



REPUBLIC OF KENYA



**KENYA LAW**  
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**In re Baby ZWG aka ZMN (Adoption Cause E003 of 2024)  
[2025] KEHC 2129 (KLR) (14 February 2025) (Judgment)**

Neutral citation: [2025] KEHC 2129 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KERUGOYA  
ADOPTION CAUSE E003 OF 2024  
EM MURIITHI, J  
FEBRUARY 14, 2025**

**IN THE MATTER OF**

**EWN ..... APPLICANT**

**JUDGMENT**

**The Application**

1. By Originating Summons dated 29/5/2025, the applicant a female aged 40 years seeks to adopt a female child aged 9 years with whom she had lived with for a period of 3 years and prays for the following specific reliefs:
  1. That the Applicant be authorized to adopt Baby ZWG A.K.A. ZMN, a minor who is to be known as ZMN and the Registrar General be directed to enter this adoption into the Register of Adoptions.
  2. That IWK be appointed as the legal guardian of the minor.
  3. That the Child be presumed to have been born in Kenya.
2. The Court has heard the applicant, the legal guardian and considered the reports of the guardian ad litem, who was also the Counsel on record for the Applicant, and the Children Officer as well as the Adoption Society. The Child was produced before the Court and the Court had opportunity to observe the child's relationship with the applicant. The court considered the application for adoption in accordance with the law on adoption of children in Kenya as set out Part XIV of the *Children Act* 2022 (Act no. 29 of 2022), Sections 183 – 216 of the Children Act 2022.



## The Applicant

3. The applicant was examined by the KKPI Adoption Society case committee upon a Home Study Report and Home Assessment conducted on 14/6/2022 and found a fit person

“to adopt the child under her care on guardianship”.

4. On examination before the Court, the applicant has also demonstrated full understanding and acceptance of the legal consequences of adoption making the child entitled to the care, protection and rights of a child from its parent, with full and all rights accruing to a child in a family with her biological parents, including inheritance rights. The Court established that the applicant voluntarily accepted the consequences of the adoption of the child, in terms of section 202(1) of the *Children Act*, as follows:

“202 (1) Upon an adoption order being made, all rights, duties, obligations and liabilities of the biological parents in case of a first adoption or adoptive parents in case of subsequent adoption or guardians of the child in relation to the future custody, maintenance and education of the child, including all rights to appoint a guardian, to inherit property and to consent or give notice of dissent to marriage, shall be extinguished, and all such rights, duties, obligations and liabilities shall vest in and be exercisable by, and enforceable against, the adopter as if the child were a biological child of the adopter and, in respect of the matters aforesaid, the child shall stand in relation to the adopter as a child born of the adopter.”

5. The Court is satisfied of her financial ability to provide for the child as has been demonstrated by her long stay of over eight years with the child.

## The Child

6. The female child was born on 4/9/2016 and abandoned shortly after birth. She was placed with the applicant by Sub-County Director of Children Services Kajiado by letter dated 6/9/20216. She declared a child in need of care and protection and committed to the care of the applicant by the Sub-County Children Officer, Kajiado and formalized in Ngong Senior principal Magistrate’s Children Court Care & Protection case No. 2 of 2016 on 14/9/2016. The child was subsequently placed under the guardianship of the applicant on 20/11/2017 in Ngong Children Court Case No. 17 of 2017. The OCS Ngong Police station by letter dated 10/4/2017 confirmed no claims regarding the child ever being made at the station, confirming the case of abandonment.

7. The child was found abandoned at [particulars withheld] Slums of [particulars withheld] division Kajiado County and reported at [particulars withheld] Police Station OB No. 13/06/09/2016. Pursuant to Article 14 (4) of the *Constitution*, and in the same terms section 7 (4) of the *Children Act* 2022, the Court shall make necessary direction to give effect to the substantive law 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, shall be presumed to be a citizen by birth.”

## Declaration of availability for adoption

8. The Child was declared free for adoption by KKP Adoption Society Case Committee on 27/7/2022 in terms of section 184 (1) (a) of the *Children Act*, 2022.



### **Waiver/Consents and Statutory reports/approvals**

9. As the child was found abandoned shortly after birth, and the whereabouts of the parents is unknown, the consent of the biological parents for the adoption is waived. The consents of the parents are waived under section 187 (1) (a) and (2) (a) of the [Children Act 2022](#).
10. The County Coordinator of Children Services Kirinyaga in a Report dated 3/12/2025 concluded that  
“this application meets the legal requirements and principles of adoption set out in the [Children Act 2022](#) [and] in view of the above, the department of children services has no objection to this adoption.”
11. The report of the Guardian ad litem dated 11/11/2024 presents the adoption as a case of the best interest of the child, citing good bonding between the child and the applicant over the long period of staying together as family with the applicant’s parents and brothers, and the applicants’ exceptionally good care of child in terms of love, care, protection and provision of life’s basic needs, educational and spiritual upbringing and guidance.

### **Legal Guardian**

12. Although the Counsel for the Applicant irregularly doubled-up as the Guardian Ad Litem and Legal Guardian, the Court understood her level of commitment to the application as she described herself as a close friend of the applicant dating back to their secondary school days at XXXXX Girls Secondary School. Counsel’s multi-role appear to have been driven, not by deceit, but by genuine desire to afford assistance to the applicant in formalizing her mother-child relationship with the minor subject and securing for the minor a permanent home where she could be protected, cared and provided for by a loving parent. The Consent of the Legal Guardian was given both in writing and in testimony before the court.
13. Most importantly, as counsel, she understood her role as legal guardian of the child, in terms of section 195 (1) of the [Children Act](#), to take over the care protection and provision for the child in the event of any incapacity of the applicant.
14. The Court finds her suitable for the appointment as the Legal Guardian of the child subject of these proceedings for purposes of section 195(1) of the [Children Act](#).

### **Adoption Order**

15. The Court approves the adoption and shall make consequential orders, as necessary. Consequently, the Court is pleased to make the adoption order in this case so that the mother-child relationship between the applicant and the child is formalized, entrenched and validated to give the child subject of these proceedings a home environment with loving care, protection and provision under the willing and able custodianship of the applicant with whom she has well bonded as one to her mother, and the court agrees that it is in the best interests of the child to permanently secure a home and a life with a loving family and relatives of the applicant.
16. As a consequence of the grant of the adoption order, the Guardian Ad Litem is discharged in terms of section 188 (4) of the [Children Act](#).
17. The court wishes the applicant and the child all the best in their future as family for all purposes.



## Orders

18. Accordingly, for the reasons set out above, the Court makes the following orders:

1. Pursuant to section 187 (1) (a) and (2) (a) of the *Children Act*, the consent of the biological parents of BABY ZWG is dispensed with since the child was abandoned shortly after birth.
2. The Applicant is authorized to adopt Baby ZWG A.K.A. ZMN, a minor
3. The child shall be known as ZMN and the Registrar General be directed to enter this adoption into the Register of Adoptions.
4. The court appoints IWK as the Legal Guardian of the ZWG A.K.A. ZMN, the child subject of these proceedings for purposes of section 195(1) of the *Children Act*.
5. The Court directs the Registrar General to make the appropriate entries in the Adopted Children Register in respect of ZWG A.K.A. ZMN pursuant to section 201 (1) of the Children Act.
6. The Court orders that the child ZWG A.K.A. ZMN shall be considered a Kenyan Citizen in terms of Article 14 (4) of the *Constitution of Kenya*.

19. Orders accordingly.

**DATED AND DELIVERED THIS 14<sup>TH</sup> DAY OF FEBRUARY 2025.**

**EDWARD M. MURIITHI**

**JUDGE**

Appearances:-

Ms. Kamau for the Applicant.

