

IN THE COMMONWEALTH OF THE BAHAMAS
IN THE SUPREME COURT
FAMILY LAW DIVISION

2023/FAM/adn/FP/00123

IN THE MATTER OF M-S F (an infant)

IN THE MATTER OF THE ADOPTION OF CHILDREN ACT, CHAPTER 131

BETWEEN

KDM and NSFM

Applicants

AND

**MSF
(An Infant)**

Respondent

Before: The Hon. Madam Justice Constance Delancy

Appearances: Edmund Russell for the Applicants
Ms. Nyanne Olander, Office of The Attorney-General
Ms. Susan Missick, Department of Social Services
Ms. Sheila Johnson-Smith as Guardian Ad Litem

Hearing Date: 1 October 2025

RULING

DELANCY, J.

[1.] The Applicants filed an Originating Summons on 11 September 2023 to adopt MSF pursuant to the Adoption of Children Act, Chapter 131 (“the Act”). The application is supported by Statement in Support and Affidavit filed on the same date.

[2.] The Statement states the following:

1. The Applicants are a married couple, Bahamian citizens who reside on the Island of Grand Bahama;
2. MSF was born on 1 May, 2009 in the Republic of Haiti and is in good health;
3. The biological parents consent to the adoption of MSF;

4. MSF has resided with the Applicants since August, 2019;
5. The Applicants are able to maintain and educate MSF;
6. MSF takes on the surname of the Applicants.

[3.] Consent to Act as Guardian ad Litem was filed on 11 September 2023 and the Undertaking to pay the costs of the Guardian ad Litem was filed on same date.

[4.] The biological mother of the minor, JS (also known as JC) swore an Affidavit on 4 September 2023 (filed on 11 September 2023) and avers that MSF was born in the Republic of Haiti on 1 May 2009 to her (a single mother) and NF, both being Haitian citizens. Further, that MSF resides with the Applicants and she is not being coerced nor has she received any payments or gifts for MSF's adoption.

[5.] The Guardian ad Litem was appointed to 3 October 2023 to safeguard the interest of MSF. This order has not been perfected despite a request for the same in February, 2024 and undertaking by Counsel to do so on 4 June 2025.

[6.] On 4 June 2025 the Court directed Counsel to have the Minor's Birth Certificate which was exhibited to the Statement in Support filed on 11 September 2023 to be translated and apostilled by the competent authority of the issuing state.

[7.] The Guardian ad Litem prepared a Report on 31 January 2024 ("the Report") which was filed on 16 February 2024:

- i. JS immigrated to The Bahamas since 2013 and resided in Abaco. In 2017 the Applicants obtained a work permit for JC and she relocated to Grand Bahama to take up employment as the housekeeper for the Applicants;
- ii. The Applicants sponsored MSF, obtained a visa and on 6 August 2019 he travelled to The Bahamas and has resided with the Applicants since that date. He is enrolled in and attends school in Grand Bahama;
- iii. JS indicated her intention to return to Haiti and that she felt that the Applicants could give the minor "*brighter opportunities*". JS also revealed that the biological father abandoned her shortly after MSF's birth;
- iv. Both biological parents consent to the adoption of MSF by the Applicants and understand their parental rights will be terminated as a result thereof should the Court accede to the application;
- v. The Guardian ad Litem Report concluded that the parental relationship between the Applicants and MSF is well established. Further, that the Applicants' emotional bond with MSF motivated them to sponsor him to enter The Bahamas and reside with them. The Guardian ad Litem stated that she had no hesitation in supporting the Applicants' application to adopt MSF.

[8.] Upon enquires by the representative of the Department of Social Services and Guardian ad Litem's responses thereto the Court noted:

1. That JS is employed as a live-in housekeeper in the Applicants' household, where MSF presently resides and JS has a relationship with MSF;

2. JS also has another child who was born after MSF which was not disclosed in the Report;
3. JS is an able bodied woman with no known illnesses, according to this report, or handicaps and the report does not state otherwise;
4. JS earns minimum wage working as a live-in housekeeper and she resides with the Applicants but she is in a bad financial situation;
5. JS is on work permit and does not receive financial support from family members.
6. Guardian ad Litem observed that MSF has a very close relationship with the Applicants whom he refers to as his parents;
7. The biological father resides in Haiti, does not provide any financial support nor has he been a part of MSF's life;
8. That Mrs. M, one of the Applicants, met JS while on a Christian mission trip to Haiti, and the Applicants have been helping her prior to her pregnancy with the MSF and increased their contribution after his birth;
9. The Applicants provide a more of stable environment for MSF and JS has stated her plan to eventually return to Haiti;
10. MSF came to The Bahamas on a visa and the Guardian ad Litem was unable to confirm his current immigration status; and
11. MSF was ten (10) years old when came to The Bahamas to reside with the Applicants. He was fourteen (14) years at the commencement of the proceeding in 2023. MSF is currently 17 years and will reach the age of majority on 1 May 2027.

Issues:

- [9.] The Court must determine whether:
- (a) it is in the best of the minor for him to be adopted by the Applicants; and
 - (b) the granting of the adoption of the minor nearing the age of majority goes against public policy?

Law and Analysis

[10.] The Court in exercising its power to grant an order of adoption must be guided by the provisions of the Child Protection Act, Chapter 132 (“the CPA”) in particular Section 3:

- (1) **Whenever a determination has to be made with respect to –**
 - (a) the **upbringing of a child**; or
 - (b) the administration of a child's property or the application of any income arising from it, **the child's welfare shall be the paramount consideration.**
- (2) **In all matters relating to a child, whether before a court of law or before any other person, regard shall be had to the guiding principle** mentioned in subsection (1) and that any delay in determining the question is likely to be prejudicial to the welfare of the child. [Emphasis added]

[11.] Counsel for the Applicants submits that it is in the best interest of the Minor in the instant case for an order for the Applicants to adopt the Minor. The Attorney General does not oppose the application.

[12.] The Court must consider the issue of nationality and public policy which may have some bearing in determining whether to grant an order for adoption but is not the only factor which the Court must consider. Any issue of nationality or public policy must be balanced by the question of the Minor's welfare as observed by *Hobhouse, LJ* in **Re K (A Minor) Adoption Order Nationality** 1995 Fam. 38:

The court must evaluate what will best serve the need to safeguard and promote the welfare of the child throughout its childhood and take this aspect into account as the primary consideration in deciding whether or not to make the adoption order. Where the child is young, the judge's evaluation of this aspect is likely to be determinative and it would have to be a strong consideration of public policy which would displace it. Where.....the welfare issue is negligible, it may be difficult for the applicant for the adoption order to find grounds which are sufficient to counterbalance the public policy considerations of not allowing a right of entry or abode to be acquired....

[Emphasis added]

[13.] The Court notes that the Minor's biological mother has been living and may be residing with the Applicants and the minor. The minor was living with them for some four years prior to the commencing of proceedings. The minor was fourteen years of age at the time of the application. As of the date of the hearing of the application the Minor was 17 years and had been residing with and been maintained by the Applicants for some seven years.

[14.] The Report states that the Minor's biological father is an absentee father for most of the minor's life and has had minimum contact with the Minor for most of his life. Further, that his biological father abandoned his biological mother while she was pregnant with the Minor and did not see him again for eight years. The Report states that the minor has sporadic communications with his biological father via Facebook over the years.

[15.] The issue of citizenship does not appear to be the motivating factor for adopting the Minor in this case. The Court considered the age of the Minor, his integration into the Applicants' family and finds that the Minor's welfare outweighs any issue of nationality or public policy. Further, the Court also noted that the Attorney General did not object to the granting of an order of adoption to the Applicants of the minor.

[16.] The Court in keeping the provisions of Section 3 of the CPA and noting that the minor was of sufficient age to have an input into the proceedings conducted an interview with the minor. The minor appeared to be well adjusted and assimilated into his home and school environment.

Disposition

[17.] In all the circumstances of the case, the Court having reviewed the evidence and the submissions, and in keeping with the guiding principle of the CPA the Court hereby exercises its discretion and finds that an adoption order will best safeguard and promote the welfare of the minor.

[18.] It is hereby ordered:

- (i) That the Applicants are hereby authorized to adopt the minor.
- (ii) The minor is to be known by the name set out in paragraph of 15 of the Statement in Support of Application for the Adoption Order filed herein.
- (iii) The Registrar General make appropriate entry in the Adopted Children Register

Dated: 30 April 2026

[Original signed and sealed]

Constance Delancy
Justice