



**In re T alias JT (Baby) (Adoption Cause E001 of 2024)
[2024] KEHC 7537 (KLR) (19 June 2024) (Judgment)**

Neutral citation: [2024] KEHC 7537 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
ADOPTION CAUSE E001 OF 2024
RE ABURILI, J
JUNE 19, 2024**

IN THE MATTER OF

**MOO 1ST APPLICANT
HAO 2ND APPLICANT**

JUDGMENT

1. The Originating Summons dated 7th November, 2023 is expressly brought under Sections 183, 184 (1), 185, 186 (1) a, (2) a, b, 187 (1) a, c, (7), (8),(9), 188 (1),(2),(4), 194 and 201 as well as all other enabling provisions of the Children’s Act No 29 of 2022. The Applicants seek the following orders:
 - i. That, F.O.O. J.A.O. male and female adults of sound mind both of Post Office Box Number 177 Songhor be appointed as Guardians *ad litem* in this matter.
 - ii. That the Children’s Department office in Kisumu investigates the applicants’ fitness to adopt Baby T alias JT and file a report in court.
 - iii. That the applicants be authorised to adopt Baby T alias JT.
 - iv. That Baby T be henceforth formally known as JT.
 - v. That the court be pleased to make any further orders it deems necessary.
2. The Summons is supported by a joint statement and affidavit by the Applicants. The Court directed that the County Director, Children’s Services Kisumu County do file a comprehensive report on the prospective adopters. A report has been duly filed in Court. It is dated 17th May 2024.
3. The baby herein was abandoned by its mother at Moi Teaching and Referral Hospital Eldoret and despite efforts to trace her within the hostels and hospital, she was not found. The baby was subsequently placed in the custody of Holy Family Children’s Home in 2021 during which stay no



- parent or relative turned up to claim the child. Further investigations to try and trace the biological parent/relatives of the child also went unsuccessful.
4. The applicants testified as PW1 and PW2 respectively, stating that they had been married since 1991 and had not been blessed with a child of their own a fact that was confirmed by doctors whom they saw and so they decided to adopt a child. The applicants testified that they had lived with the child since May 2022 when he was only a year old. They further testified that they were aware that once they adopt the minor, he legally became theirs and they were to meet all his needs. The applicants are perfectly willing to assume the responsibility of bringing up the Minor.
 5. PW3 and PW4, Judith Awuor Odhiambo and Fredrick Omondi Okumu, a married couple both testified that they had agreed to jointly become guardian to the child herein. PW3 testified that the applicants had taken care of her since her father passed on when she was 9 years old. It was her testimony that she had spoken to her husband PW4 and he had agreed for them to be the child's guardian.
 6. The Applicants were investigated by the County Coordinator Children's Services for Kisumu County and found to be fit as adoptive parents. A copy of the Report was filed in court.
 7. The Applicants wish to have Judith Awuor Odhiambo and Fredrick Omondi Okumu, a married couple, as the Legal Guardians of the minor. Both appeared before this and confirmed that they have consented to this appointment.
 8. The Applicants, the Guardian *ad litem* and the Legal Guardian appeared before court and satisfactorily answered questions posed by the Court.
 9. The primary consideration in an adoption Application is whether the Applicants have fulfilled all the pre-requisites to be granted the Adoption Orders. These are mainly found in Sections 158 and 163 of the [Children Act, 2022](#).
 10. I have perused all the documents filed in the case. I have confirmed that all the reports and consents needed are on the file. The biological parents are certifiably unknown and their consent is hereby waived. The consents of the proposed Guardian and the Applicants are on record.
 11. In addition, I have read the report filed by the County Coordinator of Children Services as well as the testimony by the Guardian *ad litem*. All reports are unanimous that it will be in the best interests of the minor for the Court to grant the Adoption Orders. I see no reason to dissent from those views.
 12. I am satisfied that the Applicants meet all the attributes required of Applicants in Section 158 of the [Children Act](#). I am also satisfied that the Applicants understand the consequences and import of Adoption Orders. They have no criminal record and have a place of abode where they have settled in a family homestead. They have now lived with the minor for over two years and the minor knows the applicants only as his parents. Finally, I am satisfied that it is in the best interests of the minor for the Adoption Orders to be granted.
 13. Accordingly, I make the following orders:
 - a. That, F.O.O and J.A.O. Male and female adults of sound mind respectively, both of Post Office Box Number 177 Songhor are hereby appointed as Guardians ad litem in this matter in the event the applicants are incapacitated or in any way unable to discharge their parental obligations, shall remain the child's legal guardians.
 - b. That the applicants M.O.O and H.A.O. are hereby authorized to adopt Baby T alias JT and that an adoption order is hereby issued and to be extracted in the prescribed form under the Children's Act and Rules.



- c. That Baby T alias J.T be henceforth formally known as JT and that the Registrar of Births and Deaths do issue the said baby J.T. with a birth certificate containing his full names as given by the adoptive parents and the names of his adoptive parents.
- d. That the Registrar General is hereby directed to make the appropriate entries in the adopted Children's Register to reflect the adoption of the child J.T. jointly by the adoptive parents herein M.O.O. and H.A.O.
- e. That there shall be no orders as to costs.
- f. This file is now closed

DATED, SIGNED AND DATED AT KISUMU THIS 19TH DAY OF JUNE, 2024

R.E. ABURILI

JUDGE

