

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

ADOPTION CAUSE NO. 112 OF 2014

IN THE MATTER OF THE CHILDREN'S ACT

IN THE MATTER OF THE ADOPTION OF BABY C

P K C.....1ST APPLICANT

L W K.....2ND APPLICANT

JUDGMENT

Through an Application by Originating Summons filed on the 25th April 2014, the Applicants P K C and L W K sought to adopt Baby C, the child in this matter. The Applicants were married on the 01 May 1999 in [particulars withheld] Catholic Church. The 1st Applicant is employed by the [particulars withheld] at Nairobi. The 2nd Applicant is a Nurse at the [particulars withheld]. Their marriage has not been blessed with a biological child due to medical reasons. A C K is an adopted child to the Applicants born on the 07th September 2007, he is a standard one pupil at [particulars withheld].

The child in this matter Baby C was born in Kenya on the 06th February 2012 at Ziwa Sirikwa Sub-District Hospital, Uasin Gishu County in Kenya. The nurse on duty at the Hospital reported that the child had been delivered in the Hospital by one C C who was 18 years old at the time and was said to be a resident of Chepserit Location. The mother later absconded from the Hospital on 07th February 2012 and left the child there. The matter was reported to Eldoret Police Station vide **O.B. No [particulars withheld]** where a search for the child's mother began. The Chief of Kapsaret Location's Report indicated that the mother of the child could not be found within the jurisdiction. The Police investigations were also fruitless since neither the parents neither the parents nor relatives of the child could be found. The Baby remained in the Hospital until 14th May 2012 when she was discharged and was placed temporarily under the care of Lewa Children's Home. The Senior Principal Magistrate's Court in Eldoret committed her to the CWSK Mama Ngina Kenyatta Children's Home for care and protection on the 16th May 2012 via Committal Order No. [particulars withheld]. The child was placed with the Applicant for a mandatory bonding period prior to adoption on 15th January 2013.

The child was declared free for adoption by the Kenya Children's Home Adoption Society on the 09th January 2014 as per Section 156 of the Act. This is confirmed by freeing **Certificate Serial No. [particulars withheld]**.

The Guardian ad Litem, D M H who was appointed on the 13th June 2014 wrote a report on the suitability of the Applicants as potential adoptive parents and the welfare of the child while being fostered by the Applicants. During his visits to the Applicants' home he noticed that the child has changed tremendously and is currently very lively, healthy and playful. The child has also bonded well with her foster parents. The Guardian ad Litem fully recommended the Adoption.

The Director recommended to the Court that Child Welfare Society of Kenya explains to court why the child was placed with the Applicants on 15th January 2013 and declared free for adoption on 09th January 2014. This is a year after the child was placed with the Applicants. The child welfare society responded to the Director by confirming that the minor was indeed placed with the Applicants on 15th January 2013 under foster care. Consideration for foster care was made with the underlying principle of the best interest

of the child. Since there were still investigations by the Ziwa Police Station to trace the child's relatives the Child Welfare Society would not have prematurely declared the child free for adoption. Later, after due diligence was practiced CWSK declared the child free for adoption on 09th January 2014.

The Applicants were assessed and found to be financially stable from their incomes and well capable of raising another child. The Applicants are well aware that an order of adoption grants the child inheritance rights to their property and they have no objection to it.

This court finds that the adoption in question is in the best interest of the child as she will grow up within a family of her own instead of an institution. The Applicants have fulfilled all the legal requirements necessary for a local adoption and have been proven to be suitable potential adoptive parents.

The Applicants, P K C and L W K hereby authorized to adopt the child Baby C. The child shall therefore be known as A W K and her place of birth shall be Ziwa Sirikwa Sub-District Hospital, Uasin Gishu Eldoret, Kenya. She is therefore presumed to be a Kenyan Citizen by birth. J K C the brother to the male Applicant is hereby appointed to be the legal guardian of the child should any misfortune befall the Applicants.

The Registrar General is hereby directed to enter this order in the Adoption Register. The guardian ad litem is hereby discharged. It is so ordered.

READ AND DELIVERED IN OPEN COURT AT NAIROBI THIS 6TH DAY OF OCTOBER, 2016

MARGARET W. MUIGAI

JUDGE

In the presence of;

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