

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
ADOPTION CAUSE NO.133 OF 2009

IN THE MATTER OF THE CHILDREN ACT, 2001

AND

IN THE MATTER OF Z.I.O - MINOR

T.A.I.....1ST APPLICANT

M.A.I.....2ND APPLICANT

J U D G M E N T

The applicants, T.A.I and M.A.I, are American citizens. They are husband and wife. They were married on 31st March 2000. The applicants work as Christian Missionaries in Kenya under the auspices of ComeAlongside Ministries. The applicants have been residents in Kenya since 2003. Apart from their missionary work, the applicants run a boarding house for needy girls at Tigoni in Limuru. The applicants have made this application for adoption under their status as foreign residents in Kenya. They wish to adopt the child, Z.I.O. The child was born on 21st January 2004 to E.O.N and E.O.A. The mother of the child died on 13th December 2006 due to complication after giving birth to another child. The father of the child offered custody of the child to the applicants with a view to the applicants eventual adoption of the child. In the affidavit sworn on 25th September 2009, the father of the child, employed as a watchman, indicated that he had voluntarily offered the child to be adopted by the applicants because he was unable to psychologically, emotionally and economically support the child. The father of the child therefore consented to the child being adopted by the applicants.

The applicants have had custody of the child since 7th February 2007. According to the reports prepared by Kenya Children’s Home, the Adoption Society, the Director of Children’s Services and by Cecilia Masinde, the guardian ad litem, the applicants have been assessed and established to be suitable persons to adopt the child. Having considered the said reports, this court is satisfied that the applicants should be allowed to adopt the child. The applicants have established that they have the financial and emotional capacity to take care of the child. The applicants have several children of their own. They were motivated to adopt the child because it is their wish to have a large family. Another motivating factor for seeking to adopt the child is that the 2nd applicant is unable to have children due to medical reasons. The applicants have fulfilled all the requirements in respect of a local adoption by foreign residents in Kenya. Although

the biological father of the child initially appeared not to have appreciated the import of the order of adoption that will be issued by this court, when he made his submissions before court, this court was convinced beyond doubt that the biological father of the child has voluntarily given consent for the said adoption and had renounced his parental rights over the said child. This court saw the child in the presence of the applicants. It was clear to the court that the child has bonded with the applicants in the period that she has been in custody of the applicants.

This court is of the view that it will be in the best interest of the child if the applicants are allowed to adopt the child. The applicants will be required to execute an undertaking that if this court grants the adoption order, they will permanently assume all the parental rights and duties of the biological parents in respect of the adopted child; they shall treat the adopted child as if she was born to them in their marriage; they have been made aware that once the adoption order is issued, it shall be final and binding during the lifetime of the child that they shall adopt; that the child shall have the right to inherit their property; that an adoption order cannot be recanted, and further, that they shall not give up the child owing to any subsequent unforeseen behaviours or other changes in the child; the applicants further undertake that they shall accord their American citizenship to the child.

In the premises therefore, this court finds that the applicants have met the criteria set for local adoption by foreign residents in Kenya. The applicants, T. A. I and M.A.I, are hereby authorize to adopt baby Z.I.O. Henceforth, the child shall be known as Z.N.C.I. B.B is hereby appointed to be the legal guardian of the child should such eventuality arise. The Registrar General is hereby directed to enter this order in the Adoption Register. The guardian ad litem is hereby discharged.

DATED AT NAIROBI THIS 4TH DAY OF NOVEMBER, 2010

**L. KIMARU
JUDGE**