



**In re Adoption of Baby C (A Child) (Adoption Cause E010 of 2024)
[2025] KEHC 5536 (KLR) (30 April 2025) (Judgment)**

Neutral citation: [2025] KEHC 5536 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT EMBU
ADOPTION CAUSE E010 OF 2024
RM MWONGO, J
APRIL 30, 2025**

**IN THE MATTER OF THE CHILDREN ACT CAP. 141 OF THE LAWS OF KENYA
IN THE MATTER OF THE ADOPTION OF BABY C (A CHILD)**

IN THE MATTER OF

JWM APPLICANT

JUDGMENT

The application

1. The applicant filed originating summons dated 22nd November 2024 seeking the following orders from this court:
 1. That she be authorized to adopt Baby C;
 2. That upon making the adoption order, the child be known as AWJ;
 3. That the Registrar General do make the appropriate entry of AWJ in the Adopted Children's register;
 4. That the child AWJ be presumed to be a Kenyan citizen born in Kenya and that the Director of Immigration Services do issue her with a Kenyan Passport; and
 5. That CMM be appointed Legal Guardian of the child AWJ.
2. The originating summons was accompanied by a statement by the applicant in support of the application. In it, she stated her age and place of residence. She was married in 2008 but has since been widowed without any biological children. She stated that she is a law-abiding citizen and produced a Police Clearance certificate as proof. It is her desire to adopt Baby C since she is in good health, she has bonded with the child who was placed in her care in 2019.



The applicant's background

3. The applicant is a 40-year-old widow. During her 5-year long marriage, she did not have children because of a reproductive issue. She is self-employed and runs her business in Embu County. From her business, she earns Kshs.60,000/= which she feels is decent enough to care for the child once an adoption order is made. She lives on a ½ acre piece of land where she rears some farm animals and it is also where she has built a permanent house in which she lives with Baby C.
4. The applicant has the support of her family in her endeavor to adopt the child. She understands her obligations as an adoptive parent.

Background of the child

5. Baby C was born at Embu Level 5 Hospital to her biological mother, one CWN on 21st December 2017. Prior to the child's birth, her biological mother had indicated to the Child Welfare Society of Kenya (CWSK) that she did not want to keep the child because of the circumstances leading to her pregnancy. After several sessions of counselling over a period of close to 1 year, the child's mother was determined to give the child up for adoption. Consequently, the Sub County Children Officer, Manyatta, was contacted and following Care and Protection Case No.21 of 2018 the child was committed to CWSK Murang'a Rescue Centre in February 2018.
6. The child remained at the CWSK Murang'a Rescue Center until 2019 when she was placed under the care of the applicant herein as prospective adoptive parent. The CWSK had explained to the child's biological mother the consequences of the adoption process, which is permanent and irrevocable. The child's biological mother understood and willingly gave her consent for the child to be offered up for adoption after completing and signing the requisite forms in terms of Section 186 (8) of the *Children Act*.
7. At the time of the application for adoption, the child was 7 years old.

Guardian Ad Litem

8. The application was accompanied by Chamber summons of even date, seeking that EWM be appointed as Guardian ad litem. The application was allowed through an order of the court issued on 12th February 2025 and EWM was appointed Guardian ad litem in accordance with section 188(1) of the *Children Act*. The court also ordered that the Secretary of Children's services files a home study report and the appointed Guardian ad litem file her report on Baby C.

Report by the Guardian ad litem

9. In accordance with section 188(2)(b) of the *Children Act*, the Guardian ad litem filed a confidential report dated 20th February 2025 in court. In it, she confirmed her understanding of the case and highly recommends the applicant as an adoptive parent to the child. The applicant and her family are well known to her. According to her, the applicant, her extended family members and community relate well with the child.

Report by the Secretary, Children Services

10. Section 184(4) of the *Children Act* requires that the Office of the secretary of Children Services shall monitor and submit reports to the courts on the wellbeing of a child who is subject to adoption proceedings. In compliance with this provision, a report dated 13th March 2025 was filed. The report contained the backgrounds of the applicant and the child as captured herein. The report stated that



the applicant is financially stable and that following a home visit, it was established that she lives in a safe and comfortable home which is conducive for raising the child.

11. Upon observing the child, it was noted that she is developing as well as expected and she has timeously achieved all the required life milestones. The report also details that the applicant understands her obligations as an adoptive parent according to the *Children Act*. The child has bonded well with the applicant and her family, and that the applicant is committed to providing for the best interest of the child.

Suitability of the applicant for adoption

12. Section 186(1) and (2) of the *Children Act* provides for who may adopt a child, as follows:

- “(1) The Court may make an adoption order on application by—
- (a) a sole applicant; or
 - (b) two spouses jointly.
- (2) The Court shall not make an adoption order in any case unless—
- (a) the applicant has attained the age of twenty-five years, but is not above the age of sixty-five years; and
 - (b) the applicant, or both of the applicants in a joint application, is more than twenty-one years older than the child.”

13. The applicant fulfills the conditions set in these provisions since she is a sole applicant who is within the allowable age bracket and is 25 years older than the child. She is also a Kenyan citizen; therefore, it is a local adoption.

Best interest of the child

14. A child’s best interests are of paramount importance in every matter concerning the child. This is the dictate of Article 53(2) of *the Constitution*. Section 4(2) of the *Children Act* also elevates the best interest of the child and provides:

“Despite subsection (1), a provision in another legislation on children matters may prevail if it offers a greater benefit in law to a child.”

Report of the Child Adoption Society

15. Section 185(2) of the *Children Act* requires that an application for adoption be supported by a report of a duly registered adoption society. In this case the CWSK filed a detailed report dated 12th February 2025 regarding Baby C, together with a certificate declaring the child free for adoption in accordance with section 156(1) of the *Children Act* and the Adoption Regulations. These documents were presented in compliance with Section 187(2) and 185(4)(b) of the *Children Act*. The report appreciated the circumstances of this case and it was accompanied by the biological mother’s consent to the child’s adoption. According to this report, it is in the best interest of the child to give her up for adoption.



Conclusion and Disposition

16. The documentation presented in court regarding the adoption of Baby C qualifies her for adoption by the applicant. The applicant also meets the legal requirements to enable her to adopt the child.
17. In this court's view, it is in the best interest of the child that she be adopted by the applicant.
18. Accordingly, the prayers sought are granted as follows:
 1. This adoption is deemed to be a local adoption;
 1. The applicant be and is hereby authorized to adopt Baby C;
 2. Henceforth, Baby C shall be known as AWJ;
 3. The Registrar General shall make the appropriate entry of AWJ in the Adopted Children's Register;
 4. The Registrar shall issue to the applicant a certified copy of the entry pursuant to Order 4 herein in the Adopted Children Register, upon payment of the prescribed fee;
 5. The child AWJ is presumed to be a Kenyan citizen born in Kenya;
 6. Pursuant to order (6) hereinabove, the Director of Immigration Services is hereby ordered to issue a Kenyan Passport to AWJ;
 7. The Guardian ad litem is hereby discharged; and
 8. CMM is hereby appointed to be the Legal guardian of the child AWJ.
19. Orders accordingly.

DELIVERED, DATED AND SIGNED AT EMBU HIGH COURT THIS 30TH DAY OF APRIL, 2025.

R. MWONGO

JUDGE

Delivered in the presence of:

Jane Wanjiru – Applicant

Emily Mwangi – Guardian ad litem

Francis Munyao - Court Assistant

