



REPUBLIC OF KENYA



**In re EA aka P (Baby) (Adoption Cause E203 of 2022)
[2023] KEHC 3512 (KLR) (Family) (27 April 2023) (Judgment)**

Neutral citation: [2023] KEHC 3512 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
ADOPTION CAUSE E203 OF 2022
DKN MAGARE, J
APRIL 27, 2023**

IN THE MATTER OF

MNM APPLICANT

JUDGMENT

1. This matter was placed before me during the Easter service week. I heard 6 witnesses. Carol Olilo from the Directorate of Children Services confirmed that she recommends the adoption and had filed a report.
2. MK from Buckner Kenya confirmed that the society 's committee approved the applicant on 15/6/2021. The minor was freed for adoption on 18/2/2022. The subject was placed with the applicant on 19/3/222 and she filed a report dated 11/4/23 which recommends the adoption.
3. KM, the Guardian ad Litem confirmed that he filed a report that recommends the adoption. The prosed legal guardian testified and informed that they filed consents to act as Legal guardian.
4. The applicant also testified and say she is 50 years old and intends to expand her family. Her relatives have no objection. Her younger sister is in fact the Legal guardian.
5. 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.
6. 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.
7. After going through the reports, I am satisfied that the application is merited. The same is begging me to allow it. I do.

Determination

8. The upshot is of the foregoing is that I allow the originating summon dated 8/11/202 in the following terms: -
 - a. The applicant MNM, be authorized to adopt baby EA also Known as P a minor who is to be known as VMN.
 - b. The Registrar General is hereby directed to enter this adoption in the Register of adoption.
 - c. LNM and BGN are hereby appointed as Legal guardian of the child.
 - d. The child be presumed to be Kenyan by birth.
 - e. The Registrar of births and deaths do issue a birth certificate to the child.
 - f. The date of birth be presumed to be 10/5/2020 in, in Nairobi.
 - g. The director of Immigration be authorized to issue passport to the child.



h. The Guardian ad litem be discharged.

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:

Miss Kemuto for the Applicant

Court Assistant - Firdaus

