



**In re TOM (Minor) (Adoption Cause E261 of 2024)  
[2025] KEHC 8126 (KLR) (Family) (12 June 2025) (Judgment)**

Neutral citation: [2025] KEHC 8126 (KLR)

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

**FAMILY**

**ADOPTION CAUSE E261 OF 2024**

**H NAMISI, J**

**JUNE 12, 2025**

**IN THE MATTER OF THE CHILDREN ACT, CAP 141 OF THE LAWS OF KENYA**

**AND**

**IN THE MATTER OF T O M (MINOR)**

**IN THE MATTER OF**

**JMO ..... 1<sup>ST</sup> APPLICANT**

**KLM ..... 2<sup>ND</sup> APPLICANT**

**JUDGMENT**

1. Before this Court is the Originating Summons dated 28 November 2024, Statement in Support of the Application for an Adoption Order and Affidavit in Support of the Application, seeking:
  - i. That the consent of the biological mother of the child named T.O.M be and is hereby dispensed with since her whereabouts are unknown;
  - ii. That the Applicants, J M O and K L M, be and are hereby authorised to adopt the said child named M A M;
  - iii. That the Registrar General do make the appropriate entries into the Adopted Children’s Register in respect of T O M;
  - iv. That the Court issues such other orders as may be necessary in the best interest of the child.
2. The matter was canvassed by way of viva voce evidence on the virtual platform on 22 May 2025.



## **The Child**

3. The child (female) was born on 31 May 2012 to the 1<sup>st</sup> Applicant and P.N. Since birth, she has been in the custody of the 1<sup>st</sup> Applicant. All contact with the biological mother was lost in 2015. The child and her sister, M.A.M, recognise the 2<sup>nd</sup> Applicant as their mother. The child currently resides in South Africa with her sister, M.A.M. The child and her sister have been in the continuous care and control of the Applicants for more than five years.

## **The Applicants**

4. The 1<sup>st</sup> Applicant is a Kenyan citizen while the 2<sup>nd</sup> Applicant is an American citizen. They are a married couple, having been married since April 2022. They currently reside in the USA. The 1<sup>st</sup> Applicant is employed as a Diplomat at the African Union, while the 2<sup>nd</sup> Applicant is an author.
5. The Applicants stated that their motivation to adopt the child so that they can live as one family. They confirmed that they fully understood the legal implications of an Adoption order and that the same is not reversible.
6. The Applicants presented copies of their payslips, Police Clearance Certificates recommendations and referee information, all pursuant to the provisions of The Children (Adoption) Regulations, 2020. These disclose that the Applicants are financially, socially, physically and mentally fit to adopt the child.
7. Additionally, pursuant to section 195 of the *Children Act*, the Applicants provided consent from the 1<sup>st</sup> Applicant's brother, B.O.O, agreeing to be appointed as the legal guardian of the child in the event that anything untoward happens to the Applicants.

## **The Biological Mother**

8. The biological mother, P.N, did not appear before the Court. According to the Affidavits by the Applicants and reports presented, the biological mother began to suffer from mental illness in 2016. She soon disappeared and all efforts to try and trace whereabouts have proved futile.
9. Based on the foregoing, I, therefore, dispense with the requirement for the consent of the biological mother.

## **The Adoption Approval Process**

10. KPPI Adoption Society conducted an assessment of the Applicants and sought the consent of members of the extended family. The Agency filed its report dated 12 April 2024 recommending the adoption of the child. The child was declared free for adoption by KPPI Adoption Society vide a Certificate of Declaring a Child Free for Adoption serial number 0904.
11. On 13 February 2025, the Court issued an order appointing M.K.K as the child's Guardian ad Litem, and further directing the Guardian ad Litem and Director of Children's Services to investigate the suitability and fitness of the Applicant and subsequently file their respective reports.
12. The Guardian ad Litem filed her report dated 2 March 2025, noting that the Applicants provide a safe, loving and nurturing home for the child. The Directorate of Children's Services, Nairobi County filed its report dated 10 March 2025, recommending the adoption of the child by the Applicants herein.
13. Section 193(1) of the *Children Act* provides that kinship adoption order may only be made in favor of a relative of the child. In this instance, the 1<sup>st</sup> Applicant is the biological father of the child.



14. In view of the foregoing, the Court is satisfied that:
- i. The proposed adoption is a kinship adoption, meaning that the child will continue to be within the family.
  - ii. The adoption will be in the best interest of the child; and
  - iii. The Applicants have been approved as prospective adoptive parents by competent social workers through a duly registered Adoption Society under the Department of Children Services, thus they are able to effectively handle their parental responsibilities
15. Accordingly, the Originating Summons is allowed and the following orders are hereby issued:
- i. The Applicants, J M O and K L M, are hereby authorised to adopted the child currently known as T O M;
  - ii. The Registrar General is directed to enter this Order in the Adopted Children’s Register and to issue a Certificate to that effect;
  - iii. The Guardian *ad Litem* is hereby discharged;
  - iv. B O O is hereby appointed as the legal guardian of the child.

**DATED AND DELIVERED AT NAIROBI THIS 12 DAY OF JUNE 2025**

**HELENE R. NAMISI**

**JUDGE OF THE HIGH COURT**

Delivered on a virtual platform in the presence of

N/A...for the Applicants

Applicants present in person

Libertine Achieng ..... Court Assistant

