



REPUBLIC OF KENYA



**In re ZH (Baby) (Adoption Cause E192 of 2022)
[2023] KEHC 17423 (KLR) (Family) (9 May 2023) (Judgment)**

Neutral citation: [2023] KEHC 17423 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
ADOPTION CAUSE E192 OF 2022
RL KORIR, J
MAY 9, 2023
IN THE MATTER OF BABY ZH
AND
IN THE MATTER OF AN APPLICATION FOR ADOPTION
BY**

IN THE MATTER OF

**JKC 1ST APPLICANT
LJA 2ND APPLICANT**

JUDGMENT

1. By ex-parte Originating summons dated July 29, 2022, the Applicants sought orders that: -
 - i. That the Applicants, JKC and LJG, be allowed to adopt the child currently identified as BABY ZH.
 - ii. That henceforth, the child be renamed as EA.
 - iii. That the child's date and place of birth be declared to be January 14, 2020 at Nairobi County.
 - iv. That the child be presumed to be a Kenyan Citizen by birth; and consequently, entitled to all the rights and benefits in respect thereof.
 - v. That JCK be appointed as Legal Guardian of the child, in the event that the Applicants herein are incapacitated or in any way unable to discharge their parental obligations.
 - vi. That the guardian ad litem be discharged.



- vii. That the Registrar General be directed to make the appropriate entries in the Adopted Children's Register.
2. The Summons are supported by the Joint Statement of JKC and LJA dated July 29, 2022 further by a joint affidavit sworn on July 29, 2022.
3. The two Applicants have stated that they are husband and wife with 3 children aged 20, 15 and 12 respectively. They seek to adopt a girl, now aged 3 years. Their motivation is to add a daughter to the family and extend love to a child in need of parental care in furtherance of their Christian youth ministry.
4. On record are various reports as required by law including the Report of the Adoption Society dated July 14, 2021 declaring the child free for adoption and the Report of the Director, Children Services dated February 22, 2023 and a Report by the Guardian Ad Litem dated March 17, 2023. Also on record is a Consent by the children of the couple supporting the adoption.
5. The applicants came before me on April 12, 2023. They affirmed on Oath their averments in their Statement and affidavit. They stated further that their motivation was to assist vulnerable children as part of their christian mission and that they understood their responsibilities if granted the adoption order. The court observed that the child had bonded well with the applicants and their eldest child Joshua Kweyu who appeared on the virtual platform. He confirmed to the court that he was happy with the arrangement and had even consented to be the legal guardian.
6. Ms. Irene Ogutu of Buckner Kenya told the court that they had recommended the adoption in their report dated January 6, 2022. Ms. Atati of the Directorate of Children Services stated that they had done the legal and social inquiry and were satisfied that the applicants were fit and therefore recommended the adoption. EO who was appointed guardian Ad Litem by the court stated that he had recommended the adoption after interacting with the family. His report was dated March 17, 2023.
7. Counsel urged the court to consider all the supporting documents as filed.

Analysis and Determination

8. The governing law in this Application is *the Constitution* and the *Children's Act* 2022. Article 53 (2) of *the Constitution* which provides:-

A Child's best interest are of paramount importance in every matter concerning the child.

9. Section 8(1) of the *Children Act* 2022 provides: -

“(8).

- (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;” (own emphasis)

10. Section 184(1) of the *Children's Act* 2022 provides as follows: -

“(1) A person shall not commence any arrangements for the adoption of a child unless-



- a. the council, in accordance with the rules, has declared the child free for adoption; and
- b. the child has attained the age of six weeks.”

11. In this case the minor was found abandoned at Kenyatta National Hospital Staff quarters and a report was made to the police who upon investigation could not trace the parents and no one claimed the child who was subsequently placed in Hope House Babies Home. Buckner Kenya Adoption Services an Adoption Agency vide their report dated July 14, 2021 declared the child free for adoption and issued a certificate serial no. 0506 dated July 14, 2021. I therefore find that the child was free for adoption.
12. I have considered the Children Officer’s Report and the Guardian Ad Litem’s Report. They highly recommend the Adoption. At the hearing I closely observed the family and noted that the couple’s first-born son JK who is also the prospective legal guardian had a positive demeanor and expressed joy. I took it that he represented the views of his minor siblings.
13. Having taken into consideration all factors aforesaid, I am satisfied that Baby ZH has found a loving home. The adoption no doubt is in his best interest.
14. I grant the following orders: -
 - i. The applicants, JKC and LJA, are authorized to adopt the child currently identified as BABY ZH.
 - ii. That henceforth, the child be renamed as EA.
 - iii. The child’s date and place of birth is declared to be January 14, 2020 at Nairobi County.
 - iv. The child is presumed to be a Kenyan Citizen by birth; and consequently, entitled to all the rights and benefits in respect thereof.
 - v. JCK be appointed as Legal Guardian of the child, in the event that the Applicants herein are incapacitated or in any way unable to discharge their parental obligations.
 - vi. The guardian ad litem is hereby discharged.
 - vii. The Registrar General is directed to make the appropriate entries in the Adopted Children’s Register.

JUDGEMENT DELIVERED, DATED AND SIGNED AT BOMET THIS 9TH DAY OF MAY, 2023

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R. LAGAT-KORIR

JUDGE

Judgement delivered in the presence of the Applicants, Ms. Kimenyi for Applicants and Siele (Court Assistant)

