



**In re Baby AJ (Minor) (Adoption Cause E135 of 2024)  
[2024] KEHC 11259 (KLR) (Family) (19 September 2024) (Judgment)**

Neutral citation: [2024] KEHC 11259 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)  
FAMILY  
ADOPTION CAUSE E135 OF 2024  
CJ KENDAGOR, J  
SEPTEMBER 19, 2024  
IN THE MATTER OF THE CHILDREN'S ACT NO. 8 OF THE LAWS OF KENYA  
AND  
IN THE MATTER OF ADOPTION OF BABY AJ (MINOR)**

**IN THE MATTER OF**

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

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

**JUDGMENT**

1. Before Court is the Originating Summons dated 1<sup>st</sup> July 2024 in which the Applicants seek the following orders;
  1. That the Applicants be authorized to adopt Baby AJ, a minor who is to be known as JTKN and the Registrar General be directed to enter this adoption into the Register of Adoptions.
  2. That MPMT and GWK be appointed as the Legal Guardians of the minor who shall be presumed to have been born in Kenya.
2. The Originating Summons is supported by the affidavit of the Applicants of even date. The matter was canvassed by way of oral evidence on the online platform.
3. The Applicants are Kenyan citizens by birth residing in Nairobi County. They are husband and wife who got married on 28<sup>th</sup> August, 2012. They have one biological child aged 8 years old. The 1<sup>st</sup> Applicant is a consultant working with the government in Nairobi, whereas the 2<sup>nd</sup> Applicant is a customer service executive employed by (details withheld) in Nairobi.



4. They averred that the minor was abandoned along Londiani Junction Trading Centre on 12<sup>th</sup> August, 2022 and was rescued by a good Samaritan, AK She reported the matter to Londiani Police Station vide OB No. 04/12/08/2022 and was thereafter admitted at Kericho District Hospital for medical check-up and observation. The child was later released to Africa Gospel Church Baby Centre. The child was committed to Africa Gospel Church Baby Centre vide Chief Magistrates Court Kericho, Care and Protection Case No. E081 of 2022. Little Angels Network declared the minor free for adoption on 6<sup>th</sup> September, 2023. They have a son, aged 8, who is excited about the adoption.
5. PS was appointed as the guardian ad litem by this court on 11<sup>th</sup> July, 2024.
6. On the online platform in Court, PWM (PW1) told the court that they wished to adopt the minor, that they understood the implications of the adoption process, and that they were capable of taking care of the minor. The minor, who is now two years old and one month old, was placed in their custody on 3<sup>rd</sup> November, 2023.
7. KSNW (PW2) told the court that they live with the minor and that he understands the implications of the adoption process.
8. MPM (PW3) and GWK(PW4), the proposed legal guardians, told the court that they are family friends of the Applicants and have known each other since 2009.
9. PS (PW5), the Guardian Ad Litem appointed by this court, produced a Report dated 22<sup>nd</sup> July, 2024. She told the court that she visited the home and assessed the baby. She recommended the adoption.
10. JW (PW6), a representative of Little Angels Network, produced a report dated 6<sup>th</sup> September, 2023 stating that they assessed and approved the applicants as the minor's adoptive parents.
11. NO, on behalf of the Director of Children Services, produced a Report dated 19<sup>th</sup> July, 2024. The Report recommended the adoption. The minor is healthy and has bonded well with the Applicants.

#### **Analysis and Determination.**

12. The preliminary requirements for the making of an Adoption Order are set out in Section 156 (1) of the [Children's Act](#), which provides as follows: -

“ 156

- (1) No arrangement shall be commenced for the adoption of a child unless the child is at least six (6) weeks old and has been declared free for adoption by a Registered Adoption Society in accordance with the Rules prescribed in that behalf.”

13. The subject child is believed to have been born on 17<sup>th</sup> June, 2022. He is now two years and three months and is above the six (6) week age limit set by law. Little Angels Network, a Registered Adoption Agency, has filed in Court a certificate declaring the child free for adoption. I am satisfied that all the prerequisites for Adoption have been met.
14. This Court has a duty to analyze the evidence presented to determine whether the Applicants are suitable adoptive parents for the subject child. The Applicants are Kenyan citizens, as evidenced by the copy of their national identity cards annexed to the Summons. The Applicants are a couple and have one biological child of their own.



15. The Applicants, in their statement in support of an application for an adoption order, stated that they had informed their son, immediate family members, and close friends of their intention to adopt the minor and were supportive of their decision. The Applicants also stated that they work and can cater for the minor.
16. The Applicants have annexed copies of Clearance Certificates issued to the 1<sup>st</sup> Applicant by the Kenya Police Service on 25/3/2022, indicating that he does not have a criminal record. They reside with the child in a five-bedroom house in Upper Matasia. The home was found to be conducive to raising the child.
17. I am satisfied that the Applicants genuinely desire to adopt the child. They are suitable as adoptive parents.
18. The subject child is a male child believed to have been born on 17<sup>th</sup> June, 2022. The child was found abandoned on 12<sup>th</sup> September, 2022 along Londiani Junction Centre by a good Samaritan, AK The abandonment was reported at Londiani Police Station vide OB No. 04/12/08/2022. The child was committed to Africa Gospel Church Baby Centre for temporary Care and Protection. After that on 3<sup>rd</sup> November, 2023, the child was released into the custody of the Applicants.
19. Article 14 of the Constitution of Kenya, 2010 deals with Citizenship. Article 14 (4) provides as follows: -

“(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.”

The child was found abandoned when he was two months old in Nakuru County. As such, I declare the child to be a citizen of Kenya by birth.

20. All efforts made to trace the biological mother/relatives of the child have been unsuccessful. To date, no person has come forward to claim the child. A police letter dated 3<sup>rd</sup> August, 2023 confirms this fact.
21. In deciding upon any matter involving a child, Courts must prioritize the child's best interests. Section 4 (2) of the Children Act provides:-

“(2) In all actions concerning children, whether undertaken by public or private social welfare institutions, Courts of Law administrative authorities or legislative bodies, the best interest of the child shall be a primary consideration.” [own emphasis]

22. The child was abandoned at two months old, and he faced an uncertain future. This Adoption allows the child to be raised in a stable and loving family environment.
23. The child has lived with the Applicants since 3<sup>rd</sup> November, 2023 – a period of 8 months. This is the only family he knows. I do not doubt that the child has bonded with the Applicants.
24. 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:
  - i. The Applicant, KSNW. and PWM are authorized to adopt the child known as Baby AJ
  - ii. The Registrar-General is directed to make the relevant entries in the Adopted Children's Register.
  - iii. Upon adoption, the child will be known as JTKN.



- iv. The child is declared to be a Kenyan citizen by birth.
- v. MPMT and GWK are hereby appointed as the child's legal guardians.
- vi. The guardian ad litem is hereby discharged.
- vii. No orders on costs.

25. It is so ordered.

**DATED, DELIVERED AND SIGNED AT NAIROBI THROUGH THE MICROSOFT TEAMS  
ONLINE PLATFORM ON 19<sup>TH</sup> SEPTEMBER, 2024.**

.....

**C. KENDAGOR**

**JUDGE**

In the presence of:

Court Assistant: Beryl

Muzungu Advocate holding brief for for Kemunto Advocate

