

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MILIMANI

ADOPTION CAUSE NO. 285 OF 2013 (OS)

AND

IN THE MATTER OF THE CHILDREN'S ACT

(NO. 8 OF 2001)

AND

IN THE MATTER OF K alias V S A [minor],

JUDGEMENT

1. The applicants, N L A and K J A, are a married couple from the United States of America. They have filed the Originating Summons dated 1st November 2013 seeking the court's permission to adopt the Kenyan male child known for the purpose of these proceedings as Baby K alias V S A [minor],.
2. Baby K alias V S A [minor],, the subject of these adoption proceedings, was found abandoned in the Lindi area of Kibera Nairobi on 18th October 2011. A report of the abandonment was made at the Kilimani Police Station. The parents of the child were not traced by the police and eventually the child was committed to the Happy Life Children's Home, from where she was placed with the applicants on 1st August 2013. It is presumed that she was born on 10th June 2009.
3. This adoption process is being arranged by the Kenya Children's Home, who freed the child for adoption on 5th June 2013 and issued a certificate of even dated to that effect.
4. To facilitate the adoption the applicants have been assessed by the Kenya Children's Home adoption society and by the Director of the Children's Services. These two have compiled and filed their reports in court dated 19th December 2013 and 20th February 2014, respectively. The guardian *ad litem*, A N, has also filed her report which is undated.
5. All these reports are favourable and recommend the proposed adoption. The applicants have demonstrated that they have the financial and emotional capability and capacity to take care of the child. The child appears to have bonded well with the applicants and she considers them to be her parents. I note that the applicants have two biological children of their own.
6. The proposed adoption has been approved by the Department of Homeland Services, US Citizenship and Immigration Services. The Approval Notice is dated 31st July 2013. The said approval confirms that the United States of America government will recognise the adoption decree pronounced by this court. The Kenyan National Adoption Committee approved the proposed adoption on 21st November 2012, and has issued a certificate dated 11th December 2012.
7. In the opinion of this court it would be in the interests of the child that the child 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 be a useful member of the family. Consequently, the applicants will be required to execute an undertaking that they 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 he 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 satisfied that all the legal requirements for an international adoption have been met. The applicants, N L A and K J A, are hereby allowed to adopt the child, Baby K alias V S A [*minor*],. Her name shall hereafter be L J I A [*minor*],. I also hereby appoint M S M and S K M legal guardians of the child should anything untoward happen to the applicants. The Registrar-General is directed to enter this adoption order in the adoption register. The guardian *ad litem* is hereby discharged.
9. The child was found abandoned within Kenya and I shall therefore presume her to be Kenyan by birth, entitled to all the rights that accrue to citizens by virtue of the provisions of the Constitution of Kenya 2010 and the Kenya Citizenship and Immigration Act. The Principal Immigration Officer is hereby directed to issue her with a Kenyan passport.

DATED, SIGNED and DELIVERED at NAIROBI this 9th DAY OF April, 2014.

W MUSYOKA

JUDGE

In the presence of Mr. Mwenda advocate for the applicants.