



REPUBLIC OF KENYA



KENYA LAW

THE NATIONAL COUNCIL FOR LAW REPORTING

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**In re E aka Unknown Male Child (Adoption Cause E042 of 2025)
[2025] KEHC 10869 (KLR) (Family) (19 June 2025) (Judgment)**

Neutral citation: [2025] KEHC 10869 (KLR)

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

ADOPTION CAUSE E042 OF 2025

CJ KENDAGOR, J

JUNE 19, 2025

IN THE MATTER OF

KKM 1ST APPLICANT
EMM 2ND APPLICANT

JUDGMENT

1. Before this Court is the application dated 27th February, 2025. The Applicants KKM and EMM are seeking to be authorized to adopt baby E., a minor, hereinafter referred to as (“the child”) and upon adoption, the child is to be known as ETK. The Applicants have nominated JK and KK to 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. EMM is an Office Assistant, and KKM is a Chef. Their financial capability and ability to provide for the child are evidenced by the bank statement and a savings policy document filed in Court. Their health status is good as evidenced by the 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. They currently do not have any biological children and have indicated their desire to adopt a child.
3. JK and KK, the proposed Legal Guardians, are the Applicants’ family friends, and KK is EMM’s niece. They informed the Court that they understand their role as legal guardians, which is voluntary, and are prepared to take on that responsibility. Their testimony demonstrated that they clearly comprehend the adoption process and the implications of the adoption order.
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 29th April, 2025,



indicates that the child is male and 2.3 years old, having been presumed to be born on 15th January, 2023.

5. He was found abandoned in a coffee plantation by a good Samaritan who took him to the police station and was later committed to New Life Home Trust. No one had gone to claim the child, and the efforts to trace the family were futile. The child was declared free for adoption on 30th July, 2024, by Buckner Kenya Adoption Services, vide Freeing Certificate Serial Number 0790. The child was placed with adoptive parents following the signing of a care agreement on 6th September, 2024, and has been under their care ever since.
6. The Applicants have expressed their desire to be parents, to provide a home for a child, and to give the child the opportunity to be nurtured and loved. The Applicants have good recommendations from their referees, who are friends and family members.
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 1st 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.
8. The comprehensive report from the Ministry of Labour and Social Protection, State Department of Social Security and Protection, Department of Children's Services in Nairobi County, along with the detailed assessment from Buckner Kenya Adoption Services, the evaluation by the guardian ad litem,



and the insights provided by the proposed legal guardian, all strongly suggest that the child will thrive in the nurturing environment offered by the adoptive parents.

9. I am convinced that this adoption aligns with the child's best interests, ensuring a loving and supportive future.
10. In the circumstances, I allow the originating summons dated 27th February, 2025 and make the following orders:
 - a. The Applicants are hereby authorized to adopt the child known as baby E aka unknown male child.
 - b. Upon adoption, the child shall be known as ETK.
 - c. The child is presumed to have been born in Kenya, making him a Kenyan citizen entitled to all associated rights and privileges.
 - d. The Registrar General is directed to enter the adoption into the Register of Adoptions.
 - e. JK and KK are appointed as the legal guardians of the child.
 - f. The guardian ad litem is hereby discharged.
11. It is so ordered.

DATED, DELIVERED AND SIGNED AT NAIROBI THROUGH THE MICROSOFT TEAMS ONLINE PLATFORM ON THIS 19TH DAY OF JUNE, 2025.

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C. KENDAGOR

JUDGE

In the presence of:

Court Assistant: Beryl

Advocate: Ms. Omwoma holding brief for Ms. Muhanda, Advocate for the Applicants

