

THIRD DISTRICT COURT OF APPEAL OF FLORIDA

Ginger Johnson Days v. In Re: Estate of Dorothy Brown

No. 3D25-0212, Third District Court of Appeal of Florida (September 3, 2025)

SUMMARY

The Third District Court of Appeal of Florida held that an October 27, 2023 homestead determination was a final, appealable probate order that was neither appealed nor otherwise challenged. The successor probate judge therefore lacked jurisdiction to vacate it sua sponte, and the court quashed the January 16, 2025 order.

CASE DETAILS

COURT	Third District Court of Appeal of Florida
WRITING FOR THE COURT	SCALES, C.J.; EMAS, J.; FERNANDEZ, J.
JURISDICTION	Florida Third District Court of Appeal
DECIDED	September 3, 2025
DOCKET	3D25-0212
DISPOSITION	quashed
PROCEDURAL POSTURE	Appeal from a probate court order entered sua sponte by a successor probate judge vacating a predecessor judge's final homestead order.
PRECEDENTIAL VALUE	Published opinion
PARTIES	Ginger Johnson Days, Caster Derrell Johnson v. In Re: Estate of Dorothy Brown

TOPICS

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

PRACTICE AREAS

- Probate
- Appellate procedure

QUESTIONS PRESENTED

- Whether a successor probate court judge had jurisdiction to sua sponte vacate a prior final, appealable homestead order that was not appealed or otherwise challenged.

HOLDINGS

1. A successor probate court judge lacks jurisdiction to vacate a prior final, appealable homestead order that was neither appealed nor otherwise challenged.

KEY QUOTATIONS

“We agree with Appellants that, because the Homestead Order was a final, appealable order pursuant to Florida Rule of Appellate Procedure 9.170(b)(13), which was neither appealed nor otherwise challenged, the successor probate court judge was without jurisdiction to vacate the Homestead Order.” (at 2)

“Probate cases differ from lawsuits in that there is usually only one final judgment at the end of a lawsuit, while in probate there can be a number of orders entered at different times on contested issues which finally determine the rights of interested persons.” (at 2)

FACTUAL BACKGROUND

Dorothy Brown's will devised her homesteaded property to her three children. A probate judge entered an October 27, 2023 Homestead Order determining the property's devise under the will. That order was final and appealable but was neither appealed nor otherwise challenged. A successor probate judge later entered a January 16, 2025 order sua sponte vacating the Homestead Order.

PROCEDURAL HISTORY

The predecessor probate judge entered an October 27, 2023 order determining that the decedent's will devised her homesteaded property to her three children. The order was a final, appealable order and was not appealed or otherwise challenged. On January 16, 2025, a successor probate judge sua sponte vacated that order. The personal representatives appealed.

DISPOSITION

quashed

CASES CITED

- Whipple v. Dawson, 322 So. 3d 1214, 1214 (Fla. 3d DCA 2021)
- Steele v. Brown, 197 So. 3d 106, 110 (Fla. 1st DCA 2016)
- In re Estate v. Clibbon, 735 So. 2d 487, 489 (Fla. 4th DCA 1998)

OPINION

PER CURIAM.

Third District Court of Appeal State of Florida Opinion filed September 3, 2025. Not final until disposition of timely filed motion for rehearing. _____ No. 3D25-0212 Lower Tribunal No. 23-1079-CP-02 _____ Ginger Johnson Days, et al., Appellants, vs. In

Re: Estate of Dorothy Brown, Appellee. An Appeal from the Circuit Court for Miami-Dade County, Maria de Jesus Santovenia, Judge.

Simon, Reed & Salazar, P.A., and Brian S. Jacobson, for appellants. No Appearance, for appellee. Before SCALES, C.J., and EMAS and FERNANDEZ, JJ. PER CURIAM. Appellants Ginger Johnson Days and Caster Derrell Johnson, the personal representatives of the estate of their mother Dorothy Brown, challenge a January 16, 2025 probate court order that was entered, sua sponte, by a successor probate court judge.

The challenged order vacates a predecessor probate court judge's October 27, 2023 order, determining that, pursuant to the decedent's will, the decedent devised her homesteaded property to her three children (the "Homestead Order").

We agree with Appellants that, because the Homestead Order was a final, appealable order pursuant to Florida Rule of Appellate Procedure 9.170(b)(13), which was neither appealed nor otherwise challenged, the successor probate court judge was without jurisdiction to vacate the Homestead Order. *Whipple v. Dawson*, 322 So. 3d 1214, 1214 (Fla. 3d DCA 2021) ("Appellant's appeal from the order determining homestead status of real property is dismissed for lack of jurisdiction because the final order was not timely appealed."); *Steele v. Brown*, 197 So.

3d 106, 110 (Fla. 1st DCA 2016) ("[T]he trial court did not have inherent authority to set aside the 2007 homestead order as if it were a non-final order. The 2007 homestead order in this case constituted an appealable, final order.") (internal citation omitted); see *In re Estate v. Clibbon*, 735 So. 2d 487, 489 (Fla. 4th DCA 1998) ("Probate cases differ from lawsuits in that there is usually only one final judgment at the end of a lawsuit, while in probate there can be a number of orders entered at different times on contested issues which finally determine the rights of interested persons.").

We therefore quash the challenged January 16, 2025 order. Order quashed. 3