

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO.148 OF 2013

IN THE MATTER OF THE CHILDREN ACT, 2001

AND

IN THE MATTER OF BABY J A - MINOR

D S F.....1ST APPLICANT

M W F.....2ND APPLICANT

JUDGMENT

The applicants, D S F and M W F, are husband and wife. They were married on 6th September 2003. The 1st Applicant is a Kenyan citizen while the 2nd Applicant is a United States of America citizen. The 1st Applicant is a financial consultant while the 2nd Applicant is a consultant in the health sector. The Applicants have not been blessed with children of their own due to medical reasons. They wish to adopt a child. They have applied to this court to be allowed to adopt baby J A (the child). The child was presumed to have been born on 8th September 2012. He was abandoned at the Outpatient Department of Kimbimbi Hospital in Kirinyaga County on the same day. The doctors established that the child was not born at the said hospital but was abandoned there soon after birth. A report was made to Wanguru Police Station. The child was placed with [information withheld] for care and protection through the assistance of Kirinyaga South District Children's Officer. He was committed by the Wanguru Children's Court to the custody of the said Children's Home on 17th November 2012 pending formal adoption proceedings. The Applicants were given custody of the child for mandatory foster care pending adoption pursuant to a foster care agreement which was signed on 21st March 2013. They took custody of the child on the same day. Since then, the child has been in continuous custody and care 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 20th March 2013. The Director of Children's Services prepared a report which is on record. The guardian ad litem, S G, 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. The 1st Applicant being a Kenyan qualifies this application to be 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 was 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 that 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 his parents.

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 S F and M W F, are hereby allowed to adopt Baby J A. Henceforth, the child shall be known as J S F. His date of birth shall be 8th September 2012. His place of birth shall be Kimbimbi, Kirinyaga County, Kenya. A A W and A R K W,

brother and sister in-law to 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 31ST DAY OF OCTOBER 2013

L. KIMARU

JUDGE