



## IN THE MATTER OF BABY M.U.

### JUDGEMENT

1. Before me is an application for an adoption order, dated 15<sup>th</sup> May 2012, brought inter alia, under **Sections 154, 156(1), 157(1), 158(1) (a), 4(a),159(1)(a)(i)(4),160(1),(2),(4),161,162,163(1)(b),164(1),169(2) and 170(1), (5) of the Children’s Act and Section 24 of the Interpretation and General Provisions Act (No 8 of 2001) (Chapter 2 of the Laws of Kenya). Sections 162 of the Children’s Act also applies to this adoption.**

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

3. Both applicants are aged 30years. The applicants were married on 28<sup>th</sup> June 2008. The 1<sup>st</sup> works at the [...] while and the second is a qualified social worker. The couple professes the protestant Christian religion. Their marriage is a monogamous union which they both treasure, and are committed to preserve. They have a 5 year old daughter adopted from Kenya in 2009. They share common Christian values and have respect for a harmonious family life and social wellbeing which they consider useful for the upbringing of children.

4. 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 financial/income statements and a declaration of assets. Also filed is a home study report recommending them for adoption of a second foreign child.

5. On 11<sup>th</sup> May 2012, on the applicants’ application, **F.D.A.O.** of P.O. Box [...] Nairobi was appointed the Guardian ad Litem for the purposes of this adoption. She has filed a report dated 12<sup>th</sup> June 2012, primarily stating that **Baby M.** 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’

suitability and capability to bring up the child well and to provide for the child in a manner that will guarantee not only the necessary day to day care and attention but also the best upbringing for the adopted minor, **Baby M.**

6. 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 sister and brother in law **E.P.E.** and **J.P.P.** to be the legal guardians of the adopted child. They have consented so to act.

7. 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, 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 that **Baby M.** was born on 19<sup>th</sup> August, 2010 and abandoned at G.S.U. Embakasi Clinic. The matter was reported to Embakasi Police Station vide the OB No: 25/19/8/2010. The baby was taken to Pumwani Maternity Hospital for medical attention. On 31<sup>st</sup> August, 2010 the child was placed with **New Life Home Trust-Nairobi** where he was later committed on 8<sup>th</sup> December, 2010 by an order of the Children's Court Nairobi.

8. The baby was thereafter released and placed under the foster care of the applicants on 2<sup>nd</sup> February, 2012 under a Care Agreement entered between them and **NEWLIFE HOME TRUST**. The minor has been under their care and custody since having been declared free for adoption under a certificate to that effect issued on 4<sup>th</sup> May 2011.

9. 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 11<sup>th</sup> May, 2012, was filed on 8<sup>th</sup> June 2012, recommending the adoption and the renaming of **Baby M.** 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 infant.

10. In considering this application, I have perused the report filed 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 **BabyM**. They have undertaken and bound themselves to bring him up as one of their own, in a healthy, happy and secure environment.

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 M**. Accordingly, the Originating Summons dated 3<sup>rd</sup> May, 2012 is hereby allowed and orders granted in terms of prayers 3 and 4 thereof with the consent of the biological parents of the child being dispensed with. The applicants shall co-operate with and ensure that the Swedish adoption agency **ADOPTIONS CENTRUM** abides with the terms of its undertaking for post adoption follow up and in particular, to ensure the filing of annual progress reports on the child with the Little Angles Network Adoption Society for 3 years succeeding their arrival in Sweden with the child.

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

**DATED, SIGNED and DELIVERED at NAIROBI this 31<sup>ST</sup> DAY OF July, 2012.**

**M.G. MUGO**

**JUDGE**

**In the presence of :**  
**for the applicants.**