



**In re DNW (A Minor) (Adoption Cause E141 of 2024)  
[2025] KEHC 2790 (KLR) (Family) (14 March 2025) (Ruling)**

Neutral citation: [2025] KEHC 2790 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)  
FAMILY  
ADOPTION CAUSE E141 OF 2024  
BM MUSYOKI, J  
MARCH 14, 2025  
IN THE MATTER OF DNW (A MINOR)  
AND  
IN THE MATTER OF AN APPLICATION FOR KINSHIP ADOPTION**

**IN THE MATTER OF**

**DHK ..... 1<sup>ST</sup> APPLICANT  
SWK ..... 2<sup>ND</sup> APPLICANT**

**RULING**

1. After hearing the applicants and other witnesses, this court on 13<sup>th</sup> August 2024 allowed the originating summons dated 1-07-2024 in the following terms;
  1. DHK and SWK are allowed and authorised to adopt DNW.
  2. The child’s name shall, after adoption remain DNW.
  3. MNN is appointed as the Legal Guardian of the minor.
  4. The child is declared to be a Kenyan citizen by birth and entitled to all rights, privileges and benefits of a Kenyan Citizen by birth.
  5. The Guardian Ad Litem is discharged.
  6. The Registrar General is directed to enter this adoption in the register of adoptions.
2. The applicants have now approached this court vide notice of motion dated 20<sup>th</sup> January 2025 praying for the following orders;



1. The Honourable Court be pleased to review its adoption orders dated 13<sup>th</sup> August 2024 issued in respect of DNW, the minor child herein, subject of this adoption proceedings.
  2. The Honourable Court be pleased to review and maintain the said adoption orders while having the knowledge of the details of the biological father's name as per the official birth records maintained by the Registrar of Deaths and Births.
  3. This Honourable Court be pleased to grant such other or further orders as it may deem fit and just in the best interest of the child.
  4. The costs of the application be in the cause.
3. The basis of the application is that the applicants had innocently relied on the child's birth certificate number 8XXXXXXX when the matter was heard which certificate did not have the name of the child's father one Benard Maina Gakenge. Unknown to the applicants, the child's legal guardian and the child, the records at the registrar's office had the name of the father of the child as per birth certificate number 1XXXXXX and for this reason, when they presented the adoption orders for registration, the registrar could not effect the orders because there was no order for dispensation of the consent of the child's biological father. The court is now being asked to review its judgment by including an order dispensing with the consent of the biological father of the child to enable the applicants register the adoption orders.
  4. On 12-02-2025 I heard the applicants and the legal guardian while the child and the Assistant Director of Children Services one Ezekiel Kimani were heard on 27-02-2025. The applicants testified by adopting their respective affidavits sworn on 21-01-2025. They told the court that the birth certificate they had in their possession at the time of filing and hearing of the application did not bear the name of the father of the child. They also testified that the mother of the child died without disclosing the name, identity or whereabouts of the child's biological father. They added that in processing the child's birth certificate, the grandmother who was the guardian of the child had sought assistance of an agent who brought to her the certificate they used in filing the application. They were not aware that the records at the registrar's office bore the name of the father neither did they know the father.
  5. The child told the court that she is now 14 years old and she has never known her biological father and she has never met him. She actually did not even know his name. Ezekiel Kimani from the children's department told the court that their report dated 19-07-2024 which they had produced in the first hearing was not clear on the identity of the child's biological father and they had prepared a supplementary report dated 25-02-2025 which he produced as an exhibit. The earlier report had indicated that the birth certificate did not have the father's name and his whereabouts was unknown. In the supplementary report, the children's department states that the child and her siblings had been brought up by their late mother and the grandmother who is also the child's legal guardian.
  6. I have read through the supporting affidavits of the applicants and the legal guardian sworn on 20<sup>th</sup> January 2025 and the grounds on which the application is based. It is clear to this court that the child's biological father has not been in her life since her birth. I had in my judgment dated 13-08-2024 held that it would be in the best interest of the child that the adoption orders do issue. Nothing has changed safe for the discovery that the records at the registrar's office show the name of the father. I am satisfied that this new evidence which the applicants did not have at the time of the hearing is crucial and should be admitted. In the circumstances, I hold that it in the best interest of the child that the application be granted.



7. In view of the above, the application dated 20-01-2025 is allowed and the judgement of this court dated 13-08-2024 is hereby reviewed to the extent that the consent of the biological father of the child one Benard Maina Gakenge shall be dispensed with.
8. Consequently, the final orders of the reviewed judgment shall be as follows;
  - a. DHK and SWK are allowed and authorised to adopt DNW.
  - b. The child's name shall, after adoption remain DNW.
  - c. MNN is appointed as the Legal Guardian of the minor.
  - d. The child is declared to be a Kenyan citizen by birth and entitled to all rights, privileges and benefits of a Kenyan Citizen by birth.
  - e. The Guardian Ad Litem is discharged.
  - f. The Registrar General is directed to enter this adoption in the register of adoptions.
  - g. The consent of BMG, the biological father of the child is and shall be dispensed with in execution of this court's orders.

**DATED SIGNED AND DELIVERED AT NAIROBI THIS 14<sup>TH</sup> DAY OF MARCH 2025.**

**B.M. MUSYOKI**

**JUDGE OF THE HIGH COURT.**

Judgment delivered in presence of Miss Ambaka for the applicants.

