



REPUBLIC OF KENYA



KENYA LAW
THE NATIONAL COUNCIL FOR LAW REPORTING
Where Legal Information is Public Knowledge

**In re SW (The Child) (Adoption Cause E031 of 2025)
[2025] KEHC 8729 (KLR) (Family) (12 June 2025) (Judgment)**

Neutral citation: [2025] KEHC 8729 (KLR)

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

FAMILY

ADOPTION CAUSE E031 OF 2025

CJ KENDAGOR, J

JUNE 12, 2025

IN THE MATTER OF THE CHILDREN ACT, 2022

AND

IN THE MATTER OF SW

IN THE MATTER OF

NWKW 1ST APPLICANT

PBW 2ND APPLICANT

JUDGMENT

1. Before this Court is the application dated 13th January, 2025. The Applicants NWKW and PBW are seeking to be authorized to adopt SW, hereinafter referred to as (“the child”) and upon adoption, the child is to be known as SWW. The Applicants have nominated FKC to be the child’s legal guardian upon the granting of the adoption orders.
2. The Applicants are a married couple. The 1st Applicant is a Kenyan Citizen, and the 2nd Applicant is a German citizen, as evidenced by copies of their Kenyan National Identity Card and Passport. The 1st Applicant is the mother of the child’s biological mother, hence the child is her grandchild. Both Applicants were entering their second marriages; the 1st Applicant has four children from her previous marriage, while the 2nd Applicant has three children. They do not have any biological children together. The 2nd Applicant has one child whom the 1st Applicant has adopted.
3. NWKW works as a caregiver on a house call basis, and PBW is a retired machine operator but currently works as a newspaper supplier. Their joint monthly income is estimated at 6,000 euros.



4. The Applicants exhibit a good state of health, as demonstrated by their recent medical reports, which indicate no underlying issues. Furthermore, they possess Certificates of Good Conduct, confirming an absence of any prior criminal records, thereby reflecting their commitment to leading responsible and law-abiding lives.
5. The couple has expressed a strong desire to adopt the 1st Applicant's grandchildren, citing concerns about their mother's inability to provide proper care due to her ongoing struggles with drug and alcohol addiction. They explained that they have been actively supporting not only the grandchildren but also their mother, providing financial assistance, emotional support, and stability in their lives. They indicated that they strive to create a safe and nurturing environment for the children amidst these challenges. (See also Adoption Causes E029 and E030 of 2025).
6. The child's mother has given her consent to the adoption willingly. In the Court interview, she acknowledged her inability to care for her biological children and confirmed that the paternity, as stated in the birth certificate, is unknown.
7. The report from the Ministry of Labour and Social Protection State Department of Social Security & Protection - Department of Children's Services (Nairobi County) dated 13th March, 2025 indicates that the child is 10 years old having been born on 6th June, 2015. She is Kenyan born to SJC who is a single mother. The child was declared free for adoption on 6th September, 2023 by Change Trust vide freeing Certificate Serial Number 00756.
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. Additionally, the child's birth certificate indicates that she was born in Kiambu Township, Kenya.
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 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 her.
 - 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 breastfed.
 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 report from the Ministry of Labour and Social Protection State Department of Social Security & Protection - Department of Children's Services (Nairobi County) dated 13th March, 2025, the report from Change Trust, the guardian ad litem and the proposed legal guardian indicate that the child will be well taken care of in the care and custody of the adoptive parents.
11. This is a kinship adoption, where the adoptive parents have been the child's primary caregivers for a significant period. This adoption provides the child with important opportunities for an enhanced quality of life and education. The adoption orders will ensure that the child continues to benefit from the adoptive parents and remains in a stable home with her siblings, whose adoption is being processed in the other adoption causes mentioned in previous paragraphs.
12. In the circumstances, I allow the originating summons dated 13th January, 2025 and make the following orders:
 - a. The Applicants NWKW and PBW are authorized to adopt the child known as SW.
 - b. Following the adoption, the child will henceforth be known by the new name, SWW.
 - c. The Registrar General is hereby directed to enter the adoption into the Register of Adoptions.
 - d. FKC is appointed as the legal guardian of the child.
13. It is so ordered.

DATED, DELIVERED AND SIGNED AT NAIROBI THROUGH THE MICROSOFT TEAMS ONLINE PLATFORM ON THIS 12TH DAY OF JUNE, 2025.

.....

C. KENDAGOR

JUDGE

In the presence of:

Court Assistant: Beryl

