



**In re Baby QZ aka QZ (Adoption Cause E108 of 2021)  
[2023] KEHC 3870 (KLR) (Family) (27 April 2023) (Judgment)**

Neutral citation: [2023] KEHC 3870 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)  
FAMILY  
ADOPTION CAUSE E108 OF 2021  
DKN MAGARE, J  
APRIL 27, 2023  
N THE MATTER OF THE CHILDREN ACT, 2001  
AND  
IN THE MATTER OF BABY QZ AKA AQZ AKA ABANDONED BABY  
AKA ABANDONED BABY GIRL AKA AN ABANDONED CHILD**

**IN THE MATTER OF**

**NKK ..... 1<sup>ST</sup> APPLICANT  
ENW ..... 2<sup>ND</sup> APPLICANT**

**JUDGMENT**

1. NKK and Ms. ENW were before me on 14/4/2023. They were basically the court to allow them adopt baby QZ. This is the oldest adoption I dealt with. I hope the resilience which they displayed will be there to see baby QZ through after the orders gave.
2. NKK confirmed to me that he is 37 years and works as a transporter. They desire to have a bundle of joy, which definitely Baby JZ will provide. ENW is 35years old. They are married to each other.
3. PW2 MKK, a brother to NKK, stated that he is willing to be the Legal guardian. CNK the Guardian ad litem had filed the report. Her report dated 19/12/2023 and recommend the adoption.
4. [Particulars withheld] adoption agency through NK confirmed that the minor was freed on 5/2/2021. The child was placed with the couple on 10/3/2021.
5. They did a report dated 6/12/2021 which recommends the adoption. The directorate of Children Service, had no reservation and recommends the adoption.



6. I have read the report from [particulars withheld] adoption services as noted that the child truly deserved a home.
7. The applicant meets the Pre-requisites for Adoption under section 184 of the *Children's Act*, which provides as doth: -
  - (1) A person shall not commence any arrangements for the adoption of a child unless—
    - (a) the Council, in accordance with the rules, has declared the child free for adoption; and
    - (b) the child has attained the age of six weeks.
  - (2) A person, including a parent, guardian or adoption society, shall not, prior to the making of an adoption order, entrust a child to the care, possession or control of any person not qualified to adopt a child in accordance with this *Act*.
  - (3) An applicant shall not preselect a prospective adoptive child except—
    - (a) in the case of kinship adoption;
    - (b) Where the applicant is a foster parent seeking to adopt a fostered child under the applicant's care.
  - (4) The Secretary shall monitor and submit reports to the courts on the wellbeing of a child who is subject to adoption proceedings.
  - (5) Any person who contravenes subsections (1) or (2) of this section commits an offence and shall, on conviction, be liable to imprisonment for a term not exceeding three years or to a fine not exceeding one million shillings, or to both.
8. The Applicant is not disqualified by dint of section 186(6) of the *Children's Act* from adopting. The section provides as doth: -

The Court shall not make an adoption order in favour of an Applicant or joint Applicants if the Applicant or joint Applicants, or any of them—

  - a) is of unsound mind within the meaning of the *Mental Health Act* (Cap. 248);
  - (b) is incapable of exercising proper care and guardianship of a child;
  - (c) has been convicted by a Court of competent jurisdiction for any of the offences specified in the Third Schedule or similar offences;
  - (d) in the case of joint Applicants, if the Applicants are not married to each other;
  - (e) is a sole male Applicant except where the Applicant is a biological relative of the child; or
  - (f) is a foreign Applicant except where the Applicant is a biological relative of the child.
9. The consequence is that the originating dated 27/8/2021 is hereby allowed in the following terms: -
  - a. The applicant NKK and ENW be authorized to adopt Baby QZ aka alia QZ aka Abandoned baby aka Abandoned Child to be known as JWK.
  - b. The registrar General directed to enter this adoption into the Registrar of adoption.



- c. MKK be appointed as the Legal Guardian of the Minor.
- d. The child be presumed to be born in Kenya.
- e. The Guardian ad litem be discharged.
- f. The registrar of birth and death be directed to issue a birth certificate to the child.
- g. The Director of Immigration be authorized to issue a passport to the child.
- h. The date of birth be declared as 1/3/2023, in Nairobi.
- i. This file be sealed and closed.

**DELIVERED, DATED AND SIGNED AT MOMBASA ON THIS 27TH DAY OF APRIL 2023.  
JUDGMENT DELIVERED THROUGH MICROSOFT TEAMS ONLINE PLATFORM.**

**DENNIS KIZITO MAGARE**

**JUDGE**

**In the presence of:**

Kemuto for the Applicant

Court Assistant - Firdaus

