



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT NAIROBI**

**(FAMILY DIVISION)**

**ADOPTION CAUSE NO. 244 OF 2014**

**IN THE MATTER OF AN APPLICATION FOR ADOPTION OF BABY N O**

**JUDGMENT**

1. The Applicants **T J D** and **C A N** are seeking to be authorized to adopt Baby **N O** hereinafter referred to as the child. Baby **N O** is the biological child of the 2<sup>nd</sup> applicant, born to her and **A M E** on 17<sup>th</sup> November 2009. **A M E** abandoned the 2<sup>nd</sup> applicant while she was pregnant and has never been part of the child's life and his whereabouts remain unknown .

2. The 1<sup>st</sup> applicant solemnized their marriage on the 15<sup>th</sup> of November 2013. They have one biological child **A J D** born on the 1<sup>st</sup> of March 2014. At the time of making the application for adoption the applicants had not been married for three years as required by the adoption regulations. The 2<sup>nd</sup> applicant has consented to the 1<sup>st</sup> applicant adopting baby **N O**.

3. On 25<sup>th</sup> September 2014 the baby **N O** was declared free for adoption by the Kenya Children's Home and a certificate declaring the child free for adoption No. *[particulars withheld]* was issued. The report from the adoption agency was filed on the 6<sup>th</sup> November 2014. According to the said report the applicants want to adopt baby **N** and that they have met the necessary pre-requisites to adopt the child as prescribed in the Children's Act 2001. The report recommends that the applicants are suitable to adopt and that they be allowed to adopt even though the applicants have not been married for 3 years.

4. The report from the Director of Children Services was filed on the 12<sup>th</sup> January 2015. Investigations revealed that though the parties have been married for less than 3 years there are special circumstances in that the 2<sup>nd</sup> applicant is the biological mother to the child and said adoption is a kinship adoption. When interviewed the reasons given for the adoption by the applicants were that the child is to given rights like any other children in the family, that the child be recognized as a bona fide member of the family and to give the child a father in her life. This report too recommends that the applicants be allowed to adopt the child. The guardian ad litem's report too is favorable.

5. The applicants have not been married for 3 years. However I this is a case with special circumstance the applicants are married and wish to provide fully for the child the 2<sup>nd</sup> applicant is the child's biological mother. The reasons advanced by the applicants are reasonable. Further its evident that the child's father has never taken an interest in the child has not been seen or heard from. Lastly I note that this is a kinship adoption.

6. This court is satisfied that the applicants are qualified and able to take care of the child. The applicants have the financial and emotional capability to provide for the upkeep and education of the child. Baby **N** has been in the custody of the mother since birth and has bonded well with the 1<sup>st</sup> applicant. This court finds that it would be in the best interest of the child to be adopted by the applicants. I allow the application for adoption. The applicants **T J D** and **C A N** are hereby allowed to adopt **Baby N**. The child shall be called **N O D. L S D** and **M O** shall be the legal guardians of the child should such any eventuality arise. I direct the Registrar General to enter this order in the adoption register. The child was born in Kenya and is therefore a Kenyan by birth and is entitled to the rights and benefits of a Kenyan

Citizen. I hereby discharge the guardian ad litem. It is so ordered.

Dated signed and delivered this 27<sup>th</sup> day of **February 2015**

**R. E .OUGO**

**JUDGE**

In the presence of;

.....**For the Applicants**

.....**Court Clerk**