

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

Adoption Cause 22 of 2005

IN THE MATTER OF THE CHILDREN ACT (NO 8 OF 2001)

AND

IN THE MATTER OF BABY B.O. – INFANT

J U D G M E N T

This application for adoption was filed in this court on 2nd March 2005 by JVC and JTC (*hereinafter called “the Applicants”*) by way of Originating Summons of even date seeking inter-alia for orders to adopt an infant child known as Baby BO (*hereinafter called “the Infant”*).

On 8th April, 2005 Susan Achieng was duly appointed as guardian ad-litem of the said Infant. When the said application for adoption came for hearing on 6th May, 2005 and 13th May, 2005 the said guardian *ad-litem* together with Felistus Mwikali a Social Worker with Child Welfare Society of Kenya and Jane Odiya (Mrs) a Children’s Officer with the Children’s Department duly presented their respective reports on both the Applicants and the Infant.

The said Infant was found abandoned on a waiting bench at the Nyanza Provincial General Hospital on 12th September, 2002, the presumed date of birth. The District Children’s Officer, Kisumu District vide her letter dated 4th December, 2002 addressed to the said Hospital directed the Medical Superintendent to proceed and release the said Infant into the care of New Life Home, Kisumu for proper care and maintenance. The said Infant was on 5th December, 2002 then admitted at the New Life Home Trust Kisumu on the authority of the said District Children’s Officer and subsequently on 6th February, 2003 transferred to the New Life Home Nairobi for further medical treatment and commencement of fostering and adoption proceedings. The said Infant had already, in the Children’s Court at Winam vide P & C Case No. 2 of 2003, been committed to the said Home at Kisumu under orders granted on 8th January, 2003.

The said Infant was on 26th November, 2004 fostered by the Applicants from the said Home and has since remained in their good care and attention. The District Children’s Officer Kisumu District has vide her letter dated 13th July, 2004 confirmed that no one had by then claimed parentage of the said Infant.

The Applicants are man and wife and are both citizens of United States of America and are said to be practising Christians who are actively involved in church ministry work. According to the reports filed, the said Applicants are fit and proper persons capable of adopting and providing due parental care and attention to the said Infant. This is because, in accordance with the said reports, the said Applicants are said to be in a happy and successful marriage into which they are blessed with four biological children aged respectively 23, 21, 18 and 16 years. The said Applicants are said to have developed immense desire to have a child in their said good marriage, having experienced the joy of raising happily their said four biological children, and can presently only do so through adoption for further more, their home is available to provide the needed care and extension of the goodwill of their said good marriage. The said Applicants are in addition, financially well endowed and are in gainful employment with sound social and insurance benefits accessible to all their children including the adopted ones. It has been submitted that upon adoption, the said Infant will be eligible without hindrance for the U.S. American citizenship.

The Applicants have, according to the said filed reports bonded well with the Infant. In accordance

with the said reports the Applicants have duly complied with the applicable provisions of the Children Act (**Act No. 8 of 2001**). This being an international adoption, the said Applicants have secured necessary recommendation and approval to adopt from both a Registered Adoption Agency of the State of Tennessee and competent corresponding government authority of their home country. The said Infant also duly qualifies for adoption having been assessed and declared free for adoption by the Child Welfare Society of Kenya, a registered adoption society as provided under the said Act.

I have duly considered all the aforesaid reports together with the pleadings filed and presentation made herein. I am convinced that the adoption sought by the Applicants shall be not only for the welfare of the Infant but also in the best interests of the said Infant.

I am satisfied that the Applicants fully comprehend and understand their responsibilities and the challenges as adoptive parents in respect of this intended crosscultural adoption. I have further scrutinized all the filed reports in respect of this international adoption and including reports from corresponding adoption agency and government authority from the United States of America and I am satisfied that the requirements of section 162 of the Children Act have been fulfilled, the Applicants having met the pre-adoption requirements for Adoption in their home State of Tennessee and those for the U.S. Citizenship and Immigration Services of the U.S. Department of Homeland and Security.

In pursuance of the said application and in accordance with the provisions of section 159 (1) (a) of the said Act I hereby dispense with the production of the necessary statutory consent as I am satisfied that the said Infant was abandoned and no person has come forward to claim parentage since the date of abandonment. I accordingly order that the said Infant be and is hereby adopted by the said Applicants. I further order that the said Infant be renamed RBC henceforth and direct that the Registrar- General to make appropriate entries in the Adopted Children Register accordingly.

DATED, DELIVERED AND SIGNED AT NAIROBI this 10th day of June, 2005.

P.J. KAMAU

JUDGE.