



**In re FWW (Minor) (Adoption Cause E037 of 2025)
[2025] KEHC 5391 (KLR) (Family) (28 April 2025) (Judgment)**

Neutral citation: [2025] KEHC 5391 (KLR)

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

FAMILY

ADOPTION CAUSE E037 OF 2025

CJ KENDAGOR, J

APRIL 28, 2025

IN THE MATTER OF THE CHILDREN ACT

IN THE MATTER OF FWW – (MINOR)

IN THE MATTER OF

DWK 1ST APPLICANT

WER 2ND APPLICANT

JUDGMENT

1. Before this Court is the application dated 7th February, 2025. The Applicants DWK and WER are seeking to be authorized to adopt FWW a minor, hereinafter referred to as (“the Child”) and upon adoption, the Child is to be known as FWWR.
2. The Applicants are a married couple as evidenced by their marriage certificate. The 1st Applicant is a Kenyan citizen, as is evidenced by a copy of the Kenyan National Identity Card, and the 2nd Applicant is a German citizen, as is evidenced by a copy of his Passport. The 1st Applicant, DWK, is the biological mother of the Child as evidenced by the Child’s birth certificate and the Assistant Chief’s letter. The Applicants got married in Germany in 2024 as evidenced by a copy of the Marriage Certificate. The applicants have one other Child. The 2nd Applicant is a pensioner, and the 1st Applicant is a beauty therapist; hence, their financial ability and capability to provide for the Child as evidenced by their financial statements. Their health status is good, as is evidenced by their 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. The Child and the 1st Applicant have consented to the adoption by the 2nd Applicant. They are desirous of formalizing the existing parental relationship and giving the Child in this matter a sense of security within their family setting.



3. The report from the Ministry of Labour and Social Protection State Department of Social Security Protection and Senior Citizen Affairs- Directorate of Children's Services (Nairobi County) dated 2nd April, 2025 indicates that the Child is female and 10 years old having been born on 25th April 2014. The Child is connected to the applicant through kinship and was declared free for adoption on 22nd November, 2024 by Change Trust vide freeing Certificate Serial Number 00712.
4. EWK who is a friend to the Applicants herein is the proposed legal guardian, gave her consent dated 7th February, 2025 and stated in court that she understands her role as a legal guardian. The Child who gave her consent dated 14th October, 2024 also indicated in Court that she understands the proceedings.
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 must 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.

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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 Security Protection and Senior Citizen Affairs- Directorate of Children's Services (Nairobi County), the report



from Change Trust, the guardian ad litem and the proposed legal guardian indicate that the Child will be well taken care of in the care and custody of the adoptive parents.

8. I am satisfied that this adoption serves the Child's best interests.
9. In the circumstances, I allow the originating summons dated 7th February, 2025 and make the following orders:
 - a. The Applicants are hereby authorized to adopt the Child, FWW.
 - b. Upon adoption, the Child is to be known as FWWR.
 - c. EWK is hereby appointed as the Child's legal guardian.
 - d. The Child's date of birth is 25th April, 2014 and the place of birth is Nairobi. The Child is presumed to be a Kenyan Citizen by birth.
 - e. The Registrar General is hereby directed to enter the adoption in the Adopted Children Register.
 - f. The Director of Immigration is hereby authorized to issue the Child a Kenyan passport.
 - g. The guardian ad litem is hereby discharged.

It is so ordered.

DATED, DELIVERED AND SIGNED AT NAIROBI THROUGH THE MICROSOFT TEAMS ONLINE PLATFORM ON THIS 28TH DAY OF APRIL, 2025.

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C. KENDAGOR
JUDGE

In the presence of:

Court Assistant: Beryl

Advocate: Ms. Muthoni

