



REPUBLIC OF KENYA



**In re PK (Child) (Adoption Cause E109 of 2025)
[2025] KEHC 10961 (KLR) (Family) (25 July 2025) (Judgment)**

Neutral citation: [2025] KEHC 10961 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
ADOPTION CAUSE E109 OF 2025
PM NYAUNDI, J
JULY 25, 2025**

IN THE MATTER OF

**ABMD 1ST APPLICANT
SDD 2ND APPLICANT**

JUDGMENT

1. Vide Originating Summons, dated 17th April, 2025 the Applicants herein seek the following orders, that:-
 - i. Spent
 - ii. Spent
 - iii. The Applicants be authorized to adopt PK to be known as PK.
 - iv. The child be presumed to be a Kenyan Citizen by birth.
 - v. The child's date of birth be September 19, 2009 and the place of birth be Meru Hospital, Meru County in Kenya.
 - vi. The Registrar General be directed to enter the adoption in the Adopted Children Register.
 - vii. The Director of Immigration be authorized to issue the child with a Passport.
 - viii. The 1st Applicant's sister herein LDKM (Kenya National Identification Number xxxxxxx) be appointed the legal guardian of the child in the event of the death or incapacity of the Applicants before the child is of age and or independent.
 - ix. The Court be pleased to make any further orders it deems necessary.



2. This is a joint Application. 1st Applicant holds dual Kenyan and USA Citizenship while the 2nd Applicant is a USA Citizen. Both Applicants reside in Minnesota USA. They are in gainful employment. The 1st Applicant is a Professor while the 2nd Applicant is a Hospice Chaplain in USA. They are married couple having solemnized their union through a Civil Marriage that was celebrated in the Dakota County, State of Minnesota on 7th June, 2011 as per the annexed copy of marriage certificate issued on 9th June, 2011. However, both Applicants had previous relationship which culminated. The 1st Applicant has one (1) issue from her previous relationship whom they live together with. They both understand the 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.
3. PKM (the child herein) is presumed to have been born on 19th September 2009, at Meru Hospital to the late PM and EKM. The child was the 3rd born of four children the last one being adopted in adoption E 110 of 2025 by the Applicants. The child is a cousin to the 1st Applicant given that the child's late father was her uncle. The Applicants have been motivated by a desire to extend a helping hand to the child considering the instability and neglect the child endured as the child was living in a deplorable home environment. The child's biological mother struggles with alcohol dependency repeatedly neglecting her parental responsibilities. Consequently, the 1st Applicant has had parental responsibility over the child since he was very young. The child is 15 years old.
4. It's the Applicants disposition that they approached the Change Trust Adoption Society together with the minor's biological mother where she made clear intention of offering the child for adoption and her consent was voluntarily given after counseling. Additional, the Applicants were counseled at length and taken through an explanatory memorandum where they signed the Certificate of Acknowledgement.
5. Thereafter, Change Trust Adoption Society through their case committee meeting that was held on 19th March, 2025 approved and confirmed that they had assessed the Applicants and found them suitable adoptive parents and further that the adoption would be in the child's best interest therefore declared the child free for adoption vide certificate serial Number xxxxx.
6. All the Statutory Reports that have been filed in respect of the proposed adoption of the child by the Applicants have recommended this Court allows the Applicants to adopt the child. This being a Kinship adoption where the child is being adopted by her cousin it will be the best interest of the child. Mary Atati, the Assistant Director Children Services, submitted a favourable report dated 21st July, 2025 through her visit she asserted that the Applicants have met the legal requirements for Kinship adoption as stipulated by the *Children Act*. They are financially stable to take good care of the child. They are mentally sound. The Applicants are clear of any criminal claims as evidenced by Hastings Police Department thus the Officer recommending the adoption process.
7. LDKM, Guardian Ad Litem, as well as Proposed Legal Guardian presented report dated 21st July, 2025. She stated that the 1st Applicant is her younger sister and the 2nd Applicant is her brother in law. During her visit, she found that the child bonded well with the Applicants as well as extended family members. The child is very happy as the Applicants have jointly created a conducive, loving and caring environment for the child. Therefore, recommending the Applicants to adopt the child since it would be in the child's best interests. LDKM further testified in Court that she consented to be the legal guardian for the minor. She understands the legal implications and she will assume full parental responsibility in the event the Applicants are unable to discharge their responsibilities.
8. The biological mother together with her son Haron Muriithi were in Court. The mother affirmed to surrender her parental rights and the son's consent was also obtained.



9. Thereafter, the court interviewed the child, it was noted that he was aware that he was in Court for adoption proceedings. He recognized the Applicants and consented to the adoption.

Determination

10. After carefully assessing the records herein, I am satisfied that the Applicants have 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 Applicants have 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 Applicants are 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 ORDERS that;
- a. The Applicants, ABMD and SDD are hereby allowed to adopt PK.
 - b. Henceforth, the child shall be known as PK.
 - c. His date of birth shall be 19th September, 2009 at Meru Hospital, Meru County in Kenya.
 - d. He is presumed to be a Citizen of Kenya by birth.
 - e. LDKM 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 25TH DAY OF JULY, 2025.

P.M NYAUNDI

JUDGE

In the presence of:

No appearance by parties

Fardosa Court Assistant

