



REPUBLIC OF KENYA



**In re Adoption of Baby AF (Minor) (Adoption Cause E150 of 2024)
[2025] KEHC 1187 (KLR) (Family) (28 February 2025) (Judgment)**

Neutral citation: [2025] KEHC 1187 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
ADOPTION CAUSE E150 OF 2024
H NAMISI, J
FEBRUARY 28, 2025**

IN THE MATTER OF

JNL APPLICANT

JUDGMENT

1. Before this Court is the Originating Summons dated 5 July 2024, Statement in Support of the Application for an Adoption Order and Affidavit in Support of the Application, seeking:
 - i. That the Applicant, J.N.L, be authorised and is hereby authorised to adopt baby A.F and the child be known as F.S. S upon adoption;
 - ii. That Mr. And Mrs. K ole K and S T L be and are hereby appointed Legal Guardians of the child in the event a misfortune befalls the Applicant rendering them unavailable or incapable of taking care of the child;
 - iii. That the Registrar General be and is hereby ordered to make the appropriate entries in the Adopted Children Register in respect of F.S.S;
 - iv. That the child was born in Kenya of Kenyan parents and is therefore a Kenyan by birth and entitled to a Kenyan passport.
2. The matter was canvassed by way of viva voce evidence on the virtual platform on 27 February 2025.

The Child

3. The child (male) was found abandoned on 16 September 2022 at a shamba in K area near Deliverance Church along Naivasha Road. The good Samaritan took the child to Riruta Police Station, where the matter was booked vide OB no. XXXX09/2022. The child was placed at New Life Home Trust under PC No. EXXX of 2023. A final letter from the Police dated 4 September 2023 indicates that since the child was abandoned, efforts to trace his family have been futile. No one has come to claim the child.



4. The child was declared free for adoption by Little Angel Network, a registered Adoption Agency, vide the annexed Certificate serial number 00XXXXX dated 6 September 2023. I am, therefore, satisfied that this legal pre-requisite for an adoption has been met.

The Applicant

5. The Applicant is a Kenyan citizen residing in Nairobi and working for gain at the Central Bank of Kenya. She is divorced and has 3 biological children born in 2002, 2008 and 2010. The Applicant is motivated by her love for children and would like to give the baby herein a home. The baby has been in her custody since November 2023.
6. I have considered the Summons, the evidence on record as well as the various reports filed.
7. The duty of this Court is to analyse the material before it to determine whether the Applicant is a suitable adoptive parent. The Applicant has annexed copy of payslip and a letter dated 2 July 2024 confirming her employment, as proof of her financial stability.
8. The Applicant has annexed a copy of clearance certificate from the Kenya Police Service as proof that she has no criminal record.
9. Although prayer 6 of the Originating Summons refers to 3 proposed legal guardians, the Applicant only called one as a witness. The Applicant has appointed S.T.L. as legal guardian. The said legal guardian signed a consent dated 2 March 2022 indicating her willingness to step in and care for the child in the event the Applicant is unable to provide for the child. S.T.L is a sister to the Applicant. Having adopted a child, the proposed Legal Guardian is conversant with the role of a legal guardian.
10. From the material availed, I am satisfied that the Applicant is a suitable adoptive parent.

Analysis and Determination

11. Article 14 (4) of The *Constitution* provides as follows:

A child found in Kenya who is, or appears to be, less than 8 years of age, and whose nationality and parents are not know, is presumes to be a citizen by birth.
12. The child was found abandoned within the Republic of Kenya. It is unknown when the child was born, but the child is presumed to be about 2 years old currently. I, therefore, declare that the child is a citizen of Kenya by birth.
13. The child was abandoned and all efforts by the police to trace the child's parents/relatives have borne no fruit. In the circumstances, there exists no known person from whom consent for this adoption can be sought and/or obtained. I, therefore, waive this requirement in line with section 185 (4)(b) of the *Children Act*, Cap 141 of the Laws of Kenya.
14. In deciding any matter involving a child, the court is obligated to give priority to the best interest 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. This child who was abandoned faced an uncertain future in the children’s homes and other similar institutions. This adoption, therefore, allows the child the opportunity to be raised in a stable and loving home environment.
16. I have considered the Reports filed by the Adoption Agency, the Guardian ad Litem, the Director of Children Services, all of which were positive and recommended the adoption. I was able to see the child online. He is happy, healthy and cheerful. The child has been residing with the Applicant since November 2023. He appeared to be very comfortable with the Applicant and refers to her as “mom”.
17. It is, therefore, my view that the adoption does serve the best interests of the child.
18. Accordingly, I allow the Summons and make the following orders:
 - i. That the Applicant, J.N.L is allowed to adopt the child currently identified as baby A.F;
 - ii. Upon adoption, the child shall be renamed as F.S.S;
 - iii. The child is declared to be a Kenyan citizen by birth, entitled to all the rights and privileges under the Constitution of Kenya and all applicable laws;
 - iv. STL is appointed as legal Guardian of the child,
 - v. The guardian *ad Litem* is hereby discharged;
 - vi. That the Registrar-General is directed to make the appropriate entries in the Adopted Children’s Register.

DATED AND DELIVERED AT NAIROBI THIS 28 DAY OF FEBRUARY 2025

HELENE R. NAMISI

JUDGE OF THE HIGH COURT

Delivered on a virtual platform in the presence of

Mr. Ogutu.....for the Applicant

Libertine AchiengCourt Assistant

