

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

The Guardianship of Dalton Homer Cobb, Jr., an Incapacitated Person v. the State of Texas

In re Guardianship of Cobb · No. 02-25-00571-CV · Decided December 18, 2025

SUMMARY

The Texas Court of Appeals for the Second District dismissed the appeal for want of jurisdiction. The court held that the probate court’s order setting aside approval of a mediated settlement agreement in a divorce proceeding was interlocutory because it did not dispose of a particular phase of the guardianship proceeding. The court also explained that a guardianship does not automatically terminate upon the ward’s death.

CASE DETAILS

COURT	Court of Appeals, Second Appellate District of Texas at Fort Worth
WRITING FOR THE COURT	Elizabeth Kerr; Birdwell; Bassel
JURISDICTION	Court of Appeals, Second Appellate District of Texas at Fort Worth
DECIDED	December 18, 2025
DOCKET	02-25-00571-CV
DISPOSITION	dismissed
PROCEDURAL POSTURE	Kaleb and Kylie Cobb appealed the probate court's order setting aside an earlier order approving a mediated settlement agreement related to Dalton Cobb's divorce. The court of appeals questioned its jurisdiction and dismissed the appeal for want of jurisdiction.
STANDARD OF REVIEW	De novo review of appellate jurisdiction and whether an order is final and appealable.
PRECEDENTIAL VALUE	Published Texas Court of Appeals memorandum opinion
PARTIES	Kaleb Cobb, Kylie Cobb v. The State of Texas

TOPICS

- appellate jurisdiction
- guardianship procedure
- guardianships
- final judgment rule
- appellate procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the probate court's order setting aside its earlier approval of a mediated settlement agreement was a final and appealable order in the guardianship proceeding.
2. Whether the court of appeals had jurisdiction over the appeal under the final-judgment rule or a statutory interlocutory-appeal provision.

HOLDINGS

1. The order was interlocutory because it did not dispose of a particular phase of the guardianship proceeding.
2. The court of appeals lacked jurisdiction over the appeal and dismissed it for want of jurisdiction.

KEY QUOTATIONS

“Generally, appeals may be taken only from final judgments or interlocutory orders that are authorized by statute.” (at 2)

“An order in a guardianship proceeding will be final and appealable if it disposes of all issues and all parties in the phase of the proceeding for which it was brought.” (at 3)

“We do not construe the probate court’s order setting aside the approval of the MSA in Dalton and Lezlie’s divorce as disposing of a particular phase of the guardianship proceeding—nor do Kaleb and Kylie argue that it did.” (at 3)

FACTUAL BACKGROUND

Dalton Homer Cobb, Jr. executed a 2021 will creating family and marital trusts benefiting his nephew and niece, Kaleb and Kylie Cobb, upon specified conditions involving his wife, Lezlie Boone Cobb. After Lezlie filed for divorce and Dalton was diagnosed with dementia, the probate court appointed guardians for Dalton's person and estate and authorized the estate guardian to represent him in the divorce. Dalton, through his estate guardian, and Lezlie entered into an irrevocable mediated settlement agreement in June 2025. Dalton died on July 16, 2025, one day before the probate court approved the agreement, and the court set aside its approval twelve days later.

PROCEDURAL HISTORY

The probate court appointed guardians for Dalton Cobb's person and estate and authorized the estate guardian to represent Dalton in his divorce. After Dalton, through his estate guardian, and Lezlie Cobb entered into a mediated settlement agreement, the probate court approved it on July 17, 2025, after Dalton's death. The probate court set aside that approval on July 29, 2025. Kaleb and Kylie sought reconsideration, then appealed when the probate court declined to reinstate the approval order. The court of appeals notified them that the set-aside order appeared neither final nor appealable by interlocutory appeal and dismissed after their response failed to establish jurisdiction.

DISPOSITION

dismissed

CASES CITED

- *Lehmann v. Har-Con Corp.*, 39 S.W.3d 191, 195, 200, 205 (Tex. 2001)
- *In re Guardianship of Jones*, 629 S.W.3d 921, 924-25 (Tex. 2021)
- *In re Guardianship of Fairley*, 650 S.W.3d 372, 381 (Tex. 2022)

OPINION

PER CURIAM.

In the Court of Appeals Second Appellate District of Texas at Fort Worth _____ No. 02-25-00571-CV _____ THE GUARDIANSHIP OF DALTON HOMER COBB, JR., AN INCAPACITATED PERSON On Appeal from Probate Court No. 1 Tarrant County, Texas Trial Court No. 2023-GD000791 Before Kerr, Birdwell, and Bassel, JJ. Memorandum Opinion by Justice Kerr MEMORANDUM OPINION Appellants Kaleb and Kylie Cobb—who are “interested persons” under the Texas Estates Code because they are devisees under the will of Dalton Homer Cobb, Jr., see Tex. Est.

Code Ann. § 1002.018(1)—attempt to appeal the probate court’s order setting aside its earlier order approving a mediated settlement agreement between Dalton and his wife Lezlie Boone Cobb in connection with their divorce. Dalton executed a will in 2021 that created a family trust and a marital trust whose assets were to go to Kaleb and Kylie (Dalton’s nephew and niece) upon Lezlie’s death, inability, or unwillingness to serve as trustee.¹ The next year, Lezlie filed for divorce, and Dalton counterpetitioned.

In March 2023, Dalton’s divorce lawyer sought to have a guardian appointed for Dalton because he had been diagnosed with dementia. The probate court appointed separate guardians for Dalton’s person and his estate and authorized the estate guardian to represent Dalton’s interests in the divorce.

In June 2025, Dalton—through his estate guardian—and Lezlie entered into an irrevocable mediated settlement agreement, and the guardian applied to the probate court for an order approving the MSA and proposed divorce decree.

Because the various parties share a surname, we use their first names for 1 clarity. 2 Dalton died on July 16, 2025, the day before the probate court approved the MSA on July 17; twelve days later, the probate court set that order aside. 2 Through a motion to reconsider, Kaleb and Kylie sought to have the probate court revisit its July 29 set-aside order and instead allow the July 17 order approving the MSA to stand.

When the probate court declined to do so, Kaleb and Kylie filed this appeal. On November 4, 2025, we notified the appellants of our concern that we lack jurisdiction over this appeal because the July 29 order does not appear to be a final judgment or appealable interlocutory order.

We warned that unless the appellants (or anyone else wanting to continue the appeal) filed a response showing grounds for continuing the appeal, we would dismiss it for want of jurisdiction. See Tex. R. App. P. 42.3(a), 44.3. Kaleb and Kylie responded, but their response does not show grounds for continuing the appeal. Generally, appeals may be taken only from final judgments or interlocutory orders that are authorized by statute.

Lehmann v. Har-Con Corp., 39 S.W.3d 191, 195, 200 (Tex. 2001). A judgment or order is final if it disposes of every pending claim and party. *Id.* at 205. “Probate and guardianship proceedings present an exception to the ‘one final judgment’ rule.” *In re Guardianship of Jones*, 629 S.W.3d 921, 924 (Tex. 2021) (cleaned up). An order in a guardianship proceeding will be final and appealable if it 2 The probate court was presumably unaware that Dalton had died when it entered its July 17 order.

3 disposes of all issues and all parties “in the phase of the proceeding for which it was brought.” *Id.* at 925. Although a ward’s death “will necessarily bring the guardianship of the person to an end,” “the guardianship proceeding does not automatically terminate on the ward’s death. Instead, the probate court’s jurisdiction continues until the court settles and closes the guardianship and discharges the guardian.” *In re Guardianship of Fairley*, 650 S.W.3d 372, 381 (Tex.

2022) (noting that Estates Code authorizes guardian to take certain actions after ward’s death before closing guardianship). We do not construe the probate court’s order setting aside the approval of the MSA in Dalton and Lezlie’s divorce as disposing of a particular phase of the guardianship proceeding— nor do Kaleb and Kylie argue that it did.³ Thus, the order was interlocutory.

Accordingly, we dismiss this appeal for want of jurisdiction. See Tex. R. App. P. 42.3(a), 43.2(f). /s/ Elizabeth Kerr Elizabeth Kerr Justice Delivered: December 18, 2025 3 Indeed, in their response to our jurisdictional letter, they candidly describe this particular-phase-finality issue as “admittedly unclear” and state that their appeal was taken “[i]n abundance of caution,” recognizing that if we dismiss the appeal for lack of finality, they can appeal the order when the guardianship proceeding concludes.