



## IN THE MATTER OF BABY I.A. ALIAS A

### RULING

Before me is an application for an adoption order, dated 13<sup>th</sup> December 2011, brought, inter alia, under **Sections 154, 156(1), 157(1), 158(1) (a) 2(b) and 4 (a) 159 (a)(i), (4) 160(1), (2),(4), 163, 164(1), 169(2) and 170(1) 2(a), 5** of the **Children’s Act (No. 8 of 2001)** and **Section 24** of the **Interpretation and General Provisions Act (Chapter 2 of the Laws of Kenya)**.

The applicants herein **B.G.E** (1<sup>st</sup> applicant) **A.M.E** (*the 2<sup>nd</sup> applicant*), a married couple, of **SWEDEN** have moved the court, praying that they be authorized to adopt and rename a baby boy presently identified and known as **Baby I.A alias A** who, for the purposes of this ruling shall, where necessary, be referred to either as “**Baby I**” the “**minor**”, “**the infant**” or “**the child**”. Both applicants are *Swedish Nationals* and were in court for the hearing of this application.

The 1<sup>st</sup> applicant is aged 48years, while the 2<sup>nd</sup> applicant is 42years old. The applicants were married on 25<sup>th</sup> May 2002. The 1<sup>st</sup> applicant is an Engineering consultant and is self employed and the second is a registered nurse working in (*particulars withheld*), neurosurgery ward. The couple professes the Christian – Protestant faith and are members of the Church of Sweden. Their marriage is a monogamous union which they say is based on mutual trust, stability and closeness. They have no other children, biological or otherwise. They appear to share common values and have respect for a harmonious family life and social wellbeing which they wish to pass on to an heir or heirs.

The applicants have proposed a new name which they intend to give to the minor once an adoption order is obtained from this court, with authority to rename him as proposed. The applicants have filed the requisite statements and affidavit in support of the application, bearing all the supporting documents as required by the law. These include employment records, salary/income declarations and wage specification forms. Also filed is a home study report recommending the applicants for adoption of a foreign child.

On 16<sup>th</sup> December, 2011, on the applicants’ application, **E.M.K** of P.O. Box [...] *Nairobi* was appointed the *Guardian ad Litem* for the purposes of this adoption. She has filed a comprehensive report dated 2<sup>nd</sup> February, 2012, primarily stating that **Baby I** has bonded well with the adoptive family, is happily settled in their care and is well taken care of. She also vouches for the adoptive parents’ capability to bring up the minor in a manner that will guarantee not only the necessary day to day needs, but also provide him with an opportunity to develop his potential and to grow up in a secure and happy

environment.

In the unlikely event that they become incapacitated or die, before the *child* attains the age of majority, the adopting parents have appointed the first applicant's brother **P.A** and his wife **G.A.Y.B.A** to be the legal guardians of the adopted child. They have consented so to act. The Guardian ad Litem recommends that the applicants be granted the authority to adopt the minor, being of the view that the adoption is in the interests of the child.

The applicants have furnished the court with all the documentation necessary to support the *ex parte* Originating Summons as required under the relevant adoption laws and rules. They have produced, *inter alia*, the requisite approval of their local Social Welfare Committee dated 11<sup>th</sup> August 2011, with the requisite confirmation by the Embassy of Sweden that the adoption will receive the relevant legal recognition. The Kenyan Adoption Committee of the Directorate of Children's Services has also given its approval. At the hearing of the application, it was proved *vide* a birth certificate No:[...] that **Baby I** was born at Vihiga District Hospital in May 2007 to one E.S.K. His biological parents gave up the child for adoption since they were first cousins and according to the Maragoli traditions the child was viewed as a "taboo" child.

In her consent to give up the child for adoption and attendant statement, the biological mother stated that she also could not raise the child, being a student, and therefore financially incapacitated. On 21<sup>st</sup> May 2007 the child was placed with **New Life Home Trust-Kisumu**, where he was later committed on 21<sup>st</sup> June 2007 by an order of the Children's Court, Vihiga. I have seen the consents of both the biological parents as filed in the Children's court. Baby I was declared free for adoption on 19<sup>th</sup> May 2010. On 9<sup>th</sup> September 2011 baby I was placed under the care of the applicants under a Care Agreement entered between them and New Life Home Trust. The minor has been under their care and custody since.

The requisite studies and investigations have been carried out in regard to the applicants' suitability to adopt the child and reports duly filed. The report by the Director of Children's services, ordered by this court on 16<sup>th</sup> December 2011, *was filed on* 14<sup>th</sup> March 2012, recommending the adoption and the renaming of **Baby I** by the applicants, who, according to the Director of Children's Services have proved that they are financially, socially and morally suited to permanently fulfil parental responsibilities over the minor with the right to inherit their property.

In considering this application, I have perused the reports filed by the Guardian ad Litem and the Director of Children's Services, and thoroughly examined all the documentation filed in support thereof. The applicants' suitability has been carefully assessed and positive recommendations filed by credible persons. I am satisfied that the applicants do possess the requisite legal capacity to adopt the child, and that they do understand the entire adoption process, and its future implications for themselves as a family and in particular, the need to provide the best for the adopted child all his life and to guarantee him an inheritance. I find them to be financially able, medically and morally fit to adopt **Baby I**. They have undertaken and bound themselves to bring him up as one of their own, in a healthy, happy and secure environment.

Considering the above, I have no hesitation in allowing the application, being satisfied that the proposed adoption is in the best interests of **Baby I**. Accordingly, the Originating Summons dated 13<sup>th</sup> December 2011 is hereby allowed and orders granted in terms of prayer 3 thereof the consent of the biological parents of the child having been obtained as stated earlier in this ruling. The applicants shall co-operate with and ensure that the Swedish adoption agency **ADOPTIONS CENTRUM** abides with the terms of its undertaking and in particular, to ensure the filing of annual progress reports on the child with the Little Angles Network for 3 years succeeding their arrival in Sweden with the child.

The Registrar-General shall make the necessary entries in the Adoptions Register in recognition of the Adoption.

**DATED, SIGNED and DELVIERED at NAIROBI this 24<sup>th</sup> DAY OF MAY, 2012.**

**M.G. MUGO**

**JUDGE**

**In the presence of :**

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**Miss. Kiguatha for the applicants.**