

COURT OF APPEALS OF TEXAS, FOURTH DISTRICT, SAN ANTONIO

In the Estate of Carlos Aguilar

No. 04-15-00222-CV · No. 04-15-00222-CV · Decided June 3, 2015

SUMMARY

The Fourth Court of Appeals of Texas dismissed an appeal from a probate court discovery order for want of jurisdiction. The court held that the order was not a final, appealable order and that the appellants failed to show cause why the appeal should not be dismissed.

CASE DETAILS

COURT	Court of Appeals of Texas, Fourth District, San Antonio
WRITING FOR THE COURT	Marialyn Barnard; Rebeca C. Martinez; Patricia O. Alvarez
JURISDICTION	Texas
DECIDED	June 3, 2015
DOCKET	04-15-00222-CV
DISPOSITION	dismissed
PROCEDURAL POSTURE	Appellants appealed from a probate court discovery order. The appellee moved to dismiss for want of jurisdiction on the ground that the order was interlocutory and nonappealable.
STANDARD OF REVIEW	The court reviewed its appellate jurisdiction de novo.
PRECEDENTIAL VALUE	published
PARTIES	Vanessa Arce, Eudelia Aguilar v. Clarissa Aguilar

TOPICS

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

PRACTICE AREAS

- probate
- appellate procedure
- civil procedure

QUESTIONS PRESENTED

1. Whether a probate court's interlocutory discovery order was final and appealable absent an express statute authorizing an appeal.

2. Whether the appeal should be dismissed for want of jurisdiction when the challenged order did not dispose of all parties or issues in a particular phase of the probate proceeding.

HOLDINGS

1. A probate court's interlocutory discovery order is not appealable when no statute declares the order or the relevant phase of the probate proceeding final and appealable, and the order does not dispose of all parties or issues in a particular phase of the proceeding.

KEY QUOTATIONS

“In De Ayala, the supreme court held that if there is no express statute declaring the phase of the probate proceeding to be final and appealable, a probate court order is final and appealable only if it disposes of all parties or issues in a particular phase of the proceedings.” (193 S.W.3d at 579)

FACTUAL BACKGROUND

The appeal arose from a probate proceeding involving the Estate of Carlos Aguilar. The order challenged on appeal concerned discovery issues and did not appear to dispose of all parties or issues in a discrete phase of the probate proceeding. Appellants failed to file the ordered response addressing the appealability of the order.

PROCEDURAL HISTORY

The County Court at Law No. 2 of Webb County entered an order dated February 13, 2015, concerning discovery issues in the probate proceeding. Appellants filed a notice of appeal, but did not respond to the appellate court's order to show cause why the appeal should not be dismissed. The court granted the motion to dismiss and dismissed the appeal for want of jurisdiction.

DISPOSITION

dismissed

CASES CITED

- De Ayala v. Mackie, 193 S.W.3d 575 (Tex. 2006)
- Lehmann v. Har-Con Corp., 39 S.W.3d 191 (Tex. 2001)