



In re Adoption of Baby JMF and AB (Adoption Cause E019 & E021 of 2025 (Consolidated)) [2026] KEHC 497 (KLR) (27 January 2026) (Ruling)

Neutral citation: [2026] KEHC 497 (KLR)

REPUBLIC OF KENYA

IN THE HIGH COURT AT ELDORET

ADOPTION CAUSE E019 & E021 OF 2025 (CONSOLIDATED)

RN NYAKUNDI, J

JANUARY 27, 2026

IN THE MATTER OF AN APPLICATION FOR ADOPTING BY CWG AND

GNN

AND

FOR ADOPTION AND CUSTODY OF BABY JMF AND AB

IN THE MATTER OF

BY 1ST APPLICANT
CWG 2ND APPLICANT
GNN 3RD APPLICANT

RULING

1. Before this Court is are two originating summons arising out of adoption case E019 and E021 dated 15th day of December 2025 respectively and expressed to be brought under part XIV and Section 183(1) (2), 185(4)(B) and 188 of the Children’s Act Article 14(4) of the Constitution of Kenya and Section 3(A) of the Civil Procedure seeking the following orders:
 - a. That CWG and GNN of Kenya National ID card No. XXX and XXX respectively, who are Kenyan Citizens, be authorized to adopt the child baby JMF born on the 4th day of October 2021.
 - b. That upon adoption, the child be known as FGW and be declared to be a Kenyan Citizen entitled to all the rights and benefits under the Constitution of Kenya and all applicable laws.
 - c. That LMW and MNG of Kenya Identity Card No. XXX and XXX respectively be appointed as guardians’ ad litem of baby JMF.



- d. That the that the Director of Children Services Uasin Gishu County is hereby ordered to visit the home of the Applicant and present a children's report to this Court.
 - e. That the Registrar General be directed to enter this adoption into the Register of adoptions and a subsequent Birth certificate do issue by the Registrar of Birth and deaths.
 - f. That costs be in the cause.
2. The application is based on the following grounds:
- a. That the Applicants are desirous of adopting Baby JMF who was a male child born on 4th October 2021.
 - b. That Baby JMF was found abandoned on a bench at Vihiga County Referral Hospital reception the 12th of October 2021.
 - c. That he was rescued by a nurse and taken to the hospital's New Born Unit.
 - d. That the matter on 13th October 2021 to the Office of the Assistant Chief, Mbihi Sub-Location (Wamuluma Location), the Vihiga Sub-County Children's Officer and at Mbale Police Station where the case was recorded and booked vide Occurrence Book Number XX/XX/10/2021.
 - e. That Vihiga County Referra1 Hospital through their Medical Social Workers report and Neonatal Discharge Summary dated 21st October 20221 and 22nd October 2021 respectively confirm that the child was left on the bench at Vihiga County Referral Hospital reception on XX October 2021.
 - f. That the Department of Children's Services facilitated the child's committal on 22nd October 2021 into legal custody of Amukura Orphanage Home Vide their report to Court dated 22nd October 2021.
 - g. That Baby JMF was committed into legal custody of Amukura Orphanage Home on 22nd October 2021 vide care and Protection case number E029/2021 by the Resident Magistrates' Court in Vihiga Law Court for a period of three years with the help of Vihiga Sub-County Children's Office.
 - h. That Amakura Orphanage Home reports that the child was officially admitted to them in the institution on 25th October 2021. The home followed through with the child's Immunization in line with the Kenya Expanded Programme on Immunization guidelines.
 - i. That after verification of all the information and documents presented to them, Little Angels Network a registered adoption agency held a case committee meeting on 18th November 2022 and issued Certificate Number XXX declaring Baby JMF free for adoption.
 - j. That, the Applicants had approached the Little Angels Network on 7th June 2022 as prospective Adoptive Parents.
 - k. That, the Little Angels Network Case Committee sitting on 7th October 2022 considered the Applicants herein had met all the legal and social parameters for adoption.
 - l. That the Applicants herein have undergone the post application procedures leading up to this application including a pre-placement report, guardian's letter of consent, health reports and a police clearance certificates.
 - m. That, the Applicants are able and willing to give Baby JMF a stable loving home environment.



3. As part of the inquiry on the suitability and eligibility test is mandatory that the Director of Children Services undertake a social investigation on the various parameters to establish whether the Applicants' application meets the threshold of being adoptive parents of the minor. In the instance case the content and text of the inquiry report made the following key observations:

Prospective Father

Name: CWG

Age: 39

DOB: 06/01/1987

Nationality: Kenyan

ID/Passport No: XXX

Place of Birth: Nyeri

Marital Status: Married

Religion: Christian

Phone: 0714XXX

Occupation: Police Officer

Employment Status: Permanent and Pensionable

Email Address: Postal Address:

Physical Address: Hawaii Estate

County: Uasin Gishu

Sub-County: Moiben

Nearest Town/Landmark: [Particulars Withheld]

Prospective Mother

Name: GNN

Age: 36

DOB: 15/05/1989

Nationality: Kenyan

ID/Passport No: XXX

Place of Birth: Laikipia, Lamuria Division

Religion: Christian

Marital Status: Married

Phone: 0727XXX

Occupation: Business Lady

Employment Status: Self Employed

Email Address:

Physical Address: Hawaii Estate



County: Uasin Gishu

Sub-County: Moiben

Nearest Town/Landmark: [Particulars Withheld]

Child in this Matter

Name: JMF

Name to be given: FGW

Age: 3 years 4 months

DOB: 04/10/2021

Birth Certificate No: XXX

Place of Birth: Unknown

Sex: Male

Nationality: Kenyan

Health Status: Good/Normal

Immunization Status: Up to date

Schooling/Education Background: [Particulars Withheld] Academy PP1

Placement Details

Placing Agent: Little Angels Network

Date of placement with Applicant: 07/12/2022

Is the child declared free for adoption: Yes, on 18/10/2022

Serial No.: XXX

Name of entity declaring the child free for adoption: Little Angel Network

Name of CCI child is from: Amukura Orphanage Home

Committing Court: Resident Magistrates' Court Vihiga Law Court

Date of committal: 22/11/2021

Court File Number: E029/2021

Abandonment Details

Date Abandoned: XX/10/2021

Location of Abandonment: Vihiga Referral Hospital

Police OB/No.: XX/XX/10/2021 at 9:00 hrs

Duration of Bonding: 7/10/2021

Pre-Placement Assessment And Counselling

The pre-placement assessment and counselling was conducted by FM, a counselling psychologist, on 16th April 2022. During the session, the prospective parents were guided through the adoption process and helped to understand the emotional and practical responsibilities of raising an adopted child. The counselling explored their readiness to bond



with the child, their parenting capacity, and their ability to provide a stable and nurturing home.

Consents Required Under Section 223

- i. Biological parents: Not applicable
- ii. Guardian: Yes, the guardians' ad litem has consented.

Names of the Guardians ad Litem:

- i. LMW
- ii. MNG

Name of the proposed Legal Guardian:

- i. LMW
- ii. MNG

Other Children in the Family: AB (in the process of adopting her as well)

Background Information

Prospective Father CWG is the youngest of six siblings. During the virtual interview, he described having been raised in a supportive and nurturing family by his parents, SG and AW. He maintains a close and cordial relationship with all his siblings and shares a particularly strong bond with his sister, MNG, who has been identified as the prospective legal guardian. C is a police officer attached to the [Particulars Withheld] Unit, having served in the National Police Service since 2011. He was recently promoted to the rank of Inspector of Police. He is a committed Christian and attributes his strong values, discipline, and work ethic to the teachings of his faith.

Academically, C holds a Master's degree in Security Studies and Criminology, as well as a Bachelor of Arts degree in Security Studies and Criminology. He is currently pursuing a PhD in the same field at [Particulars Withheld] University.

Prospective Mother

GNN is the middle child in a family of eight children born to the late JNM and EW. She holds a Diploma in Front Office Management and is currently self-employed, running a retail business in Eldoret town.

Marital and Financial Status

The Applicants have been married since 2016 under Kikuyu customary law and later formalized their union on 27th October 2021 through Marriage License No. XXX. They have constructed a permanent three-bedroom matrimonial home in Nyeri, though they presently reside in Kimumu Location, Eldoret. G is 36 years old while C is 39 years and are financially stable. C is the main provider as he is employed by the Kenya Police and has a consistent income of KShs. 56,000 monthly on the other hand, G takes care of the home and the income from her business is Sh.10,000 on a monthly basis making a total of 66,000 monthly. Their monthly expense is approximately



Kshs 30,000. The couple has a farm in Nyeri where they have established their matrimonial home and therefore, they have enough resources necessary to support the family.

Bonding and Adjustment

Since the placement of the minor into their custody, the child has fully bonded with them. They appreciate the role of a parent and admit they will treat the baby like their biological child. They are dedicated to providing a suitable familiar environment so that the child can thrive and become a fruitful member of the society.

About the Child in this Matter

The child in this matter was abandoned at Vihiga Referral Hospital on XX October 2021 and was rescued by a nurse who was on duty at the time. He was admitted to the Newborn Unit and, upon discharge, was committed to Amukura Orphanage Home by the Vihiga Sub-County Children's Office through the Vihiga Magistrate Court. The minor was approximately one week old at the time of rescue. Since being placed with the prospective parents, the child has bonded well with them. During my visit to their home in Hawaii, the child appeared cheerful, moved freely around the house, and referred to the Applicant as "mama."

He has been enrolled at [Particulars Withheld] Academy, where he is currently a learner in Pre-Primary One. The school bus collects him in the morning and drops him off in the evening.

Proof of Financial Ability and Suitability of Home Environment

The prospective adoptive parents are financially stable and demonstrate the capacity to adequately provide for the child's needs. The prospective father is permanently and pensionable employed by the Kenya Police Service, earning a consistent monthly income of approximately Kshs 56,000. The prospective mother is self-employed and operates a retail business in Eldoret town, from which she earns an average monthly income of approximately Kshs 10,000. Their combined monthly income of about Kshs 66,000 is sufficient to meet the child's basic needs, including food, education, healthcare, and other essential requirements. Their average monthly expenditure is approximately Kshs 30,000.

The male Applicant benefits from comprehensive medical cover provided under the Social Health Authority by virtue of his employment as a government employee, which ensures access to healthcare services for the family. In addition to their income, the Applicants own a farm in Nyeri County where they have constructed a permanent three-bedroom matrimonial home. Although they are currently residing in Kimumu Location, Eldoret, the home environment observed was safe, suitable, and conducive for raising a child.

Their current residence is a two-bedroom rental apartment supplied with Eldowas water and connected to electricity. The house has a kitchen; a built-in bathroom, and a toilet. The residence is easily accessible from the main road and is located near essential social amenities, including Palm Care Hospital,



Kimumu Primary School, Kimumu Health Centre, and Kipchoge Keino Stadium. The home was observed to be clean, spacious, and well organized, providing adequate living space for the child. Overall, the Applicants have demonstrated both the financial capability and a suitable home environment to support the child's growth, development, and overall well-being.

Opinion as to Whether the Child is Free for Adoption

The child in this matter is legally free for adoption. He was abandoned at Vihiga Referral Hospital, and efforts to trace the biological parents were unsuccessful. The child was subsequently committed to Amukura Orphanage Home through a Court order issued by the Vihiga Magistrate's Court. He was formally declared free for adoption by Little Angels Network, Serial No. XXX. There are no known claims or objections regarding the child's adoption.

Reasons Advanced for this Proposed Adoption

The primary reason for the proposed adoption is the Applicants' inability to have biological children despite 10 years of marriage and unsuccessful attempts at assisted reproduction, including the loss of a triplet pregnancy. The Applicants therefore opted for adoption in order to fulfill their desire of being parents and to provide a child with a loving, and stable home.

Observations

During the interview and home visit, the Applicants appeared calm, cooperative, and well-prepared for the adoption process. They demonstrated mutual support, emotional maturity, and a positive attitude toward parenting. The child appeared healthy, cheerful, and comfortable in the presence of the mother. He freely interacted with the Applicant, moved confidently within the home, and referred to the prospective mother as "mama," indicating a strong emotional bond and sense of belonging.

Recommendations

Based on the findings that:

1. The subject child is above six weeks and below the age of eighteen years and is therefore within the legal age bracket for adoption in accordance with the *Children Act, 2022*.
2. The Applicants are aged 39 years and 36 years respectively, which places them within the legally acceptable age bracket for adoption under the *Children Act, 2022*, being not less than twenty-five (25) years and not more than sixty-five (65) years of age, and they are also at least twenty-one (21) years older than the child.
3. Since the placement of the minor into their custody, the Applicants have bonded well with the child and have demonstrated a clear understanding that adoption is permanent and irrevocable.
4. The subject child was abandoned at approximately one week of age and is therefore a child in need of care and protection. The child requires parental guidance and provision of basic needs,



which the Applicants have adequately demonstrated their ability to provide during the period the child has been in their care.

5. The child has bonded well with and has been fully integrated into the Applicants' family.
 6. The Applicants have demonstrated financial stability, emotional readiness, and the ability to provide a safe, stable, and nurturing home environment for the child.
 7. The prospective parents have no criminal history and have been cleared by the Directorate of Criminal Investigation vide certificates of good conduct numbers CG PCC-2ETXXX and GN PCC-30TXXX.
4. The 2nd application for baby AB
- a. That CWG and GNN of Kenya National ID card No. XXX and XXX respectively, who are Kenyan Citizens, be authorized to adopt the child
 - b. baby AB born on the 13th June 2023.
 - c. That upon adoption, the child be known as GNW and be declared to be a Kenyan Citizen entitled to all the rights and benefits under the Constitution of Kenya and all applicable laws.
 - d. That LMW and MNG of Kenya National ID card No. XXX and XXX respectively be appointed as guardians' ad litem of Baby AB.
 - e. That the Director of Children Services Uasin Gishu County is hereby ordered to visit the home of the Applicant and present a children's report to this Court.
 - f. That the Registrar General be directed to enter this adoption into the Register of adoptions and a subsequent Birth certificate do issue by the Registrar of Birth and deaths.
 - g. That costs be in the cause.
5. Which application is based on the following grounds:
- a. That the Applicants are desirous of adopting Baby AB who a female child was born on 13th June 2023.
 - b. That Baby AB was born to 21-year-old AN and 22-year-old ML who were purported to be relatives.
 - c. That according to the parent's customs a child of such a relationship cannot be nursed or brought up within the community.
 - d. That A and M's family approached the Assistant chief Mbihi Sub-location seeking help to surrender the child. The assistant chief referred them to Vihiga Sub-County Children's Office where they were referred to Little Angels Network Kisumu and sought assistance to offer their child up for adoption fir the child was not accepted by the family and the community.
 - e. That at Little angles network they were taken through the process, providing an in-depth explanation of the Explanatory Memorandum for Biological Parents/Guardians in-depth and discussing the implications of adoption.



- f. That they willingly signed the Certificate of Acknowledgement and initial consent dated 22nd June 2023 surrendering the child for adoption.
 - g. That the Department of children's services facilitated the child's committal into legal custody of Springs of Life Children's Home Vide their report to Court dated 3rd August 2023.
 - h. That Baby AB was committed into legal custody of Springs of Life Children's Home on 3rd August 2023 vide care and Protection case number E032/2023 by the Senior Principal Magistrates' Court in Vihiga Law Court for a period of three years with the help of Vihiga Sub-County Children's office.
 - i. That Springs of Life Children's Home reports that the child was officially admitted to them in the institution on 22nd June 2023 The home followed through with the child's Immunization in line with the Kenya Expanded Programme on Immunization guidelines.
 - j. That after verification of all the information and documents presented to them, Little Angels Network a registered adoption agency held a case committee meeting on 6/09/2023 and issued Certificate Number XXX declaring Baby AB free for adoption.
 - k. That the Applicants had approached the Little Angels Network on 7th June 2022 as prospective Adoptive Parents.
 - l. That the Little Angels Network Case Committee sitting on 6th September 2023 considered the Applicants herein had met all the legal and social parameters for adoption.
 - m. That the Applicants herein have undergone the post application procedures leading up to this application including a pre-placement report, guardian's letter of consent, health reports and a police clearance certificates.
 - n. That the Applicants are able and willing to give Baby AB a stable loving home environment.
6. As part of the inquiry on the suitability and eligibility test is mandatory that the Director of Children services undertake a social investigation on the various parameters to establish whether the Applicants' application meets the threshold of being adoptive parents of the minor. In the instance case the content and text of the inquiry report made the following key observations:

Prospective Father

Name: CWG

Age:39

DOB: 06/01/1987

Nationality: Kenyan

ID/Passport No: XXX

Place of Birth: Nyeri

Marital Status: Married

Religion: Christian

Phone: 0714XXX

Occupation: Police Officer

Employment Status: Permanent and Pensionable



Email Address: Postal Address:
Physical Address: Hawaii Estate
County: Uasin Gishu
Sub-County: Moiben
Nearest Town/Landmark: [Particulars Withheld]
Prospective Mother
Name: GNN
Age: 36
DOB: 15/05/1989
Nationality: Kenyan
ID/Passport No: XXX
Place of Birth: Laikipia, Lamuria Division
Religion: Christian
Marital Status: Married
Phone: 0727XXX
Occupation: Business Lady
Employment Status: Self Employed
Email Address:
Physical Address: Hawaii Estate
County: Uasin Gishu
Sub-County: Moiben
Nearest Town/Landmark: [Particulars Withheld]
Child in this Matter
Name: ABG
Name to be given: GNW
Age: 2years 7months
DOB: 13/06/2023
Birth Certificate No: Birth Notification Serial number XXX
Place of Birth: Vihiga
Sex: Female
Nationality: Kenyan
Health Status: Good/Normal
Immunization Status: Up to date
Schooling/Education Background: Has not attained the school going age.



Placement Details

Placing Agent: Little Angels Network

Date of placement with Applicant: 20/09/2023

Is the child declared free for adoption: Yes, on 06/09/2023

Serial No.: XXX

Name of entity declaring the child free for adoption: Little Angel Network

Name of CCI child is from: Springs of life Children Home

Committing Court: Senior Principal magistrates' Court Vihiga Law Courts

Date of committal: 03/08/2023

Court File Number: E032/2023

Pre-Placement Assessment and Counselling

The pre-placement assessment and counselling was conducted by FM, a counselling psychologist. During the session, the prospective parents were guided through the adoption process and helped to understand the emotional and practical responsibilities of raising an adopted child. The counselling assessed their readiness to bond with the child, their parenting capacity, and their ability to provide a stable and nurturing home.

Consents Required Under Section 223

- i. Biological parents: AN and ML signed the consent letter.
- ii. Guardian: Yes, the guardians' ad litem has consented.

Names of the Guardians ad Litem:

- i. LMW ID number XXX
- ii. MNG ID number XXX

Name of the proposed Legal Guardian:

- i. LMW ID number XXX
- ii. MNG ID number XXX

Other Children in the Family: JMF (in the process of adopting her as well)

Background Information

Prospective Father CWG is the youngest of six siblings. During the virtual interview, he described having been raised in a supportive and nurturing family by his parents, SG and AW. He maintains a close and cordial relationship with all his siblings and shares a particularly strong bond with his sister, MNG, who has been identified as the prospective legal guardian. C is a police officer attached to the [Particulars Withheld] Unit, having served in the National Police Service since 2011. He was recently promoted to the rank of Inspector of Police. He is a committed Christian and attributes his strong values, discipline, and work ethic to the teachings of his faith.



Academically, C holds a Master's degree in Security Studies and Criminology, as well as a Bachelor of Arts degree in Security Studies and Criminology. He is currently pursuing a PhD in the same field at [Particulars Withheld] University.

Prospective Mother

GNN is the middle child in a family of eight children born to the late JNM and EW. She holds a Diploma in Front Office Management and is currently self-employed, running a retail business in Eldoret town.

Marital And Financial Status

The Applicants have been married since 2016 under Kikuyu customary law and later formalized their union on 27th October 2021 through Marriage License No. XXX. They have constructed a permanent three-bedroom matrimonial home in Nyeri, though they presently reside in Kimumu Location, Eldoret. G is 36 years old while C is 39 years and are financially stable. C is the main provider as he is employed by the Kenya Police and has a consistent income of Kshs. 56,000 monthly on the other hand, G takes care of the home and the income from her business is Sh.10,000 on a monthly basis making a total of 66,000 monthly. Their monthly expense is approximately Kshs 30,000. The couple has a farm in Nyeri where they have established their matrimonial home and therefore, they have enough resources necessary to support the family.

Bonding and Adjustment

Since the placement of the minor into their custody, the child has fully bonded with them. They appreciate the role of a parent and admit they will treat the baby like their biological child. They are dedicated to providing a suitable familiar environment so that the child can thrive and become a fruitful member of the society.

About The Child In This Matter

Baby AB is the child of ML and AN, who are close relatives. According to Luhya cultural practices, a child born from such a union is not acceptable within the community and is considered a curse; according to them, such a child cannot be raised within the same community. Due to these circumstances, the biological parents approached the Assistant Chief of Mbihi Sub-Location seeking assistance to place the child for adoption.

The parents were referred to Little Angels Adoption Network, where they were taken through the Explanatory Memorandum for biological parents and engaged in in-depth discussions regarding the implications of adoption. They demonstrated a clear understanding of the process and voluntarily consented to the adoption by signing the required documents.

Proof of Financial Ability and Suitability of Home Environment

The prospective adoptive parents are financially stable and demonstrate the capacity to adequately provide for the child's needs. The prospective father is permanently and pensionable employed by the Kenya Police Service, earning



a consistent monthly income of approximately Kshs 56,000. The prospective mother is self-employed and operates a retail business in Eldoret town, from which she earns an average monthly income of approximately Kshs 10,000. Their combined monthly income of about Kshs 66,000 is sufficient to meet the child's basic needs, including food, education, healthcare, and other essential requirements. Their average monthly expenditure is approximately Kshs 30,000.

The male Applicant benefits from comprehensive medical cover provided under the Social Health Authority by virtue of his employment as a government employee, which ensures access to healthcare services for the family. In addition to their income, the Applicants own a farm in Nyeri County where they have constructed a permanent three-bedroom matrimonial home. Although they are currently residing in Kimumu Location, Eldoret, the home environment observed was safe, suitable, and conducive for raising a child.

Their current residence is a two-bedroom rental apartment supplied with Eldowas water and connected to electricity. The house has a kitchen; a built-in bathroom, and a toilet. The residence is easily accessible from the main road and is located near essential social amenities, including Palm Care Hospital, Kimumu Primary School, Kimumu Health Centre, and Kipchoge Keino Stadium. The home was observed to be clean, spacious, and well organized, providing adequate living space for the child. Overall, the Applicants have demonstrated both the financial capability and a suitable home environment to support the child's growth, development, and overall well-being.

Opinion as to Whether The Child is Free for Adoption

The child in this matter is legally free for adoption. She was offered for adoption by her biological parents due to the fact that they are closely related. The child was committed to Springs of Life Children's Home pursuant to a Court order issued by the Vihiga Senior Principal Magistrate's Court in Case No. E032 of 2023. She was formally declared free for adoption by Little Angels Adoption Network on 6th September 2023, Certificate Serial No. XXX. The biological parents voluntarily signed the Certificate of Acknowledgement and Initial Consent on 22nd June 2023.

Reasons Advanced For This Proposed Adoption

The primary reason for the proposed adoption is the Applicants' inability to have biological children despite 10 years of marriage and unsuccessful attempts at assisted reproduction, including the loss of a triplet pregnancy. The Applicants therefore opted for adoption in order to fulfill their desire of being parents and to provide a child with a loving, and stable home.

Observations

During the home visit at the Applicants' residence in Hawaii, the child initially clung to the female Applicant due to the presence of unfamiliar faces. However, after becoming familiar with the environment, she relaxed and played freely with her toys. She appeared healthy, happy, and calm. She fed well and was able to express her needs without difficulty. The Applicant



has formed a strong bond with the child, as well as with the child's sibling, MF. Both children referred to the female Applicant as "Mama," indicating attachment and acceptance. The Applicant appeared excited and optimistic about the completion of the adoption process.

Recommendations

Based on the findings that:

- a. The subject child is above six weeks and below the age of eighteen years and is therefore within the legal age bracket for adoption in accordance with the *Children Act, 2022*.
- b. The Applicants are aged 39 years and 36 years respectively, which places them within the legally acceptable age bracket for adoption under the *Children Act, 2022*, being not less than twenty-five (25) years and not more than sixty-five (65) years of age, and they are also at least twenty-one (21) years older than the child.
- c. Since the placement of the minor into their custody, the Applicants have bonded well with the child and have demonstrated a clear understanding that adoption is permanent and irrevocable.
- d. The subject child was abandoned at approximately one week of age and is therefore a child in need of care and protection. The child requires parental guidance and provision of basic needs, which the Applicants have adequately demonstrated their ability to provide during the period the child has been in their care.
- e. The child has bonded well with and has been fully integrated into the Applicants' family.
- f. The Applicants have demonstrated financial stability, emotional readiness, and the ability to provide a safe, stable, and nurturing home environment for the child.
- g. The prospective parents have no criminal history and have been cleared by the Directorate of Criminal Investigation vide certificates of good conduct numbers CG PCC-2ETXXX and GN PCC-30TXXX.

Decision

7. The law on adoption in Kenya is now well settled based in our Constitution Art 53 on Children's Rights and the doctrine of the based interest being paramount importance of every decision made by Courts or tribunals which has far reaching implications on the right of the child. The adoption process is well captured under the children's act as herein under provisions demonstrated in: Section 184(1) of the Children's Act which provides as follows:-

No arrangement shall be commenced for the adoption of a child unless the child is at least six (6) weeks old and has been declared free or adoption by a Registered Adoption Society in accordance with the Rules prescribed in that behalf.



Thus for an adoption order to ensue the following ought to be taken into consideration: -

- a. A child must be at least six (6) weeks old and free for adoption;
- b. The child concerned must have been in the continuous care and control of the Applicant within Kenya for a period of three (3) consecutive months preceding the filing of the application; and
- c. Both the child and the Applicant have been evaluated and assessed by a registered adoption society in Kenya.

In Part XIV of the Children's Act as follows:-

- a. The Applicant is above twenty-five years of age and below sixty-five years of age;
- b. The Applicant is a relative of the child;
- c. The child has been declared free for adoption;
- d. That all the reports and evaluations conducted indicate that it is in the best interests of the child that the Applicant adopts the child as demonstrated by the fact that they are family, and that the Applicant has been educating and providing for the child since birth
- e. The child has given her consent to being adopted by the Applicant;
- f. The biological parents have given their consent.

8. Similarly Section 186 of the *Children Act*, 2022 provides. The Court may make an adoption order on application by-

1.

- (a) Sole Applicant; or
- (b) Two spouses jointly.

2. The Court shall not make an adoption order in any case unless-

- i. The Applicant has attained the age of twenty-five years, but is not above the age of sixty-five years; and
- ii. The Applicant, or both of the Applicants in a joint application, is more than twenty-one years older than the child.

9. It is also a constitutional imperative under Art 53(2) and Section 4(3) of the Children's Act that Courts are ordained actual by law to treat the best interests of the child as the first paramount consideration; The best interests of the child herein will be served where the Court adopts a course of action that safeguards and promotes his rights and welfare. The Court will ensure that he has shelter, food, clothing, education and medical care. His best interests will be served where he has parental guidance, and where such guidance is provided by, as much as it is possible, both parents. The child is entitled to be allowed a suitable, conducive and loving environment in which to grow and develop.

10. In the instance application from the affidavit evidence the Court is satisfied that it would be in the best interest of the minors in accordance to Art 53(2) of the *Constitution* to be adopted by the Applicants to safeguard their fundamental rights. It is certainly in the best interest of the two minors that they should be taken care of by the Applicants so that they can enjoy the fullness of their right to life as expressly stated in Art 26 of the *Constitution*.



11. Children’s rights can also be found in other human rights instruments, both in general terms as ‘every human being’ 76 and in more specific terms. Major human rights instruments, such as the UDHR,⁷⁷ ICCPR,⁷⁸ ICESCR,⁷⁹ CEDAW,⁸⁰ have child specific provisions in addition to the specific focus or purpose for which they were created. The principle of the best interests of the child is also provided in some of these instruments, such as the Convention on the Elimination of All Forms of Discrimination against Women. The first significant step towards recognising children’s independent rights was through the Geneva Declaration on the Rights of the Child, 1924. The Declaration was drafted by Eglantyne Jebb, the founder of Save the Children, as a response to her work with the relief fund. She hoped that children would be better protected if they gained international status through a Declaration. The Geneva Declaration had five principles regarding the welfare of children. The Declaration urged men and women of all nations to ‘declare and accept’ ‘that mankind owes to the Child the best that it has to give’. It reminded men and women to take parental responsibility more seriously, but it did not put any responsibility on the member Nations as such. The Geneva Declaration was adopted by the League of Nations, even though it was not clear what Member States would do with it. Again, when one reads through the five principles, it appears that the Declaration had an intention to deal with issues faced by children in particularly difficult conditions.
12. The very key considerations in this matter is the minors’ health, safety, and environment and remaining in family environmental setup so that they can experience the welfare and best interest of all sphere of life. My reading of the director of children’s social inquiry report and the adoption agency it is clear that the parents of the children are not known and therefore the necessary consent are hereby dispensed with as a condition precedent expressly provided for in the Children’s Act.
13. In view of the above analysis it is clear that the Applicants are legally and eligible to adopt the two minors so that they can have their welfare and best interest guaranteed. For those reasons the following orders shall follow the discussion as fashioned hereunder:
 - a. That CWG and GNN of Kenya National ID card No. XXX and XXX respectively, who are Kenyan Citizens, are hereby authorized to adopt the minors, baby JMF and baby AB born on the 4th day of October 2021 and 13th June 2023 respectively.
 - b. That by this adoption ordered, the children to be known as baby FGW and baby GNN and is hereby declared to be a Kenyan Citizen entitled to all the rights and benefits under the Constitution of Kenya and all applicable laws.
 - c. That LMW and MNG of Kenya Identity Card No. XXX and XXX respectively are hereby appointed as guardians’ ad litem of baby JMF.
 - d. That the cause of these application be in the cause.

DELIVERED, DATED AND SIGNED AT ELDORET ON THIS 27TH DAY OF JANUARY 2026

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R. NYAKUNDI

JUDGE

