



REPUBLIC OF KENYA



KENYA LAW
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**In re Baby NA (Adoption Cause E192 of 2025)
[2025] KEHC 15368 (KLR) (Family) (30 October 2025) (Judgment)**

Neutral citation: [2025] KEHC 15368 (KLR)

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

FAMILY

ADOPTION CAUSE E192 OF 2025

CJ KENDAGOR, J

OCTOBER 30, 2025

IN THE MATTER OF THE CHILDREN ACT, 2022

AND

IN THE MATTER OF BABY NA

IN THE MATTER OF

FKM APPLICANT

JUDGMENT

1. Before this Court is an Originating Summons dated 11th July, 2025. The Applicant FKM is seeking to be authorized to adopt baby NA, hereinafter referred to as (“the Child”) and upon adoption, the Child is to be known as NBM. The Applicant has nominated JMM and VWM for appointment as the Child’s legal guardians upon the granting of the adoption orders.
2. The Applicant is a Kenyan citizen, as evidenced by a copy of her Kenyan National Identity card. She works as a trainer at [particulars withheld] Centre, demonstrating her financial capability and ability to provide for the Child, supported by her bank statements and payslips. Her health is good, as confirmed by the medical report, and she has no previous criminal records, as shown by her Certificate of Good Conduct issued by the Directorate of Criminal Investigations. She has expressed her desire to adopt a Child, driven by her love for Children and her wish to be a mother, to offer a home to a less fortunate Child, where the Child can grow and feel loved. The Child has been in her custody since 13th December, 2024.
3. JMM and VWM are the proposed Legal guardians. VWM is FKM’s sister, and she told the Court that she and her husband, JMM, have consented to be the legal guardians. They also told the court that they understand the role of a legal guardian and have accepted it. The Child who was presented on the online platform during the call appeared healthy and happy.



4. The report from the Ministry of Gender, Culture and Children's Services, State Department for Children's Services (Nairobi County) dated 12th September, 2025, indicates that the Child is 2 years 4 months old, having been presumed to have been born on 10th May, 2023. He is presumed to be a Kenyan Citizen by birth, who was found abandoned in a pit latrine shortly after birth on 10th May, 2023, at Kagumo Town Centre in Kerugoya and rescued by good Samaritans after they heard him cry and reported to the area Assistant Chief, who then reported to Kagumo Police Station. Efforts to trace the suspected mother have not been successful, and no one has claimed the Child since then. The Child was declared free for adoption on 3rd December, 2024, by Buckner Kenya Adoption Services vide freeing certificate number 08XX.
5. 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.
6. The report from the Ministry of Gender, Culture and Children's Services, the State Department for Children's Services in Nairobi County, alongside insights from the report by Buckner Kenya Adoption Services and the *guardian ad litem* underscores a consistent theme: the Child shares a deep and meaningful connection with the prospective adoptive parent. These documents collectively affirm that the Child will receive not only proper care but also nurturing support and a loving environment under her guardianship, ensuring that his well-being and development are prioritized.



7. I am satisfied that the Applicant has a genuine desire to adopt the Child. She is suitable as an adoptive parent.
8. 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 baby NA.
 - b. Upon adoption, the Child shall be known as NBM.
 - c. JMM and VWM are hereby appointed as the legal guardians of the Child.
 - d. The Registrar General is hereby directed to enter this adoption into the Register of Adoptions.
 - e. The Child is presumed to be born on the 10th May, 2023, at Kagumo, Kirinyaga County in the Republic of Kenya.
 - f. The *guardian ad litem* is hereby discharged.
9. It is so ordered.

DATED, DELIVERED AND SIGNED AT NAIROBI THROUGH THE MICROSOFT ONLINE PLATFORM ON 30TH OCTOBER, 2025

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C. KENDAGOR

JUDGE

In the presence of:

Court Assistant: Beryl

Advocate: Ms. Kemunto

