



**In re WWN (Subject) (Miscellaneous Application E323 of 2025)  
[2026] KEHC 3289 (KLR) (5 March 2026) (Judgment)**

Neutral citation: [2026] KEHC 3289 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)  
MISCELLANEOUS APPLICATION E323 OF 2025**

**SN RIECHI, J**

**MARCH 5, 2026**

**THE MATTER OF THE MENTAL HEALTH ACT CAP 248 AND  
IN THE MATTER OF THE ESTATE OF THE SUBJECT WWN**

**IN THE MATTER OF**

**JNW ..... 1<sup>ST</sup> APPLICANT  
GGW ..... 2<sup>ND</sup> APPLICANT**

**JUDGMENT**

1 Before this Court for determination is a Notice of Motion dated 2<sup>nd</sup> October,2025 by the applicants JNW and GGW seeking orders that this Honourable court;

1. Declares WWN as a person suffering from mental disorder.
2. That the applicants who are sons of WWN be declared the guardians for the said WWN.
3. That the proceeds from the assets of WWN be used to cater for his maintenance and medical expenses.

The Petition is premised on the grounds that;

- i. The applicants are sons of the subject and the applicants have discovered their father( subject) has developed severe progressive psychosis and is resultantly in need of urgent and immediate medical and family intervention.
- ii. That the subject has adult children and is a widower. The subject has no relatives other than his nuclear family to take care of him.
- iii. That the applicants seek to be issued with a court order to enable them be his guardians ad Litem. That if no action is taken immediately, then WWN will likely suffer irreparable loss.



2 The Petition was supported by a supporting affidavit sworn by the 1<sup>st</sup> applicant JNW on 2<sup>nd</sup> October, 2025 in which they reiterated grounds of the application.

3 This Petition was canvassed by way of viva voce evidence on the online platform.

4 The court observed the subject online and the subject is unable to have a coherent conversation.

5 The first Petitioner JNW testified the subject is his father. He is 87 years old and he was married to Nancy Njoroge who is deceased. They had four children but one is deceased. The Petitioner testified the subject stays in Mukuruini Nyeri at his farm. He stays with two caregivers. It was the 1<sup>st</sup> Petitioner's testimony that they pray for guardianship as the subject was in 2022 diagnosed with dementia. They want to take over running of the farm and business. The Subject has been treated by Dr. Ndege of Upper Hill Medical Clinics and who has filed a report.

6 GGW testified that the subject is his father and he supports the evidence by John who is his elder brother.

7 PMW testified that the subject is his father and he support the Petition.

8 This court has exhaustively considered all the material placed before it, the main issue for determination is whether the court should declare the subject WWN as a person suffering from mental disorder so as to grant the guardianship and management orders as sought in the petition herein.

9 Section 2 of the [Mental Health Act](#) Cap 248 provides that:

“A person suffering from mental disorder” means 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 suffering from mental impairment due to alcohol or substance abuse.”

The court in *Re N M K* [2017] eKLR considered what should guide the court when applying Section 26 and 27 of Cap 248. The held as follows:

“In considering an application brought under sections 26 and 27 of the [Mental Health Act](#), the Court is guided by three main factors:

- i. There must be medical evidence warranting the determination by the Court that the Subject suffers from mental disorder;
- ii. The person to be appointed to be either a Guardian or Manager must be fit to be so appointed;
- iii. The Court must be satisfied that a proposed Manager will utilize her powers for the benefit and welfare of the Subject.”

10 The Petitioners have sought orders that this court to declare the subject as a person suffering from mental illness and therefore incapable of taking care of his affairs. The petitioners are also seeking to be appointed as Guardians and Managers of the subject. The petitioners stated that the subject is suffering from progressive psychosis and the same is due to the subject been diagnosed with Alzheimers diseases. The petitioner testified that the subject was diagnosed with dementia and he has been treated by Dr. Ndege a consultant Neurologist who filed a medical report. The petitioners stated the family resolved to services of a caregiver, who assists the subject with his day to day needs and wants at their expense. The petitioners informed this court that the subject has several movable and immovable assets which need to be overseen in order to prevent and mitigate wastage, loss and damage. The petitioners stated they are seeking to be appointed to manage the Estate of the subject.



- 11 To merit the above orders the Petitioners must adduce evidence sufficient to satisfy the Court firstly that the subject is a person suffering from a mental illness under the *Mental Health Act* and secondly that the subject is incapable of taking care and managing her own affairs.
- 12 The Petitioners testified that the subject was diagnosed with dementia in the year 2022. The Petitioners informed this court that the subject was treated by Dr. Ndege, Consultant Neurologist at The Upperhill Specialist Clinics and he filed a copy of Medical Report dated 7<sup>th</sup> May 2025 attached to the application.
- 13 This court was able to observe the subject on the online platform and noted that the subject was unable to have a coherent conversation. This Petition was also supported by the medical report dated 7<sup>th</sup> May 2025 in which Dr. K Ndege, a Consultant Neurologist confirmed that the Subject has Alzheimer's dementia which is a progressive condition.
- 14 Based on the material available to this Court, I am satisfied that the Subject suffers from a mental illness under Section 26 of the *Mental Health Act*. I find merit in this petition dated 2<sup>nd</sup> October, 2025 and make orders as follows;
1. The subject William Wamwa Oti Njoroge suffers from mental illness under section 26 of *Mental Health Act* and the subject is hereby declared as a person suffering from a mental illness as defined in section 2 of the *Mental Health Act* CAP 248 Laws of Kenya.
  2. This court hereby appoints JNW and GGW as the Guardians of the subject WWN.
  3. This court also appoints JNW and GGW as Managers of affairs of the subject WWN's affairs and estate.
  4. In accordance with the provisions of Section 33 of the Mental Act, the petitioner will furnish an inventory and annual statement to this court and the Public Trustee as required by the law.

**DATED AND DELIVERED AT NAIROBI THIS 5<sup>TH</sup> DAY OF MARCH 2026.**

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**S. N. RIECHI JUDGE**

