



REPUBLIC OF KENYA



**In re Baby F alias FN (Minor) (Adoption Cause E199 of 2023)
[2024] KEHC 15522 (KLR) (Family) (27 June 2024) (Judgment)**

Neutral citation: [2024] KEHC 15522 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
ADOPTION CAUSE E199 OF 2023
EKO OGOLA, J
JUNE 27, 2024**

JUDGMENT

1. The Originating Summons before this court is dated 5th October 2023 by which the applicant prays for the following orders: -
 - a. That CWM be authorized to adopt the child Baby F alias Baby FN who is a Kenyan citizen presumed to have been born on 3rd August 2022.
 - b. That upon adoption, the child be known as JMW.
 - c. That LWM of Kenyan National Identity Card Number xxxxxxxx be appointed as legal guardian of the child; Baby F alias Baby FN.
 - d. That the Register General be directed to enter this adoption into the Register of Adoption and a subsequent Birth Certificate do issue by the Registrar of Births and Deaths.
2. The Originating Summons was supported by the statement of even date sworn jointly by the applicant and an affidavit in support. The matter was canvassed by way of viva voce evidence in court.
3. PW1 was the applicant. She testifies that she is unmarried and without any other children. The applicant added that she lives in Thika and is employed at Murang'a County Government. Therefore, she is financially capable of taking care of the child.
4. PW2 was MKK the guardian ad litem. PW3 was LWM the proposed legal guardian. PW4 was DK, an officer from the Directorate of Children's Services. They testified that they had visited the applicant and the child. They have bonded well with each other. They all recommend the adoption.

Determination

5. I have carefully considered this adoption application, the various affidavits and reports on record as well as the relevant law. I have also considered the evidence adduced in open court.



6. The preliminary requirements for the making of an Adoption Order are set out in Section 184(1) of the *Children's Act* 2022 which provides as follows: -

“ 184

(1) A person shall not commence any arrangement for the adoption of a child for the adoption of a child unless the council, in accordance with the rules, has declared the child free for adoption and the child has attained the age of six (6) weeks old.”

7. The child is presumed to have been born on 3rd August 2022. According to a letter from Limuru Town Police Station dated 8th August 2022, the child was found abandoned at Manguo area within Limuru Township. Upon her rescue, the matter was reported at the said police station vide OB No. 25/06/08/2022. The child was later taken to Tigoni Hospital for a medical check-up. The child was later placed at Limuru Children's Home for care and protection vide P&C Case No. E.024 of 2022. A final letter from the police dated 27th February 2023 stated that the biological mother or any other relative of the child was ever found or placed a claim on the child. On 16th June 2023, the child was placed under the care of the applicant.

8. The child was declared free for adoption on 19th April 2023 under Certificate No. 897. Therefore, the legal prerequisites for an adoption order have accordingly been met.

9. The duty of this Court is to analyze the material placed before it and decide as to whether the applicant is a suitable adoptive parent. The Applicant is a Kenyan citizen and she is financially stable. Hence, she is in a good position to provide for the needs of the child. The applicant was also examined and found to be physically and mentally fit. Furthermore, there is a copy of the Certificate of Good Conduct issued by the Kenya Police Service which proves that the applicant has no criminal antecedents. From the foregoing, I am satisfied that the applicant is a suitable adoptive parent.

10. Article 14 of *the Constitution* deals with the issue 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.”

11. The child was abandoned in Limuru. This is within the Republic of Kenya. The child is therefore a Kenyan Citizen.

12. In deciding upon any matter involving a child, Courts are obliged to give priority to the best interest of the said child. Section 8 (1)(a) of the *Children Act* 2022 provides: -

“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.”

13. The child has lived with the applicant in her home for close to one year. There is no doubt that the child has bonded with the applicant and considers her as her mother. The various reports filed in court all recommend the adoption. Therefore, I am satisfied that the adoption will serve the best interests of the child. Accordingly, I allow this adoption application and make the following orders: -

a. The Applicant CWM is authorized to adopt the child known as Baby Baby F alias Baby FN.



- b. Upon adoption, the child will be known as JMW.
- c. The child is declared a Kenyan citizen by birth, her birth date shall be 3rd August 2022, and the place of birth shall be Limuru.
- d. The Registrar General is directed to make appropriate entries in the Adopted Children's Register.
- e. LWM is appointed as the legal guardian of the child.
- f. The guardian ad litem is hereby discharged.

Orders accordingly

DATED AND DELIVERED AT NAIROBI THIS 27TH DAY OF JUNE 2024

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E.K. OGOLA

JUDGE

In the presence of:

Mr. Hagen for the Applicant

Ms Gisiele M court Assistant

