



In re Application for Adoption of Baby N (Adoption Cause E003 of 2024) [2026] KEHC 3084 (KLR) (5 March 2026) (Judgment)

Neutral citation: [2026] KEHC 3084 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MURANG'A
ADOPTION CAUSE E003 OF 2024**

CW GITHUA, J

MARCH 5, 2026

IN THE MATTER OF THE CHILDREN ACT, 2022

AND

IN THE MATTER OF BABY N

AND

IN THE MATTER OF

JKM 1ST APPLICANT

SWK 2ND APPLICANT

JUDGMENT

1. By an undated Originating Summons filed on 30th October 2024, the applicants moved this Court seeking to be allowed to adopt Baby M.
2. The applicants further prayed that, upon grant of the adoption order, the Registrar-General be directed to make the appropriate entries in the Adopted Children’s Register; that the child be presumed to be a Kenyan citizen by birth; that the Director of Immigration Services be directed to issue him with a Kenyan passport and that BKM be appointed as the minor’s legal guardian.
3. A perusal of the pleadings reveal that the applicants are Kenyan citizens, a married couple residing in [name withheld] Village within Murang’a County. At the time of filing the originating summons, the 1st applicant was 60 years old while the 2nd applicant was 58 years old. Both applicants profess the Christian faith.
4. In support of their application, the applicants stated that they do not have a biological child of their own and they are desirous of adopting the minor to raise and nurture him as their own child. According to the Child Welfare Society of Kenya (CWSK) Adoption Process Commitment Form, the minor was



placed in the applicants care on 3rd June 2019 when he was 1 year and 1 month old. He has remained in their continuous care and custody since then.

5. From the material placed before this Court, particularly the Children Officer's Report dated 29th January 2025 filed on 11th February 2025, Baby M, who was born on or about 3rd April 2018, was found abandoned when he was one day old. He was taken and admitted to the Child Welfare Society of Kenya, Murang'a Rescue Centre, as a child in need of care and protection.
6. After six months elapsed without any person laying claim to him, he was declared free for adoption and was thereafter placed under the foster care of the applicants on 3rd June 2019.
7. The Court record shows that Mr. Peter Nzeva, County Coordinator, Children Services, conducted home visits and social enquiries to assess the suitability of the applicants. He filed a report dated 29th January 2025 in which he recommended that the applicants be allowed to adopt Baby M.
8. The application for adoption was canvassed by way of viva voce evidence before this Court on 28th January 2026. At the hearing, the applicants testified and confirmed that the minor had been living with them for a period of seven (7) years. They stated that they were financially stable and were capable of meeting both the emotional and financial needs of the child. They further expressed their desire to provide him with a loving home, quality education and a bright future.
9. The *guardian ad litem* also testified and confirmed that he had known the applicants for over twenty (20) years. They were village mates and they fellowshipped in the same church. He confirmed that Baby M had been living with the applicants as their own child and has integrated well into their family. He expressed confidence in the applicants' ability to take care of the minor.
10. Upon being interviewed by the court, the minor introduced himself as MM, a Grade Three (3) pupil at [name withheld] Primary School. He described the applicants as his mother and father and stated that he wished to continue living with them; that he loves them and considers them his parents.
11. The law governing local adoptions in Kenya is set out in Sections 184 to 186 of the *Children Act*. An applicant seeking to adopt a child must demonstrate that he or she has complied with the requirements stipulated in the above provisions. From the evidence on record, I am satisfied that the applicants have met the statutory requirements for adoption of a child set out in the *Children's Act*.
12. Having carefully evaluated the evidence on record, I find that the applicants have demonstrated their ability to provide a stable, loving and conducive environment for the minor's growth, emotional well-being and personal development. The reports by the County Coordinator of Children Services and the *guardian ad litem* confirm that the applicants have consistently and effectively provided for the child and attended to all his needs since he was placed in their foster care about seven years ago. They have also facilitated the start of his academic journey by enrolling him in school.
13. Article 53 (2) of the *Constitution* expressly provides that when considering any decision involving a child, the child's best interest must be given priority. It provides as follows;

“A child's best interest are of paramount importance in every matter concerning a child.”
14. The above constitutional principle has been entrenched in the Convention on the Rights of the Child at Article 3 (1) which provision is replicated in Section 8 (1) of the *Children Act* No. 29 of 2022. Section 8 (1) provides that;

“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.”

Section 8 (2) proceeds to require that;

“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. Applying the above principles to the instant case, I have no doubt in my mind that it will be in the best interest of Baby M to be adopted by the applicants. They are the only parents the child has known for about 7 years and separating him from them at this stage in his life will definitely have catastrophic consequences on all aspects of his current and future life.

Allowing the application in my view is the only way that the child’s rights, best interest and welfare can be safeguarded and promoted.

16. In view of the foregoing, I find merit in the originating summons filed on 30th October 2024 and it is hereby allowed on the following terms;

- (i) The applicants are jointly allowed to adopt Baby M who shall henceforth be known as MMM.
- (ii) The Registrar-General is directed to enter this adoption in the Adopted Children Register.
- (iii) BKM is appointed as the child’s legal guardian in the event of the death or incapacity of the applicants before the child attains the age of majority and is self-reliant.
- (iv) The *guardian ad litem* is hereby discharged.

DATED, SIGNED AND DELIVERED AT MURANGA THIS 5TH DAY OF MARCH, 2026.

HON. C. W. GITHUA

JUDGE

In the present of;

Both Applicants.

Ms Susan Waiganjo, Court Assistant.

