applicants have fulfilled all the legal requirements pertaining to the adoption of the child. The consent of the biological parents of the child has been dispensed with since the child was abandoned at birth. They cannot be traced to give their consent. This court is satisfied that the applicants are qualified and able to take care of the child. The home visits by the guardian ad litem, the Adoption Society and the Director of the Children Services established that the applicants have the financial and emotional capability to provide for the upkeep and education of the child. This court observed the applicants with the child in court. It was evident that in the period that the applicants have had the custody of the child, the child has bonded well with them. The child considers the applicants her parents. The applicants have proved their capacity to take care of the child by the fact that they are taking good care of another adopted child.

This court formed the opinion that it would be in the best interest of the child to be adopted by the applicants. I allow the applicants' application for adoption. The applicants, D K W and C W K, are

hereby allowed to adopt Baby C M. Henceforth, the child shall be known as R W K. Her date of birth shall be 19th November 2012. Her place of birth shall be Kiambu District Hospital. She is presumed to be a citizen of Kenya by birth. F M W, the brother-in-law of the 2nd applicant, shall be the legal guardian of the child should such eventuality arise. I direct the Registrar General to enter this order in the adoption register. I hereby discharge the guardian ad litem. It is so ordered.

DATED AT NAIROBI THIS 23RD DAY OF JANUARY , 2015

M. MUIGAI

JUDGE