



**In re Adoption of Baby IM alias ALP (Minor) (Adoption Cause E236 of 2024)  
[2025] KEHC 5463 (KLR) (Family) (29 April 2025) (Judgment)**

Neutral citation: [2025] KEHC 5463 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)  
FAMILY  
ADOPTION CAUSE E236 OF 2024**

**CJ KENDAGOR, J**

**APRIL 29, 2025**

**IN THE MATTER OF AN APPLICATION FOR  
ADOPTION OF BABY IM ALIAS ALP (MINOR)BY;**

**IN THE MATTER OF**

**EMM ..... 1<sup>ST</sup> APPLICANT**

**WM ..... 2<sup>ND</sup> APPLICANT**

**JUDGMENT**

1. Before this Court is the application dated 24<sup>th</sup> October, 2024. The Applicants EMM and WM are seeking to be authorized to adopt Baby IM alias ALP hereinafter referred to as (“the child”) and upon adoption, the child is to be known as ADMM. SGM and FWM be appointed as the child’s legal guardians upon granting of the adoption orders.
2. The Applicants are a married couple and Kenyan citizens as is evidenced by copies of their Kenyan National Identity Cards. EMM is a Financial Advisor, and WM is a Human Resource Specialist. Their health status is good as is evidenced by medical reports and they do not have any previous criminal records, as is evidenced by their Certificates of Good Conduct issued by the Directorate of Criminal Investigations. They have opted to expand their family through adoption.
3. SGM and FWM are the proposed Legal guardians. SGM is EMM’s brother and WM’s brother-in-law while FWM is EMM’s sister-in-law and WM’s sister. They informed the Court that they understand their role and are prepared to assume that responsibility as the legal guardians in the event of death or incapacitation of the Applicants.
4. The report from the Ministry of Labour and Social Protection State Department for Social Protection and Senior Citizen Affairs–Directorate of Children’s Services (Nairobi County) dated 27<sup>th</sup> March, 2025 indicates that the child is 2 years and five months old. He is Kenyan, who was abandoned by



the mother at the hospital after birth. The mother was later traced and she gave her consent giving up the child for adoption. The consent to give up a child for adoption dated 30<sup>th</sup> June, 2023 was filed in Court. Except for the mother, nobody has claimed the child. The child was declared free for adoption on 31<sup>st</sup> January, 2024 by Little Angels Network vide freeing certificate number 002437.

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 1<sup>st</sup> 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 for Social Protection and Senior Citizen Affairs–Directorate of Children's Services (Nairobi County), the report from the Little Angels Network, the guardian ad litem and the proposed legal guardians indicate that the child is well known to the adoptive parents and that he will be well taken care of in their care and custody.
  8. I am satisfied that the Applicants have a genuine desire to adopt the child. They are suitable as adoptive parents.



9. I find that this adoption gives the child a chance at a better life and education in a loving and stable home with the adoptive parents. I do not doubt that the child has bonded with the Applicants.
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 EMM and WM are hereby authorized to adopt the child known as IM alias ALP.
  - b. Upon adoption, the child shall be known as ADMM.
  - c. The child is presumed to be a Kenyan citizen by birth and is thus entitled to all associated rights.
  - d. The Director of Immigration is hereby authorized to issue the child with a Kenyan Passport.
  - e. SGM and FWM are hereby appointed as legal guardians of the child.
  - f. The Registrar General do make an entry of the adoption in the Adopted Children's Register.
  - 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 29<sup>TH</sup> DAY OF APRIL, 2025.**

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**C. KENDAGOR**

**JUDGE**

In the presence of:

Court Assistant: Beryl

Advocate: Ms. Nelima Walubengo, Advocate for the Applicants

