



REPUBLIC OF KENYA



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

**In re Adoption of CKS (Adoption Cause E197 of 2022)  
[2024] KEHC 15495 (KLR) (Family) (9 May 2024) (Judgment)**

Neutral citation: [2024] KEHC 15495 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)  
FAMILY  
ADOPTION CAUSE E197 OF 2022  
EKO OGOLA, J  
MAY 9, 2024  
IN THE MATTER OF THE CHILDREN'S ACT, 2022  
AND  
IN THE MATTER OF THE ADOPTION OF CKS  
AND  
IN THE MATTER OF AN APPLICATION FOR KINSHIP ADOPTION BY DKS  
JUDGMENT**

1. The application before this court is dated 6<sup>th</sup> October 2023. The applicant prays for the following orders:-
  - a. That the honorable court do order that the applicant's parental responsibility of the child be extended beyond the age of eighteen years to the age of twenty-six or the completion of the Child's undergraduate degree, whichever comes sooner.
  - b. That the Court do make any such other and further orders in the best interest of the minor as it deems fit.
2. The application was supported by the grounds set out therein and the applicant's supporting affidavit. The application was further canvassed by way of Submission. Mr. Onsongo counsel for the applicant submitted that the applicant is the child's grandmother and she has been the primary caregiver since her birth. The child turned 18 years of age on 19<sup>th</sup> February 2023. Counsel submitted that since adoption orders cannot issue, it is in the best interest and welfare of the child that the applicant's parental responsibility extends beyond the child's 18<sup>th</sup> birthday. The child has finished her secondary education and it is the applicant's wish that the child pursue further studies in the United States of America where the applicant resides.



## Determination

3. I have considered the application, the report filed and the entire record of the court.
4. Section 35 of the *Children's Act* provides for the extension of parental responsibility beyond the child's eighteenth birthday. It stipulates as follows:-
  - “(1) Parental responsibility in respect of a child may be extended by an order of the Court after the date on which the child attains the age of eighteen years if the Court is satisfied, either of its own motion or on application by any person, that special circumstances exist with regard to the welfare of the child that would necessitate the making of such extension.
  - (2) The special circumstances referred to in subsection (1) include cases where the child is in need of extended parental responsibility by reason of special needs arising from severe disability or developmental disorder.
  - (3) An application under this section may be made either before or after the child has attained the age of eighteen years by—
    - (a) the parent;
    - (b) any person who has parental responsibility over the child or by a relative of a child;
    - (c) the secretary;
    - (d) the child”
5. For the parental responsibility to be extended it must have existed in the first place. In this case, the applicant has taken care of the child since birth. Furthermore, the whole purpose of providing for the extension of parental responsibility is to provide for special circumstances where the attainment of the age of majority would prejudice the welfare of a child already enjoying parental responsibility. In this case, the child has finished her secondary education. It would be in her best interest that she pursues her tertiary education afterwards.
6. From the foregoing, I allow the application dated 6<sup>th</sup> October 2023 as prayed. The applicant's parental responsibility is hereby extended till the child turns twenty-six years of age or when the child completes her undergraduate degree.

Orders accordingly.

**DATED AND DELIVERED IN NAIROBI THIS 9<sup>TH</sup> DAY OF MAY 2024**

.....

**E.K. OGOLA**

**JUDGE**

In the presence of:

Ms. Wangari for the Applicant

Gisiele Muthoni Court Assistant

