



**In re IM alias Baby M (Minor) (Adoption Cause E017 of 2025)
[2025] KEHC 5398 (KLR) (Family) (28 April 2025) (Judgment)**

Neutral citation: [2025] KEHC 5398 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
ADOPTION CAUSE E017 OF 2025
CJ KENDAGOR, J
APRIL 28, 2025**

IN THE MATTER OF

JMM APPLICANT

JUDGMENT

1. Before court is the Originating Summons dated 28th January, 2025 in which the Applicant seeks the following orders;
 1. That the applicant be authorized to adopt Baby IM alias M., a minor who is to be known as PIM and the Registrar General be directed to enter this adoption in the Register of Adoptions.
 2. That JMM be appointed as the Legal Guardian of the child.
 3. That the child be presumed to be born in Kenya.
2. The Originating Summons is supported by the affidavit of the Applicants of even date. The matter was canvassed by way of oral evidence.
3. The Applicant is a Kenyan citizen by birth residing in Nairobi County. She stated that she is a divorcee. She further told the Court that she is a businesswoman and wishes to expand her family through adoption, expressing her desire to raise a needy child. She informed the Court that her family members were agreeable to the adoption and that she understood the implications of the adoption process.
4. The minor was abandoned at Kenyatta National Hospital on 27th November, 2018 by her biological mother, who was suffering from schizophrenia. The matter was reported to the Kenyatta Hospital Police Post under OB No 20/27/02/2019. Attempts to trace the immediate family of the minor were unsuccessful, and only her grandfather, ISO, was located. He stated that he was unwilling to take the child and signed a consent dated 27th June 2023, relinquishing the minor for adoption.



5. On 18th March 2019, the County Director of Children’s Services, Nairobi, requested that the minor be placed at Imani Children’s Home for care and protection and for the investigation into tracing the mother. The child was committed to the care and protection of Imani Children’s Home on 24th October, 2019 through the Children’s Court in Nairobi under Care and Protection Case No 1344 of 2019. On 17th July 2023, Imani Children’s Home released the child through Buckner Kenya Adoption Services for fostering and bonding with the possibility of adopting the minor.
6. After establishing a strong bond with the child over the course of three months, the Applicant received formal approval to continue residing with the minor. Her extended family has not only welcomed the child into their lives but has also committed their support to ensure a nurturing environment. The Applicant confidently stated that she possesses the financial stability necessary to provide for the child’s needs, including education, healthcare, and overall well-being. On 9th June, 2023, the Little Angels Network officially declared the minor free for adoption.
7. Additionally, JMM, a close friend of the Applicant, has agreed to take on the crucial role of Legal Guardian for the child, ensuring that the minor will have a stable and loving support system in place. JMM told the Court that he is a friend of the Applicant and they have known each other since they were young, and that he understands the implications of the adoption order.
8. EN (PW3), the Guardian *ad Litem* appointed by this Court, produced a report dated 20th March, 2025. She informed the Court that the Applicant and the minor have a strong bond. The child is six years old and attends school. She recommended adoption.
9. MM (PW4), the sub-county Children Officer, Athi River, produced a report dated 25th March, 2025. She stated that a social inquiry was conducted on 21st March, 2025. The home environment was found to be conducive, suitable and safe for the child. The minor has bonded with the Applicant and is healthy. The child performs well in school. The Applicant has instilled values and morals as a Christian caregiver. She is financially stable and is capable of taking care of the minor, and the adoption is in the best interest of the minor.
10. AM (PW5), a representative of Buckner Adoption, produced a report dated 19th March, 2025. He stated that the applicant was interviewed and approved in a case committee hearing held on 4th November, 2022. The minor was placed with the adoptive parent on 17th July, 2023. The final follow-up was on 15th November, 2023. The child is well taken care of and well bonded. They recommended the adoption vide Certificate Serial No 0768. That the adoption is in the best interest of the minor.

Analysis And Determination.

11. The Preliminary requirements for the making of an Adoption Order are set out in Section 156 (1) of the *Children’s Act* which provides as follows:-

“ 156 (1) No arrangement shall be commenced for the adoption of a child unless the child is at least six (6) weeks old and has been declared free for adoption by a Registered Adoption Society in accordance with the Rules prescribed in that behalf.”
12. The subject child is believed to have been born on 27/11/2018. She is now 5 years and 6 months old and is above the six (6) week age limit set by law. Buckner Kenya Adoption Services, which is a Registered Adoption Agency, has filed in Court a Certificate of Declaring a Child Free for Adoption. I am satisfied that all the prerequisites for Adoption have been met.



13. This Court has a duty to analyze the evidence presented to determine whether the Applicant is a suitable adoptive parent for the subject child. The Applicant is a Kenyan citizen, as evidenced by the copy of their National Identity Card that is annexed to the Summons.
14. The Applicant in her statement in support of an application for an adoption order stated that she has informed her immediate family members of the intention to adopt the minor, and they were supportive of her decision.
15. The Applicant has included a copy of the Clearance Certificate issued to her by the Kenya Police Service on 10th May, 2022, confirming that she has no criminal record. Her home has been assessed as nurturing and suitable for raising her child. The environment is peaceful and supportive, contributing to a positive atmosphere for the child's growth and development.
16. I am satisfied that the Applicant has a genuine desire to adopt the child. She is suitable as an adoptive parent.
17. The subject child is a female child who is believed to have been born on 27th November, 2018. The child was abandoned on the same day at Kenyatta National Hospital. The abandonment was reported at Londiani Police Station vide OB No 20/27/02/2019. The child was committed to Imani Children's Home for temporary Care and Protection for a period of 3 years. Thereafter, the child was released to Buckner Adoption Service on 17th July, 2023. 3 months later, the child was released into the custody of the Applicant.
18. Article 14 of the Constitution of Kenya, 2010 deals with the question of Citizenship. Article 14 (4) provides as follows:-
 - “(4) A child found in Kenya who is, or appears to be, less than eight years of age and whose nationality and parents are not known, is presumed to be a citizen by birth.”
19. The subject-child was found abandoned when she was a new born at Kenyatta Hospital in Nairobi County. As such, I declare the child to be a citizen of Kenya by birth.
20. The subject-child was abandoned by the mother who bore her. All efforts made to trace the biological mother/relatives of the child have been unsuccessful. To date no person has come forward to claim the child. Her grandfather gave consent that the minor should be given up for adoption because she could not be accepted in the society because of the condition of her biological mother. He filed a consent dated 27th June, 2023 to confirm that the child is free for adoption. A police letter dated 6th August, 2019 confirms this fact. I, hereby declare the minor a Kenyan Citizen by birth.
21. In deciding upon any matter involving a child Courts are obliged to give priority to the best interests of the said child. Section 4(2) of the Children Act provides:-
 - “(2) In all actions concerning children, whether undertaken by public or private social welfare institutions, Courts of Law administrative authorities or legislative bodies, the best interest of the child shall be a primary consideration.” [own emphasis]
22. The subject-child was abandoned at birth. At best she faced an uncertain future in Children's Homes or other similar institutions. This Adoption allows the child the opportunity to be raised in a stable and loving family environment.



23. The subject-child has lived with the Applicants since 3rd July, 2023 – a period of almost two years now. This is the only family she knows. I have no doubt that the child has bonded with the Applicant.

24. Based on the foregoing I am satisfied that this adoption serves the best interests of the child. As such I do allow this application and make the following orders:

- i. The Applicant, JMM is authorized to adopt the child known as Baby IM aka Baby M.
- ii. The Registrar-General is directed to make the relevant entries in the Adopted Children's Register.
- iii. Upon adoption the child will be known as PIM.
- iv. The child is declared to be a Kenyan citizen by birth and is thus entitled to all associated rights.
- v. JMM is hereby appointed as the legal guardian of the child.
- vi. The guardian *ad Litem* is hereby discharged.
- vii. No orders on costs.

25. 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

Ms Muhanda - Advocate for Applicant

