



**In re Baby FM (Minor) (Adoption Cause E083 of 2025)
[2025] KEHC 13780 (KLR) (Family) (25 September 2025) (Judgment)**

Neutral citation: [2025] KEHC 13780 (KLR)

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

FAMILY

ADOPTION CAUSE E083 OF 2025

CJ KENDAGOR, J

SEPTEMBER 25, 2025

IN THE MATTER OF THE CHILDREN ACT, 2022

AND

IN THE MATTER OF BABY FM (MINOR)

IN THE MATTER OF

LAO APPLICANT

JUDGMENT

1. Before this Court is the Originating Summons application dated 31st March, 2025. The Applicant LAO is seeking to be authorized to adopt FM, a minor hereinafter referred to as (“the child”) and upon adoption, the child is to be known as FMK. WM be appointed as the child’s legal guardian upon granting of the adoption orders.
2. The Applicant is the grandmother to the child hence, the child is her granddaughter. She is a Kenyan citizen as evidenced by her Kenyan passport. The child’s father is deceased as evidenced by his death certificate. The child’s mother is alive, and she has consented to the application as evidenced by the letter of consent to the adoption annexed to the application and filed in Court. The Applicant is a nurse and works in the United Kingdom, hence her financial capability and ability to provide for the child as evidenced by copies of her bank statement. Her health status is good as evidenced by her medical report and she does not have any previous criminal records as evidenced by her Certificate of Good Conduct issued by the Directorate of Criminal Investigations.
3. The report from the Directorate of Children’s Services (Migori County) dated 21st July, 2025 indicates that the child is female and 13 years old, having been born on 27th June 2012. She is Kenyan, born



to IKM (father- deceased) and NAO (mother). The child was declared free for adoption on 28th May, 2025, by Change Trust vide freeing certificate number 00798.

4. The Chief's letter from the Chief's Office, Kakaeta location in Suna confirms that the minor has been under the care of her grandmother, as the mother is financially unstable to provide for the child.
5. WM, who is the Applicant's daughter and aunt to the child herein, is the proposed legal guardian. She told the Court that she understands her role as a legal guardian and that she voluntarily takes up the role. The child has also given her consent dated 27th March, 2025.
6. The Applicant has indicated her desire to adopt the minor as the biological mother is unable to provide for the child without her assistance, and that she wants to go with the minor to the United Kingdom, where she will benefit in terms of free higher education and medical insurance, as she may not be able to afford the same in the future. This is a kinship adoption where the child herein is being adopted by her grandmother.
7. 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.
8. 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 1st Schedule of the Children's Act No. 29 of 2022, this Court has an obligation to prioritize the child's best interests in making decisions touching on him.
 - 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 taken into account in appropriate cases, having regard to the child's age and degree of maturity.
 - c. 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 co-operate or to learn to co-operate 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.



9. The report from the Directorate of Children's Services (Migori County), the report from Change Trust, 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.
10. I am satisfied that this adoption serves the child's best interests.
11. In the circumstances, I allow the originating summons dated 31st March, 2025, and make the following orders:
 - a. The Applicant LAO is authorized to adopt the child known as FM.
 - b. Upon adoption, the child shall be known as FMK.
 - c. The Registrar General is directed to enter the adoption into the Register of Adoptions.
 - d. WM is appointed as the legal guardian of the minor.
 - e. The child is presumed to have been born in Kenya.
12. It is so ordered.

**DATED, DELIVERED AND SIGNED AT NAIROBI THROUGH THE MICROSOFT TEAMS
ONLINE PLATFORM ON THIS 25TH SEPTEMBER, 2025**

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C. KENDAGOR

JUDGE

In the presence of:

Court Assistant: Beryl

Advocate:

