



REPUBLIC OF KENYA



**In re JN (Minor) (Adoption Cause E250 of 2023)  
[2024] KEHC 15412 (KLR) (Family) (21 November 2024) (Judgment)**

Neutral citation: [2024] KEHC 15412 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)  
FAMILY  
ADOPTION CAUSE E250 OF 2023  
EKO OGOLA, J  
NOVEMBER 21, 2024  
IN THE MATTER OF THE CHILDREN'S ACT, 2022  
AND  
IN THE MATTER OF THE ADOPTION OF BABY JN (MINOR)  
AND  
IN THE MATTER OF AN APPLICATION FOR ADOPTION BY BGN AND VAO  
JUDGMENT**

1. The Originating Summons before this court is dated 24<sup>th</sup> November 2023 by which the applicants pray for the following orders: -
  - a. That the applicants BGN and VAO be authorized to adopt Baby RM aka JJ and that the said child be known as AEWG.
  - b. That the child had been found abandoned at Kyumbi township, Machakos County be presumed to be Kenyan Citizen born on 19<sup>th</sup> January 2023 in Machakos County.
  - c. That FRN of Post Office Box No. 10154-00400 Nairobi be appointed as Legal Guardian to the child in the event misfortune befalls the Applicant.
  - d. That the consent of the biological parents be dispensed with.
  - e. That the Registrar General makes the appropriate entries into the Adopted Children Register.
2. The Originating Summons was supported by the statement of even date sworn jointly by the applicants and an affidavit in support of the application. The matter was canvassed by way of viva voce evidence in court.



3. PW1 was BGN, the 1<sup>st</sup> applicant. PW2 was VAO, the 2<sup>nd</sup> applicant. PW1 and PW2 testified that they got married in 2007. They have one adopted son who is 3 years. The applicants testified that they are both lawyers and are financially capable of providing for the needs of the child.
4. PW3 was NO, the Children's Officer from the Directorate of Children's Services. PW4 was PWK, an officer from the Buckner Kenya Adoption Services. They all testified in support of the application.

### **Determination**

5. I have carefully considered this adoption application, the various affidavits and reports on record as well as the relevant law. I have also considered the evidence adduced in open court.
6. The preliminary requirements for the making of an Adoption Order are set out in Section 184(1) of the Children's Act 2022 which provides as follows:

“ 184 (1) A person shall not commence any arrangement for the adoption of a child for the adoption of a child unless the council, in accordance with the rules, has declared the child free for adoption and the child has attained the age of six (6) weeks old.”
7. The child was found abandoned in Kyumbi township. The matter was reported by a good Samaritan called Virginia Mumbua Mulei of phone number 0712299017 to Kyumbi Police Station and was recorded vide OB No. 16/19/01/2023 of the same day. The child was admitted at Mahali Pa Maisha Children's infant rescue centre on 23<sup>rd</sup> January 2023.
8. On 13<sup>th</sup> February 2023, the child was committed under Mavoko Children's Court P&C No. E009 of 2023. She was then placed with the applicants for the mandatory bonding period. The child was declared free for adoption on 27<sup>th</sup> July 2023 by Buckner Kenya Adoption Services under certificate No. 0673.
9. From the foregoing, the legal prerequisites for an adoption order have accordingly been met.
10. The duty of this Court is to analyze the material placed before it and decide as to whether the applicants are suitable adoptive parents. The applicants are Kenyan citizens and are financially stable. Hence, they are in a good position to provide for the child's needs. The applicants were also examined and found to be physically and mentally fit. Furthermore, there are copies of the Certificate of Good Conduct issued by the Kenya Police Service which proves that the applicants have no criminal antecedents.
11. From the foregoing, I am satisfied that the applicants are suitable adoptive parents.
12. Article 14 of *the Constitution* deals with the issue of 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.”
13. 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)(a) of the *Children Act* 2022 provides:

“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.”
14. The child has lived with the applicants for over one year. There is no doubt that the child sees the applicants as her parents. The various reports filed in court all recommend the adoption. Therefore, I



am satisfied that the adoption will serve the best interests of the child. Accordingly, I allow this adoption application and make the following orders: -

- a. The Applicants are authorized to adopt the child known as Baby RM aka Baby JJ.
- b. Upon adoption, the child will be known as AEWG.
- c. The Registrar General is directed to make appropriate entries in the Adopted Children's Register.
- d. FRN is appointed as the legal guardian of the child.
- e. The guardian ad litem is hereby discharged.

Orders accordingly

**DATED AND DELIVERED AT NAIROBI THIS 21<sup>ST</sup> DAY OF NOVEMBER 2024**

.....

**E.K. OGOLA**

**JUDGE**

In the presence of:

Mr. Ngugi for the Applicants

Ms Gisiele M court Assistant

