



**In re WT also known as JZM (Minor) (Adoption Cause E262 of 2024)
[2025] KEHC 4325 (KLR) (Family) (27 March 2025) (Judgment)**

Neutral citation: [2025] KEHC 4325 (KLR)

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

FAMILY

ADOPTION CAUSE E262 OF 2024

CJ KENDAGOR, J

MARCH 27, 2025

IN THE MATTER OF THE CHILDREN ACT NO. 29 OF 2022

AND

IN THE MATTER OF THE ADOPTION OF BABY WT (MINOR) ALSO KNOWN AS JZM

AND

IN THE MATTER OF AN APPLICATION FOR ADOPTION

BY;

IN THE MATTER OF

VWK 1ST APPLICANT

EMR 2ND APPLICANT

JUDGMENT

1. Before this Court is the application dated 7th November, 2024. The Applicants VWK and EMR are seeking to be authorized to adopt the child currently identified and known as Baby WT hereinafter referred to as the child and upon adoption, the child is to be known as JZM. They are also seeking that the child be presumed to be a Kenyan citizen and, consequently, entitled to the rights and benefits of a Kenyan citizen and the Registrar General to make appropriate entries in the Adopted Children Register.
2. The Applicants are a married couple and Kenyan citizens, as evidenced by copies of their marriage certificate and Kenyan National Identity Cards, respectively. VWM is a marketer by profession currently employed at the [Particulars withheld], and EMR is an advocate of the High Court. Their respective payslips evidence their financial capability and ability to provide for the child. Their health status is good, as evidenced by medical reports, and they do not have any previous criminal records, as



evidenced by their Certificates of Good Conduct issued by the Directorate of Criminal Investigations. They have indicated that currently, they do not have any biological child, and they desire to adopt the child.

3. MO and JK, who are being proposed as legal guardians for EMR, are close friends and sister-in-law, respectively. During the Court interview assessing their suitability for this important role, both MO and JK expressed a thorough understanding of the responsibilities involved in serving as legal guardians. They emphasized their commitment to serve as legal guardians and reassured the Court of their readiness to undertake this responsibility with dedication and integrity, ensuring that EMR's best interests will always be their top priority should anything happen to the Applicants that might prevent them from fulfilling their role as adoptive parents.
4. The Ministry of Labour and Social Protection State Department of Social Protection – Directorate of Children's Services (Nairobi County) report dated 28th October, 2022 indicates that the child was committed to Happy Life Children's Home. He is Kenyan, whose biological parents remain unknown having been abandoned and was rescued at ATG church. His biological parents remain untraceable. The child was declared free for adoption on 3rd October, 2023 by Change Trust vide freeing certificate number xxxxx.
5. The child is a Kenyan citizen by virtue of Article 14 (1) which provides that a person is a citizen by birth if on the day of the person's birth, whether or not the person is born in Kenya, either the mother or father of the person is a citizen.
6. 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.
7. The report from the Ministry of Labour and Social Protection State Department of Social Protection – Directorate of Children’s Services (Nairobi County) recommends that, in the best interest of the child, he be duly placed in Alternative Family Care. Additionally, the report from Change Trust indicates that the Applicants are loving and capable caregivers who will ensure that the child is well taken care of in their custody.
8. I am satisfied that the Applicants have a genuine desire to adopt the child. They have demonstrated their commitment through their active involvement in the adoption process and their understanding of the responsibilities that come with parenthood. Their background reflects a nurturing environment, making them suitable adoptive parents.
9. I find that this adoption offers the child a significant opportunity for a brighter future, providing not only access to a quality education but also the emotional support and stability that are vital for healthy development. The adoptive parents have created a warm and loving home that will foster the child’s growth and well-being, ensuring that the child thrives in a secure and encouraging atmosphere
10. 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 Applicants VWK and EMR are authorized to adopt the child currently known as baby WT.
 - b. Upon adoption, the child shall be renamed as JZM.
 - c. The child is presumed to be a Kenyan citizen and is entitled to all rights and benefits under *the Constitution* of Kenya, 2010 and all applicable laws.
 - d. MO and JK are appointed as legal guardians of the child.
 - e. The Registrar General do make the appropriate entries in the Adopted Children’s Register.
 - f. The Registrar of Births and Deaths is directed to issue a birth certificate in respect of the child’s new name.
 - g. The guardian ad litem is hereby discharged.
11. It is so ordered.

DATED, DELIVERED AND SIGNED AT NAIROBI THROUGH THE MICROSOFT TEAMS ONLINE PLATFORM ON THIS 27TH DAY OF MARCH, 2025.

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C. KENDAGOR

JUDGE

In the presence of:

Court Assistant: Beryl



Ms. Kathure Advocate holding brief for Ms. Wambui Kibicho Advocate for Applicant.

