



**In re Adoption of RMM (Adoption Cause E166 of 2024)  
[2024] KEHC 11622 (KLR) (Family) (20 September 2024) (Judgment)**

Neutral citation: [2024] KEHC 11622 (KLR)

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

**FAMILY**

**ADOPTION CAUSE E166 OF 2024**

**PM NYAUNDI, J**

**SEPTEMBER 20, 2024**

**IN THE MATTER OF ADOPTION OF RMM (A MINOR)**

**IN THE MATTER OF**

**LKM ..... 1<sup>ST</sup> APPLICANT**

**HNK ..... 2<sup>ND</sup> APPLICANT**

**JUDGMENT**

1. This is a kinship adoption as the applicant is a sister to CWG (Deceased) who was the mother of the minor RMM, whom she seeks to adopt vide Originating Summons dated 9<sup>th</sup> August 2024.
2. The matter proceeded for hearing via viva voce evidence on the Teams virtual platform The Applicants are man and wife having solemnized their marriage on 19<sup>th</sup> June 2007. They are both dual citizens of Kenya and USA. They reside in Texas. Their marriage is blessed with 3 children who have all consented to this adoption.
3. Both the Applicants are in employment and have the means to provide for the needs of the minor. In court they both stated that they fully understand the implications of an adoption order and that the same is not reversible.
4. The minor is a nephew to the Applicant. The minor was born on 24<sup>th</sup> September 2006 as per certificate of Birth serial number xxxxxxxxx.
6. Ms. Ikinya, Assistant Director Children Services, produced report dated 3<sup>rd</sup> September 2024. The report recommends the adoption. The Guardian Ad Litem, LNW also attended Court and produced her report dated 13<sup>th</sup> September 2024 in which she confirms she undertook home visits and interviewed the Applicant, minor and is satisfied that the adoption will be the interests of the minor. She therefore recommends the adoption.



7. The proposed Legal Guardian WAWG attended court and confirmed she is willing to take up the role of legal guardian. She is a sister to the Applicant. She confirms that he understands the role of a legal guardian and is prepared to assume parental responsibility for the minor in the event that the Applicant is unable to discharge her responsibilities.
8. RMM the minor attended court. He confirmed he knows the Applicant. He confirmed that he is 17 years old. He attends [Particulars withheld] high school and is in Form 3. He recognizes the Applicant as his maternal aunt. He gives his consent to the adoption.
10. This is a kinship adoption under Section 193 of the *Children Act*, 2022 and Annex C at Page 153 of the guidelines for Alternative family care of Children in Kenya, 2014 which defines Kinship adoption as adoption of a child by a person who is a relative of the child.
11. After carefully assessing the records herein, I am satisfied that the applicant has 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

- (1) by-
    - a. A sole applicant; or
    - b. Two spouses jointly.
  - (2) The Court shall not make an adoption order in any case unless—
    - a. The applicant has attained the age of twenty-five years, but is not above the age of sixty-five years: and
    - b. 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. The Applicant is 48 years old
  13. Article 53 of the *Constitution* of Kenya, 2010 provides the overarching principles which must apply whenever any decision concerning a child is to be considered. It states:

A Child's Best interests are of paramount importance in every matter concerning the child

14. This principle is restated Under Section 8 of the *Children Act*, 2022 which provides

Best interests of the child.

In all actions concerning children, whether undertaken

- (1) 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.

Section 194 (1) (c) of the *Act* also requires that if the adoption order is made the order will be in the best interests of the child,



having regard to the wishes of the child, depending on the child's age and understanding, and to the ability of the applicant to maintain and educate the child;

15. In view of the foregoing, the court is of the considered view that it is in the child's best interest to be adopted by the Applicant. Accordingly, I allow the prayers sought in the Originating Summons dated 9<sup>th</sup> August 2024 and order as follows:

- i. The Applicants LKM and HNK be allowed to adopt RMW.
- ii. The Child is to be known as RMK
- iii. The Child be presumed to be a Kenyan citizen by birth.
- iv. The child's date of Birth is 24<sup>th</sup> September 2006
- v. WAWG is hereby appointed as legal guardian of the Child
- vi. The Registrar is hereby directed to enter this adoption into the Register of Adopted Children.
- vii. The Director of Immigration is authorized to issue the child with a Kenyan passport.
- viii. The Guardian Ad litem is discharged.

**SIGNED DATED AND DELIVERED IN VIRTUAL COURT THIS 20<sup>th</sup> DAY OF SEPTEMBER, 2024.**

**M NYAUNDI**

**HIGH COURT JUDGE**

In the presence of

Ms. Wanjala holding brief for Ms. Nderu Advocate for the Applicant

Fardosa Court Assistant

