



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT MACHAKOS**

**Adoption Cause 280 of 2009**

**IN THE MATTER OF BABY J. N.**

**J. W. K & A. K. K.....APPLICANTS**

**RULING**

1. This is an application (by **originating summons dated 15<sup>th</sup> September 2009**) for an **adoption order**. I have read all the affidavits and other materials filed in support of the summons.
2. The Applicants and the Child have been assessed and evaluated by a registered adoption society in Kenya. I have read the report of the adoption society, **Kenya Children's Home Adoption Society**, dated 29<sup>th</sup> May 2009. I have also read a report dated 4<sup>th</sup> January 2011 by the **District Children's Officer, Machakos**. Both reports are favourable to the adoption order sought.

**THE CHILD**

3. The Child, J. N. (aka E. M. W.) is male and was born on 8<sup>th</sup> September 2005. He was found abandoned at the Kawangware informal settlement on 7<sup>th</sup> June 2007 by a good Samaritan. He was taken to Riruta Police Station and thereafter to Kilimani Police Station. The Child was then admitted to **Thomas Barnados House** for care and protection.
4. By a court order granted on 25<sup>th</sup> July 2007 in **Nairobi Children's Court Protection and Care Case No. 131 of 2007**, the Child was committed to the care and protection of the Thomas Barnados House.
5. On 19<sup>th</sup> June 2008 the Child was placed with the Applicants, and they have had him without interruption since then.
6. On 20<sup>th</sup> June 2008 the Child was declared free for adoption by the **Kenya Children's Home Adoption Society** and a certificate to that effect issued on the same date.

**GUARDIAN AD LITEM**

7. On 2<sup>nd</sup> November 2010 **D. K.** was appointed guardian *ad litem* of the Child.

**THE APPLICANTS**

8. The Applicants, **J. W. K.** and **A. K. W.** are husband and wife. They are both Kenyans and they reside at Ml[...].in Machakos District. Both are at least 21 years older than the Child. They are both of sound mind within the meaning of the **Mental Health Act, Cap 242**.

The Applicants do not have any children of their own.

9. The Applicants have never been convicted of a sexual or moral offence by a competent court of law.
10. As already noted, the Child was abandoned. The Child's parents are unknown and nobody has ever come forward to claim him, either as a relative or guardian.
11. Bearing in mind that the interests of the Child are paramount, I hereby dispense with the consents required by **section 158(4)** of the **Children's Act, No 8 of 2001**.

## **DECISION**

12. I have considered all matters placed before the court, including the statements of the Applicants filed with the application. Being guided by the principle that the welfare of the Child is paramount, I am satisfied that the Applicants have the ability to properly maintain and educate the Child. I am also satisfied that no payment or other reward has been given to or by the Applicants as consideration for the adoption order sought.
13. I am further satisfied that after the Child was found abandoned, all reasonable steps were made, albeit unsuccessfully, to locate the parents or guardian of the Child. Nobody came forward, as relative or guardian, to claim the Child.
14. I am thus persuaded that all requirements of the law for the adoption order sought have been met. I am also persuaded that the Applicants will provide a good and conducive home in which the Child will grow into responsible adulthood.
15. In the event I will grant the adoption order sought. The **Child's name** shall be **E. M. W.** His **date of birth** is **8<sup>th</sup> September 2005**, and **he was born in Kenya**.
16. I hereby direct that the **Registrar-General** do make the necessary entry in the **Adoption Children Register**. This order shall be communicated to the Registrar-General in the prescribed form. Those will be the orders of the court.
17. The delay in preparation of this ruling is deeply regretted. It was caused by my poor state of health the last few years. But I thank God that I am much better now.

**DATED AT NAIROBI THIS 7<sup>TH</sup> DAY OF AUGUST 2012**

**H.P.G. WAWERU**  
**JUDGE**

**COUNTERSIGNED AND DELIVERED AT MACHAKOS THIS 28<sup>TH</sup> DAY OF SEPTEMBER 2012**

**ASIKE-MAKHANDIA**  
**JUDGE**