



**In re Baby BM (Adoption Cause E145 of 2024)  
[2025] KEHC 10931 (KLR) (Family) (26 June 2025) (Judgment)**

Neutral citation: [2025] KEHC 10931 (KLR)

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

**ADOPTION CAUSE E145 OF 2024**

**CJ KENDAGOR, J**

**JUNE 26, 2025**

**IN THE MATTER OF AN APPLICATION FOR ADOPTION OF BABY B.M.**

**IN THE MATTER OF**

**CWM ..... APPLICANT**

**JUDGMENT**

1. Before this Court is the application dated 10<sup>th</sup> July, 2024. The Applicant CWM is seeking to be authorized to adopt BM hereinafter referred to as the child. The Applicant has nominated LRM to be appointed as the child’s legal guardian upon granting of the adoption orders.
2. The Applicant is a Kenyan citizen, as evidenced by her Kenyan National Identity Card. She is a single lady and does not have children of her own. She was appointed as the legal guardian to the said minor at the Children’s Court vide Guardianship Cause MCCHCC/E135/2024. She is a Support Worker/Pastor and a businesswoman. She also owns rental properties and earns a stable income from employment hence her financial capability and ability to provide for the child. Her health status is good, as confirmed by her medical reports, and she has no previous criminal records, as shown by her Police Clearance Certificate issued by the Directorate of Criminal Investigations.
3. She has indicated her desire to adopt the child so as to give good life to a needy child, providing a home, good education, a family and a sense of identity as she also grows her family. The child has been in her custody since April 2024.
4. The child’s freeing summary from the Kenya Children’s home dated 5<sup>th</sup> May ,2025 indicates that CWM had proven her ability to take up parental responsibility. On 9<sup>th</sup> April, 2024 the Children Court, vide Guardianship Cause No. E135 of 2024 appointed CWM as legal guardian of BM and SJW. The minors are siblings and had been placed in a children’s home after having been abandoned. Efforts to trace the biological parents proved unsuccessful and no official report, claim or identification has been made by any individual in relation to her custody since their abandonment. They were later



declared free for adoption by Kenya Children's Home Adoption Society on 19<sup>th</sup> March, 2025 vide freeing Certificate Serial Number 1060 for BM and 1062 for SJW. This cause is related with Adoption Cause No. E221 of 2024.

5. LRM, the proposed legal guardian, is the biological sister of the applicant. She demonstrated financial stability through steady employment. The interview conducted revealed that LRM is well-versed in the adoption process and has a profound commitment to nurturing and caring for the children, as evidenced by her involvement in the child's milestones and support to the Applicant during the adoption process.
6. Furthermore, she formally committed to this legal guardianship arrangement by signing consent document on 25<sup>th</sup> September, 2024. Her nurturing qualities, combined with her strong support network and commitment, make her well-suited to serve as legal guardian.
7. In light of the best interests of the children 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 her.
  - 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.
8. The report from the Kenya Children's home, the report from Kenya Children's Home Adoption Society, the guardian ad litem and the proposed legal guardians indicate that the child will be well taken care of in the care and custody of the adoptive parent. The adoptive parent has offered the child a home and an opportunity to live a good life in comfortable surroundings.



9. I find that this adoption provides the child with a better chance at life and education in a loving and stable home with the adoptive parent. The Court recognises the exceptional circumstances that also allow the child to share the adoptive parent and home with the child's sibling.
10. I am satisfied that the Applicant has a genuine desire to adopt the child. She is suitable as an adoptive parent.
11. In the circumstances, I allow the Originating Summons dated 10<sup>th</sup> July, 2024 and make the following orders:
  - a. The Applicant CWM is hereby authorized to adopt the children known as BM.
  - b. LRM is appointed as the legal guardian of the child.
  - c. The child is hereby presumed to be a Kenyan citizen, having been found in Kenya at the time of birth and is thus entitled to all associated rights.
  - d. The Registrar General is directed to make the relevant entries in the Adopted Children's Register in respect of the child.
  - e. The Guardian ad litem is hereby discharged.
12. It is so ordered.

**DATED, DELIVERED AND SIGNED AT NAIROBI THROUGH THE MICROSOFT TEAMS ONLINE PLATFORM ON THIS 26<sup>TH</sup> DAY OF JUNE, 2025.**

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**C. KENDAGOR**

**JUDGE**

In the presence of:

Court Assistant: Beryl

