



REPUBLIC OF KENYA



**KENYA LAW**  
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**In re Guardianship relating to BF (Petition E012 of 2025)  
[2025] KEHC 10845 (KLR) (25 July 2025) (Judgment)**

Neutral citation: [2025] KEHC 10845 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KISUMU  
PETITION E012 OF 2025**

**A MABEYA, J**

**JULY 25, 2025**

**IN THE MATTER OF MENTAL ACT (CAP 248) LAWS OF KENYA**

**AND**

**IN THE MATTER OF A PETITION FOR ORDERS OF CUSTODY,  
MANAGEMENT AND GURADIANSHIP RELATING TO BF**

**IN THE MATTER OF**

**LJI ..... PETITIONER**

**JUDGMENT**

1. BFJ ('the Subject') aged 80 years is the father of LJI ('the Petitioner'). On 25/3/2025, the Subject was admitted to Danid Centre for Chronic Illness, Milimani Kisumu with Septic shock and thereafter required prolonged in-patient care.
2. He had initially been admitted to Avenue Hospital, Kisumu on 18/3/2025. He was discharged while frail, drowsy and mildly confused. A Mental Assessment Report dated 2/7/2025 from Danid Centre for Chronic Illness – Milimani show that he is suffering from recurrent seizures, declined cognitive and periods of disorientation. He is unable to take care of himself or make any cognitive decision.
3. On 5/7/2025, the Petitioner took out a Petition under sections 26 and 27 of the *Mental Health Act* and sought to be appointed as the Guardian of the Subject and therefore his Manager under section 26 of the *Mental Health Act*.
4. On 16/7/2025, she and her sister appeared in Court and testified on oath. She confirmed the contents of her Petition as narrated above. She produced Medical Reports from the Avenue Hospital, Kisumu and the Danid Centre for Chronic Illness – Milimani to support 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 Medical Reports dated 1/4/2025 and 2/7/2025 by Avenue Hospital, Kisumu and Danid Centre for Chronic Illness – Milimani, respectively. I have also considered the testimony of the Petitioner. I am satisfied that the Subject suffers from a disorder that makes him incapable of making cognitive decisions for himself. That it is fair and just that his affairs be managed by a Guardian.

9. Accordingly, I allow the Petition and grant prayer Nos. (a) and (b) of the Petition. No order as to costs. It is so decreed.

**DATED AND DELIVERED AT KISUMU THIS 25<sup>TH</sup> DAY OF JULY, 2025.**

**A. MABEYA, FCI Arb**

**JUDGE**

