



**In re CW aka Unknown African Male Child (Minor) (Adoption Cause E078 of 2025) [2025] KEHC 10912 (KLR) (Family) (17 July 2025) (Judgment)**

Neutral citation: [2025] KEHC 10912 (KLR)

**REPUBLIC OF KENYA**  
**IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)**  
**FAMILY**  
**ADOPTION CAUSE E078 OF 2025**  
**CJ KENDAGOR, J**  
**JULY 17, 2025**  
**IN THE MATTER OF THE CHILDREN ACT 2022**  
**AND**  
**IN THE MATTER OF BABY CW AKA UNKNOWN AFRICAN MALE CHILD (MINOR)**  
**IN THE MATTER OF**  
**DGN ..... APPLICANT**

**JUDGMENT**

1. Before this Court is an Originating Summons dated 25<sup>th</sup> March, 2025. The Applicant DGN is seeking to be authorized to adopt Baby CW aka Unknown African Male Baby hereinafter referred to as (“the child”) and upon adoption, the child is to be known as JBG. PGN and SWN be appointed as the child’s legal guardians upon granting of the adoption orders.
2. The Applicant is a single woman with no biological children. She is a Kenyan citizen, as demonstrated by a copy of her Kenyan National Identity Card. As a businesswoman with savings, she has the financial capability to provide for a child, as evidenced by her bank statement. Her health is good, as confirmed by medical reports, and she has no previous criminal record, supported by her Certificate of Good Conduct issued by the Directorate of Criminal Investigations.
3. She has expressed her desire to become a mother through adoption and wishes to share her love while securing a better future for a needy child. The child has been in her custody since November 29, 2024. At the hearing, the child appeared healthy and happy. The Applicant has received positive recommendations from her church and family members.
4. PGN and SWN, the proposed Legal guardians, are DGN’s brother-in-law and sister respectively. They told the Court that they understand their role and are ready to undertake that responsibility as the legal guardians to the minor. They gave their consent dated 25<sup>th</sup> March, 2025.



5. The report from the Ministry of Labour and Social Protection State Department of Social Security and Protection – Directorate of Children’s Services (Nairobi County) dated 17<sup>th</sup> June, 2025 indicates that the child is 1 year and 11 months old having been presumed to have been born on 3<sup>rd</sup> July, 2023. He is Kenyan, who was found abandoned in a thicket by the road side at Kibos Shopping Center in Kisumu and rescued by two good Samaritans. Efforts to trace the child’s kin remained fruitless and no one had come to claim him. The child was declared free for adoption on 7<sup>th</sup> November, 2024 by Buckner Kenya Adoption Services vide freeing Certificate Number xxxx.
6. 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.
7. 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 No. 29 of 2022, this Court has an obligation to prioritize the child’s best interests in making decisions touching on him.
  - 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 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.
8. The report from the Ministry of Labour and Social Protection State Department for Social Security and Protection – Directorate of Children's Services (Nairobi County), the report from the Buckner Kenya Adoption Services, the guardian *ad litem* and the proposed legal guardian indicate that the child is well known to the adoptive parent and that he will be well taken care of in her care and custody.



9. I am satisfied that the Applicant has a genuine desire to adopt the child. She is suitable as an adoptive parent.
10. I find that this adoption gives the child a chance at a better life and education in a loving home with the adoptive parent. I do not doubt that the child has bonded well with the Applicant.
11. Based on the foregoing, I am satisfied that this adoption serves the child's best interests. As such, I do allow this application and make the following orders:
  - a. The Applicant DGN is hereby authorized to adopt the child known as Baby CW aka Unknown African Male Baby.
  - b. Upon adoption, the child shall be known as JBG.
  - c. PGN and SWN are hereby appointed as legal guardians of the child.
  - d. The Registrar General shall enter the adoption into the Register of Adoptions.
  - e. The child is presumed to be born in Kenya.
  - 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 17<sup>TH</sup> DAY OF JULY, 2025**

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**C. KENDAGOR  
JUDGE**

In the presence of:

Court Assistant: Beryl

Applicant present

