



REPUBLIC OF KENYA



KENYA LAW
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**In re JWN (Miscellaneous Case E055 of 2026)
[2026] KEHC 4065 (KLR) (Family) (19 March 2026) (Judgment)**

Neutral citation: [2026] KEHC 4065 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)**

FAMILY

MISCELLANEOUS CASE E055 OF 2026

CJ KENDAGOR, J

MARCH 19, 2026

**IN THE MATTER OF SECTIONS 26, 27, 28 (1) AND (2) OF
THE MENTAL HEALTH ACT CAP. 248, LAWS OF KENYA**

IN THE MATTER OF

PKN PETITIONER

JUDGMENT

1. The Petitioner filed a Certificate of Urgency and a Petition dated 4th February, 2026 seeking the following orders:
 - a. That JWN be declared and is hereby adjudged to be suffering from a mental health condition and requires assistance, care and support for her well-being forthwith, thus constituting a severe mental incapacity by virtue of the *Mental Health Act* Cap 248 of the Laws of Kenya.
 - b. That management orders be granted to the Petitioner to act with regards to the entire Estate of the Subject JWN including any such description of moveable or immovable properties, money, debts and legacies, pension, power to execute, sign all deeds and instruments relating to or evidencing the title or right to any assets, properties or giving a right to receive any moneys or goods.
 - c. That the Petitioner be and are hereby authorized to administer the finances and properties of the Respondent and to manage the Subject's entire Estate for his care and well-being as well as execute and or control all necessary conveyance documents, deeds and or instruments with regard to his property
 - d. That this court be pleased to grant such orders as may be necessary to lawfully and effectively serve, preserve, promote the upkeep, all general interests and welfare of the subject JWN.



2. The Petitioner, in his Petition and during examination at the hearing held on 12th March, 2026, informed the Court that he is the fourth-born brother to JWN. He stated that his intention in seeking guardianship is to act in his sister's best interests. He further stated that JWN has no assets and has one child.
3. The Petition describes JWN as someone showing a notable decline in cognitive ability, impaired judgment, and poor insight. It states that she is unable to make sound or rational decisions and relies entirely on her siblings for daily care and essential needs.
4. Dr. Gerald Nganga, Head of Department at Thika Level Five Hospital, testified during the hearing that JWN has had chronic schizophrenia. He stated that it is degenerative and has been on a downward spiral. She has been on medication but has shown no improvement and is currently undergoing electrotherapy. He described her as almost in a zombie-like state, receiving treatment at its most severe phase. He prepared a medical report dated 12th January 2026, which was presented to the Court and duly admitted as evidence.
5. JWN also appeared before the Court. She was responsive, appeared healthy and happy, and said that her brother is taking care of her.

Issues

6. The Court has considered the Petition and the evidence on record. The issues for determination before this Court are as follows:
 - i. Whether the subject should be declared as suffering from mental disorder.
 - ii. Whether the Petitioner should be appointed guardian and manager of the estate of the subject as prayed.

Analysis

7. The Petitioner in his Petition seeks to be appointed as guardian and manager of the affairs of JWN as owing to her illness, she can no longer manage her affairs.

Whether the subject should be declared as suffering from mental disorder pursuant to the *Mental Health Act*, Cap 248
8. The *Mental Health Act* provides for the care of persons who are suffering from mental disorder, custody of their persons and for the management of the estate of such persons. Section 2 of the Act defines "person suffering from mental disorder" as follows: - "person suffering from mental disorder" means a person who has been found to be so suffering under this Act and includes a person diagnosed as psychopathic person with mental illness and person suffering from mental impairment due to alcohol or substance abuse."
9. The Petitioner states that his sister has had a three-year history of schizophrenia, previously managed at Oasis Medical Centre. She has been on long-term antipsychotic treatment, although adherence cannot be fully verified. JWN exhibits abnormal involuntary movements, disorganised behaviour and speech. She keeps talking to herself, has progressive memory loss and cognitive decline. The evidence shows that the subject has, over the years, displayed motor retardation, general anhedonia and apathy, reduced motivation and energy. There was a past incident of a road traffic accident resulting in a limb fracture, but no confirmed head injury. She is described as often forgetful, oblivious, and completely unaware of her surroundings. Medical evidence from the doctors who have attended to the subject indicates that she is not in a proper mental state to manage her affairs and her own welfare.



10. The Court has noted the medical documentation presented in the Petition indicating a diagnosis of schizophrenia disorder and early onset dementia with negative symptoms, and observed the subject during the examination in court. The Court is satisfied on the evidence presented that the subject is a person suffering from a mental disorder.

Whether the Petitioner should be appointed as guardian and manager

11. The Petitioner urges the Court to appoint him as legal guardian of the subject for purposes of managing her affairs. The Petition is unopposed.
12. In re Application on Behalf of Peter Ng'ang'a Muturi (Petition E072 of 2024) [2024] KEHC 10407 (KLR) (Family) (23 August 2024) (Judgment) Riechi J held: "This court has power to appoint guardian and managers of the estate while the court has discretion as to who to appoint. The criteria for selection is based on proximity of the Petitioner to the subject."
13. The Court is satisfied of the close relation of the Petitioner to the subject as her brother, and that the prayers sought in this Petition are deserved and should be granted.

Orders

14. Accordingly, for the reasons set out above, the Petition dated 4th February, 2026 is allowed in the following terms;
1. That the Subject JWN is declared to be a person suffering from a mental disorder under the *Mental Health Act*, Cap 248 Laws of Kenya.
 2. That Court appoints the Petitioner – PKN, as the guardian and manager in respect of JWN and grants him custody, care, and management of the subject.
 3. That the Court appoints the Petitioner as the manager of the estate of the Subject with powers to run her affairs, including but not limited to operating her bank accounts and her investment portfolios as well as executing legally binding instruments on her behalf.
15. In accordance with Section 33 of the *Mental Health Act*, the Petitioner shall as the manager appointed in No. 3 above within six (6) months from today and annually, respectively, render an inventory of assets and an account of dealings therewith to the Court being a full and accurate inventory of any assets and account of their dealings with the estate of the subject herein for further orders, as appropriate.
16. It is so ordered.

DATED, DELIVERED AND SIGNED AT NAIROBI THROUGH THE MICROSOFT TEAMS ONLINE PLATFORM ON THIS 19TH DAY OF MARCH, 2026.

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C. KENDAGOR

JUDGE

In the presence of:

Court Assistant: Beryl

