



**In re VS alias SSMM (Minor) (Adoption Cause E264 of 2024)  
[2025] KEHC 3556 (KLR) (Family) (13 March 2025) (Judgment)**

Neutral citation: [2025] KEHC 3556 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)  
FAMILY  
ADOPTION CAUSE E264 OF 2024  
CJ KENDAGOR, J  
MARCH 13, 2025  
IN THE MATTER OF THE CHILDREN ACT NO. 29 OF 2022  
AND  
IN THE MATTER OF BABY VS (MINOR) ALIAS SSMM**

**IN THE MATTER OF**

**PMW ..... 1<sup>ST</sup> APPLICANT  
GWG ..... 2<sup>ND</sup> APPLICANT**

**JUDGMENT**

1. Before this Court is the application dated 11<sup>th</sup> November, 2024. The Applicants PMW and GWG are seeking to be authorized to adopt Baby VS, hereinafter referred to as the child and upon adoption, the child is to be known as SSMM. The Applicants seek that FMW and BAO be appointed as the child’s legal guardians upon granting of the adoption orders.
2. The Applicants are a married couple and Kenyan citizens, as evidenced by copies of their Kenyan National Identity Cards. PMW is a businessman, and GWG is employed as an urban planner with the United Nations. Their financial capability and ability to provide for the child are evidenced by the 1<sup>st</sup> Applicant’s statement from Biblia Sacco Limited, the 2<sup>nd</sup> Applicant’s bank statement and share certificate, title deed and motor vehicles registration certificates regarding the Applicants’ respective vehicles. Their health status is good, as evidenced by medical reports, and they do not have any previous criminal records, as evidenced by their Certificates of Good Conduct issued by the Directorate of Criminal Investigations.
3. From the pleadings submitted and the examination during the case hearing, the Applicants have conveyed their desire to welcome a child into their family by pursuing adoption and have demonstrated



their commitment to nurturing and supporting a child in need. They indicated that their extended families have accepted the child. The child has been in their custody since 3<sup>rd</sup> August 2023, approximately 18 months.

4. FMW and BAO, who have been proposed as the legal guardians for the Applicants, are closely related to them. Specifically, FMW is the brother of PMW, one of the Applicants, while BAO, his wife, is PMW's sister-in-law, thus establishing a familial connection to the 2<sup>nd</sup> Applicant. In their interview before the Court, FMW and BAO expressed their thorough understanding of the responsibilities of being legal guardians. They assured the Court of their readiness and commitment to fulfilling the responsibilities of legal guardians, emphasising their dedication to providing a stable and nurturing environment for the child should the Applicants become incapacitated or otherwise unable to fulfil their parental obligations.
5. The referees' forms and the letters of support submitted with the Adoption Application demonstrate that the Applicants are in a stable marriage. Furthermore, these documents highlight the applicants' character as individuals of good intentions, showcasing their commitment to providing a nurturing and supportive environment. This setting offers the best possible upbringing for the child, emphasising the Applicants' readiness to engage in active parenting.
6. The report from the Ministry of Labour and Social Protection State Department for Social Security and Protection – Department of Children's Services (Nairobi County) dated 28<sup>th</sup> February, 2025 indicates that the child is 3 years and 4 months old. He is Kenyan, whose biological mother remains unknown, having been abandoned with a stranger in a public vehicle plying the Nakuru-Nairobi route on 12<sup>th</sup> February, 2022, when he was approximately four months old. His biological parents remain untraceable. The child was declared free for adoption on 13<sup>th</sup> July, 2023 by Buckner Kenya Adoption Services vide freeing certificate number 0670.
7. DO - the guardian ad litem, WI - Assistant Director Children Services and PK from Buckner Adoption Agency all recommend the adoption.
8. 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.
9. 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 him.
  - 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.
10. The reports filed indicate that the child has developed a positive relationship with the adoptive parents. I do not doubt that the child has bonded with the Applicants. They have shown a strong commitment to his well-being. I am confident that the child will receive nurturing and appropriate care in their custody. I am impressed by the applicants' genuine desire to adopt the child considering the circumstances of how he came into their care; they have completed all necessary assessments with diligence.
11. The comprehensive evaluations and the Applicants' dedication make them highly suitable and prepared to become loving and supportive adoptive parents.
12. Based on the foregoing, I am satisfied that this adoption serves the child's best interests. As such, I do allow this application and make the following orders:
- a. The Applicants PMW and GWG are authorized to adopt the child known as VS.
  - b. Upon adoption, the child shall be known as SSMM.
  - c. The child's date and place of birth is declared to be 13<sup>th</sup> October, 2021 at Nairobi County.
  - d. The child is declared a Kenyan citizen by birth and is entitled to all rights and benefits under *the Constitution* of Kenya, 2010 and all applicable laws.
  - e. FMW and BAO are appointed as legal guardians of the child.
  - f. The Registrar General is directed to make the appropriate entries in the Adopted Children's Register in respect of the child and issue a Certificate to that effect.
  - g. 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 13<sup>TH</sup> DAY OF MARCH, 2025**

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

In the presence of:

Court Assistant: Beryl



Advocate: Ms. Kimenyi for Applicant

