

COURT OF APPEALS OF TEXAS, SECOND DISTRICT OF TEXAS, FORT WORTH

The Estate of John Aroon Sookma, Deceased

No. 2-08-288-CV · No. No. 2-08-288-CV · Decided August 7, 2008

SUMMARY

The Texas Court of Appeals for the Second District dismissed Julia A. Sookma’s appeal for want of jurisdiction. The trial court orders concerning investment of disputed probate funds were not final, appealable orders, and no response was filed after the court notified the parties of its jurisdictional concern.

CASE DETAILS

COURT	Court of Appeals of Texas, Second District of Texas, Fort Worth
WRITING FOR THE COURT	Walker, J.; Gardner, J.; McCoy, J.
JURISDICTION	Texas
DECIDED	August 7, 2008
DOCKET	No. 2-08-288-CV
DISPOSITION	dismissed
PROCEDURAL POSTURE	Julia A. Sookma attempted to appeal from purported trial-court orders concerning investment of disputed funds held by the county clerk. The court of appeals questioned its jurisdiction and, after receiving no response to its notice, dismissed the appeal.
PRECEDENTIAL VALUE	published
PARTIES	Julia A. Sookma v. The Estate of John Aroon Sookma, Deceased

TOPICS

- probate procedure
- appellate jurisdiction
- final judgment rule
- appellate procedure
- probate

PRACTICE AREAS

- Probate
- Appellate jurisdiction
- Civil procedure

QUESTIONS PRESENTED

1. Whether the court of appeals had jurisdiction over an appeal from probate-court orders authorizing investment of disputed funds when those orders were not final, appealable orders.

HOLDINGS

1. The January 8 and February 1, 2008 orders authorizing investment of disputed funds were not final, appealable orders; therefore, the court of appeals lacked jurisdiction over the appeal.
2. When the record shows that the appealed probate orders are not final, appealable orders, the court of appeals must dismiss the appeal for want of jurisdiction.

KEY QUOTATIONS

“Accordingly, because the trial court’s January 8 and February 1 orders are not final, appealable orders, we dismiss this appeal for want of jurisdiction.” (at 2)

FACTUAL BACKGROUND

The probate court authorized the county clerk to invest disputed funds held on deposit in interest-bearing accounts. Sookma attempted to appeal from several purported orders, but the clerk confirmed that two of the identified orders had not been signed. The two signed orders did not finally dispose of the relevant probate proceeding.

PROCEDURAL HISTORY

The Probate Court No. 1 of Tarrant County purportedly entered orders on January 8, January 17, February 1, and February 5, 2008. The clerk reported that no orders were signed on January 17 or February 5. The January 8 and February 1 orders authorized investment of disputed funds and were not final appealable orders. After notifying Sookma that the appeal appeared jurisdictionally defective and receiving no response, the court dismissed the appeal for want of jurisdiction.

DISPOSITION

dismissed

CASES CITED

- Crowson v. Wakeham, 897 S.W.2d 779, 783 (Tex. 1995)

OPINION

PER CURIAM.

COURT OF APPEALS SECOND DISTRICT OF TEXAS FORT WORTH NO. 2-08-288-CV
THE ESTATE OF JOHN AROON SOOKMA, DECEASED FROM PROBATE COURT NO. 1
OF TARRANT COUNTY MEMORANDUM OPINION 1 Appellant Julia A. Sookma attempts to
appeal from the trial court’s orders signed on January 8, 2008; January 17, 2008; February 1,

2008; and February 5, 2008. According to the trial court clerk, the trial court did not sign any orders on January 17, 2008 or February 5, 2008.

The trial court's January 8 and February 1 orders authorized the county clerk to invest disputed funds on deposit with the county clerk in interest-bearing accounts and thus do not appear to be final appealable orders. See T EX. P ROB. C ODE A NN. § 5(g) (Vernon Supp. 2008); Crowson v. Wakeham, 897 S.W.2d 779, 783 (Tex. 1995) 1 ... See T EX. R. A PP. P. 47.4. (stating that if there is an express statute declaring the phase of the probate proceedings to be final and appealable, that statute controls; otherwise, if there is a proceeding of which the order may logically be considered a part, but one or more pleadings also part of that proceeding raise issues or parties not disposed of, then the probate order is interlocutory).

On July 11, 2008, we notified Sookma of our concern that we lacked jurisdiction over this appeal and stated that we would dismiss the appeal unless Sookma or any party desiring to continue the appeal filed on or before July 21, 2008 a response showing grounds for continuing the appeal. See T EX. R. A PP. P. 42.3.

We received no response. Accordingly, because the trial court's January 8 and February 1 orders are not final, appealable orders, we dismiss this appeal for want of jurisdiction. See T EX. R. A PP. P. 42.3(a), 43.2(f). PER CURIAM PANEL: WALKER, GARDNER, and MCCOY, JJ. DELIVERED: August 7, 2008 2