



**In re PFMN alias PMN alias PM (Patient) (Miscellaneous Application E330 of 2025)
[2025] KEHC 18950 (KLR) (Family) (17 December 2025) (Judgment)**

Neutral citation: [2025] KEHC 18950 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
MISCELLANEOUS APPLICATION E330 OF 2025
CJ KENDAGOR, J
DECEMBER 17, 2025
IN THE MATTER OF AN APPLICATION FOR GUARDIANSHIP
AND
IN THE MATTER OF SECTION 31 OF THE MENTAL HEALTH ACT NO. 27 OF 2022
IN THE MATTER OF
JWM APPLICANT**

JUDGMENT

1. Before this Court is an Originating Summons dated 9th October, 2025, and amended on 18th November 2025, which seeks the following orders: -
 - a. That the Honourable Court be pleased to declare that P.F.MN alias P.F.M.N. alias PNM alias PFMN alias P.F.M.N alias PMN alias PM alias PN, hereinafter referred to as (“the patient”) is a person suffering from a mental illness within the meaning of the *Mental Health Act* No. 27 of 2022, and is incapable of making decisions regarding his personal, medical and financial affairs;
 - b. That the Honourable Court be pleased to appoint JWM, the wife of the patient, as the legal guardian of P.F.MN alias P.F.M.N alias PNM alias PFMN alias P.F.M.N alias PMN alias PM alias PN, hereinafter referred to as (“the patient”), with authority to make decisions on his behalf in relation to his personal welfare, health and property.
 - c. That the appointed guardian be authorized to undertake any necessary legal or administrative actions in the best interest of the patient, including the management of any income, bank accounts, pensions, or assets belonging to the patient.
 - d. That the costs of the application be provided for.



2. The application is premised on the following grounds:
 - a. That the Applicant is the wife of the patient P.F.MN, alias P.F.M.N, alias PNM alias PFMN alias P.F.M.N, alias PMN, alias PM, alias PN.
 - b. That the patient was reported to be in fair condition till 2024 when the family noticed the development of progressively worsening memory loss and occasional mood changes.
 - c. That the patient was accompanied by his son JMM to have a mental health assessment done, where it was found that the patient has a severe mental disability secondary dementia.
 - d. That the patient is mentally incapacitated and unable to make reasonable decisions regarding his personal welfare and/or the civil suit involving land.
 - e. That due to the progressive nature of dementia and the patient's current condition, it is in his best interests that a guardian be appointed.
 - f. That the proposed guardian, JWM (his wife), has been the primary caregiver and is best placed to continue caring for and making decisions on behalf of the patient.
 - g. That all the children of the patient are in agreement that their mother, JWM, should be appointed legal guardian.
 - h. That the proposed guardian is willing, suitable and capable of acting in the best interest of the patient.
 - i. That under the circumstances, it is in the interest of justice that this motion be allowed.
3. The Application is supported by an affidavit sworn on 9th October, 2025 by JWM. The matter proceeded by viva voce evidence via the online platform in the presence of the Applicant and the subject's children. The Applicant testified that she is the subject's wife and that he has been unwell. She explained that the subject can no longer safeguard his interests or perform tasks he previously managed, and that she has been caring for him for approximately one and a half years. Although his condition has improved, he still requires assistance and cannot function independently.
4. Their children, who were present, confirmed their consent to the Applicant being appointed guardian and custodian to assist with managing their father's needs, particularly financial obligations.
5. A medical report dated July 17, 2025, from Embu Level 5 Hospital was filed with the Court. The report was prepared by Dr. Thuo J.N., a Consultant Psychiatrist. It states that the patient suffers from severe mental disability due to dementia and is entirely dependent on their next of kin. The report also confirms that the patient lacks the capacity to follow Court proceedings or provide testimony.
6. The *Mental Health Act* regulates the care, custody, and estate management of persons suffering from mental disorders. Under Section 26(1)(a) and (b), the Court is empowered to issue orders appointing near relatives or suitable persons to manage the estate and exercise guardianship over such individuals.
7. Section 26(3) of the Act provides that where, upon inquiry, the Court determines that a person suffers from mental disorder to a degree that renders them incapable of managing their affairs - though still capable of self-care and not a danger to themselves or others - the Court may issue appropriate orders for estate management, including provision for maintenance of the patient and dependants, without necessarily making orders regarding physical custody.
8. Section 28 of the Act further outlines the management of the estate of a person suffering from mental disorder.



9. Having reviewed the Application, the supporting affidavit, the medical report and oral testimony, the Court notes that Section 26 of the [Mental Health Act](#) authorises orders:
 - a. for management of the estate of a person suffering from mental disorder; and
 - b. for guardianship over such person by a near relative or another suitable individual.
10. The statutory duties of estate managers are set out in Section 27, which empowers the Court to issue orders for the administration and management of a mentally ill person's estate, including:
 - (a) maintenance of the patient;
 - (b) maintenance of dependants in the patient's immediate family; and
 - (c) payment of the patient's debts.
11. The Court may appoint a manager to safeguard the patient's property and may designate a supporter or representative to serve in that capacity.
12. On the basis of the evidence placed before the Court, I am satisfied that the subject suffers from mental illness within the meaning of Section 26 of the [Mental Health Act](#). The application dated 9th October, 2025 and amended on 18th November, 2025 is merited.
13. The Court declares that P.F.MN (also referred to by the various aliases listed) is a person suffering from mental illness under the [Mental Health Act](#) No. 27 of 2022 and is incapable of making decisions relating to his personal, medical or financial affairs.
14. JWM, the patient's wife, is hereby appointed as his legal guardian with authority to make decisions on his behalf in respect of his personal welfare, healthcare and property.
15. The appointed guardian is authorized to undertake necessary legal and administrative actions in the patient's best interests, including managing his income, bank accounts, pensions and property.
16. As per the provisions of Section 27 (4) and (5) of the [Mental Health Act](#) Cap 248, the Applicant is to pursue gazetteement informing the public of her appointment as the manager of the estate of Patrick Fulton Mwaniki.
17. To provide an overview of how the estate is being managed, the guardian/manager shall submit a comprehensive semi-annual report to the court, outlining the status of the subject's estate. She should also notify the Court promptly of any changes or recovery in the subject's medical condition.
18. It is so ordered.

DATED, DELIVERED AND SIGNED AT NAIROBI THROUGH THE MICROSOFT TEAMS ONLINE PLATFORM ON THIS 17TH DAY OF DECEMBER, 2025.

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C. KENDAGOR
JUDGE.

In the presence of:

Court Assistant: Beryl

Mr. Malanga, Advocate for the Applicant

