

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
MILIMANI LAW COURTS
FAMILY DIVISION
ADOPTION CAUSE NO. E232 OF 2025
IN THE MATTER OF THE CHILDREN ACT, 2022

AND
IN THE MATTER OF THE ADOPTION OF BABY RO AKA D

BY:

JKM **1ST**
APPLICANT

TM **2ND**
APPLICANT

JUDGMENT:

1. Before this Court is an Originating Summons dated **20th August, 2025**. The Applicants **JKM** and **TM** are seeking to be authorized to adopt baby **RO** aka **D**, hereinafter referred to as ("**the child**") and upon adoption, the child is to be known as **RMK**. **JNM** and **HNN** are to be appointed as the

child's legal guardians upon the granting of the adoption orders.

2. The Applicants are a married couple who got married on 15th February, 2014 at Athi River S. Army as evidenced by a copy of the marriage certificate, but have not been blessed with any biological children of their own from the said marriage. They are Kenyan citizens as evidenced by copies of their National Identity Cards. **JKM** is a salesperson at Eaton Saks International group while **TM** is a data entry clerk, hence their financial capability and ability to provide for the child. Their health status is good, as evidenced by the medical reports and they do not have any previous criminal records, as evidenced by their Certificates of Good Conduct issued by the Directorate of Criminal Investigations. They have indicated their desire to adopt the child, as helping needy children is an old practice which they have adopted over the years and they still do and thus decided to make the support formal. They have also stated that they love children and that the adoption is driven by a great desire to give a gift of a family to a child in need of a

family. The child has been in their custody since **4th July, 2023**. They have positive recommendations from friends, family, church and the chief.

3. **JNM** and **HNN**, who are the proposed Legal guardians, are **JKM's** brother and sister-in-law, respectively, and they told the Court that they understand the role of legal guardians and its implications, the role which they voluntarily consented to. The child who was examined in court told the Court that he is 17 years old, that he understands the proceedings and that he has not been forced. He gave his consent dated 6th August, 2024.

4. The report from the Ministry of Gender, Culture and Children's Services, State Department for Children's Services, Directorate of Children Services, dated **30th October, 2025**, indicates that the child is 17 years old, having been born on 24th March, 2008. He is a Kenyan who was found abandoned in Korogocho slums on 2nd October, 2008 and was rescued by a good Samaritan who took him to Dandora Police Station. Efforts to trace the child's parents have remained fruitless, and no one has claimed the child

since then. The child was declared free for adoption on 7th **August, 2025**, by Buckner Kenya Adoption Services vide freeing certificate number **0895**.

5. The child is a Kenyan citizen by virtue of **Article 14 (1)** which provides that a ***person is a citizen by birth if on the day of the person's birth, whether or not the person is born in Kenya, either the mother or father of the person is a citizen.***
6. In light of the best interests of the child principle provided for under **Article 53 (2)** of the **Constitution of Kenya, 2010**. **Sections 8 (1), (2) and (3)** of the **Children's Act No. 29 of 2022** and the **1st Schedule** of the **Children's Act No. 29 of 2022**, this Court has an obligation to prioritize the child's best interests in making decisions touching on him.
 - a. **Article 53** of the **Constitution, 2010** states that a child's best interests are of paramount importance in every matter concerning the child.

b. **Sections 8 (1), (2) and (3) of the Children’s Act No. 29 of 2022** provides as follows;

(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;

(b) 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;

(b) conserve and promote the welfare of the child; and

(c) secure for the child such guidance and correction as is necessary for the welfare of the child, and in public interest.

(3) In any matters affecting a child, the child shall be accorded an opportunity to express their opinion, and that opinion shall be taken into account in appropriate cases, having regard to the child's age and degree of maturity.

c. The First Schedule as provided for under **Section 8 (1)** of the **Children's Act No. 29 of 2022** provides best interests considerations to be as follows:

1. The age, maturity, stage of development, gender, background and any other relevant characteristics of the child.

- 2. Distinct special needs (if any) arising from chronic ailment or disability.**
- 3. The relationship of the child with the child's parent(s) and/or guardian(s) and any other persons who may significantly affect the child's welfare.**
- 4. The preference of the child, if old enough to express a meaningful preference.**
- 5. The duration and adequacy of the child's current living arrangements and the desirability of maintaining continuity.**
- 6. The stability of any proposed living arrangements for the child.**
- 7. The motivation of the parties involved and their capacities to give the child love, affection and guidance.**
- 8. The child's adjustment to the child's present home, school and community.**

- 9. The capacity of each parent or guardian to allow and encourage frequent and continuing contact between the child and the other parent and/or guardian(s), including physical access.**
- 10. The capacity of each parent and/or guardian(s) to cooperate or to learn to cooperate in child care.**
- 11. Methods for assisting parental and/or guardian cooperation and resolving disputes and each parent's/guardian's willingness to use those methods.**
- 12. The effect of the child if one parent/guardian has sole authority over the child's upbringing.**
- 13. The existence of domestic abuse between the parents/guardian(s), in the past or currently, and how that abuse affects the emotional stability and physical safety of the child.**
- 14. The existence of any history of child abuse by a parent and/or guardians); or anyone residing in the same dwelling as the child.**

- 15. Where the child is under one year of age, whether the child is being breast-fed.**
- 16. The existence of a parent's (s) or guardian's(s) conviction for a sex offense or a sexually violent offense under the Sexual Offences Act.**
- 17. Where there is a person residing with a parent or guardian, whether that person; -**
- (a) Has been convicted of a crime under this Act, the Sexual Offences Act, the Penal Code or any other legislation.**
 - (b) Has been adjudicated of a juvenile offence which, if the person had been an adult at the time of the offence, the person would have been convicted of a felony.**
- 18. Any other factor which may have a direct or indirect effect on the physical and psychological well-being of the child.**

7. The report from the Ministry of Gender, Culture and Children's Services, State Department for Children's

Services Directorate of Children Services, the report from Buckner Kenya Adoption Services, the guardian *ad litem* and the proposed legal guardian indicate that the child is well known to the adoptive parents and that he will be well taken care of in their care and custody.

8. I am satisfied that the Applicants have a genuine desire to adopt the child. They are suitable as adoptive parents.

9. I find that this adoption gives the child a chance at a better life and education in a loving and stable home with the adoptive parents. I do not doubt that the child has bonded with the Applicants.

10. Based on the foregoing, I am satisfied that this adoption serves the child's best interests. As such, I do allow this application and make the following orders:

(a) The Applicants, JKM and TM are hereby authorized to adopt baby RO aka D.

(b) Upon adoption, the minor shall be known as RMK.

(c) JNM and HNN are hereby appointed as the legal guardians of the minor.

(d) The Registrar General is hereby directed to enter this adoption into the Register of Adoptions.

(e) The minor is presumed to be born in Kenya.

(f) The guardian ad litem is hereby discharged.

11. It is so ordered.

DATED, DELIVERED and SIGNED at NAIROBI through the Microsoft Teams Online Platform on this **27TH** day of **NOVEMBER, 2025.**

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C. KENDAGOR

JUDGE

In the presence of:

Court Assistant: Beryl

Ms. Adhiambo Advocate, holding brief for Moranga, Advocate for Applicants