



**In re JAM (Minor) (Adoption Cause E040 of 2025)
[2025] KEHC 11042 (KLR) (Family) (26 June 2025) (Judgment)**

Neutral citation: [2025] KEHC 11042 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
ADOPTION CAUSE E040 OF 2025
CJ KENDAGOR, J
JUNE 26, 2025
IN THE MATTER OF THE CHILDREN ACT 2001
AND
IN THE MATTER OF ABANDONED BABY GIRL JAM (MINOR)**

**IN THE MATTER OF
JNW APPLICANT**

JUDGMENT

1. Before this Court is an Originating Summons dated 20th February, 2025. The Applicant JNW is seeking to be authorized to adopt Baby JAM hereinafter referred to as (“the child”) and upon adoption, the child is to be known as RWN. The Applicant has nominated DWN to be appointed as the child’s legal guardian upon granting of the adoption orders.
2. The Applicant is a single lady and she has one biological child. She is a Kenyan citizen as is evidenced by a copy of her Kenyan National Identity Card. She is a Court Assistant and has assets to her name as well as savings hence her financial capability and ability to provide for the child as evidenced by copies of her bank statements and payslips. Her health status is good, as evidenced by medical reports, and she does not have any prior criminal records, as confirmed by her Certificate of Good Conduct issued by the Directorate of Criminal Investigations. She has indicated her desire to expand her family and take care of a needy child through adoption. The child has been in her custody since November, 2024. She has positive recommendations from her parish priest and friend, and her other family members are aware of the application for adoption and they support the same.
3. DWN, who is proposed to be the legal guardian, is the son of JNW. He is an Advocate of the High Court of Kenya. During the Court hearing, DWN articulated his understanding of the responsibilities that come with being a legal guardian and expressed his readiness to embrace this



role. He conveyed genuine enthusiasm about the prospect of welcoming the child into their family, emphasizing the nurturing environment they would provide. Furthermore, DWN assured the Court of his unwavering commitment to fully support the child's emotional, educational, and developmental needs, highlighting his intention to foster a loving and stable home for her.

4. The report from the Ministry of Labour and Social Protection State Department of Social Security and Protection – Directorate of Children's Services (Nairobi County) dated 16th May, 2025 indicates that the child is 8 years and 2 months old having been presumed to have been born on 28th March, 2017. She is Kenyan, who was found stranded at Kariobangi roundabout by a good Samaritan and her biological parents remain untraceable. The child was declared free for adoption on 30th September, 2024 by KKPI Adoption Society vide freeing certificate number XXX.
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 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 Security and Protection – Department of Children's Services (Nairobi County), the report from the KKPI



Adoption Society, the guardian ad litem and the proposed legal guardian indicate that the child is well known to the adoptive parent and that she will be well taken care of in her care and custody.

8. I am satisfied that the Applicant has a genuine desire to adopt the child. She is suitable as an adoptive parent.
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 parent. I do not doubt that the child has bonded with the Applicant and her son DWN.
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 Applicant JNW is hereby authorized to adopt the child known as baby JAM.
 - b. Upon adoption, the child shall be known as RWN.
 - c. DWN is hereby appointed as a legal guardian of the child.
 - d. The Registrar General do make the appropriate entries in the Adopted Children's Register in respect of the minor.
 - e. The Registrar of Births and Deaths do issue a birth certificate in respect thereof.
 - f. The child is presumed to be a Kenyan citizen.
 - 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 26TH DAY OF JUNE, 20205.

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C. KENDAGOR
JUDGE

In the presence of:

Court Assistant: Beryl

