



REPUBLIC OF KENYA



**In re WK (Child) (Adoption Cause E051 of 2022)
[2022] KEHC 16393 (KLR) (Family) (16 December 2022) (Judgment)**

Neutral citation: [2022] KEHC 16393 (KLR)

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

FAMILY

ADOPTION CAUSE E051 OF 2022

MA ODERO, J

DECEMBER 16, 2022

IN THE MATTER OF CHILDRENS ACT NO 8 OF 2001

AND

IN THE MATTER OF APPLICATION FOR ADOPTION OF WK

BY

MA APPLICANT

JUDGMENT

1. Before this court is the originating summons dated April 11, 2022 by which the applicant MA seek the following orders:-

- “1. That the applicant MA be and is hereby authorized to adopt WK and the child's name shall remain WKW.
2. That AWM be and is hereby appointed legal guardian of the child in the event a misfortune befalls the applicant rendering her unavailable or incapable of taking care of the child.
3. That the child was born in Kenya of Kenyan parents and is therefore Kenyan by birth is entitled to a Kenyan passport.”

2. The application was supported by the statement of even date sworn by the applicant. The matter was canvassed by way of written submissions on the virtual platform.

Analysis and Determination

3. I have carefully considered this application for adoption, the evidence adduced in support thereto as well as the various reports filed in court.



4. The applicant seeks to adopt the 'child' known as WKW. The said 'child' is her nephew who was orphaned following the death of both his parents.
5. Section 183 (1) of the *Children Act* 2022 which deals with adoption provides as follows:-
 - “(183) Subject to this act, the High court may on an application made in the prescribed form, make an order, in this Act referred to as “adoption order” authorizing the applicant to adopt a ‘child’.
6. The *Children Act* 2022 defines a 'child' in section 2 of said *Act* as follows:-
 - “Child” means an individual who has not attained the age of eighteen years. (own emphasis)
7. The Subject of these adoption proceedings. The subject was born on April 14, 2004. A copy of his birth certificate serial number XXXX annexed to the summons (Annexure '10 (a)').
8. The Subject therefore attained the age of eighteen (18) on April 14, 2022. In the circumstances, he does qualify as a child under the definition given in the *Children Act*. No adoption order maybe made by this court in respect of a person who is above the age of eighteen (18) years.
9. Accordingly, I find that this application has now been overtaken by events as the subject has now attained the age of majority.
10. For the above reasons, I hereby dismiss this application for adoption and I make no order on costs.

DATED IN NAIROBI THIS 16TH DAY OF DECEMBER, 2022.

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MAUREEN A. ODERO

JUDGE

