



**In re Baby FO (Minor) (Adoption Cause E049 of 2025)  
[2025] KEHC 3535 (KLR) (Family) (17 March 2025) (Judgment)**

Neutral citation: [2025] KEHC 3535 (KLR)

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

**FAMILY**

**ADOPTION CAUSE E049 OF 2025**

**CJ KENDAGOR, J**

**MARCH 17, 2025**

**IN THE MATTER OF THE CHILDREN ACT NO. 29 OF 2022**

**AND**

**IN THE MATTER OF BABY FO (MINOR)**

**AND**

**IN THE MATTER OF AN APPLICATION FOR ADOPTION**

**BY;**

**IN THE MATTER OF**

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

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

**JUDGMENT**

1. Before this Court is the application dated 25<sup>th</sup> February, 2025. The Applicant EST is seeking to be authorized to adopt FO a minor, hereinafter referred to as the child and upon adoption, the child is to be known as FFT. That FAO be appointed as the child’s legal guardian upon granting of the adoption orders.
2. The Applicants are a married couple and Kenyan citizens as is evidenced by copies of their Kenyan National Identity Cards. The 1<sup>st</sup> Applicant BAO is the child’s biological mother, as evidenced by the child’s birth certificate. The Applicants formalized their union on 12<sup>th</sup> December, 2023 in Kiambu, as evidenced by their marriage certificate produced before this Court.



3. Both Applicants are bankers by profession; therefore, their financial capability and ability to provide for the child are evidenced by copies of their bank statements. Their health status is good, as indicated by their medical reports, and they have no previous criminal records, as demonstrated by their Certificates of Good Conduct issued by the Directorate of Criminal Investigations. They have indicated that they would like to legalize the relationship between the child and EST through kinship adoption to formalize the relationship between the 2<sup>nd</sup> Applicant and the minor.
4. The report from the Ministry of Labour and Social Protection State Department of Social Security and Protection - Department of Children's Services (Nairobi County) dated 11<sup>th</sup> March, 2025 indicates that the child is male and 17 years old having been born on 21<sup>st</sup> March 2007. He is Kenyan born to BAO who is EST's wife. The child was declared free for adoption on 18<sup>th</sup> December, 2024 by KKPI Adoption Society vide freeing Certificate Serial Number xxxx.
5. FAO is the proposed legal guardian. The applicants stated that they chose her appointment because she is responsible, capable, and well-suited for this role. The guardian provided her consent on 6<sup>th</sup> December, 2024 and the child also gave his consent on 1<sup>st</sup> May, 2024.
6. The child is a Kenyan citizen by virtue of Article 14 (1) which provides that a person is a citizen by birth if on the day of the person's birth, whether or not the person is born in Kenya, either the mother or father of the person is a citizen.
7. In light of the best interests of the child principle provided for under Article 53 (2) of *the Constitution* of Kenya, 2010. Sections 8 (1), (2) and (3) of the Children's *Act No. 29 of 2022* and the 1<sup>st</sup> Schedule of the Children's *Act No. 29 of 2022*, this Court has an obligation to prioritize the child's best interests in making decisions touching on her.
  - a. Article 53 of *the Constitution*, 2010 states that a child's best interests are of paramount importance in every matter concerning the child.
  - b. Sections 8 (1), (2) and (3) of the Children's *Act No. 29 of 2022* provides as follows;
    1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies:
      - a. The best interests of the child shall be the primary consideration;
      - b. The best interests of the child shall include, but shall not be limited to the considerations set out in the First Schedule.
    2. All judicial and administrative institutions, and all persons acting in the name of such institutions, when exercising any powers conferred under this Act or any other written law, shall treat the interests of the child as the first and paramount consideration to the extent that this is consistent with adopting a course of action calculated to:-
      - a. safeguard and promote the rights and welfare of the child;
      - b. conserve and promote the welfare of the child; and
      - c. secure for the child such guidance and correction as is necessary for the welfare of the child, and in public interest.
    3. In any matters affecting a child, the child shall be accorded an opportunity to express their opinion, and that opinion shall be taken into account in appropriate cases, having regard to the child's age and degree of maturity.



- c. The First Schedule as provided for under Section 8 (1) of the Children's [Act No. 29 of 2022](#) provides best interests considerations to be as follows:
1. The age, maturity, stage of development, gender, background and any other relevant characteristics of the child.
  2. Distinct special needs (if any) arising from chronic ailment or disability.
  3. The relationship of the child with the child's parent (s) and/ or guardian (s) and any other persons who may significantly affect the child's welfare.
  4. The preference of the child, if old enough to express a meaningful preference.
  5. The duration and adequacy of the child's current living arrangements and the desirability of maintaining continuity.
  6. The stability of any proposed living arrangements for the child.
  7. The motivation of the parties involved and their capacities to give the child love, affection and guidance.
  8. The child's adjustment to the child's present home, school and community.
  9. The capacity of each parent or guardian to allow and encourage frequent and continuing contact between the child and the other parent and/ or guardian (s), including physical access.
  10. The capacity of each parent and/ or guardian (s) to cooperate or to learn to cooperate in child care.
  11. Methods for assisting parental and/ or guardian cooperation and resolving disputes and each parent's/ guardian's willingness to use those methods.
  12. The effect of the child if one parent/ guardian has sole authority over the child's upbringing.
  13. The existence of domestic abuse between the parents/ guardian (s), in the past or currently, and how that abuse affects the emotional stability and physical safety of the child.
  14. The existence of any history of child abuse by a parent and/ or guardian (s); or anyone residing in the same dwelling as the child.
  15. Where the child is under one year of age, whether the child is being breast - fed.
  16. The existence of a parent's (s) or guardian's (s) conviction for a sex offense or a sexually violent offense under the [Sexual Offences Act](#).
  17. Where there is a person residing with a parent or guardian, whether that person; -
    - a. Has been convicted of a crime under this Act, the [Sexual Offences Act](#), the [Penal Code](#) or any other legislation.
    - b. Has been adjudicated of a juvenile offence which, if the person had been an adult at the time of the offence, the person would have been convicted of a felony.



18. Any other factor which may have a direct or indirect effect on the physical and psychological well-being of the child.
8. The report from the Ministry of Labour and Social Protection State Department of Social Security and Protection - Department of Children's Services (Nairobi County), the report from KKPI Adoption Society, the guardian ad litem and the proposed legal guardian indicate that the child will be well taken care of and that the 2<sup>nd</sup> Applicant and the child enjoy a healthy relationship. The child has lived with the mother and the 2<sup>nd</sup> Applicant since he was six.
9. In light of the child's age, the Court interviewed him. During this process, he stated that he understood the legal proceedings and affirmed that he had willingly consented to the adoption process.
10. He stated that he wholeheartedly embraces his new identity and is eager to adopt the name of the 2<sup>nd</sup> Applicant. The insights gathered from the interview, alongside accompanying reports, revealed a strong, positive relationship among all parties involved. There was evident enthusiasm from the Applicants and the child, highlighting a supportive atmosphere surrounding this transition.
11. He is turning 18 soon, and they informed the Court of the urgency of concluding the adoption process. I am satisfied that this adoption serves the child's best interests.
12. In the circumstances, I allow the Originating Summons dated 28<sup>th</sup> February, 2025 and make the following orders:
  - a. The 2<sup>nd</sup> Applicant EST is authorized to adopt the child known as FO, the biological child of the 1<sup>st</sup> Applicant.
  - b. Upon adoption, the child shall be known as FFT.
  - c. FAO is appointed as the child's legal guardian.
  - d. The Registrar General is directed to make the relevant entries in the Adopted Children's Register in respect of the child.
  - e. The Registrar of births and deaths is directed to issue a birth certificate in respect of the child's new name.
  - f. The guardian ad litem is hereby discharged.
13. It is so ordered.

**DATED, DELIVERED AND SIGNED AT NAIROBI THROUGH THE MICROSOFT TEAMS ONLINE PLATFORM ON THIS 17<sup>TH</sup> DAY OF MARCH, 2025.**

.....  
**C. KENDAGOR**

**JUDGE**

In the presence of:

Court Assistant: Beryl

Parties absent

