

COURT OF APPEALS OF TEXAS, FIFTH DISTRICT AT DALLAS

In re the Estate of Dorothy N. Williams, Deceased

No. 05-15-00392-CV · No. 05-15-00392-CV · Decided June 6, 2016

SUMMARY

The Fifth District Court of Appeals in Dallas affirmed a probate court order authorizing payment of \$25,097.62 in attorney’s fees and expenses from the Estate of Dorothy N. Williams, rather than the \$39,591.45 requested. The court held that the probate court acted within its discretion in determining that some requested charges were not reasonable, necessary, or legal in nature, including administrative tasks performed by the administrator-attorney. The court also held that the fee order was final and appealable under the Texas Estates Code.

CASE DETAILS

COURT	Court of Appeals of Texas, Fifth District at Dallas
WRITING FOR THE COURT	David J. Schenck; Justice Fillmore; Justice Stoddart; Justice Schenck
JURISDICTION	Texas
DECIDED	June 6, 2016
DOCKET	05-15-00392-CV
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a probate court order approving in part an application for attorney's fees and expenses and authorizing payment of \$25,097.62 as an expense of estate administration.
STANDARD OF REVIEW	Abuse of discretion
PRECEDENTIAL VALUE	Memorandum opinion issued under Texas Rule of Appellate Procedure 47.4; the source metadata identifies the opinion as published.
PARTIES	Don D. Ford III, dependent administrator of the Estate of Dorothy N. Williams v. Estate of Dorothy N. Williams, Deceased

TOPICS

- probate procedure
- estate administration
- creditor claims
- appellate jurisdiction
- final judgment rule

PRACTICE AREAS

- Probate
- Estate administration
- Appellate procedure

QUESTIONS PRESENTED

1. Whether the probate court's order approving attorney's fees and expenses in part was a final and appealable order.
2. Whether the probate court abused its discretion by awarding only \$25,097.62 of the \$39,591.45 in attorney's fees and expenses requested.
3. Whether an estate administrator who is also an attorney may recover attorney's fees for legal work performed in connection with estate administration.

HOLDINGS

1. An order approving an estate claim in part and disapproving it in part has the effect of a final judgment and is appealable to the court of appeals.
2. An attorney may serve in the dual capacities of estate administrator and attorney and may seek reasonable attorney's fees for compensable legal services performed for the estate.
3. The probate court did not abuse its discretion by excluding requested charges that could reasonably be found unreasonable, unnecessary, duplicative, or administrative rather than legal.

KEY QUOTATIONS

“In sum, section 352.051 entrusts attorney’s fee awards to the trial court’s sound discretion, subject to the requirements that any fees awarded be reasonable and necessary, which are matters of fact, and to the additional requirement that the fees be incurred in connection with the proceedings and management of the estate.” (at 4)

FACTUAL BACKGROUND

Don D. Ford III, a licensed attorney and board-certified estate-planning and probate lawyer, served as successor administrator of Dorothy N. Williams's estate. His law firm sought \$39,591.45 for services and expenses incurred during estate administration, supported by Ford's affidavit, itemized billing statements, and affidavits from two other attorneys. The probate court authorized payment of \$25,097.62, and the billing records included administrative activities such as establishing a bank account, preparing annual accounts, coordinating creditor payments, and communicating with heirs and real estate agents.

PROCEDURAL HISTORY

The probate court appointed Don D. Ford III successor administrator of the estate. Ford applied for authorization to pay his law firm \$39,591.45 for legal services and expenses. The probate court approved \$25,097.62, denied Ford's motion to reconsider, and Ford appealed. The court of appeals held that the order was final and appealable, rejected Ford's challenge to the partial fee award, and affirmed.

DISPOSITION

affirmed

CASES CITED

- Lehmann v. Har-Con Corp., 39 S.W.3d 191, 195 (Tex. 2001)
- In re Estate of Washington, 289 S.W.3d 362, 365 (Tex. App.—Texarkana 2009, pet. denied)
- De Ayala v. Mackie, 193 S.W.3d 575, 578 (Tex. 2006)
- Eastland v. Eastland, 273 S.W.3d 815, 821 (Tex. App.—Houston [14th Dist.] 2008, no pet.)
- Gulf States Utils. Co. v. Low, 79 S.W.3d 561, 568 (Tex. 2002)
- Burton v. Bean, 549 S.W.2d 48, 51 (Tex. Civ. App.—El Paso 1977, no writ)
- Bocquet v. Herring, 972 S.W.2d 19, 20 (Tex. 1998)
- Trevino v. American Nat'l Ins. Co., 140 Tex. 500, 168 S.W.2d 656, 660 (1943)
- General Motors Corp. v. Bloyed, 916 S.W.2d 949, 961 (Tex. 1996)
- Norman v. Finley, No. 04-01-00394-CV, 2002 WL 341585, at *10 (Tex. App.—San Antonio Mar. 6, 2002, no pet.)