

COURT OF APPEALS FOR THE FIRST DISTRICT OF TEXAS

Ava Washington v. Margaret Victoria

No. 01-23-00473-CV (Tex. App.—Houston [1st Dist.] Mar. 26, 2026) (mem. op.) · No. 01-23-00473-CV ·
Decided March 26, 2026

SUMMARY

The Texas Court of Appeals reviews a probate dispute concerning whether Billy Washington had testamentary capacity to execute a 2016 will favoring Margaret Victoria and whether the will was procured by undue influence. The court concludes that legally sufficient evidence supported the jury’s finding of testamentary capacity but holds that the trial court improperly excluded testimony relevant to testimony about Billy’s alleged anger toward Ava. The court reverses the judgment and remands for further proceedings.

CASE DETAILS

COURT	Court of Appeals for the First District of Texas
WRITING FOR THE COURT	Veronica Rivas-Molloy; Justice Johnson; Justice Dokupil
JURISDICTION	Court of Appeals for the First District of Texas
DECIDED	March 26, 2026
DOCKET	01-23-00473-CV
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Ava Washington appealed a final probate judgment entered on a jury verdict finding that Billy Washington had testamentary capacity to execute a 2016 will and that the will was not the product of undue influence.
STANDARD OF REVIEW	Legal sufficiency is reviewed by viewing the evidence in the light most favorable to the finding, crediting favorable evidence that a reasonable factfinder could credit and disregarding contrary evidence unless a reasonable factfinder could not. The appellate court reviews evidentiary rulings, including exclusion of evidence, for abuse of discretion and reverses only if the error probably caused rendition of an improper judgment. Unpreserved evidentiary complaints are waived.
PRECEDENTIAL VALUE	Published opinion according to the supplied metadata; the opinion itself is denominated a memorandum opinion.

PARTIES

Ava Washington v. Margaret Victoria

TOPICS

testamentary capacity

will contests

evidence

preservation of error

harmless error

PRACTICE AREAS

Probate

Evidence

Appellate procedure

QUESTIONS PRESENTED

1. Whether legally sufficient evidence supported the jury's finding that Billy had testamentary capacity when he executed the 2016 will.
2. Whether the trial court abused its discretion by excluding evidence Ava sought to introduce in response to testimony that Billy was angry or upset with her because of the alleged taking of his money.
3. Whether the exclusion of the responsive evidence probably caused the rendition of an improper judgment.
4. Whether the trial court erred in admitting testimony concerning Billy's anger and the alleged taking of his money; the court held those complaints were not preserved in the manner presented.
5. Whether the evidence was factually sufficient to support the testamentary-capacity finding; the court did not reach this issue.

HOLDINGS

1. The evidence was legally sufficient to support the jury's finding that Billy had testamentary capacity when he executed the 2016 will.
2. The trial court abused its discretion by allowing evidence that Billy was angry with Ava and that money had allegedly been taken from him while excluding Ava's evidence concerning the power of attorney, Billy's instructions, and the circumstances of the transfers.
3. The exclusion of Ava's responsive evidence probably caused the rendition of an improper judgment and therefore constituted reversible error.
4. Ava did not preserve her challenges to the admission of the challenged testimony because a motion in limine is not itself an objection, she did not obtain a ruling on the objection to Margaret's testimony, and she did not present a Rule 403 objection to Detective Webb's testimony.

KEY QUOTATIONS

"A finding of testamentary capacity does not hinge entirely on direct evidence that the testator discussed the details of his heirs, wealth, or disposition at the time he signed his will." (25-26)

"Yet, by allowing Margaret and her witnesses to testify about Billy's alleged anger toward Ava and the alleged taking of his money, and precluding Ava's ability to respond, the jury was left with the impression that Ava had

stolen money from Billy, that Billy was angry at her, and that as a result, Billy signed the 2016 Will leaving his estate to Margaret.” (42-43)

“We conclude that once Margaret and her witnesses were permitted to introduce evidence about Billy’s anger and the alleged taking of his money, it was an abuse of discretion for the court to exclude Ava’s attempt to introduce evidence on that matter.” (47)

“We hold the trial court abused its discretion by excluding testimony and that the error resulted in harm. We reverse and remand for further proceedings consistent with this opinion.” (55)

FACTUAL BACKGROUND

Billy Washington executed a 2012 will naming his daughter Ava as beneficiary. In December 2016, while receiving hospice care for terminal cancer, he executed a second will naming his longtime girlfriend Margaret as primary beneficiary and leaving Ava one dollar. Witnesses who attended the signing testified that Billy was alert, lucid, understood what he was doing, and was not confused, while medical evidence and other testimony described significant physical and cognitive impairment near the time of execution. Evidence was also presented that Billy was angry or upset with Ava over the alleged transfer of money from his accounts, but the trial court restricted Ava's ability to present responsive evidence concerning the power of attorney and her authority to transfer the funds.

PROCEDURAL HISTORY

Billy Washington's 2012 will named Ava as beneficiary. After Billy executed a 2016 will naming Margaret as primary beneficiary, Margaret sought to probate it and set aside the order admitting the 2012 will. Ava contested the 2016 will on testamentary-capacity and undue-influence grounds. The jury found testamentary capacity and no undue influence, and the probate court entered judgment on the verdict. The court of appeals held that the evidence was legally sufficient to support testamentary capacity but that the trial court improperly excluded evidence Ava sought to present in response to evidence concerning Billy's anger and the alleged taking of his money; it reversed and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remanded to the probate court for further proceedings consistent with the opinion.

CASES CITED

- Exxon Corp. v. Emerald Oil & Gas Co., 348 S.W.3d 194, 215 (Tex. 2011)
- ESP Resources, Inc. v. BWC Mgmt., No. 01-15-00680-CV, 2016 WL 828285, at *5-*6 (Tex. App.—Houston [1st Dist.] Mar. 3, 2016, no pet.) (mem. op.)
- City of Keller v. Wilson, 168 S.W.3d 802, 807, 816, 821-22, 827 (Tex. 2005)
- In re Estate of Ewers, 695 S.W.3d 603, 619 (Tex. App.—Houston [1st Dist.] 2024, no pet.)

- *King Ranch, Inc. v. Chapman*, 118 S.W.3d 742, 751 (Tex. 2003)
- *Bracewell v. Bracewell*, 20 S.W.3d 14, 19, 23 (Tex. App.—Houston [14th Dist.] 2000, no pet.)
- *Knox v. Taylor*, 992 S.W.2d 40, 50 (Tex. App.—Houston [14th Dist.] 1999, no pet.)
- *In re Estate of Danford*, 550 S.W.3d 275, 281 (Tex. App.—Houston [14th Dist.] 2018, no pet.)
- *In re Estate of O'Neil*, No. 04-11-00586-CV, 2012 WL 3776490, at *6 (Tex. App.—San Antonio Aug. 31, 2012, no pet.) (mem. op.)
- *Jones v. LaFargue*, 758 S.W.2d 320, 325 (Tex. App.—Houston [14th Dist.] 1988, writ denied)
- *In re Estate of Arrington*, 365 S.W.3d 463, 468-69 (Tex. App.—Houston [1st Dist.] 2012, no pet.)
- *Prather v. McClelland*, 76 Tex. 574, 584-85, 13 S.W. 543, 545-46 (1890)
- *Wilson v. Estate of Wilson*, 593 S.W.2d 789, 791 (Tex. App.—Dallas 1979, no writ)
- *Croucher v. Croucher*, 660 S.W.2d 55, 57 (Tex. 1983)
- *In re Estate of Wlecyk*, No. 01-19-00299-CV, 2021 WL 1537489, at *5 (Tex. App.—Houston [1st Dist.] Apr. 20, 2021, no pet.) (mem. op.)
- *Guthrie v. Suiter*, 934 S.W.2d 820, 829 (Tex. App.—Houston [1st Dist.] 1996, no writ)
- *City of Fort Worth v. Zimlich*, 29 S.W.3d 62, 71 (Tex. 2000)
- *Wal-Mart Stores, Inc. v. Sturges*, 52 S.W.3d 711, 715 (Tex. 2001)
- *In re Estate of Hemsley*, 460 S.W.3d 629, 634, 637 (Tex. App.—El Paso 2014, pet. denied)
- *In re Doe 4*, 19 S.W.3d 322, 325 (Tex. 2000)
- *Mittelsted v. Meriwether*, 661 S.W.3d 867, 903-04 (Tex. App.—Houston [14th Dist.] 2023, pet. denied)
- *Le v. Nguyen*, No. 14-11-00910-CV, 2012 WL 5266388, at *8 (Tex. App.—Houston [14th Dist.] Oct. 25, 2012, no pet.) (mem. op.)
- *Scottsdale Ins. Co. v. Nat'l Emergency Servs., Inc.*, 175 S.W.3d 284, 297 (Tex. App.—Houston [1st Dist.] 2005, pet. denied)
- *City of Brownsville v. Alvarado*, 897 S.W.2d 750, 753 (Tex. 1995)
- *Conlee v. ASI Lloyds*, No. 01-23-00159-CV, 2024 WL 3503067, at *2 (Tex. App.—Houston [1st Dist.] July 23, 2024, no pet.) (mem. op.)
- *Owens-Corning Fiberglas Corp. v. Malone*, 972 S.W.2d 35, 43 (Tex. 1998)
- *McCraw v. Maris*, 828 S.W.2d 756, 759 (Tex. 1992)
- *Interstate Northborough P'ship v. State*, 66 S.W.3d 213, 220 (Tex. 2001)
- *In re D.W.G.K.*, 558 S.W.3d 671, 682-83 (Tex. App.—Texarkana 2018, pet. denied)
- *Gonzales v. Patterson*, No. 03-23-00799-CV, 2024 WL 4508177, at *7 (Tex. App.—Austin Oct. 17, 2024, no pet.) (mem. op.)
- *Zarsky v. White*, 704 S.W.3d 211, 224 (Tex. App.—Houston [14th Dist.] 2022, pet. denied)
- *Offord v. West Houston Trees, L.L.P.*, No. 01-08-01027-CV, 2010 WL 457447, at *7 (Tex. App.—Houston [1st Dist.] Feb. 11, 2010, pet. denied) (mem. op.)
- *Miguez v. Miguez*, 221 S.W.2d 293, 296 (Tex. App.—Beaumont 1949, no writ)
- *Bowman v. Patel*, No. 01-10-00811-CV, 2012 WL 524428, at *3 (Tex. App.—Houston [1st Dist.] Feb. 16, 2012, no pet.) (mem. op.)

- *Chance v. Chance*, 911 S.W.2d 40, 51-52 (Tex. App.—Beaumont 1995, writ denied)
- *Fletcher v. Minn. Mining & Mfg. Co.*, 57 S.W.3d 602, 610-11 (Tex. App.—Houston [1st Dist.] 2001, pet. denied)
- *Bertucci v. Watkins*, 709 S.W.3d 534, 549 (Tex. 2025)
- *Lewis v. Foster*, 621 S.W.2d 400, 404 (Tex. 1981)
- *Diamond Offshore Servs. Ltd. v. Williams*, 542 S.W.3d 539, 551 (Tex. 2018)
- *Caffe Ribs, Inc. v. State*, 487 S.W.3d 137, 145 (Tex. 2016)
- *JBS Carriers, Inc. v. Washington*, 564 S.W.3d 830, 836 (Tex. 2018)
- *State v. Cent. Expressway Sign Assocs.*, 302 S.W.3d 866, 870 (Tex. 2009)
- *Altice v. Hernandez*, 668 S.W.3d 399, 413 (Tex. App.—Houston [1st Dist.] 2022, no pet.)
- *Rothermel v. Duncan*, 369 S.W.2d 917, 922 (Tex. 1963)
- *S. C. v. Tex. Dep't of Family & Protective Servs.*, No. 03-20-00039-CV, 2020 WL 3892796, at *12 (Tex. App.—Austin July 10, 2020, no pet.) (mem. op.)