



**In re Adoption of Baby DM (Minor) (Adoption Cause E257 of 2023)  
[2025] KEHC 2525 (KLR) (Family) (20 February 2025) (Judgment)**

Neutral citation: [2025] KEHC 2525 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)  
FAMILY  
ADOPTION CAUSE E257 OF 2023  
EKO OGOLA, J  
FEBRUARY 20, 2025**

**IN THE MATTER OF**

**JWG ..... APPLICANT**

**JUDGMENT**

1. The Originating Summons before this court is dated 3<sup>rd</sup> May 2023 by which the applicants pray for the following orders: -
  - a. That the child, subject of this cause, be presumed to be a Kenyan citizen by birth.
  - b. That the applicant be authorized to adopt Baby DM to be known as DJW.
  - c. That JMG be appointed as the legal guardian of the child in the event of the death or incapacity of the applicant before she is full age and fully self reliant.
  - d. That the Registrar general be directed to enter in the Adopted Children Register an entry recording the adoption.
  - e. That the court be pleased to make further orders it deems necessary.
2. The Originating Summons was supported by the statement of even date sworn by the applicant and an affidavit in support of the application. The matter was canvassed by way of viva voce evidence in court.
3. The applicant, as PW1 testified that she is a widow without biological children. The applicant is a teacher by profession. Hence, capable of meeting the financial needs of the child.
4. PW2 was MNN, the guardian ad litem. PW3 was JMG, the proposed legal guardian. PW4 was NO, an officer from the Directorate of Children's Services. They all testified in support of the application.
5. An officer from Little Angel Network filed a report dated 8<sup>th</sup> June 2023 where the adoption recommended.



## Determination

6. I have carefully considered this adoption application, the various affidavits and reports on record as well as the relevant law. I have also considered the evidence adduced in open court.
7. The preliminary requirements for the making of an Adoption Order are set out in Section 184(1) of the Children's Act 2022 which provides as follows:

“ 184 (1) A person shall not commence any arrangement for the adoption of a child for the adoption of a child unless the council, in accordance with the rules, has declared the child free for adoption and the child has attained the age of six (6) weeks old.”
8. A good Samaritan found the child abandoned by the roadside in [particulars withheld] Village, Thinayine Location. The incident was reported to the senior assistant chief of the area and Tigania Police Station. The matter was recorded under OB No. XXXX/09/2021.
9. The child was then taken to Meru Teaching and Referral Hospital where a medical examination was conducted. The child was presumed to have been born on 26<sup>th</sup> September 2021. On 12<sup>th</sup> October 2021 the child was placed at Neema House Infant Rescue Centre. The police conducted investigations, and by a letter dated 24<sup>th</sup> May 2022, the police stated that they were unable to trace the child's parents.
10. The child was declared free for adoption by Little Angels Network on 8<sup>th</sup> June 2022 vide certificate No. 00XXXX.
11. From the foregoing, the legal prerequisites for an adoption order have accordingly been met.
12. The duty of this Court is to analyse the material placed before it and decide as to whether the applicant is a suitable adoptive parent. The applicant is a Kenyan citizen and is financially stable. Therefore, she is in a good position to provide for the child's needs.
13. The applicant was also examined and found to be physically and mentally fit. Furthermore, there is a copy of the Certificate of Good Conduct issued by the Kenya Police Service, which proves that the applicant has no criminal antecedents. From the foregoing, I am satisfied that the applicant is a suitable adoptive parent.
14. Article 14 of *the Constitution* deals with the issue of Citizenship. Article 14(4) provides as follows:

“ (4) 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 by birth.”
15. In deciding upon any matter involving a child, Courts are obliged to give priority to the best interest of the said child. Section 8 (1)(a) of the *Children Act* 2022 provides:

“ In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interest of the child shall be a primary consideration.”
16. The child has lived with the applicant since 15<sup>th</sup> June 2022. There is no doubt that the child sees the applicant as her mother. The various reports filed in court all recommend the adoption. Therefore, I am satisfied that the adoption will serve the best interests of the child. Accordingly, I allow this adoption application and make the following orders: -



- a. The Applicant is authorised to adopt the child known as Baby DM.
- b. Upon adoption, the child will be known as DJW.
- c. The Registrar General is directed to make appropriate entries in the Adopted Children's Register.
- d. JMG is appointed as the legal guardian of the child.
- e. The guardian ad litem is hereby discharged.

Orders accordingly

**DATED AND DELIVERED AT NAIROBI THIS 20TH DAY OF FEBRUARY 2025**

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**E.K. OGOLA**

**JUDGE**

In the presence of:

Mr. Kemenya for the Applicant

Ms Gisiele M court Assistant

