

SUPREME COURT OF TEXAS

In re the John G. and Marie Stella Kenedy Memorial Foundation; In re Frost National Bank, Former Executor of the Estate of Elena Suess Kenedy, Deceased; Frost National Bank and Pablo Suess, Trustees of the John G. Kenedy, Jr. Charitable Trust; and the Missionary Oblate Fathers of Texas

315 S.W.3d 519 (Tex. 2010) · No. Nos. 04-0607, 04-0608 · Decided April 16, 2010

SUMMARY

The Supreme Court of Texas considered mandamus petitions challenging a probate court's orders permitting the exhumation of John G. Kenedy, Jr.'s body for DNA testing. The court held that the probate court lacked jurisdiction and that the alleged heir lacked standing because prior final judgments barred her from recovering from the Kenedy estates. The court conditionally granted mandamus and ordered the probate court to vacate the exhumation orders and dismiss the proceedings.

CASE DETAILS

COURT	Supreme Court of Texas
WRITING FOR THE COURT	Justice Green; Justice O'Neill; Justice Guzman
JURISDICTION	Texas
DECIDED	April 16, 2010
DOCKET	Nos. 04-0607, 04-0608
DISPOSITION	writ_granted
PROCEDURAL POSTURE	Original mandamus proceedings challenging a probate court's orders permitting exhumation of John G. Kenedy, Jr.'s body for DNA testing.
STANDARD OF REVIEW	Mandamus requires a clear abuse of discretion and ordinarily the absence of an adequate remedy by appeal; an order exceeding the trial court's jurisdiction is subject to mandamus, and a void order constitutes an abuse of discretion.
PRECEDENTIAL VALUE	Published opinion of the Supreme Court of Texas; precedential.

PARTIES

The John G. and Marie Stella Kenedy Memorial Foundation, The John G. Kenedy, Jr. Charitable Trust, Frost National Bank, Pablo Sues, The Missionary Oblate Fathers of Texas v. Ann M. Fernandez

TOPICS

probate procedure

subject matter jurisdiction

standing

writ of certiorari

appellate procedure

PRACTICE AREAS

probate

trusts

appellate procedure

civil procedure

remedies

QUESTIONS PRESENTED

1. Whether the probate court had jurisdiction to order exhumation and DNA testing when final judgments barred Fernandez from establishing intestacy or recovering as a Kenedy heir.
2. Whether Fernandez had standing and a justiciable interest to seek exhumation under Texas Health and Safety Code section 711.004.
3. Whether the probate court's exhumation orders constituted a clear abuse of discretion warranting mandamus relief.

HOLDINGS

1. The probate court lacked jurisdiction to enter the exhumation orders because binding final judgments precluded Fernandez from establishing intestacy, there was no open or pending probate proceeding to which her heirship claim could be incident, and the probate court's only legitimate action was dismissal.
2. Fernandez lacked standing to seek exhumation and genetic testing because she was barred from claiming a property interest in the Kenedy or East estates and therefore had no justiciable interest in the exhumation.
3. Mandamus relief was appropriate because the probate court's exhumation orders were void for lack of jurisdiction and therefore constituted an abuse of discretion.

KEY QUOTATIONS

"When a court lacks jurisdiction, its only legitimate choice is to dismiss." (522)

"For these reasons, we conditionally grant the writ of mandamus and order the probate court to vacate its orders relating to exhumation and to dismiss these cases." (523)

FACTUAL BACKGROUND

Ann M. Fernandez claimed to be the nonmarital child of John G. Kenedy, Jr. and sought to establish heirship to the Kenedy and Sarita Kenedy East estates. She moved to exhume Kenedy's body for genetic testing, but prior final judgments established that Kenedy died testate and without surviving children, and those judgments barred Fernandez's attempt to recover as a Kenedy heir. The probate court nevertheless ordered exhumation, prompting the Foundation and Trust to seek mandamus relief.

PROCEDURAL HISTORY

Fernandez filed probate-court bills of review and applications for declaration of heirship, and moved under Texas Health and Safety Code section 711.004 to exhume Kenedy's body for DNA testing. The probate court entered exhumation orders, and the court of appeals denied mandamus relief. The Supreme Court of Texas granted temporary relief, later considered related district-court judgments, and conditionally granted mandamus, directing the probate court to vacate the exhumation orders and dismiss the cases.

DISPOSITION

writ_granted

REMAND INSTRUCTIONS

The probate court was ordered to vacate its orders relating to exhumation and dismiss the cases. The writ would issue only if the probate court failed to do so.

CASES CITED

- Frost National Bank v. Fernandez, 315 S.W.3d 494 (Tex. 2010)
- The John G. & Marie Stella Kenedy Memorial Foundation v. Fernandez, 315 S.W.3d 512 (Tex. 2010)
- Ladehoff v. Ladehoff, 436 S.W.2d 334, 336 (Tex. 1968)
- In re Prudential Insurance Co. of America, 148 S.W.3d 124, 135-136 (Tex. 2004)
- In re Southwestern Bell Telephone Co., 35 S.W.3d 602, 605 (Tex. 2000)
- Bailey v. Cherokee County Appraisal District, 862 S.W.2d 581, 585 (Tex. 1993)
- Schwartz v. Jefferson, 520 S.W.2d 881, 889 (Tex. 1975)
- State v. Morales, 869 S.W.2d 941, 949 (Tex. 1994)
- In re Department of Family & Protective Services, 273 S.W.3d 637, 641 (Tex. 2009)
- Yett v. Cook, 115 Tex. 205, 281 S.W. 837, 841 (1926)
- Williams v. Lara, 52 S.W.3d 171, 184 (Tex. 2001)
- DaimlerChrysler Corp. v. Inman, 252 S.W.3d 299, 304 (Tex. 2008)
- In re Dickason, 987 S.W.2d 570, 571 (Tex. 1998)
- Atkins v. Davis, 352 S.W.2d 801, 802 (Tex. Civ. App.—Fort Worth 1961, no writ)