



**REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI (NAIROBI LAW COURTS)**

Adoption Cause 151 of 2007

IN THE MATTER OF THE CHILDREN ACT, 2001

AND

IN THE MATTER OF BABY B. K. (A CHILD)

JUDGMENT

By originating summons dated 5th September, 2007 and filed on 11th September, 2007 stated to be brought under sections 154; 156 (1); 157 (1); 158 (1) (a), (4) (a); 159 (4), (6), (7), (8) (a); 160 (1), (2), (4); 162; 163; 164(1) and 170 of the Children Act, No.8 of 2001; regulations 24, 25 and 26 of the Children (Adoption) Regulations, 2005; and section 24 of the Interpretation and General Provisions Act, Cap. 2, SCOTT EUGENE KRAUSE and LEANNE DEBBIE KRAUSE of P.O. Box 39537, Jones Road, Fallbrook, CA 92028 applied, *inter alia*, for the following orders, namely:-

THAT the applicants be authorized to adopt BABY B. K. , to be know as A B K K.

At the substantive hearing of the adoption application on 14th December, 2007 the applicants were represented by learned counsel, Mr N.R. Nadida.

Salient facts pertaining to the application may be broadly stated as under.

The applicants are American and Australian citizens, respectively. They are husband and wife, respectively, having got married to each other on 7th February, 1999, i.e. they have been married for about 9 years. Regulation 19 (d) of the Children (Adoption) Regulations, 2005, being Legal Notice No. 43 of 2005, is to the effect that adopters, in the case of joint applicants, should have been married for at least 3 years prior to the date of commencement of adoption arrangements. This requirement has been met.

The 1st applicant, Scott Eugene Krause was born on 25th September, 1975 and is aged around 32 years. The 2nd applicant, Leanne Debbie Krause was born on 1st October, 1978 and is aged around 29 years. The child to be adopted, a Kenyan boy, was born on 1st July, 2005 and is aged around 2½ years. Section 158 (1) (a) of the Children Act is to the effect that for the applicants to qualify as adoptive parents, they or at least one of them should have attained the age of 25 years and be at least 21 years older than the child but should not have attained the age of 65 years. These statutory age requirements have been met.

The child to be adopted was born of Eunice Chepkemboi on 1st July, 2005. He was admitted with his

mother at the provincial General Hospital, Nakuru. The mother passed away on 4th April, 2006. Nobody claimed the child. The matter was reported to the Police. The child was discharged by the hospital to Mission in Action Orphanage vide discharge letter dated 19th June, 2006 for care and protection. Subsequently the child was placed with the applicants on 4th June, 2007 for foster care and the applicants have fostered the child since.

The 1st applicant, Scott Eugene Krause is an Intern Dentist. He expects to complete his internship in May, 2009. The 2nd applicant, Leanne Debbie Krause is a Clinical Dietician. Both first came to Kenya on a dental mission about a year ago. The 1st applicant testified before this court and said he and the 2nd applicant have no biological children as they have not tried to get any. He said they have always wanted to adopt because they consider it a Christian thing to do. The 1st applicant told the court that his first visit to Africa was to Tanzania on a similar dental mission. He and the first applicant stayed there for 6 months. They did not find any adoption society in the U.S. approved for Tanzania but found one, i.e. Carolina Adoption Society in the U.S. which works with Little Angels Network in Kenya. He said that if he and the 2nd applicant are authorised to adopt the subject child, he will remain their first child and have equal inheritance rights with other children of theirs whether biological or adopted. He said he comes to Kenya during his internship breaks and that in 2007 he came six times. His visits to Kenya have been lasting between 5 and 21 days. His wife, i.e. 2nd applicant, has been in Kenya since 1st June, 2007 for purposes of pursuing this adoption application. Back in the U.S.A. the 2nd applicant was working in a public hospital but she had to leave the job to come and pursue the adoption. She would have to re-apply for employment upon returning to the U.S.A.

The 1st applicant told the court that as an Intern Dentist he gets US\$5000 every 3 months, which translates to about Kshs.116,000/= per month at an average exchange rate of Kshs.70/= to the U.S.\$. The 2nd applicant was earning U.S.\$4,000 per month, which translates to about Kshs.280,000/= per month at the same exchange rate. The 1st applicant told the court that he and the 2nd applicant have properties as follows:-

- a) A 3 ½ acre piece of land in California with lime trees.
- b) A 3 – bedroomed home of 2,700 square feet in area.
- c) Also 2 cars and 1 tractor.

The applicants have received favourable assessment by various agencies as follows:-

- a) Carolina Adoption Society in the U.S.A. which found them suitable to adopt. The society has been approved by Kenya's Adoption Committee.
- b) Independent Adoption Center, an adoption agency in the U.S.A. which conducted a home study on the applicants and found them suitable as adoptive parents.
- c) The Federal Bureau of Investigation in the Department of Immigration in Clarksberg, W V U.S.A. which found them to have no criminal records.

Little Angels Network, a registered adoption society in Kenya, has also favourably assessed the applicants. The society has declared the subject child free for adoption.

The guardian *ad litem*, Stephen Okong'o has recommended the proposed adoption.

The 1st applicant told the court that his father-in-law, ZELJKO JAKUPEC and mother-in-law, HELENA JAKUPEC have consented to be the child's legal guardians in the event of the applicants' death or otherwise becoming incapacitated before the child attains majority age.

Kenya's Director of Children's Services has confirmed that bonding has taken place between the applicants and the child. The said Director has recommended the proposed adoption.

I am satisfied on evidence tendered before court that the applicants meet the legal requirements for adoptive parents. They have requisite means to cater for the child's needs. The child is an abandoned child and needs a home environment in which to grow up. I find that it is in the child's best interests to be adopted by the applicants and I dispense with the child's parents' consent to the child's proposed adoption. Accordingly, I make an international adoption order under section 162 of the Children Act, 2001 authorising the applicants, SCOTT EUGENE KRAUSE and LEANNE DEBBIE KRAUSE to adopt BABY B K who shall henceforth be known as A B K K.

The Registrar – General, Kenya is directed to make appropriate entries in the Adopted Children Register as required by law.

Orders accordingly.

Delivered at Nairobi this 25th day of January, 2008.

B.P. KUBO

JUDGE