



REPUBLIC OF KENYA



KENYA LAW
THE NATIONAL COUNCIL FOR LAW REPORTING
Where Legal Information is Public Knowledge

**In re AA (Child) (Adoption Cause E002 of 2025)
[2025] KEHC 12969 (KLR) (22 September 2025) (Judgment)**

Neutral citation: [2025] KEHC 12969 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MAKUENI
ADOPTION CAUSE E002 OF 2025
TM MATHEKA, J
SEPTEMBER 22, 2025
IN THE MATTER OF BABY AA**

IN THE MATTER OF

VMK APPLICANT

JUDGMENT

1. By an originating summons dated 12th February 2025 VMK came under section 8 and 183 of the *Children Act*, 2022 section 9 of *Kenya Citizenship and Immigration Act* No. 12 of 2011, and Article 14 of *the Constitution* of Kenya (2010), seeking orders:
 - i. That the applicant be authorized to adopt the child AA
 - ii. That the consent of the biological parents be dispensed with as the child was abandoned.
 - iii. That upon the making of the adoption order the said child be known as AM
 - iv. That the Registrar General do make the appropriate entry of AM in the Adopted Children's Register.
 - v. That the child AM be presumed to be a Kenyan citizen born in Kenya and the Director Immigration Services do issue AM with a Kenyan Passport.
 - vi. That DMK be appointed Legal Guardian of the child AM The application was supported by the joint statement of both applicants, the affidavit of the guardian ad litem and the affidavit of the legal guardian.
2. The Summons is supported by the applicant's Statement in Support of the Application for the Adoption order dated 12th February 2025. She also wants her identity kept confidential.
3. She has annexed the requisite evidence of her suitability as an adoptive parent including physical and mental health, integrity, financial capacity to support the child



4. Her suitability as an adoptive parent is vouched by the report from Child Welfare Society the adoption agency, Directorate of Children Services – Makueni dated 24th March 2025
5. At the time of filing the report the DCS had not seen the certificate declaring the child free for adoption issued by a registered society. The Office made the following recommendations:
 - i. The applicant is financially and emotionally stable.
 - ii. Bonding between the applicant and the subject was observed to have taken place.
 - iii. That the applicant has lived with the subject for from the time the child was placed with her and had proved that she was able to take on parental responsibility and custody of the child on a more permanent basis if the adoption was approved by the court.
 - iv. That the applicant had appointed DK as the Legal Guardian to take care of the child in her absence.
 - v. That the child would gain a stable parent and a home from this adoption which is in her best interests.
 - vi. That the Secretary Children Services recommends the adoption of the subject by the applicant on condition that the certificate declaring the child free for adoption by a registered adoption is availed before this court.
6. From the record I note that on 5th May 2025 Child Welfare Society of Kenya filed their report ref (CWSK/AD/1330/2025/F.O 054 dated 610th March 2025
7. The report states inter alia:

The child in this matter, Baby AA, was reported found abandoned at Ruiru Sub County Children Hospital on 4th October 2016. A report was made at the Ruiru Police Station vide OB No. 24/04/10/2016. The child was later referred to Angel Centre for Abandoned Children for temporary care and later committed to the home through NBI Children Court P&C E088 of 2021 on 3rd March 2021. The order is attached.

Following unfruitful tracing investigations, the CWSK through its Family Tracing and Reunification Programme published the child's details in the People Daily Newspaper on 6/08/2021, 10/09/2021, 17/12/2021 and the child remained unclaimed. After the lapse of 8(eight years) and Pursuant to s.187(2)(a) the child was presumed to be abandoned. The section states

- (a) abandonment shall be presumed in any case where the child appears to have been abandoned at birth, or if the person or, where the institution having care and possession of the child, that institution has lost all contact with a parent or guardian of the child for a period exceeding one year'

The report cites the African Charter on the Rights and Welfare of the Child article 25(2) where it states that;

...a child who is parentless , or who is temporarily or permanently deprived of his or her family environment shall be provided with alternative family care...'

8. That upon carrying out their assessment the CWSK arrived at the view that this child's best interest would be served by an adoption order which would allow her to experience love and affection in a



family. The child was subsequently declaring free for adoption on 6th April 2022 and a certificate no. 1138 issued accordingly.

9. A certificate of birth for baby AA is annexed together with the letter from D/OCS Ruiru Police Station ref C/GEN/6/II/VOL. IV/185/2016 dated 4/10/2016, discharge summary from Ruiru Sub County Hospital, Admittance form for Angel Centre,, Abandoned Bay Information Form from Sub County Children's Office Ruiru, , Committal Order to Angel Centre for Abandoned Babies Children Court Nairobi – dated 3/3/2021 in Protection & Care E088/2021 letter from RUIRU Police Station of 26/10/2021 Ref C/ORG/15/22/1/VOL.V1/21, Letter from County Government of Kiambu ref RSDH/MEDSUPT/VOL.2(576) dated 29th Nov 2021 confirming that no one had gone looking for the baby. Since the discharge on 4th Oct 2016. advertisements in People Daily Newspaper for people to identify children at CWSK, agreement of foster parents dated 28th July 2022 between the proposed adoption parent and CWSK, agreement for temporary placement between CWSK and the proposed adoptive parent 28th July 2022, and an Adoption Process Commitment form between CWSK & the proposed adoptive parent.
10. I heard the oral testimony of the Ms. Vera Ong'uti, Manager CWSK Programmes, the proposed adoptive parent and the legal guardian.
11. I have carefully considered the testimonies, the Summons and the annexures, the reports from CWSK, the report from the DCS and the legal requirements for adoption.
12. The only issue for determination is whether the orders sought can be granted.
13. The applicant is a sole female applicant who has complied with all the legal requirements
14. The child is free for adoption.
15. The applicant has been found suitable and recommended. I heard her testimony and had the opportunity to observe her and the child. They have been together since 2022 and the bond is visible.
16. It is indisputable that the best interest of this child will be served through adoption which will accord the child a chance to belong to a family. This is one way to uphold the child's right to parental care and protection as provided for in *the Constitution* of Kenya 2010, Article 53(1)(e), which states that "Every child has the right – to parental care and protection. Through the orders of this court the child will get to enjoy the right to parental care and love, the rights and protection that come to a child naturally through family. The applicant who does not have any biological children will also get the opportunity to raise a child, to exercise the rights and duties of a parent and to contribute to the welfare of the child who in her own little way represents the future of this Nation. The applicant on her part has taken upon herself the lifelong task of being a parent and providing a home, a name, a heritage for this child.
17. Through the Adoption order, a new family, as envisaged by *the Constitution* which recognizes this diversity, will have been created, in the best interests of the child.
18. The applicant will bear in mind that the adoption order is final unless for it falls within the purview of s. 190 of the *Children Act* 2022 which provides Review of adoption in the following circumstances
 - (1) A person who is a biological parent of a child in respect of whom an adoption order has been granted by a Court may apply to the Court for review of the order for adoption on grounds that—
 - (a) the child in respect of whom an adoption order has been granted by a Court was lost or abducted;



- (b) the biological parent reported to the Secretary and took all measures to trace, to find and to reunite with the child and were not successful; and
 - (c) it is in best interest of child to reunite with the child with their biological parent.
- 19. In that event the court where it is satisfied with the grounds under subsection (1), may—
 - (a) issue an order to revoke the adoption order and give custody of the child to the biological parent; or
 - (b) review an existing order to give joint custody to a biological parent and an adoptive parent
- 20. Under S. 194. Of the *Children Act* the Powers of the Court in adoption proceedings are set out inter alia
 - (2) The Court may make an adoption order under this Part on such terms and conditions as the Court may think fit, including orders—
 - (c) requiring the adopter to accept supervision by, and advice from, an adoption society specified by the Court for such period as the Court may direct;
- 21. It is my considered view that the grant of an Adoption order ushers in a new life for the adopter and her child and the Adoption Agency together with DCS ought to walk the first steps with the family and provide all the necessary support
- 22. The Prayers sought by the applicant are allowed and an Adoption Order to issue in the following terms
 - a. The applicant be and is hereby authorized to adopt the child AA
 - b. That the consent of the biological parents be and is hereby dispensed with.
 - c. That the child be known as AM
 - d. That the Registrar General do make the appropriate entry of AM in the Adopted Children's Register.
 - e. That the child AM be and is hereby presumed to be a Kenyan citizen born in Kenya. The Director Immigration Services to issue AM with a Kenyan Passport.
 - f. DK be and is hereby appointed Legal Guardian of the child AM
 - g. The guardian ad litem be and is hereby discharged.
 - h. CWSK and DCS be and are hereby directed to provide supervision for the next 12 months and provide a bi-annual report to be filed in court. The Deputy Registrar to ensure this order is served accordingly.
- 23. Costs in the cause.

DATED SIGNED AND DELIVERED VIA CTS ON 22ND SEPTEMBER 2025

MUMBUA T. MATHEKA

JUDGE

CA: Chrispol

