

REPUBLIC OF KENYA

High Court at Nairobi (Nairobi Law Courts)

Adoption Cause 104 of 2009

**IN THE MATTER OF THE CHILDREN'S ACT
(NO.8 OF 2001)**

IN THE MATTER OF BABY S. K.W. (MINOR)

JUDGEMENT

The applicant, L.L.K, is a divorced woman, who is an American citizen with Kenyan origins. S.K.W, the subject of these adoption proceedings is the biological child of J.W.N and S.K.W. She was born on 28th March 2004. She is the cousin of the applicant. The applicant was partially raised by the parents of the child and she has partly been providing care to the child. Her desire is to formally and legally adopt the child. To facilitate the adoption the applicant has been assessed by the Little Angles Network adoption society and the Bungoma District Children's Officer. These two have filed their respective reports. The guardian ad litem has also filed his report.

I have perused the record herein and I am not satisfied that all the requirements have been made. There is no report of the Director of the Children Services. No order was ever made directing the director to assess the suitability of the applicant to adopt the child. There is a report of a children's officer based at Bungoma, but the law requires a report by the Director of Children Services and not a children's officer.

The law also requires that consents must be obtained from the child's parents or guardians. There is an affidavit on record of the father of the child consenting to the adoption. However, the consent of the mother was not obtained, neither was it dispensed with.

There is an element of this adoption which makes it international. The applicant, though born in Kenya, is an America citizen. She has envinced a desire to remove the child from Kenya to the United States of America. For international adoption it is required that the consent or clearance of the National Adoption Committee must be obtained. No such clearance has been obtained in this case.

It is instructive that counsel for the applicant in her concluding remarks asked the court to direct the Director of Children's Services and the Adoption Committee to provide reports on the adoption. To whom would such reports be made at this stage and for what purpose? Quite clearly counsel was aware that she had not fully complied with all the legal requirements.

It is also noteworthy that the Little Angles Network, the adoption society which had purportedly assessed the applicant, was not represented at the hearing. The Director of Children's Services was also not represented.

On the whole, I am not satisfied that all the legal requirements have been satisfied. The hearing was premature. I disallow the application and decline to allow the applicant to adopt the subject child.

DATED, SIGNED and DELIVERED at NAIROBI this 6th DAY OF FEBRUARY, 2013.

W.M. Musyoka
Judge