



REPUBLIC OF KENYA



**In re JW (Adoption Cause E059 of 2025)
[2025] KEHC 8899 (KLR) (Family) (20 June 2025) (Judgment)**

Neutral citation: [2025] KEHC 8899 (KLR)

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

FAMILY

ADOPTION CAUSE E059 OF 2025

PM NYAUNDI, J

JUNE 20, 2025

IN THE MATTER OF THE CHILDRENS ACT 2022

AND

IN THE MATTER OF JW

IN THE MATTER OF

MWK APPLICANT

JUDGMENT

1. Vide Originating Summons, dated 4th April, 2024 the Applicants herein seek the following orders, That:-
 - i. She be authorized to adopt JW a minor who is to be known as JWW and the Registrar General be directed to enter this adoption into the Register of Adoptions.
 - ii. The Applicant be presumed to have been the child's legal guardian since the child's birth.
 - iii. SGK be appointed as the legal guardian of the minor.
 - iv. The child be presumed to have been born in Kenya.
2. The Applicant is a Kenyan single lady residing in Athi River, Machakos County. The Applicant is a saloonist and a farmer. The child herein is her nephew; son to her sister MWK. The whereabouts of the minor's biological father are unknown. The Applicant has 2 other children aged 35 and 25 years who consented to the adoption proceedings. She has the means to provide for the child. The Applicant understands the legal implications of the adoption order, she is aware that the child will have full rights as would a biological child and the order is not reversible.



3. The child herein (JW) is 17 years old, presumed to be born on 7th June, 2009 to MWK. The minor's mother was not financially stable prompting the Applicant to relieve her financial burdens by catering for the minor's living expenses as well as school fees.
4. Consequently, the Applicant approached KKPI Adoption Society with intention to adopt the child. The minor's mother gave up her child for adoption. In her letter she stated that she tried her best to cater for the child's needs but has struggled to provide the baby with the best hence the adoption proceedings by the Applicant (her sister). Subsequently, she was taken through the explanatory memorandum and dully signed the Certificate of Acknowledgement dated 2nd August, 2023.
5. Additional, KKPI Adoption Society, assessed the application and was satisfied that the Applicant was found suitable adoptive parent and further that the adoption would be in the child's best interest therefore declared the child free for adoption vide Freeing Certificate Serial Number 902.
6. 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. This being a Kinship adoption where the child is being adopted by her maternal Aunt, it will be the best interest of the child.
7. The Assistant Director Children Services, Ms. Winfred Ikinya submitted a favourable report dated 12th May, 2025 in which she stated that Applicant is financially stable to take good care of the child. She is mentally sound. The Applicant is clear of any criminal claim as evidenced by Certificate of Good Conduct annexed PCC-AKTKPKAM. She averred that the child's name should read as JWWK. The Officer further averred that the Applicant has met the legal requirements for Kinship adoption as stipulated by the Children Act 2022 thus recommended the adoption process.
8. JMN (Guardian Ad litem) also prepared a positive report dated 27th May, 2025 recommending the Applicant to adopt the child.
9. The Applicant's son (SGK) was appointed to be the Legal Guardian in the event the Applicant is unable to discharge her responsibilities as he will assume full parental responsibility according to adoption orders.
10. The Court also interviewed the child and it was noted that the child understands what adoption proceedings mean and consented to be adopted by the Applicant.

Determination

11. 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.
12. 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.
13. 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. This Court has satisfied itself that the Applicant is qualified and able to take care of the child. All the necessary Reports and consents signed by both biological parents for this Adoption have been filed.
14. 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.”
15. This Court is therefore of the opinion that this Adoption would be in the best interest of the child and allows the application with Orders that;
 - a. The Applicant, MWK is hereby allowed to adopt JW - A Minor.
 - b. Henceforth, the child shall be known as JWWK.
 - c. His date of birth shall be 7TH June, 2009.
 - d. He is presumed to be a Citizen of Kenya by birth.
 - e. GK is hereby appointed as Legal Guardian of the child.
 - f. The Director Immigration is authorised to issue the child with a Kenyan Passport.
 - g. The Registrar General to enter this order in the Adoption Children Register.
 - h. The guardian ad litem is hereby discharged.

It is so ordered.

SIGNED DATED AND DELIVERED IN VIRTUAL COURT THIS 20TH DAY OF JUNE, 2025.

P. M. NYAUNDI

JUDGE

In the presence of:

No appearance by parties

Fardosa Court Assistant

