

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)