



REPUBLIC OF KENYA



KENYA LAW
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**In re FFM (A Minor) (Adoption Cause E070 of 2025)
[2025] KEHC 9866 (KLR) (Family) (4 July 2025) (Judgment)**

Neutral citation: [2025] KEHC 9866 (KLR)

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

ADOPTION CAUSE E070 OF 2025

PM NYAUNDI, J

JULY 4, 2025

IN THE MATTER OF

WIJA 1ST APPLICANT

MAO 2ND APPLICANT

JUDGMENT

1. Vide Originating Summons, dated 18th March, 2025 the Applicants herein seek the following orders, THAT:-
 - i. The Applicants be authorized to adopt FFM, a minor who is to be known as FFJ and the Registrar General be directed to enter this adoption into the Register of Adoptions.
 - ii. AOO and MZA be appointed as the legal guardians of the minor.
 - iii. The child be indicated to have been born in Kenya.
2. WJA and MAO (Applicants herein) are Kenyan Citizens by birth residing in Nairobi County. They are legally married and they have been living together as per the annexed Marriage Certificate Serial Number 606741. Both Applicants are in gainful employment to take good care of the child. The 2nd Applicant is the sister of the minor. The Applicants have been blessed with one male child Newel Owen Juma – aged two (2) years. However, this is not their first relationship as they had previous relationship which culminated both Applicants with other children namely; Moses Baraka Juma – aged 14 years and Nadia Pendo Juma – aged 10 years.
3. The Applicants have been undertaking parental responsibilities over the minor for several years. The child is 17 years 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. FFM (minor herein) is presumed to have been born on 19th May, 2008 at Kendu Adventist Hospital. The minor is the son of KAO and the late Faiz Mohamed Hassan respectively. The Applicants have been taking care of the child since the demise of the minor's father as his biological mother is financially unstable to cater for his needs.
5. It's the Applicants disposition that they felt the urge of legalizing the relationship between them and the child so that he grows up in a normal stable family and continue raising him, thus resulted them to approach Little Angels Network. The Adoption Society interviewed the minor's biological mother where she was taken through Explanatory Memorandum to which she consented and signed the Certificate of Acknowledgment. After lengthy discussion, the minor's consent was also obtained.
6. Further the Case Committee meeting held on 20th February, 2025 was satisfied that the child is available for adoption and that adoption would be in the child's best interest thus declared the child free for adoption vide Free Certificate Serial Number 002535.
7. All the Statutory Reports that have been filed in respect of the proposed adoption of the child by the Applicants recommending that this Court allows the Applicants to adopt the child. WINFRED IKINYA, the Assistant Director Children Services submitted a report dated 28th May 2025. She averred that this orders will provide the child with stability he requires to make him feel a member of the Applicants' family. She also averred that the Applicants are clear of any criminal claim as evidenced by police clearance certificates numbers PCC-WWS7G57QP and PCC-5GSB65BRP. They are financially stable and are mentally stable. She further stated that the Applicants have met all the requirement for kinship adoption as stipulated in the *Children Act* 2022. The 2nd Applicant is a sister to the child though she is not more than 21 years old than the child however, the 1st Applicant meets the requirement hence recommending the adoption process.
8. A report dated 29th May 2025 from Guardian Ad Litem, SM affirmed that the child will get the best in life and benefits from the Applicants as it will offer an opportunity of growing up in a stable family and in conducive environment therefore recommending the Adoption.
9. Proposed Legal Guardians AOO and MZA testified in Court that they are husband and wife residing in Nairobi County. They are related with the Applicants in terms of affinity. They consented to be the legal guardians for the minor. It's their assertion that they understand the legal implications as they will assume full parental responsibilities in the event the Applicants are unable to discharge their responsibilities.
10. The Court also interviewed the minor's biological mother KAO where she asserted that she understands the adoption proceedings and consented to the same. The minor was also in Court and it was observed that he understands the adoption proceedings which he consented.

Determination

11. 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.
12. 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.
13. 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. 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, WJA and MAO are hereby allowed to adopt FFM (hereinafter the child).
 - b. Henceforth be called FFJ.
 - c. His date of birth shall be 19TH MAY, 2008 at Kendu Adventist Hospital.
 - d. He is presumed to be a Citizen of Kenya by birth.
 - e. AOO and MZA are hereby appointed as Legal Guardians of the child.
 - f. The Registrar General to enter this order in the Adoption Children Register and issue the child with 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 4TH DAY OF JULY, 2025.

P. M. NYAUNDI

JUDGE

In the presence of:

Ambaka for Applicants

Fardosa Court Assistant

