



**In re NAO (Minor) (Adoption Cause E104 of 2025)  
[2025] KEHC 11207 (KLR) (Family) (24 July 2025) (Judgment)**

Neutral citation: [2025] KEHC 11207 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)  
FAMILY  
ADOPTION CAUSE E104 OF 2025  
CJ KENDAGOR, J  
JULY 24, 2025**

**IN THE MATTER OF THE CHILDREN ACT, 2022 & THE CONSTITUTION OF KENYA**

**AND**

**IN THE MATTER OF ADOPTION OF NAO (MINOR)**

**AND**

**IN THE MATTER OF;**

**CNM ..... 1ST APPLICANT**

**DMG ..... 2ND APPLICANT**

**IN THE MATTER OF**

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

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

**JUDGMENT**

1. Before this Court is the application dated 25<sup>th</sup> March, 2025. The Applicants CNM and DMG are seeking to be authorized to adopt NAO a minor, hereinafter referred to as (“the child”) and upon adoption, the child is to be known as NAWM. The applicants propose that DMG and GNN be appointed as the child’s legal guardians upon the 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, and together they have one biological daughter. The 1<sup>st</sup> Applicant is the biological mother of the child. The whereabouts of the child’s father are said to be unknown, and he



cannot be traced to give his consent. The evidence indicates that the said biological father abandoned the minor, who is the subject of this suit, before her birth and even after she was born. The applicants have requested the court to dispense with his consent regarding the adoption of NAO by CNM and DMG in accordance with Sections 186 and 187 of the *Cchildren Act*.

3. The 1<sup>st</sup> Applicant is an analyst employed by the Government of Kenya, while the 2<sup>nd</sup> Applicant is a pilot employed by an airline company in Kenya. They are financially stable, demonstrating their financial capacity and ability to support the child, as evidenced by their bank statements and pay slips. Their health status is good, as shown by their medical reports, and they have no previous criminal records, which is confirmed by their Certificates of Good Conduct issued by the Directorate of Criminal Investigations.
4. The report from the Ministry of Labour and Social Protection State Department of Children Welfare Services - Directorate of Children's Services (Nairobi County) dated 4<sup>th</sup> July, 2025 indicates that the child is 6 years and 9 months old having been born on 11<sup>th</sup> September 2018. The child was declared free for adoption on 22<sup>nd</sup> January, 2025 by Kenya Children's Home Adoption Society wide freeing Certificate Serial Number 1052.
5. DMG and GNN are the proposed legal guardians. GNN is the sister-in-law of the 2<sup>nd</sup> Applicant. They have voluntarily consented to be the minor's legal guardians, and they have stated that they understand their role as legal guardians.
6. This is a kinship adoption undertaken by the Applicants via a consent dated 6<sup>th</sup> January, 2025. The Applicants state that they want the child in this matter to enjoy the same rights and benefits as their younger biological daughter and to provide her with security in the family.
7. 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.
8. 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 1<sup>st</sup> Schedule of the *Children's Act*, 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 provides as follows; *Children's Act*
    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* 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.
9. The report from the Ministry of Labour and Social Protection State Department of Children Welfare Services - Directorate of Children's Services (Nairobi County), the report from Kenya Children's Home Adoption Society, the guardian ad litem and the proposed legal guardians indicate that the child will be well taken care of in the care and custody of the adoptive parents.
10. I am persuaded that this adoption is in the best interests of the child. The 2<sup>nd</sup> Applicant has embraced the child as his own, fostering a close and loving bond between them. They all share a happy home, where the child is thriving in a caring environment. The biological parental consent required from LOG, the biological father of the child, is hereby dispensed with as relates to the adoption of NAO by CNM and DMG.
11. In the circumstances, I allow the originating summons dated 25<sup>th</sup> March, 2025 and make the following orders:
- a. The Applicants CNM and DMG are authorized to adopt the child known as NAO.
  - b. Upon adoption, the child shall be known as NAWM.
  - c. DMG and GNN are appointed as the legal guardians of the child.
  - d. The Registrar General to make the appropriate entries in the Adopted Children's Register, and a subsequent birth certificate is to be issued by the Registrar of births and deaths.
  - e. The Director of Immigration is hereby authorized to issue a Kenyan Passport under the name NAWM. Additionally, the name M is identified as the surname.
  - f. The guardian ad litem is hereby discharged.
12. It is so ordered.

**DATED, DELIVERED AND SIGNED AT NAIROBI THROUGH THE MICROSOFT TEAMS  
ONLINE PLATFORM ON THIS 24<sup>TH</sup> DAY OF JULY, 2025**

.....

**C. KENDAGOR**  
**JUDGE**

In the presence of:

Court Assistant: Beryl

Advocate: Mr. Omakalwala

