



**In re Adoption of Baby VMO (Minor) (Adoption Cause E058 of 2025)
[2025] KEHC 10335 (KLR) (Family) (18 July 2025) (Judgment)**

Neutral citation: [2025] KEHC 10335 (KLR)

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

FAMILY

ADOPTION CAUSE E058 OF 2025

PM NYAUNDI, J

JULY 18, 2025

IN THE MATTER OF CHILDREN’S ACT NO. 29 OF 2022

AND

THE CHILDREN (ADOPTION) REGULATIONS 2005

AND

IN THE MATTER OF ADOPTION OF BABY VMO (MINOR)

IN THE MATTER OF

POA 1ST APPLICANT

MA 2ND APPLICANT

JUDGMENT

1. Vide Originating Summons, dated 25th February, 2025 the Applicants herein seek the following orders, that:-
 - i. The Applicants be and is hereby authorized to adopt Baby VMO, minor herein.
 - ii. Upon Adoption, the child be known as VMO.
 - iii. The Registrar General be ordered to make appropriate entries in the Adopted Children’s Register in respect of VMO.
 - iv. The Court be pleased to appoint MNO as the legal guardian of VMO upon granting of the adoption orders.
 - v. Baby VMO be considered a Kenyan Citizen.
 - vi. The Court be pleased to make any further orders it deem necessary.



2. The Applicants are Kenyan Citizens by birth residing in Texas, USA. They are legally married. Their marriage is blessed with three biological children. They are in gainful employment. The Applicants are nurses by profession. They have sufficient family income to enable them take good care of the child. The 1st Applicant is uncle to minor. The child has been living with the Applicants and it's their desire to have the child so that she can benefit from proper parental care, medical, inheritance and good education as well as relocating to the USA.
3. They have had custody for the minor since 2017 after the demise of her mother. The child is 15 years 8 months old. They both understand the legal 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.
4. VMO (MINOR) was born on 8th September, 2009 to EON and JNO as per the annexed Birth Certificate serial number 00XXXX. The minor's mother passed away on 15th February, 2017 and it is this reason that the child was placed with the Applicants. Later, the Applicants felt the desire of legalizing the relationship between them and the child thus prompted them to approach KCH Adoption Society. They were given explanatory memorandum together with the minor's biological father to which their consent was obtained so that they can have full parental responsibility over the minor. Subsequently, on 27th October 2020, the Applicants were granted custody of the minor by a Senior Resident Magistrate Children's Court sitting in Eldoret. Vide Protection and Care file number XXX/2020. That Society's case committee sitting declared the child free for adoption on 20th November, 2024 vide Freeing Certificate serial number XXXX.
5. All the Statutory Reports that have been filed in respect of the proposed adoption of the child by the Applicants have recommended that this Court allows the Applicants to adopt the child.
6. The Assistant Director Children Services, Ms. WI, submitted a report dated 19th May 2025, during her visit, she observed a child who has bonded well with the Applicants as the minor is being adopted by her late mother's brother. She averred that the Applicants are financially secure to take good care of the child. They are socially and mentally stable. The Applicants are clear of any criminal claim as evidenced by police clearance certificates numbers. Having met all the legal requirements for Kinship adoption as stipulated in the Children Act 2022, Ms. Ikinya recommends the adoption process.
7. A report dated 28th May, 2025 from Guardian *Ad Litem*, CMNT submitted a favourable report in which during her visit, she observed that the child is well taken care of by the Applicants, the Applicants are stable and mature individuals, they have presented to be good parents to the minor as well as bonded well with the child. The Minor is clean, well fed and well clothed. The Applicants are very close and they communicate so well thus highly recommending the Applicants to adopt the child.
8. Proposed Legal Guardian MNO, testified in Court that the 1st Applicant is her brother and she is sister in law to 2nd Applicant. The minor is her niece therefore consented to be the legal guardian for the minor. She also affirmed that she understands the legal implications and is prepared to assume full parental responsibilities in the event the Applicants are unable to discharge their responsibilities.
9. The Court interviewed the minor and it was observed that she understands she is in court for adoption process and has 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 both Applicants are qualified and able to take care of the child. The minors' biological father's consent has been dispensed with, as per Section 187 of the *Children's Act 2022*. All the necessary Reports and consents required for this Adoption have been filed. 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.”
13. This Court is therefore of the opinion that this Adoption would be in the best interest of the child and allows the application with Ordersthat;
- a. The Applicants, POA and MA are hereby allowed to adopt Baby VMO (minor).
 - b. Henceforth be called VMO.
 - c. Her date of birth shall be 8th September, 2009.
 - d. She is presumed to be a Citizen of Kenya by birth.
 - e. MNO is hereby appointed as Legal Guardian of the child.
 - f. The Registrar General to enter this order in the Adoption Children Register and issue the child with the requisite certificate.
 - g. The Director Immigration is authorised to issue the child with a Kenyan Passport.
 - h. The Guardian *Ad Litem* is hereby discharged.
- It is so ordered.



SIGNED DATED AND DELIVERED IN VIRTUAL COURT THIS 18TH DAY OF JULY, 2025.

P. M. NYAUNDI

JUDGE

In the presence of:

No Appearance by parties

Fardosa Court Assistant.

