



**In re Adoption of Baby SM (Adoption Cause E094 of 2025)
[2025] KEHC 12239 (KLR) (Family) (29 August 2025) (Judgment)**

Neutral citation: [2025] KEHC 12239 (KLR)

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

FAMILY

ADOPTION CAUSE E094 OF 2025

H NAMISI, J

AUGUST 29, 2025

IN THE MATTER OF ADOPTION OF BABY SM

IN THE MATTER OF

OOB 1ST APPLICANT

LWN 2ND APPLICANT

JUDGMENT

1. Before this Court is the Originating Summons dated 7 April 2025, Statement in support of the Application for an Adoption Order and Affidavit in support of the Application, seeking the following orders:
 - i. That the Applicants be and are hereby authorised to adopt the child currently known as Baby S.M;
 - ii. That if the adoption order is granted, the said child is thereafter known as M.J.R;
 - iii. That the child’s date of birth be declared to be 17 November 2023 and his place of birth to be declared to be Ponya Hospital, Kiambu County;
 - iv. That the consent of the biological parents of the child be and is hereby dispensed with since the child was abandoned;
 - v. That AGM and SWN may be appointed the legal guardians of the child in the event of death of the Applicants or incapacity of the Applicants, rendering them unavailable or incapable of taking care of the child;
 - vi. That the Registrar – General be directed to make the appropriate entries in the Adopted Children’s Register



The Child

2. The child (male) is presumed to have been born on 17 November 2023. About 2 months later, on 14 January 2024, he was found abandoned at Ponya Hospital, Kiambu County. The matter was reported to the Mwiki Police Station *vide* OB No. 42/14/01/2024. The child was temporarily placed at Limuru Children's Centre on 17 January 2024 for care and safety.
3. The child was committed to Limuru Children's Centre by the Children's Court at Rururu on 21 February 2024 under Protection and Care file No. E004 of 2024. He remained at the home unclaimed. In their letter dated 11 September 2024, the Police indicated that their efforts to trace to the child's kin had been unsuccessful. The child was, therefore, rendered in need of an alternative family.
4. The child was declared free for adoption by the Kenya Children's Home Adoption Society on 20 November 2024 and Certificate No. 1034 was issued, pursuant to section 187(2)(a) of the *Children Act*.
5. The child was later placed with the Applicants herein on 20 November 2024 for the mandatory bonding period prior to adoption. He has been in their care since then. The child is currently 1 ½ years old.
6. During the hearing, the Court had the opportunity to see the child. He appeared happy, healthy, well groomed and very comfortable with the Applicants.

The Applicants

6. The Applicants are Kenyan citizens. They are a married couple. They have been married since 23 December 2017. They reside in Buru Buru, Nairobi County. The 1st Applicant is an IT Program Manager while the 2nd Applicant is an IT Project Manager. The 1st Applicant is 41 years old, while the 2nd Applicant is aged 40 years. They have no biological children of their own.
7. The Applicants stated that they both profess Christianity and have no criminal records. They have a desire to adopt the child because so far, they have been unable to have a child of their own. They wish to give love, a sense of identity, security, stability and a sense of belonging to a needy child. According to the Directorate of Children Services, the Applicants expressed their desire to grow their family and bless someone who will maintain their generation.
8. The Applicants confirmed that they are financially capable of taking care of the child. The Applicants also confirmed that they understand the implications of an Adoption Order and that the same is not reversible.

The Adoption Application

9. I have considered the Summons, the evidence on record, as well as the various reports filed.
10. The duty of this Court is to analyse the material before it to determine whether the Applicants are suitable adoptive parents. The Applicants stated that they are committed Christians and that they intend to raise the child in a Christian development to ensure full spiritual development.
11. The Applicants presented copies of payslips, bank statements, Police Clearance Certificates as well as recommendations from friends and family, all pursuant to the provisions of The Children (Adoption) Regulations, 2020. These demonstrate that the Applicants are financially, socially, physically and mentally fit to adopt the child.



12. Additionally, pursuant to section 186 of the *Children Act*, the Applicants provided letters of consents from A.G.M and S.W.N agreeing to be appointed as the legal guardian of the child in the event that anything untoward happens to the Applicants. The proposed legal guardians are a married couple and have 2 children. S.W.N is a sister to the 2nd Applicant. The proposed legal guardians confirmed that they completely understand their role and what is expected of them.
13. From the material availed, I am satisfied that the Applicants are suitable adoptive parents.

Analysis and Determination

14. Article 14(4) of the *Constitution* provides that 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. The child herein was found abandoned in Kiambu County just a few months after birth. The child is, therefore, a citizen of Kenya by birth.
15. In deciding any matter involving a child, the Court is obligated to give priority to the best interests of the child. Section 8 of the *Children Act* provides:
 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;
 - a. 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;
 - a. Conserve and promote the welfare of the child; and
 - a. Secure for the child such guidance and correction as is necessary for the welfare of the child, and in the public interest.
16. I have considered the Reports filed by the Adoption Agency dated 13 June 2025, the *Guardian ad Litem* dated 15 May 2025, and the Director of Children Services dated 16 June 2025, all of which were positive and recommended the adoption. Bearing in mind that this child had been abandoned and faced an unknown future, it is my view that the adoption serves the best interests of the child. Not only will the adoption give the child a sense of belonging, but it will also give him the opportunity to grow up like every other child.
17. Pursuant to section 187(1)(a) of the Act, I hereby dispense with the consent of the biological parents since the child was found abandoned.
18. Accordingly, I allow the Summons and make the following orders:
 - i. The Applicants, O.O.R and L.W.N are hereby authorised to adopt the child currently identified as Baby S.M, who will henceforth be renamed M.J.R;
 - ii. The child is declared to be a citizen of Kenya, born on 17 November 2023 in Kiambu County and entitled to all the rights and privileges under the *Constitution* of Kenya and all other laws;



- iii. A.G.M and S.W.N are appointed as the legal Guardians of the child;
- iv. The *Guardian ad Litem* is hereby discharged;
- v. The Registrar-General is directed to make the appropriate entries in the Adopted Children's Register;

DATED AND DELIVERED AT NAIROBI THIS 29 DAY OF AUGUST 2025

HELENE R. NAMISI

JUDGE OF THE HIGH COURT

Delivered on virtual platform in the presence of:

Applicants: Ms. Owiti

Applicants present

Court Assistant: Lucy Mwangi

