



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MILIMANI

ADOPTION CAUSE NO. 259 OF 2013 (OS)

AND

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

AND

IN THE MATTER OF W C alias W C A (MINOR)

JUDGEMENT

1. The applicants, C M A and J L D, 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 W C alias W C A.
2. W C alias W C A, the subject of these adoption proceedings, is an orphan. He was born on 15th February 1999 in Nyanza to I O S and P M O. Both parents are now dead. He was left under the care of his grandfather, M C S, who assumed full parental responsibility over him. However, due to his old age he was not able to discharge his full responsibilities over him, due to his advanced age and lack of resources. As a result the local Chief caused the child to be admitted to an institution, New Life Community Centre at Ndonyo, Kisii; he was later formally committed to the institution by the children's court. The child's grandfather offered him for adoption through the Kenya Children's Home. He gave the necessary consents, and so did the minor himself and his sister. He was placed with the applicants on 7th August 2013.
3. This adoption process is being arranged by the Kenya Children's Home, who freed the child for adoption on 14th May 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 7th November 2013 and 27th November 2013, respectively. The guardian *ad litem*, J K O, has also filed his report dated 4th December 2013.
5. All these reports are favourable and recommend the proposed adoption. The applicant has demonstrated that she has the financial and emotional capability and capacity to take care of the child. The child appears to have bonded well with the applicant and he considers them to be his parents. I note that the applicants have three 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 7th July 2012. 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 20th February 2013, and has issued a certificate dated 20th March 2013.
7. In the opinion of this court it would be in the interests of the child that the child is adopted by the applicant. The applicant 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, C M A and J L D, are hereby allowed to adopt the child, W C alias W C A. His name shall hereafter be W C A. I also hereby appoint MET and MMT 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 born to known Kenyan parents. He is therefore Kenyan by birth, and is 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.

DATED, SIGNED and DELIVERED at NAIROBI this 20th DAY OF December, 2013.

W. M. MUSYOKA

JUDGE