



**In re SH alias N (Minor) (Adoption Cause E151 of 2024)  
[2024] KEHC 12831 (KLR) (Family) (17 October 2024) (Judgment)**

Neutral citation: [2024] KEHC 12831 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)  
FAMILY  
ADOPTION CAUSE E151 OF 2024  
CJ KENDAGOR, J  
OCTOBER 17, 2024  
IN THE MATTER OF THE CHILDREN’S ACT, 2022  
AND  
IN THE MATTER OF ADOPTION OF BABY SH ALIAS N (MINOR)**

**IN THE MATTER OF  
GNG ..... APPLICANT**

**JUDGMENT**

1. Before this Court is the application dated July 16, 2024. The Applicant GNG is seeking to be authorized to adopt baby SH alias N hereinafter referred to as (“the child”) and upon adoption, the child is to be known as SWG. GWM was appointed as the child’s guardian ad litem on the 16<sup>th</sup> August, 2024. The Applicant is also seeking to have KMN and SMH appointed as joint legal guardians of the child, both of whom have agreed and are ready for the responsibilities thereof.
2. The Applicant is a single woman and a Kenyan citizen as is evidenced by a copy of her Kenyan National Identity Card. She is a self-employed business lady. Her health status is good as is evidenced by her medical reports and she does not have any previous criminal records as is evidenced by their Certificates of Good Conduct issued by the Directorate of Criminal Investigations. She has indicated that she would like to legalize her relationship between the child and herself through kinship adoption to enable the child become a complete member of her family as well as receive other benefits from her.
3. The Report from the Ministry of Public Service, Gender, Senior Citizens Affairs and Special Programmes, State Department of Social Protection - Directorate of Children’s Services (Nairobi County) dated 24<sup>th</sup> September, 2024 indicates that the child is female and 3 years old having been born



on 15<sup>th</sup> August 2021. She is Kenyan-born. The child was declared free for adoption on 18<sup>th</sup> July, 2023 by Buckner Kenya Adoption Society vide freeing Certificate Serial Number xxxx.

4. From the reports and recommendations, it is evident that the Applicant's incentive to adopt is out of love for the child, who has been in her care since 31<sup>st</sup> July, 2023.
5. The child is a Kenyan citizen by virtue of Article 14 (1) which provides that a "person is a citizen by birth if on the day of the person's birth, whether or not the person is born in Kenya, either the mother or father of the person is a citizen".
6. In light of the best interests of the child principle provided for under Article 53 (2) of *the Constitution* of Kenya, 2010. Sections 8 (1), (2) and (3) of the Children's *Act No. 29 of 2022* and the 1<sup>st</sup> Schedule of the Children's *Act No. 29 of 2022*, this Court must prioritize the child's best interests in making decisions touching on her.
  - a. Article 53 of *the Constitution*, 2010 states that a child's best interests are of paramount importance in every matter concerning the child.
  - b. Sections 8 (1), (2) and (3) of the Children's *Act No. 29 of 2022* provides as follows;
    1. In all actions concerning children, whether undertaken 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.
    2. All judicial and administrative institutions, and all persons acting in the name of such institutions, when exercising any powers conferred under this Act or any other written law, shall treat the interests of the child as the first and paramount consideration to the extent that this is consistent with adopting a course of action calculated to: -
      - a. safeguard and promote the rights and welfare of the child;
      - b. conserve and promote the welfare of the child; and
      - c. secure for the child such guidance and correction as is necessary for the welfare of the child, and in public interest.
    3. In any matters affecting a child, the child shall be accorded an opportunity to express their opinion, and that opinion shall be considered in appropriate cases, having regard to the child's age and degree of maturity.
      - a. The First Schedule as provided for under Section 8 (1) of the Children's *Act No. 29 of 2022* provides best interests considerations to be as follows:
        1. The age, maturity, stage of development, gender, background and any other relevant characteristics of the child.
        2. Distinct special needs (if any) arising from chronic ailment or disability.
        3. The relationship of the child with the child's parent (s) and/ or guardian (s) and any other persons who may significantly affect the child's welfare.



4. The preference of the child, if old enough to express a meaningful preference.
  5. The duration and adequacy of the child's current living arrangements and the desirability of maintaining continuity.
  6. The stability of any proposed living arrangements for the child.
  7. The motivation of the parties involved and their capacities to give the child love, affection and guidance.
  8. The child's adjustment to the child's present home, school and community.
  9. The capacity of each parent or guardian to allow and encourage frequent and continuing contact between the child and the other parent and/ or guardian(s), including physical access.
  10. The capacity of each parent and/or guardian(s) to cooperate or to learn to cooperate in child care.
  11. Methods for assisting parental and/or guardian cooperation and resolving disputes and each parent's/guardian's willingness to use those methods.
  12. The effect of the child if one parent/guardian has sole authority over the child's upbringing.
  13. The existence of domestic abuse between the parents/guardian(s), in the past or currently, and how that abuse affects the emotional stability and physical safety of the child.
  14. The existence of any history of child abuse by a parent and/or guardian(s); or anyone residing in the same dwelling as the child.
  15. Where the child is under one year of age, whether the child is being breast-fed.
  16. The existence of a parent's(s) or guardian's(s) conviction for a sex offense or a sexually violent offense under the [Sexual Offences Act](#).
  17. Where there is a person residing with a parent or guardian, whether that person; -
    - a. Has been convicted of a crime under this Act, the [Sexual Offences Act](#), the Penal Code or any other legislation.
    - b. Has been adjudicated of a juvenile offence which, if the person had been an adult at the time of the offence, the person would have been convicted of a felony.
  18. Any other factor which may have a direct or indirect effect on the physical and psychological well-being of the child.
7. The guardian ad litem, GWM, presented a comprehensive report that illustrates the Applicant's capability to provide the child with a stable and nurturing home environment.



8. The Report from the Ministry of Public Service, Gender, Senior Citizens Affairs and Special Programmes State Department of Social Protection - Directorate of Children's Services (Nairobi County), the Report from Buckner Kenya Adoption Society, the guardian ad litem and the proposed legal guardian indicate that the child will be well taken care of in the care and custody of the adoptive parent.
9. I find that this adoption gives the child a chance at a better life and education in a loving and stable home with the adoptive parent.
10. In the circumstances, I allow the Originating Summons dated 16<sup>th</sup> July, 2024 and make the following orders:
  - a. The Applicant GNG is authorized to adopt the child known as SH.
  - b. Upon adoption, the child shall be known as SWG.
  - c. The child is declared to be a Kenyan citizen by birth and is entitled to all rights and benefits under *the Constitution* of Kenya, 2010 and all applicable laws.
  - d. KMN and SMH are appointed as joint legal guardians of the child.
  - e. The Registrar General is directed to make the relevant entries in the Adopted Children's Register in respect of the child.
  - f. The Registrar of Births and Deaths is directed to issue a birth certificate in respect of the child's new name.

It is so ordered.

**DATED, DELIVERED AND SIGNED AT NAIROBI THROUGH THE MICROSOFT TEAMS  
ONLINE PLATFORM ON THIS 17<sup>TH</sup> DAY OF OCTOBER, 2024.**

.....

**C. KENDAGOR**

**JUDGE**

**In the presence of:**

Court Assistant; Beryl

