



**In re Baby D (Adoption Cause E034 of 2024)  
[2024] KEHC 14124 (KLR) (Family) (14 November 2024) (Judgment)**

Neutral citation: [2024] KEHC 14124 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)**

**FAMILY**

**ADOPTION CAUSE E034 OF 2024**

**BK NJOROGE, J**

**NOVEMBER 14, 2024**

**IN THE MATTER OF THE CHILDREN ACT 2022**

**AND**

**IN THE MATTER OF BABY D**

**IN THE MATTER OF**

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

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

**JUDGMENT**

1. This Judgment is in respect of an Adoption application by the joint Applicants. It is by way of an Amended Originating Summons dated 26<sup>th</sup> April, 2024. The Joint Applicants seek for the following orders.
  - a. That the Applicants be authorised to adopt Baby D a minor who is to be known as CWM and the Registrar General be directed to enter this adoption in the Register of Adoptions.
  - b. That RAM and CNN be appointed as the legal guardians of the child.
  - c. That the Director of Immigration be authorised to issue a passport to the child.
  - d. That the child be presumed to have been born in Kenya.
2. The Amended Originating Summons is presented to Court Pursuant to Sections 183, 184, 185, 186, 188, 195, 200, 201 of the [Children Act](#) 2022.
3. The Joint Applicants are Kenyan Citizens. They were married on 4<sup>th</sup> August, 2001 at the Nairobi Baptist Church in Nairobi. They are in a monogamous relationship. The 1<sup>st</sup> Applicant is 62 years old.



The 2<sup>nd</sup> Applicant is 56 years old. The 1<sup>st</sup> Applicant is an Engineer. He works for [particulars withheld] where he is the Chief Executive Officer. The 2<sup>nd</sup> Applicant is a Teacher at the [particulars withheld] Nairobi. They both profess the Christian faith. They intend to raise the child as a Christian based on their faith and values.

4. The Applicants do have one previously adopted son named JNM. The Court has seen the Certificate of Entry in the Adopted Children Register Serial Number 8087 dated 13<sup>th</sup> April, 2023. His date of birth is indicated as 3<sup>rd</sup> October, 2016. This makes him 8 years old. The Court has taken note of the contents of the Further Statement in Support of an Application for an Adoption Order, dated 9<sup>th</sup> October, 2024. This was filed pursuant to the leave granted by this Court on 15<sup>th</sup> October, 2024.
5. A Guardian Ad Litem's Report dated 23<sup>rd</sup> May, 2024 has been filed. This is pursuant to Section 188 (2) (b) of the *Children Act* cap 141 of the Laws of Kenya. The Guardian Ad Litem was approved vide an order made on 27<sup>th</sup> June, 2024 before the Court.
6. The Director of Children's Services has also filed a report dated 24<sup>th</sup> June, 2024.
7. The Joint Applicants appeared in Court virtually on 18<sup>th</sup> July, 2024. The Court was able to watch the close family bond that they have formed with the child the subject of this adoption. The Court listened to their evidence and their motivation to get and raise a second child, by way of adoption. They wish to extend their love to another child as well as expand their family. They are willing to share their resources with another person. They are ready to provide a home to the child. Their 1<sup>st</sup> child will now get a baby sister. It is expected that the two Children will bond and grow up as siblings, enjoying the love and experience of a wider family. The Joint Applicants have the necessary financial resources to take care of the child. The Court has no doubt as to their motivation to adopt. An adoption will benefit the child and will be for her best interests.
8. The Court also heard Jacqueline Wambui Mwangi a representative of the KKPI Adoption Society, which is an Adoption Society. She confirmed that the case committee of the Adoption Society in its sitting of 25<sup>th</sup> November, 2020, declared the child free for Adoption. A Certificate Declaring a Child Free for Adoption No. 751 was issued on 25<sup>th</sup> November, 2020. The Certificate is a mandatory requirement of the law as per Section 184 (1) (b) of the *Children Act* cap 141 of the Laws of Kenya. The Adoption Society supports the adoption.
9. The Court has noted the Reports filed by the Guardian Ad Litem and the Director of Children Services. They are filed without any reservations to the adoption process.
10. The Joint Applicants have also made provisions for the appointment of the Child's Legal Guardians. This is in the case of unforeseen circumstances or their incapacity. They have proposed RAM and CNN who are a husband a wife. CNN is the younger sister to the 2<sup>nd</sup> Applicant. The two proposed Legal Guardians also appeared before the Court virtually. They confirmed their consents. The proposal for appointment of a Legal Guardian is in line with Section 195 of the *Children Act* cap 141 of the Laws of Kenya. Equally this proposal serves in the best interests of the child.
11. The Court has noted that the child the subject matter of this adoption was born on 14<sup>th</sup> April, 2019 at [Particulars withheld] Medical Center – Githurai. Shortly after birth on 24<sup>th</sup> April, 2019 the baby was offered for adoption by its mother SRK. This arrangement was made through KKPI Adoption Society. SRK was accompanied by her mother VWM of ID NO. 145XXX67. SRK was said to be a young girl who had just finished 4<sup>th</sup> Form schooling with little economic prospects of taking care of the Child. The Court has been referred to the Acknowledgement of Birth Notification (For Parents) Serial No. 46XXX28, It shows the date of birth of the Child as 14<sup>th</sup> April, 2019. The name of the child



is left blank. The Identity Card Number of the birth mother is indicated as 144XXX67. The baby was taken to Happy Life Children’s Home, within the County of Kiambu. The baby was formally committed into the Happy Life Children’s Home through the Children’s Court At Nairobi In P & C NO. 922 OF 2019 on 3<sup>rd</sup> July, 2019. The Court has noted that a Letter was written the Su-County Children’s Officer dated 24<sup>th</sup> June, 2019. It confirms that the Child was in need of care and protection, having been offered up for adoption by the birth mother at birth. The Court has also seen the letter dated 7<sup>th</sup> October, 2024 from the KKPI Adoption Society. It confirms the circumstances in which the birth mother gave the consent to the adoption. The circumstances of this case point to a child given up for adoption at birth. Constructively, this is an abandonment. In the circumstances the Court is satisfied that the child was given up and abandoned and that the natural parent(s) cannot be found. The consent of the natural parents as required by Section 187 (1) of the Children Act cap 141 of the laws of Kenya is dispensed with, pursuant to Section 186 (8) (a) of the Children Act cap 141 of the laws of Kenya.

12. The Joint Applicants received the child into the care on 17<sup>th</sup> December, 2022. The Court has seen the foster care agreement dated 17<sup>th</sup> December, 2022 with Happy Life Children’s Home.
13. The Joint Applicant’s do not have any criminal records. They have obtained Certificates of Good Conduct No. 29XX17/2017 dated 23<sup>rd</sup> June, 2017 and 29XX67/2027 dated 3<sup>rd</sup> March, 2017 respectively.
14. The Child was given up for adoption at birth at [particulars withheld] Center Ruiru. The records provided as well as the notification of birth confirm this date. His date of birth is given as 14<sup>th</sup> April, 2019. It is only just and proper that the date of 14<sup>th</sup> April, 2019 be maintained as the birth date of the child. This will henceforth be his birth date in absence of a birth certificate, or any other birth records. His place of birth will be [particulars withheld] Center in Ruiru within the County of Kiambu.
15. The Child was born in Kenya of a Kenyan birth mother. The child is hence a Kenyan Citizen at birth. He is entitled to all the rights and privileges of a Kenyan Citizen. This Citizenship is conferred by Article 14 of the Constitution of the Republic of Kenya which states the following

“Citizenship by birth.

14.

- (1) 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.
- (2) Clause (1) applies equally to a person born before the effective date,  
Whether or not the person was born in Kenya, if either the mother or father of the person is or was a citizen.”

16. The Court has considered the application before it in its entirety.
17. The Court has also heard all the parties who appeared before it. All the Reports filed and presented support the adoption.
18. The Court finds that it is in the best interests of the child that he gets a stable home where he will be loved, nurtured and allowed to grow to his full potential. In turn he will contribute to the growth of this great Nation as a great citizen of this Country.



19. The Court notes that the Joint Applicants have a strong desire to provide a home to the child. They wish to expand their family. They have thought through and about their decision and demonstrate a strong desire to adopt this child. This is their second adoption process. They should be commended for their resilience and compassion.

**Determination**

20. The Court grants the prayers sought the Amended Originating Summons dated 26th April, 2024 in the following terms;

- a. That the Applicants be authorised to adopt Baby D a minor who is to be known as CWM and the Registrar General be directed to enter this adoption in the Register of Adoptions.
- b. That RAM and CNN be appointed as the legal guardians of the child.
- c. That the Director of Immigration be authorised to issue a passport to the child.
- d. That the child be presumed to have been born in Kenya.
- e. That the Guardian ad Litem is hereby discharged.

21. It is so ordered.

**DATED, SIGNED AND DELIVERED AT NAIROBI THIS 14<sup>TH</sup> DAY OF NOVEMBER, 2024.**

**NJOROGE BENJAMIN. K**

**JUDGE**

In the presence of: -

..... for the Applicants

Court Assistant .....

