



REPUBLIC OF KENYA



KENYA LAW
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**In re Baby WK alias Baby W (Minor) (Adoption Cause E198 of 2022)
[2023] KEHC 24356 (KLR) (Family) (21 September 2023) (Judgment)**

Neutral citation: [2023] KEHC 24356 (KLR)

REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
ADOPTION CAUSE E198 OF 2022
EKO OGOLA, J
SEPTEMBER 21, 2023
IN THE MATTER OF THE CHILDREN'S ACT, 2022
AND
IN THE MATTER OF THE ADOPTION OF BABY WK ALIAS BABY W (MINOR)
AND
IN THE MATTER OF AN APPLICATION FOR ADOPTION BY PNN
JUDGMENT

1. Before this Court is the Originating Summons dated 8th November 2022. The Applicant prays for the following:-
 - a. Spent;
 - b. Spent;
 - c. That the Applicant PNN be authorized to adopt Baby WK alias Baby W and that the said child be known as KNN;
 - d. That the consent of the biological father be dispensed with;
 - e. That FMG of P.O. Box No. xxxx Nairobi be appointed as legal guardian to Baby WK alias Baby W in the event the adopter dies or becomes incapacitated before she attains the age of majority;
 - f. That Baby WK alias Baby W be presumed to be a Kenyan citizen;
 - g. That the Registrar General makes the appropriate entries into the adopted children register and a subsequent birth certificate be issued by the Registrar of Births and Death.



2. The Summons were canvassed by way of viva voce evidence in open court.
3. The Applicant is a 39-year-old single woman living and working for gain in Nairobi. She is of good health and has no previous criminal record. Annexed to the Summons was her Identification Card, medical health report, a letter confirming the Applicants employment, bank account records and a copy of a police clearance certificate.
4. On record are reports from the Directorate of Children’s Services, the guardian ad litem, and the Change Trust Adoption Agency. It is stated that the child was born at Machakos Level Five Hospital on 8th November 2021 and abandoned in the newborn unit after delivery. The matter was reported at Machakos Police Station vide OB No. xxxx. The minor was committed for care and protection to the Nest Children’s Home vide Protection and Care File No. xxxx. The Nest Children’s Home, Change Trust Adoption Agency, and the Machakos Police put in effort to trace the minor’s biological mother or any relative. Their efforts bore no fruits. Change Trust Adoption Agency declared the minor free for adoption on 6th June 2022 under Certificate Number xxxx. The minor was subsequently placed with the Applicant on 21st June 2022 and has been in her care ever since.
5. All the reports were positive and recommended the Applicant’s application for adoption. Furthermore, the Applicant’s extended family is supportive of the adoption as they have already taken in the minor as part of the family.

Determination

6. The child was abandoned after birth. Article 14 of [the Constitution](#) deals with the question of Citizenship. Article 14(4) provides that: -
 - “(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.”
7. I, therefore, declare Baby WK alias Baby W, a citizen of Kenya by birth.
8. In deciding upon any matter involving a child, Courts are obliged to give priority to the best interest of the said child. Section 8 (1) and (2) of the [Children Act](#) 2022 stipulates 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 the public interest.”

9. From the reports filed by the Directorate of Children’s Services, the Adoption Society and the guardian ad litem, the child is said to have bonded well with the Applicant. Therefore, this adoption gives the child an opportunity to be raised in a stable and loving home environment. Accordingly, I do allow the Originating Summons dated 8th November 2022 and make the following orders:-

- a. The Applicant, PNN is authorized to adopt the child known as Baby WK alias Baby W.
- b. Upon adoption, the child shall be known as KNN.
- 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 and all applicable laws.
- d. The guardian ad litem, PNK, is hereby discharged.
- e. FMG is hereby appointed as the legal guardian of the child.
- f. The Registrar General is directed to make the relevant entry in the Adopted Children Register.

It is so ordered.

DATED AND DELIVERED AT NAIROBI THIS 21ST DAY OF SEPTEMBER, 2023.

E.K. OGOLA

JUDGE

In the presence of:

N/A for the Applicant

Gisiele Muthoni Court Assistant.

