



**In re STB aka ST (Minor) (Adoption Cause E008 of 2022)  
[2022] KEHC 16388 (KLR) (Family) (16 December 2022) (Judgment)**

Neutral citation: [2022] KEHC 16388 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)  
FAMILY  
ADOPTION CAUSE E008 OF 2022**

**MA ODERO, J**

**DECEMBER 16, 2022**

**IN THE MATTER OF**

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

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

**JUDGMENT**

1. Before this court is Originating Summons dated February 4, 2022 by which the Applicant seeks the following orders:-
  - “ 1. That the Applicants be authorized to adopt Baby Shirley Tracy Biden aka Shirley Tracy Mureithi, a minor who is to be known as Tracy Muthoni Macharia and Registrar General be directed to make relevant entry in the Adopted Children Register.
  2. That Charity Muthoni Kimani and Solomon Kimani Muigai be appointed as Legal Guardians of the minor presumed to have been born in Kenya”.
2. The summons was supported by statement of the Applicants and was canvassed by way of viva voce evidence.
3. The Applicants are a married couple, who have been married for a period of over fifteen (15) years. They have not been blessed with children due to medical complications. The Applicants now wish to adopt a child in order to complete their family. They each confirm that they understand the legal implications of an adoption order and undertake to accord to the subject child all rights due to a biological child.



## Analysis and Determination

4. The prerequisites which must be met before an adoption order can be made are set out in Section 184 (1) (a) and (b) of the [Children's Act 2022](#) which provides as follows:-
  - “(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.”
5. The subject child is believed to have been born on or about December 15, 2022 therefore, she is 1 year 11 months old year months old and she is above the six (6) weeks age limit provided for in the law.
6. BUckner Kenya Adoption Society is a registered adoption agency, has annexed to their report the original copy of the Certificate Serial No 443 dated August 6, 2022 declaring the child free for adoption. In the circumstances, I am satisfied that the legal prerequisites for adoption order have been met.
7. The duty of this court is to analyze the evidence and material presented before it to determine whether the Applicants are suitable adoptive parents.
8. The Applicants are Kenyan citizens as evidenced by the copies of their National Identity cards annexed to the summons. They stated that they have been married for over fifteen and a half (15½) years. Annexed is a copy of their Marriage Certificate Serial No 782536.
9. The Applicants stated that they are motivated to adopt the child because of their love for children and their desire to provide a needy child with a home.
10. The Applicants are both in gainful employment. The 1<sup>st</sup> Applicant works as an Account with Oryx Energies Kenya Ltd whilst the 2<sup>nd</sup> Applicant works with Lifenet International as an Account. The couple have annexed copies of a bank statement for an account held at Co-operative Bank of Kenya. I am satisfied that the Applicants are financially secure.
11. The Applicants are Christians, they fellowship at Ack St. Timothy Church in Utawala and they intend to raise their child in Christian faith. Annexed to the summons is a letter of recommendation dated March 13, 2021 written by Rev Joseph Munene of St Timothy Anglican Church in Utawala. The Applicants were both examined by a doctor and were found to be in good mental and physical health. They have annexed copies of their Police Clearance Certificates confirming that they have no criminal record. The Applicants have appointed Charity Muthoni and Solomon Kimani Muigai as Legal Guardians for the child. The proposed legal guardians have both consented via letter dated February 22, 2021.
12. The subject child was born on or about December 15, 2020. She was found immediately after her birth abandoned in a bush at Blue Line area of Nanyuki. The child was admitted at Nanyuki Teaching Referral Hospital for medical check-up.
13. The abandonment was reported at Naromoru Police Station vide OB Nos. 28 of December 15, 2020. The child was later admitted at Neema House Infant Rescue Centre on December 23, 2020.



14. On December 22, 2020 the Kiambu Children Court committed the child to Neema House Infant Baby Rescue Centre for care and protection.
15. Article 14 (4) of the *Constitution of Kenya 2010* provides that:-
 

“A child found in Kenya who is or appears to be less than eight years of age and whose nationality and parents are not known is presumed to be a citizen of Kenya ”
16. In view of the fact that the subject child was found abandoned at birth in the Republic of Kenya, I hereby declare her to be a citizen of Kenya by birth.
17. Efforts made to trace the biological mother or other relatives of the child have borne no fruit. The final Police letter dated July 22, 2022, Naromoru Police Station was issued indicating that nobody had claimed the child.
18. Given that the subject child was abandoned at birth there exists no known person from whom consent for this adoption can be sought and/or obtained. In circumstances, I do waive the requirement for consent in line with Section 187(1) of the *Children's Act 2022*.
19. This is a child who was abandoned at birth. She faced uncertain future living in orphanages or other similar institutions. This adoption allows the child the opportunity to be raised in a loving and stable home environment. I was able to see the child online. She was sleeping and looked healthy.
20. A Home visit was conducted on July 26, 2022. The Applicant resides in a four bed roomed maisonette in Utawala Estate. The compound is fenced and has ample space and facilities for the child. The Applicant lives with her niece and has also employed a Nanny to help care for the child.
21. I have perused the reports prepared by the Adoption Agency, Guardian Ad Litem and Director of Children Services. All were positive and all recommend the adoption.
22. All in all, I find that this adoption does serve the best interests of the child. Accordingly, I do allow this application and make the following orders:-
  1. The Applicants Timothy Macharia Mureithi and Tabitha Wanjiru Mukabi are authorized to adopt baby Shirley Tracy Biden aka Shirley Tracy Mureithi.
  2. Upon Adoption the child shall be known as Tracy Muthoni Macharia.
  3. The Registrar General is directed to make relevant entry in the Adopted Children Register.
  4. Charity Muthoni Kimani and Solomon Kimani Muigai are hereby appointed as Legal Guardians of the minor.

Dated in **Nairobi** this **16<sup>th</sup>** day of **December, 2022**.

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**MAUREEN A. ODERO**

**JUDGE**

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