



In re Adoption of Baby Abandoned Female Child alias RS (Adoption Cause E119 of 2025) [2025] KEHC 13781 (KLR) (Family) (18 September 2025) (Judgment)

Neutral citation: [2025] KEHC 13781 (KLR)

REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
ADOPTION CAUSE E119 OF 2025
CJ KENDAGOR, J
SEPTEMBER 18, 2025
IN THE MATTER OF THE CHILDREN ACT NO. 29 OF 2022
AND THE CHILDREN (ADOPTION) REGULATIONS 2005
AND
IN THE MATTER OF ADOPTION OF BABY ABANDONED FEMALE CHILD ALIAS RS
IN THE MATTER OF
FKM APPLICANT

JUDGMENT

1. Before this Court is an Originating Summons dated 30th April, 2025. The Applicant FKM is seeking to be authorized to adopt abandoned female child alias RS hereinafter referred to as (“the child”) and upon adoption, the child is to be known as OMF. AMM and FNK be appointed as the child’s legal guardians upon granting of the adoption orders.
2. The Applicant is a single lady and she does not have any biological children of her own neither has she adopted any children. She is a Kenyan citizen as is evidenced by a copy of her Kenyan National Identity card. She is a business lady operating a wholesale shop and has assets hence her financial capability and ability to provide for the child as evidenced by her bank statements. Her health status is good as evidenced by 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. She has indicated her desire to be a parent and have a family of her own, but has experienced some issues with infertility and has chosen to go through the adoption process in order to grow her family and provide a safe and loving home to a needy child. The child has been in her custody since 9th December, 2024.



3. AMM and FNK are the proposed Legal guardians. AMM is FKM's sister, and FNK is AMM's wife. They told the Court that they understand their role and are ready to undertake that responsibility as the legal guardians.
4. The report from the Ministry of Labour and Social Protection State Department for Children's Services, Directorate of Children's Services (Nairobi County) dated 22nd July, 2025, indicates that the child is 1 year 3 months old, having been presumed to have been born on 12th April, 2024. She is a Kenyan who was found abandoned at Kiandutu slums on 13th April, 2024, by members of the public who proceeded to report the matter at the Kiandutu Police Station. There had been no further follow-up on the child from any reporter, and the identity of the child had not been established. The child was declared free for adoption on 20th November, 2024, by the Kenya Children's Homes Adoption Society vide freeing certificate number 1029.
5. 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.
6. 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 cooperate or to learn to cooperate 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.



7. The report from the Ministry of Labour and Social Protection State Department for Children's Services, Directorate of Children's Services (Nairobi County), the report from the Kenya Children's Homes, the guardian ad litem and the proposed legal guardian indicate that the child is well known to the adoptive parent and that she will be well taken care of in her care and custody.
8. I am satisfied that the Applicant has a genuine desire to adopt the child. She is suitable as an adoptive parent.
9. I find that this adoption gives the child a chance at a better life and education in a loving and stable home with the adoptive parent. I do not doubt that the child has bonded with the Applicant.
10. Based on the foregoing, I am satisfied that this adoption serves the child's best interests. As such, I do allow this application and make the following orders:
 - a. The Applicant FKM is hereby authorized to adopt the abandoned female child alias baby RS.
 - b. Upon adoption, the child shall be known as OMF.
 - c. AMM and FNK are hereby appointed as legal guardians of the child.
 - d. The Registrar General is hereby directed to make appropriate entries in the Adopted Children's Register in respect of OMF.
 - e. The child, OMF is presumed to be a Kenyan citizen.
 - f. The guardian ad litem is hereby discharged.
11. It is so ordered.

**DATED, DELIVERED AND SIGNED AT NAIROBI THROUGH THE MICROSOFT TEAMS
ONLINE PLATFORM ON THIS 18TH SEPTEMBER, 2025**

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**C. KENDAGOR
JUDGE**

In the presence of:

Court Assistant: Beryl

