

COURT OF APPEALS FOR THE FIRST DISTRICT OF TEXAS

In the Estate of Bryan D. Davidson, Deceased

Davidson · No. 01-24-00026-CV · Decided December 23, 2025

SUMMARY

The Texas First Court of Appeals affirmed a probate court judgment declaring Sherry Myers to be the surviving spouse of Bryan D. Davidson based on an informal marriage. The court held that the evidence was legally and factually sufficient to support the elements of informal marriage and that Sherry’s testimony concerning an agreement to marry was corroborated and therefore not barred by the Dead Man’s Rule under Texas Rule of Evidence 601(b).

CASE DETAILS

COURT	Court of Appeals for the First District of Texas
WRITING FOR THE COURT	David Gunn; Chief Justice Adams; Justice Gunn; Justice Guiney
JURISDICTION	Court of Appeals for the First District of Texas
DECIDED	December 23, 2025
DOCKET	01-24-00026-CV
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a bench-trial judgment declaring that Sherry Myers and Bryan D. Davidson had an informal marriage and that Myers was Davidson's surviving spouse. Davidson's sons challenged the sufficiency of the evidence and the denial of their motion for directed verdict based on Texas Rule of Evidence 601(b), the Dead Man's Rule.
STANDARD OF REVIEW	An informal-marriage finding is reviewed for legal and factual sufficiency. The appellate court applies the usual standards applicable to sufficiency review following a bench trial: it credits favorable evidence if reasonable factfinders could, disregards contrary evidence only when reasonable factfinders could not, and sets aside a factual finding only if it is so contrary to the overwhelming weight of the evidence as to be clearly wrong and unjust. A denial of a directed verdict based on the evidence is reviewed under a legal-sufficiency or no-evidence standard.
PRECEDENTIAL VALUE	Published Texas Court of Appeals memorandum opinion; treated as published in the supplied metadata.

PARTIES

Garet Davidson, Jeffrey Davidson, Kyle Davidson v. Sherry Myers

TOPICS

probate procedure

evidence

marriage

standard of review

appellate procedure

PRACTICE AREAS

probate

family law

evidence

appellate procedure

QUESTIONS PRESENTED

1. Whether legally and factually sufficient evidence supported the probate court's finding that Myers and Davidson entered into an informal marriage.
2. Whether Myers's testimony about Davidson's agreement to be married was barred by Texas Rule of Evidence 601(b), the Dead Man's Rule, because it was corroborated by other evidence.
3. Whether the probate court erred by denying the sons' motion for directed verdict on the informal-marriage claim.

HOLDINGS

1. The evidence was legally and factually sufficient to support the trial court's findings that Myers and Davidson lived together in Texas as spouses and represented to others that they were married.
2. Myers's testimony about Davidson's oral agreement to be married was admissible because testimony from Davidson's father, Myers's daughter, and a family friend concerning Davidson's gift of his mother's wedding ring corroborated it under Texas Rule of Evidence 601(b).
3. Myers's testimony and the corroborating ring evidence constituted some evidence of an agreement to be married, and the trial court's finding that this element was established was not so contrary to the overwhelming weight of the evidence as to be clearly wrong and unjust.

KEY QUOTATIONS

“A party must prove three elements to establish a valid informal marriage: (1) the parties agreed to be married; (2) after the agreement, the parties lived together in Texas as spouses; and (3) the parties represented to others in Texas that they were married.” (at 12)

“Corroborating evidence need not be sufficient standing alone, but [it] must tend to confirm and strengthen the testimony of the witness and show the probability of its truth.” (at 19)

“We further conclude that the trial court’s implied finding that Sherry established this element of informal marriage is not “so contrary to the overwhelming weight of the evidence as to be clearly wrong and unjust.”” (at 22)

FACTUAL BACKGROUND

Bryan Davidson and Sherry Myers began dating in 2001, while Davidson was married to Debbie Davidson. Myers testified that after Davidson's divorce became final in 2014, she and Davidson agreed they were common-law spouses; they lived together, held themselves out as married, and later resumed cohabitation after living apart during Hurricane Harvey. Other witnesses testified that Davidson gave Myers his deceased mother's wedding ring and that the couple acted as husband and wife, although conflicting documents, text messages, and testimony described Myers as Davidson's girlfriend or denied that they were married. Davidson died in January 2021, and Myers sought a declaration that she was his surviving spouse.

PROCEDURAL HISTORY

After Davidson's death, his sons sought to probate a 2002 will. Myers intervened, alleged that she and Davidson had an informal marriage, and sought declaratory relief establishing her status as surviving spouse. Following a bench trial, the probate court found sufficient evidence of an informal marriage, denied the sons' motion for directed verdict, and declared Myers the surviving spouse. The trial court initially left an attorney-fee request unresolved, so the court of appeals abated the appeal; after the trial court entered an attorney-fee judgment, the appeal was reinstated. The court of appeals affirmed.

DISPOSITION

affirmed

CASES CITED

- Lewis v. Aylott's Heirs, 45 Tex. 190, 200-01 (1876)
- Garner v. Cleveland, 35 Tex. 74, 76-77 (1872)
- Berger v. Kirby, 105 Tex. 611, 615, 153 S.W. 1130, 1132 (1913)
- Edelstein v. Brown, 100 Tex. 403, 405, 100 S.W. 129, 129-30 (1907)
- Russell v. Russell, 865 S.W.2d 929, 933 (Tex. 1993)
- Nguyen v. Nguyen, 355 S.W.3d 82, 87-88 (Tex. App.—Houston [1st Dist.] 2011, pet. denied)
- City of Keller v. Wilson, 168 S.W.3d 802, 819, 827 (Tex. 2005)
- Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986) (per curiam)
- Austin Bridge & Rd., LP v. Suarez, 556 S.W.3d 363, 376 (Tex. App.—Houston [1st Dist.] 2018, pet. denied)
- Eris v. Phares, 39 S.W.3d 708, 713-15 (Tex. App.—Houston [1st Dist.] 2001, pet. denied)
- Small v. McMaster, 352 S.W.3d 280, 283-85 (Tex. App.—Houston [14th Dist.] 2011, pet. denied)
- Winfield v. Renfro, 821 S.W.2d 640, 648 (Tex. App.—Houston [1st Dist.] 1991, writ denied)
- McKeehan v. Wilmington Sav. Fund Soc'y, FSB, 554 S.W.3d 692, 698 (Tex. App.—Houston [1st Dist.] 2018, no pet.)
- Bertucci v. Watkins, 709 S.W.3d 534, 550 (Tex. 2025)
- Fraga v. Drake, 276 S.W.3d 55, 61 (Tex. App.—El Paso 2008, no pet.)
- Odom v. Coleman, 615 S.W.3d 613, 631-32 (Tex. App.—Houston [1st Dist.] 2020, no pet.)
- Quitta v. Fossati, 808 S.W.2d 636, 640-41 (Tex. App.—Corpus Christi 1991, writ denied)

- Powers v. McDaniel, 785 S.W.2d 915, 920 (Tex. App.—San Antonio 1990, writ denied)
- Donaldson v. Taylor, 713 S.W.2d 716, 717 (Tex. App.—Beaumont 1986, no writ)
- Bobbitt v. Bass, 713 S.W.2d 217, 220 (Tex. App.—El Paso 1986, writ dismissed)
- Sealy Emergency Room, L.L.C. v. Free Standing Emergency Room Managers of Am., L.L.C., 685 S.W.3d 816, 825-26 (Tex. 2024)

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