

IN THE MATTER OF THE CHILDREN'S ACT

(ACT NO: 8 OF 2001)

AND

IN THE MATTER OF BABY D.

JUDGEMENT

1. The applicants herein, SKC (the 1st applicant) and JWK (the 2nd applicant), a married couple have moved the court, under **Sections 158, 159 and 160 of the Children's Act (No. 8 of 2001), Section 24 of the Interpretation and General Provisions Act (Cap 2 of the Laws of Kenya and Section 3A of the Civil Procedure Act (Chapter 21 Laws of Kenya)** praying that they be authorized to adopt and rename a baby boy, presently identified and known as **Baby D** who, for the purposes of this ruling shall, where necessary, be referred to either as "**Baby D**" "*the child*" "*or*" "*the infant*". The applicants propose that he be known as **DGK** upon adoption.

2. Both applicants are Kenyan citizens. The 1st applicant is 46 years old while the 2nd applicant is aged 47. The couple is married under the Marriage Act (Chapter 150 of the Laws of Kenya). Their marriage was solemnized at the **[particulars withheld]**. They have two children of the marriage, a girl and a boy aged 14 and 12 years respectively. They are both self employed and have a healthy income as seen from the copy of their joint bank account filed with their statement in support of the adoption application. They applicants have appointed M and J.T. to be the legal guardians of the child in the event that they be permanently incapacitated or even die. The legal guardian's consent is dated 18th July 2010.

3. On 8th November 2011 on the applicant's application, Dr. K.A.K was appointed the Guardian ad Litem for the purposes of this adoption. He has filed a brief but persuasive report, dated 17th May 2012, primarily stating that **the child, Baby D** has bonded well with both the adoptive parents and adoptive brother and sister and he is happily settled in their care. He is well taken care of. The Guardian ad Litem also vouches for the adoptive parents' moral and social capability to bring up **the child** in an upright manner and to provide for his social and material well being. The Director of Children's Services on the other hand has reported that the applicants are able to provide for the child in a manner that will guarantee not only his day to day needs and education but also guarantee him an inheritance. Both the guardian ad litem and the director of Children's Services highly recommend, therefore, that the applicants be granted the authority to adopt **the child, Baby D** and to rename him.

6. At the hearing of the application, it was proved, through the documentation filed in support, that "**Baby D**" was born on or about 1st January 2010 and abandoned within M Estate. The matter was reported to the Ruiru Police station vide OB No. 28/4/1/10. He was admitted at Ruiru Sub District Hospital on 7th January 2010 and on being examined and certified to be of good health, he was transferred to Happy Life Children's Home where on 14th May 2010, he was committed by the Resident Magistrate court at Thika under committal order of that date. Efforts by the police to trace the child's biological parents proved fruitless. This is confirmed by the letter from Ruiru Police Station dated 3rd August 2010 which also states that no next of kin is known or has ever been found.

7. On 17th September 2010 baby D was placed under the care and custody of the applicants vide a Care Agreement of that date. He has been with them since. On 22nd September 2010, he was certified free for adoption under a Certificate of Declaration to that effect issued by the Little Angles Network Adoption Society.

8. The requisite studies and investigations have been carried out in regard to applicants' suitability to adopt the child and requisite reports duly filed. The report by the Director of Children's Services ordered

by this court on 25th November 2011 was filed on 2nd May, 2012, recommending the adoption and renaming of **Baby D** by the applicants, who, according to the Director of Children's Services have proved that they are both financially and socially capable of permanently fulfilling parental responsibilities over the child. The director is also satisfied that the adoptive parents have the very best interests of the child at heart, having carefully considered of the adoption and prepared themselves fully for the additional child.

9. 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, including the Home Study Report of Little Angles Network Adoptive Society dated 22nd September 2010. The applicants' suitability has been carefully assessed and positive recommendations filed by credible persons.

10. 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. I find them to be stable, morally and medically fit and also financially able to adopt and support **Baby D**. They have undertaken and bound themselves to bring him up as one of their own, in a healthy, happy and secure environment. Additionally, their commitment is a noble one, being influenced by a desire to provide for a needy child.

11. Considering the above, I have no hesitation in allowing the application, being satisfied that the proposed adoption is in the best interests of **Baby D**. Accordingly, the Originating Summons dated 29th August 2011 is hereby allowed and orders granted in terms of prayer 2, 3 and 4 thereof. The Registrar General shall make the appropriate entries in the adoption register in recognition of this adoption. The consent of the biological parents to this adoption is hereby dispensed with.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 28TH DAY OF JUNE, 2012.

M.G. MUGO

JUDGE

In the presence of:

Miss. Mbanya for the applicant.