



**In re C alias Abandoned Baby Boy C (Child) (Adoption Cause E0176 of 2022)  
[2024] KEHC 10248 (KLR) (Family) (13 August 2024) (Judgment)**

Neutral citation: [2024] KEHC 10248 (KLR)

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

**ADOPTION CAUSE E0176 OF 2022**

**BM MUSYOKI, J**

**AUGUST 13, 2024**

**IN THE MATTER OF AN APPLICATION FOR ADOPTION OF BABY C A  
ABANDONED BABY BOY CHRISTIAN THE CHILD BY D M K AND S W M**

**IN THE MATTER OF**

**DMK ..... 1<sup>ST</sup> APPLICANT**

**SWM ..... 2<sup>ND</sup> APPLICANT**

**JUDGMENT**

- 1 The applicants herein, Duncan Maina Kibiro and Susan Wanjiku Maina who are a married couple approached this court through originating summons dated 31-08-2022 praying for the following orders;
  1. That the applicants be and are hereby authorised to adopt Baby Christian and the child be called Nathan Joseph Maina.
  2. That Beatrice Wangui Maara be and is hereby appointed Legal Guardian of the child in the event a misfortune befalls the applicants rendering them unavailable or incapable of taking care of the child.
  3. That the registrar general be and is hereby ordered to make appropriate entries in the Adopted Children’s Register in respect of Nathan Joseph Maina.
  4. That the child was born in Kenya of Kenyan parents and is therefore a Kenyan by birth and is entitled to a Kenyan Passport.
  
- 2 The child herein was discovered abandoned by his mother in a matatu commuting from Nairobi CBD to Mwiki on 4-12-2019. A report was made to Kasarani police station through occurrence book entry number 118/04/12/19. The police at Kasarani secured temporary home for the child at the Nest



- Children's Home as they made efforts of tracing his parents or relatives. The relatives were not traced following which the Kasarani Sub- County Children's Office wrote to Nairobi Chief Magistrate Court informing it of the status of the child. The court committed the child to the aforesaid home for three years vide its protection and care case number 54 of 2020 on 22-01-2020.
- 3 Process of efforts of tracing the parents or relatives of the child continued without any positive results. Little Angels Network an adoption agency did investigations and inquiries without success and made conclusion that the child needed an alternative family care and in a meeting of its committee held on 5-05-2021, it resolved that the child was available for adoption.
  - 4 On 1-02-2021, the applicants made an application to the Little Angels Network for consideration as adopting parents. The said adoption agency evaluated the applicant's application and did its procedural inquiries and investigations. They found the applicants suitable as prospective adoptive parents. It is notable that the applicants had successfully made two previous applications for adoption. In its meeting held on 8-04-2021, the adoption agency approved the applicants' application. It prepared a report dated 8-04-2021 which was produced by Joshua Mwalimu Wambua a social worker with the said Little Angels Network.
  - 5 The applicants testified before me on 25-07-2024. They reiterated that they were a couple. They also confirmed that they had two other adopted children. They separately confirmed to this court that they were aware of the ramifications of an adoption order including the legal position that once made, the order is not reversible. They also told the court that they were aware that once the adoption order is issued, the child attains the rights similar to those of biological children including the right to inherit them. They produced evidence that they had enough resources to take care of the child's needs. They told the court that they had been with the child since August 2021 and that the child had properly bonded into the family.
  - 6 This court appointed Peter Nyoro Kiarie as a Guardian Ad Litem on 1-12-2023. The said Peter testified and told the court that after the appointment, he visited and assessed the wellbeing of the child. He prepared a report after carrying out his mandate. The report was positive and he recommended that the adoption orders be granted. His report dated 17-07-2024 was produced in court.
  - 7 I also took testimony of Joshua Mwalimu Wambua who confirmed the contents of the report from Little Angels Network mentioned above. The report was signed by Esther Kaleve and Grace Ekambi. He also identified the agency's certificate declaring the child free for adoption. The certificate serial number 0021274 was issued on 5-05-2021. He also confirmed that the adoption orders would be in the best interest of the child.
  - 8 Ezekiel Kimani is an Assistant Director in the Department of Children Services. Mr. Kimani told the court that the department made the necessary investigations, inquiries and assessment on the applicants. The officers of the department visited the applicants and the child and made the necessary interviews and assessment of their home. The report signed by Harriet Kihara a Principal Children's Officer and Mary Atati an Assistant Director of Children Services and dated 25-08-2023 was produced in evidence.
  - 9 I also heard from Beatrice Wangui Maara of identity card number 22006157 who the applicants had proposed as the Legal Guardian of the child. The said Beatrice told the court that she had accepted to be appointed as Legal Guardian. She also confirmed that she was aware that her appointment as Legal Guardian meant that she will be responsible for the needs, care, love and provision of the child just as the parents would do if for any reason, the applicants were incapable or unavailable for such duties and responsibilities. With that knowledge, she was still willing to be appointed as the Legal Guardian of the



child. I have seen a consent signed by the said Beatrice Wangui Maara on 11-03-2020 and exhibited as annexure '4a' in the applicants' supporting affidavit dated 31-08-2022.

10 I have gone through the evidence produced before the court. The child was abandoned at the age of one week when he needed his parents more than ever. He was rescued and through what I would call the grace of God, he found himself in the caring hands of the applicants. I note that the applicants have adopted two children before and they are still interested in adopting more. This can only go into showing how caring and responsible the applicants can be to children who are not their own blood. This is very commendable and should be appreciated by the society.

11 In addition to my above observation, I have noted the positivity in the reports from the adoption agency, the department of children services and the Guardian Ad Litem. I have also noted that the applicants have blended well with the child. The child has been accepted well by the entire family. I am convinced that the child's best interests which are of paramount consideration will be served by grant of the orders sought in this matter. All the legal processes and procedures have been completed and in the circumstances, I grant the prayers sought in the following terms;

1. Duncan Maina Kibiro and Susan Wanjiku Maina are authorized to adopt Baby Christian.
2. The child shall henceforth be named as Nathan Joseph Maina.
3. The child is declared to be a Kenyan citizen by birth and entitled to all rights, privileges and benefits of a Kenyan Citizen by birth.
4. Beatrice Wangui Maara is hereby appointed as the Legal Guardian of the child.
5. The Guardian Ad Litem is discharged.
6. The Registrar General is directed to enter this adoption in the register of adoptions.

**Dated signed and delivered at Nairobi this 13<sup>th</sup> day of August 2024.**

**B.M. MUSYOKI**

**JUDGE OF THE HIGH COURT.**

Judgement delivered in presence of Mr. Ogutu for the applicants.

