



**In re baby EAY aka EA aka EY (Child) (Adoption Cause  
E008 of 2022) [2022] KEHC 18136 (KLR) (31 May 2022) (Judgment)**

Neutral citation: [2022] KEHC 18136 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KIAMBU  
ADOPTION CAUSE E008 OF 2022  
MM KASANGO, J  
MAY 31, 2022  
IN THE MATTER OF THE CHILDREN'S ACT, 2001  
IN THE MATTER OF BABY EAY AKA EA AKA EY (THE CHILD)  
AND  
IN THE MATTER OF AN APPLICATION FOR ADOPTION  
BY  
JKM.....APPLICANT**

**JUDGMENT**

1. The applicant, JKM to the originating summons dated 22<sup>nd</sup> March, 2022, seeks to adopt a baby known as EA. The applicant is a Kenyan female born on 6<sup>th</sup> January, 1964 while the baby was born on 25<sup>th</sup> February, 2018. Accordingly, the applicant does fulfil the requirements of Section 158(1) (a) of the Children's Act which Section requires an applicant to have attained the age of 25 years and to be at least 21 years older than the child, the subject of the adoption.
2. The baby was placed by Child Welfare Society Of Kenya(CWSK) into foster care of the applicant on 8<sup>th</sup> September, 2021. The baby therefore has been in continuous care and control of the applicant for more than three consecutive months. That period of foster care is in compliance with the requirements of Section 157(1) of the Children's Act.
3. The baby's birth mother, on giving birth, informed the medical institution where she was hospitalized that she desired to give up the baby for adoption. The CWSK officials on visiting the birth mother indeed confirmed that, that was her intention. The reason she gave for her wish to offer the baby for adoption was because the father of the child denied paternity. Thereafter, the father's whereabouts were unknown by the birth mother, which according to the birth mother, devastated her and led her to hate the baby. The birth mother informed CWSK that the birth father of the baby changed his contact and she was unaware of his whereabouts. The birth mother, as required by Section 158(4) gave her



written consent to the adoption of the baby. That consent is dated 26<sup>th</sup> July, 2021, therefor, the consent was given more than six weeks after the birth of the baby: See section 159(8)(a) of the Children’s Act.

4. This Court on 28<sup>th</sup> April, 2022 appointed JNM, a Social Worker as a guardian ad litem for the baby pending the hearing and determination of this adoption application. The guardian ad litem provided to the court a report dated 28<sup>th</sup> April, 2022 which report supports the applicant’s application. I will reproduce the concluding remarks in that report just to highlight what the guardian ad litem stated as follows:-

“The child seems to have bonded so well with the prospective parent and settled in the family unit and this has brought immense joy to both the parent and the child.

The applicant has sufficient income to provide for the child and offer the requisite necessities of life like food, shelter and education which has been well demonstrated herein.”

5. The court also received a report from the Director Children Services, which report was compiled after the Children Officer visited the home of the applicant. This report is also in favour of the applicant’s application. The children’s officer on visiting the applicant noted:-

“The child is seemingly happy with the applicant and has developed a strong bond with her. She has equally provided a good environment for the growth and development of the child.”

6. I had opportunity to observe the applicant and the baby. I am satisfied that the reports of the guardian ad litem and the children’s officer correctly assessed the applicant’s relationship with the baby.
7. The applicant and the baby seemed happy and very compatible with each other.
8. The applicant’s aunt, FK has agreed to be appointed the Legal Guardian to the baby.
9. As stated before, the birth father of the baby on denying paternity disappeared and his whereabouts are today unknown. That birth father had not acquired parental responsibility of the baby and his consent to this adoption is not required as per Section 158(4) of the *Children Act* and in any case, this Court hereby dispenses with his consent.
10. The baby was declared free for adoption as per CWSK’s certificate dated 17<sup>th</sup> August, 2021.
11. Having regard to all the circumstances of the case, I find and hold that the granting of the adoption order as sought by the applicant will be in the best interest of the baby.

## **Disposition**

12. The court grants the following orders:-
  1. That JKM of Kenyan National Identity Card Number xxxx be and is hereby authorized to adopt the child, EAY aka EA aka EY who is a Kenyan citizen born on 25<sup>th</sup> February, 2018.
  2. That upon adoption, the child shall be known as AMM.
  3. That FKM of Kenyan National Identity Card Number xxxx be and is hereby appointed the Legal Guardian of the child, EAY aka EA aka EY.
  4. That the Registrar General is directed to enter this adoption into the register of Adoptions and a subsequent Birth Certificate be issued by the Registrar of Births and Deaths.



5. That the Director of Immigration be authorized to issue the child, EAY aka EA aka EY with a Kenyan passport.
- (6) That the consent of the father of the child is hereby dispensed with.

**RULING DATED AND DELIVERED AT KIAMBU THIS 31ST DAY OF MAY, 2022.**

**MARY KASANGO**

**JUDGE**

**Coram:**

**Court Assistant:- Mourice**

**For the applicant: - Ms. Thongori**

**COURT**

**JUDGMENT DELIVERED VIRTUALLY.**

**MARY KASANGO**

**JUDGE**

