



**In re SW (Baby) (Adoption Cause E077 of 2025)  
[2026] KEHC 64 (KLR) (Family) (16 January 2026) (Judgment)**

Neutral citation: [2026] KEHC 64 (KLR)

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

**FAMILY**

**ADOPTION CAUSE E077 OF 2025**

**H NAMISI, J**

**JANUARY 16, 2026**

**IN THE MATTER OF ADOPTION OF BABY SW**

**IN THE MATTER OF**

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

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

**JUDGMENT**

1. Before this Court is the Amended Originating Summons dated 3 November 2025, Statement in support of the Application for an Adoption Order and Affidavit in support of the Application, seeking the following orders:
  - i. That this Honourable Court be pleased to grant full adoption rights over Baby SW to the Applicants and shall be henceforth be known as AAWG;
  - ii. That this Honourable Court be pleased to find that the minor herein was born in Kenya on 30 January 2020 in Kiserian, Kajiado county;
  - iii. That this Honourable Court be pleased to appoint DMK as the legal guardian of the child in the event that the Applicants die or are incapacitated by ill-health;
  - iv. That this Honourable Court be pleased to direct the Registrar General to enter this order in the Adoption Register.

**The Applicants**

2. The Applicant are adults of Kenyan nationality, Identity Card Numbers 144XXX and 246XXX, respectively. The Applicants presented themselves as a married couple, and provided a copy of their Certificate of Marriage confirming that their civil union was solemnized on 19 May 2022 under the



Marriage Act, 2014. Prior to this formalization, the couple had cohabited since 2012 and conducted customary marriage rites in 2017.

3. Both Applicants are employed in the insurance sector, a detail that suggests a certain level of risk awareness and planning capability. The 1<sup>st</sup> Applicant, aged 39 years, is a manager in medical insurance at [Particulars Withheld], while the 2<sup>nd</sup> Applicant is an underwriter with [Particulars Withheld] Kenya. The combined household income, supplemented by medical insurance covers and saving in AIBK Sacco, demonstrates sufficient financial capacity to cater for the needs of the child, including her education at [Particulars Withheld] Academy where she is currently enrolled. Medical reports submitted confirm that both Applicants are physically and mentally fit to adopt.
4. The 2<sup>nd</sup> Applicant disclosed that he has 2 biological children aged 19 and 15 years from a previous marriage. At the hearing, he disclosed that he had been denied access to the children. Upon reviewing the Director of Children Services (DCS) Report, the lack of access appears to be a result of acrimonious separation rather than voluntary abandonment by the 2<sup>nd</sup> Applicant. There is no record of him being charged with neglect or having his parental rights terminated by a court for abuse. The 2<sup>nd</sup> Applicant's transparency in disclosing this information, rather than concealing it, speaks to his integrity. The DCS and the Guardian ad litem have both observed his interaction with the child herein, and report a secure attachment where the child refers to him as 'dad'. Consequently, while noting the estrangement, this Court finds that it does not constitute a bar to his suitability in this specific instance.

### **The Child**

5. The history of the child is rooted in the distressing circumstance of abandonment. According to the Police records and the detailed report filed by the DCS, the child was discovered on 31 January 2023 at View Joint Bar and Restaurant in Kiserian, Kajiado County. The matter was reported to the Kiserian Police Station and recorded under OB Number XX/XX/01/2023. The record reflects that police efforts led to the identification of a potential mother, PW, whose mobile phone signal was traced to the Leserko area, a region straddling the Laikipia and Nyandarua County borders. However, despite these technological efforts, the said individual did not respond to summonses, nor could she be physically located. No other person came forward to claim the child.
6. Following the failure to trace the biological family, the child, then estimated to be approximately 3-4 years old, was placed in Huruma Children's Home on 1 February 2023 for care and protection. On 6 October 2023, the Children's Court at Ngong issued a committal order, authorising the institution to care for the child for a period of 3 years.
7. Pursuant to section 156(1) of the Children Act, KKPI Adoption Society issued certificate No. 0910 declaring the child free for adoption. The child was placed in the care of the Applicants on 9 December 2023. By the time of the hearing on 30 October 2025, the child had been in their continuous custody for approximately 22 months, which period exceeds the minimum fostering period of 3 months prescribed under section 157 of the Act.
8. The Guardian ad litem's report dated 15 June 2025 confirms that the child is well adjusted. She has her own room, attends school and attends church with the Applicants. The Guardian ad litem describes the environment as nurturing, with a secure attachment.

### **The Adoption Application**

9. I have considered the Summons, the evidence on record, as well as the various reports filed.



10. The duty of this Court is to analyse the material before it to determine whether the Applicants are suitable adoptive parents. The Applicants stated that they are committed Christians and intend to raise the child in a Christian development to ensure full spiritual development.
11. Additionally, pursuant to section 186 of the *Children Act*, the Applicants provided letter of consent from DMK agreeing to be appointed as the legal guardian of the child in the event that anything untoward happens to the Applicants. The proposed legal guardian is a sister to the 1<sup>st</sup> Applicant, while the 2<sup>nd</sup> Applicant is her brother-in-law. The proposed legal guardian confirmed that she completely understands her role and what is expected of her.

### **Analysis and Determination**

12. Article 14(4) of the *Constitution* provides that 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. The child herein was found abandoned in Kajiado County just about 3 years after birth. The child is, therefore, a citizen of Kenya by birth.
13. In deciding any matter involving a child, the Court is obligated to give priority to the best interests of the child. Section 8 of the *Children Act* provides:
  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 the public interest.
15. I have considered the Reports filed by the Adoption Agency dated 1 December 2023, the Guardian ad Litem dated 15 June 2025, and the Director of Children Services dated 29 September 2025, all of which were positive and recommended the adoption. Bearing in mind that this child had been abandoned and faced an unknown future, it is my view that the adoption serves the best interests of the child. Not only will the adoption give the child a sense of belonging, but it will also give her the opportunity to grow up like every other child.
16. Pursuant to section 187(1)(a) of the Act, I hereby dispense with the consent of the biological parents since the child was found abandoned.
17. Accordingly, I allow the Summons and make the following orders:
  - i. The Applicants, N.N.K and A.G.M, are hereby authorised to adopt the child currently identified as Baby SW, who will henceforth be named A.A.W.G;



- ii. The child is declared to be a citizen of Kenya, entitled to all the rights and privileges under the Constitution of Kenya and all other laws;
- iii. DMK is appointed as the legal Guardian of the child;
- iv. The Guardian ad Litem is hereby discharged;
- v. The Registrar-General is directed to make the appropriate entries in the Adopted Children's Register;

**DATED AND DELIVERED AT NAIROBI THIS 16 DAY OF JANUARY 2026**

**HELENE R. NAMISI**

**JUDGE OF THE HIGH COURT**

Delivered on virtual platform in the presence of:

For Applicants: Mr. Omuyoma

Court Assistant: Lucy Mwangi

