



**In re NM (Minor) (Adoption Cause E062 of 2025)
[2025] KEHC 12250 (KLR) (29 August 2025) (Judgment)**

Neutral citation: [2025] KEHC 12250 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
ADOPTION CAUSE E062 OF 2025
H NAMISI, J
AUGUST 29, 2025
IN THE MATTER OF ADOPTION OF BABY NM**

IN THE MATTER OF

ENM 1ST APPLICANT

EKMM 2ND APPLICANT

JUDGMENT

1. Before this Court is the Originating Summons dated 12 March 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 authorised to adopt Baby NM, a minor who is to be known as J.M.N and the Registrar General be directed to enter this adoption into the Register of Adoptions;
 - ii. That Jackline Nyaboke Mageto be appointed as the legal guardian of the child who shall be presumed to have been born in Kenya.

The Child

2. The child (male) is presumed to have been born on 22 September 2021. On 21 November 2021, the child was found abandoned in a dustbin in Mukuru kwa Njenga, Nairobi County. The matter was reported to the Mukuru Police Station vide OB No. 22/21/11/2021. The child was placed at Imani Children’s Centre for care and safety.
3. The child was committed to Imani Children’s Home by the Nairobi Children’s Court on 7 January 2022 under Protection and Care file No. E702 of 2021. In a letter dated 31 May 2024, the Police informed the Children’s Home that all efforts to trace the child’s kin had been futile. The child remained at the home unclaimed until 29 April 2024 when he was placed with the Applicants for foster care. He has been in the Applicants’ care since.



4. The child was declared free for adoption by the KKPI Adoption Society on 24 April 2024 and Certificate No.0966 was issued, pursuant to section 187(2)(a) of the *Children Act*.
5. The child is in kindergarten class, enrolled at [Particulars Withheld] School, Kitengela, Kajiado County. During the hearing, the Court had the opportunity to see the child. He appeared healthy, well groomed. He was shy but happy to see the Applicants online. He resides in [Particulars Withheld], Kajiado County with a sister to the 1st Applicant.

The Applicants

6. The Applicants are Kenyan citizens, currently residing in Australia. The 1st Applicant is a businessman while the 2nd Applicant is a registered Nurse. The Applicants got married on 13 April 1998 and their union is blessed with one child, D.M.M, who was born in 1999. The Applicants expressed their desire and intention to relocate back to Kenya and continue their lives here, together with the child.
7. The Applicant stated that they profess Christian faith and have no criminal records. Their motivation to adopt stems from their desire to expand their family and share their love with a needy child. To them, it is their Christian duty to change the destiny of a needy child.
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 intend to raise the child in a Christian development to ensure full spiritual development.
11. The Applicants presented copies of 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 Applicant provided a letter of consent from J.N.M agreeing to be appointed as the legal guardian of the child in the event that anything untoward happens to the Applicants. J.N.M is a sister to the 1st Applicant. The proposed legal guardian confirmed that she completely understands her role and what is expected of her.
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 Nairobi County a few months after birth. Therefore, by virtue of Article 14(4), the child is 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 20 June 2025, the Guardian ad Litem dated 25 June 2025, and the Director of Children Services dated 1 July 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, E.N.M and E.K.M.M, are hereby authorised to adopt the child currently identified as Baby NM, who will henceforth be known as J.M.N;
 - ii. The child is declared to be a citizen of Kenya entitled to all the rights and privileges under *The Constitution* of Kenya and all other laws.
 - iii. J.N.M is appointed as the legal Guardian 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. Ambaka

Court Assistant: Lucy Mwangi

