

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

Adoption Cause 228 of 2004

IN THE MATTER OF THE CHILDREN ACT

AND

IN THE MATTER OF C. (AN INFANT)

JUDGMENT

The 2 applicants moved the court for an order to adopt Baby C., who was abandoned to a person in Thika town on 18th December, 1996. She was then taken to Thika District Hospital and from where she was referred to the Child Welfare Society of Kenya, who caused her to be admitted to Mama Ngina Children's home in Nairobi.

Prior to the hearing of the adoption application, the court appointed one Edward Kimani Mwaura, a guardian ad litem to the child C., for the purposes of the adoption proceedings. Edward filed a report.

The 2 applicants are married under the African Christian Marriage and Divorce Act, Cap. 150, Laws of Kenya. Their marriage is monogamous. A marriage certificate was attached to the application.

The Child Welfare Society prepared a home study report, and issued a certificate declaring Baby C., free for adoption.

An Assistant Children's Director of Children's Services Mrs. Judy Ndung'u investigated the two applicants and their circumstances, and filed a report, which I considered on the day of the hearing of the adoption. It recommended adoption which was said to be in the best interest of the child.

The 2 applicants do not have children of their own. They prayed the court to authorize them to adopt Baby C., whom the 1st applicant J.K.K said has made their home "complete". J.W.K on the other said,

"We are happy to have this child. She does well at school, and at home she loves everybody".

The reports prepared on behalf of the 2 applicants describe them as a good couple with a good home. I consider that this is the kind of home Baby C. who has never known a family life should grow in.

The reports also confirm that this couple have sufficient income to look after Baby C. They are also prepared to make provisions for her from their resources, for the future.

The counsel for the applicants prayed the court to dispense with the consent of the biological mother or parents of Baby C. because she was abandoned. I accept this prayer, and hereby proceed to dispense with the consent of the biological mother of Baby C., because she abandoned her. Nothing was heard of the biological father, so his consent is not an issue in these proceedings.

From the evidence which I have on record, evidence which I have considered in depth, I am satisfied that the 2 applicants love Baby C., and want to, or indeed have already provided a home for her, for the period they have fostered her. They have even found a school for her. For a child who was abandoned at a very young age, adoption would most certainly be in her best interest.

I therefore make an order authorizing J.K.K, and J.W.K to adopt Baby C., who from now henceforth will be known as **A.E.W.**

I also direct the Registrar of Births to issue a birth certificate to the child in the names **A.E.W.**

Dated at Nairobi this 11th day of November, 2005.

JOYCE ALUOCH

JUDGE