



**In re Adoption of Baby JG (Adoption Cause E120 of 2024)
[2025] KEHC 5541 (KLR) (Family) (2 May 2025) (Judgment)**

Neutral citation: [2025] KEHC 5541 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
ADOPTION CAUSE E120 OF 2024
PM NYAUNDI, J
MAY 2, 2025**

IN THE MATTER OF

EWK 1ST APPLICANT

RWK 2ND APPLICANT

JUDGMENT

1. Vide Originating Summons, dated 20th May, 2024 the Applicant herein seek the following orders, THAT:-
 - i. SWM be hereby appointed as Guardian Ad litem of Baby JG pending the hearing and determination of the adoption proceedings herein.
 - ii. The Director of Children Services and the Chief Administrator, KKPI Adoption Society be and is hereby ordered to conduct investigations as to the suitability of the Applicants to adopt baby JG and submit a report of their findings to the Court.
 - iii. The biological parents of baby Janice Gathoni have consented to the adoption of the baby by the Applicants.
 - iv. The Applicants herein be and are hereby authorized to adopt baby JG and the child shall be called JG.
 - v. The Court be pleased to appoint EWK and RWK as the Legal Guardians of JG upon granting of the adoption order.
 - vi. The Registrar-General be ordered to make the appropriate entry in the Adopted Children's Register in respect of Janice Gathoni.
 - vii. JG be considered a Kenyan Citizen.



- viii. Costs of this application be in the cause.
2. This is a joint adoption where by the Applicants husband and wife having celebrated their union on 10th July, 2012 as per the annexed copy of marriage certificate number 01XXX. The 1st Applicant resides in Nairobi County while the 2nd Applicant resides in Ohio in the United States of America. They are in gainful employment. The 1st Applicant is a business lady while the 2nd Applicant work as Technician. The 1st Applicant is related to the child who is her niece. The minor's mother MNC is alive. The minor's father JMK is 1st Applicant's brother. The 1st Applicant has been staying with the minor since birth.
 3. The Applicants do not have their biological children. They have the means to provide for the needs of the child. They understand the legal implications of the adoption order, they are aware that the child will have full rights as would a biological child and the order is not reversible.
 4. Baby JGN is 3 years, 8 months. The minor's parents JMK and MNC consented to offer the child for adoption by the Applicants as per their attached consent form.
 5. KKPI Adoption Society committee sitting on 3rd May, 2024 delivered on the matter and concluded that the Applicants are eligible to adopt the minor herein and the minor was declared free for adoption.
 6. SWM was appointed on 18th July, 2024 as the child's guardian ad litem, by this Court and further directing the guardian ad litem and the Director of Children's Services to investigate and file their respective reports within 45 days.
 7. All the Statutory Reports that have been filed in respect of the proposed adoption of the child by the Applicants have recommended that this Court allows the Applicants to adopt the child. Winfred Ikinya, Assistant Director Children's Services prepared and submitted a report dated 28th August, 2024 in favour of the adoption proceedings where she asserted that the Applicants bonded well with the child. The Applicants have met all the legal requirements for kinship adoption as provided in the *Children Act*, 2022. She also averred that the Applicants are mentally and physically healthy. They are financially stable thus recommending the Applicants to adopt the child.
 8. Further, a favourable report was also submitted by SWM, Guardian Ad Litem, presented in which through her visit affirmed that she knows the child very well, the Applicants and the biological parents of the minor who gave their consent to the adoption proceedings. She also affirmed that they know the consequences of the adoption and further asserted that the Applicants have undertaken to educate the child to the highest level she may wish to pursue thus for the best interest of the child and recommends the adoption.
 9. The proposed Legal Guardians MWK sister to the 1st Applicant and RWK brother in law to the 1st Applicant consented to the adoption process. They understand what the role entails in the event circumstances demand, they will take on full parental responsibilities.

Determination

10. After carefully assessing the records herein, I am satisfied that the Applicant has fulfilled all the legal requirements relating to the Child's adoption. Section 186 of the *Children Act*, 2022 provides. The Court may make an adoption order on application by-
 - (1)
 - (a) Sole applicant; or



- (b) Two spouses jointly.
- (2) The court shall not make an adoption order in any case unless-
- i. the applicant has attained the age of twenty-five years, but is not above the age of sixty-five years; and
 - ii. The applicant, or both of the applicants in a joint application, is more than twenty-one years older than the child.
- (3) The restrictions in subsection (2) shall not apply in any case where a sole applicant or one of the joint applicants is the mother, father, or relative of the child.
11. This Court is alive to the jurisdiction of the High Court vide Article 165 Constitution of Kenya 2010 and Section 183(1) *Children Act* 2022. The Court is conscious of the law; Article 53 Constitution of Kenya 2010, Section 8 of *Children Act* 2022 and the UN Convention on the Rights of the Child & African Charter on the Rights & Welfare of the Child all amplify on the best interests of the child.
12. The Court has evaluated the facts of this Kinship Adoption from the Reports filed. It is evident that the Applicant has fulfilled all the legal requirements of a Kinship Adoption as required under Section 193 of the Children’s Act, 2022. The guiding principle remains in the best interests of the child pursuant to Section 8 and 194 (1) (c) of the Children’s Act Cap 141 of the Laws of Kenya. The consent of the biological parents of the child was dispensed with since they consented to the adoption by signing the form offering the child for adoption. This Court has satisfied itself that the Applicant is qualified and able to take care of the child. All the necessary Reports and consents required for this Adoption have been filed.
13. Article 14 (4) of *the Constitution* of Kenya 2010 provides that: -
- “(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.”
14. This Court is therefore of the opinion that this Adoption would be in the best interest of the child and allows the application with ordersthat;
- a. The Applicants EWK and RWK are hereby allowed to adopt Baby JG (Minor).
 - b. Henceforth, the child shall be known as JG.
 - c. She is presumed to be a Citizen of Kenya by birth.
 - d. EWK and RWK are hereby appointed as Legal Guardians of the child.
 - e. The Registrar General to enter this order in the Adoption Children Register.
 - f. The Director Immigration is authorised to issue the child with a Kenyan Passport.
 - g. The guardian *ad litem* is hereby discharged.

It is so ordered.

SIGNED DATED AND DELIVERED IN VIRTUAL COURT THIS 2ND DAY OF MAY, 2025.

P. NYAUNDI

JUDGE

In the presence of:



Fardosa Court Assistant
Ms. Wahito for Applicant

