



REPUBLIC OF KENYA



In re EOO (Subject) (Petition E009 of 2025) [2025] KEHC 6437 (KLR) (23 May 2025) (Judgment)

Neutral citation: [2025] KEHC 6437 (KLR)

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

PETITION E009 OF 2025

A MABEYA, J

MAY 23, 2025

JUDGMENT

1. EOO ('the Subject') aged 39 years is the son of JAO ('the Petitioner'). On 20/12/2019, the Subject was involved in a Road Traffic Accident with Motor Cycle Registration No. KMET 774M at Bar-Ober.
2. The Subject sustained head injuries for which he was admitted in hospital and treated for 4 days. However, although hitherto an organized carpenter who was focused and productive, henceforth he was unable to recover and return to his career. He developed bizarre behavior. A Mental Assessment Report dated 13/7/2021 from Kisumu County Referral Hospital show that he has poor judgment, impaired memory, lacks spontaneous speech with selective mutism and lost in thought at times. The said report concludes that he is of unstable mental status.
3. On 29/5/2025 (sic) (29/4/2025), the Petitioner took out a Petition under sections 26 and 27 of the *Mental Health Act* and sought that the Subject be declared a person suffering from mental disorder. She also sought to be appointed as the Guardian of the Subject and therefore his Manager.
4. On 20/5/2025, she appeared in Court and testified on oath. She confirmed the contents of her Petition as narrated above. She produced a Police Abstract Report dated 20/12/2019 and the aforesaid Medical Report in support of her contestations.
5. The Court has carefully considered the statements in the Petition. It has also considered the testimony of the Petitioner as corroborated by the documentary evidence that she produced.
6. Section 2 of the *Mental Health Act*, Cap 248 defines a person suffering from mental disorders as: -

"... a person who has been found to be suffering under this Act and includes a person diagnosed as a psychopathic person with mental illness and person suffering from mental impairment due to alcohol or substance abuse."



7. Section 26 of the said Act provides for the orders that this Court can make upon being satisfied that a person is suffering from mental disorder. It provides for the management of his estate and guardianship. Sub-section 3 thereof provides: -

“Whereupon inquiry it is found that the person to whom the inquiry relates is suffering from mental disorder to such an extent as to be incapable of managing his affairs, but that he is capable of managing himself and is not dangerous to himself or to others or likely to act in a manner offensive to public decency, the Court may make such orders as it may think fit for the management of the estate of such person, including proper provision for his maintenance and for the maintenance of such members of his family as are dependent upon him for maintenance, but need not, in such case, make any order as to the custody of the person suffering from mental disorder.”

8. In the present case, I have considered the Mental Assessment Report dated 13/7/2021. I have also considered the testimony of the Petitioner. I am satisfied that the Subject suffers from mental disorder. That it is fair and just that his affairs be managed by a Guardian.

9. Accordingly, I allow the Petition and grant prayer Nos. 1 to 3 thereof. No order as to costs.

It is so decreed.

DATED AND DELIVERED AT KISUMU THIS 23RD DAY OF MAY, 2025.

A. MABEYA, FCI Arb

JUDGE

