

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

ADOPTION CAUSE NO. 292 OF 2014

IN THE MATTER OF THE CHILDRENS ACT

AND

IN THE MATTER OF BABY J W

H C F.....1ST APPLICANT

K O.....2ND APPLICANT

JUDGMENT

The applicants H C F and K O made an application to this court seeking adoption of baby J w. The applicants are both citizens of Norway. The applicants got married on the 18th of May 2007. The applicants have not been blessed with children for medical reasons. The first applicant is a family counselor and the 2nd applicant is a radiologist at *[particulars withheld]* in Norway. The applicants wish to adopt a foreign baby specifically in Kenya. The applicants were investigated by the regional office for children, youth and family affairs, eastern Norway, which gave them an approval to proceed with adoption of a foreign child. The applicants were also assessed by the City of Oslo, Agency for the Child and Family Welfare Services which gave them an approval as fit and favorable to adopt a foreign child. The Norwegian directorate for children, youth and family affairs confirmed that the government of Norway will recognize the adoption order and grant citizenship to the child thereby adopted in accordance with the inter-county adoptions under the Hague Convention of 1993. The application for adoption was sent to Little Angels Network, the adoption agency for approval and the same was approved by Kenya National Adoption Committee on the 22nd of July 2014.

Baby Joshua White, the subject of this application was abandoned in the corridor of Vihiga District Hospital presumably after his birth on the 16th of April 2013. His presumed date of birth is 19th December 2012. The matter was reported at the police station with OB no 18/19/04/2013. The child was committed to springs of life by the principal magistrate Vihiga Children's Court on the 16th of May 2013 and was admitted officially there on the 22nd of April 2013 with the assistance from the district children's officer. Since no relative has come up to claim baby Joshua, he was declared by Little Angels Network free for adoption as it is for his best interest. On the 28th of May 2014, the certificate to confirm the same was issued. The child was placed under the mandatory custody. A guardian ad litem E M. K made a report and approved that the applicants were favorable and emotionally fit to adopt the child.

This being an international adoption, there are conditions that require to be satisfied pursuant to **section 162 of the Children's Act**. Court had first to review the reports made by the City of Oslo Agency, Child and Family Welfare Services guardian ad litem, Little Angels Network and Director Children's Services and they all confirmed that the applicants are both favorable and emotionally stable to adopt the child. The first condition is that the consents of the parents or guardian or relative of the child have to be obtained. The child was abandoned at birth by presumably the mother in the corridors of Vihiga district hospital on the 16th of April 2013. A report was made to the police and none of the relatives have come to claim on the same. The consent is dispensed in this case as stipulated under **section 159(1)(a)(i) of the Childrens Act**.

From the reports, the applicants have fully satisfied the second condition. The Norwegian Directorate for Children, Youth and Family Affairs with their letter dated 25th June 2013, confirmed that the adoption order of the child will be recognized by their government and the child will be granted citizenship upon adoption. The report prepared by the City of Oslo, Agency for the Child and Family Welfare Services approved that the applicants to be favorable to adopt a foreign child.

As regards the third condition, the applicants have no criminal record according to their letters dated 2nd of August 2013 and this proves that they are morally stable. In the report made by guardian ad litem, she observed that the applicants respected one another. They had another child adopted from Ethiopia named L. The child was in custody of the applicants for more than three months since 9th September 2014. The child bonded with the applicants and their adopted daughter L. Initially the child had trouble with the movements, fortunately the applicants medically assisted him with through whole process. The applicants created a home environment which is pleasant for him to grow up. The applicants are financially sound and will be able to meet the need s to the child. This prompted the guardian ad litem to give the applicants her approval to adopt the child. The applicants were approved by Little Angels Network, the adoption society and the director of children services as favorable and emotionally suitable to adopt the child.

The court is satisfied that it would be in the best interest of the child to be adopted by the applicants given that they have met the criteria of for international adoptions. From the evaluations of the reports, the adoption society shall be given access by the applicants in their county of resident to carry out post-adoption supervision for a period of 3 years at any reasonable time. The adoption society in Norway shall avail annual reports to the adoption agency of Kenya for a period of 3 years. The applicants pledge to this court that the adopted child shall inherit property and shall not give up the child due to any eventualities. The applicants shall assume the duties and responsibilities of parents to the child permanently as though they were his biological parents. The applicants shall give this court guarantee that the child will be accorded citizenship and neither shall they renounce this adoption order.

The court hereby grants adoption of the child to H C F and K O, the applicants in this matter. The child will be known as H J F-O. His date of birth shall be 19th December 2012. The place of birth shall remain Vihiga. The child's legal guardians shall be E O and S A should any misfortune occur. The guardian ad litem is hereby discharged. The registrar general should thereby enter the order of adoption. It is so ordered.

DATED AT NAIROBI THIS 26TH DAY OF MARCH 2015.

M. MUIGAI

JUDGE