

TEXAS COURT OF APPEALS, THIRTEENTH DISTRICT, CORPUS CHRISTI–  
EDINBURG

In re Estate of June Nell Schwab, Deceased

No. 13-24-00304-CV · No. 13-24-00304-CV · Decided January 8, 2026

SUMMARY

The Thirteenth Court of Appeals of Texas affirmed orders dismissing Carmen E. Schwab’s challenge to the probate of June Nell Schwab’s will. The court held that Carmen lacked standing because she failed to raise a genuine issue of material fact showing that she had been equitably adopted by James W. Schwab or that an agreement to adopt existed. Because the standing issue was dispositive, the court declined to address Carmen’s claims concerning attorney disqualification and the striking of her motion for new trial.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|-----------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Texas Court of Appeals, Thirteenth District, Corpus Christi–Edinburg                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| WRITING FOR THE COURT | Jon West; Chief Justice Tijerina; Justice West; Justice Cron                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| JURISDICTION          | Texas Court of Appeals, Thirteenth District                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| DECIDED               | January 8, 2026                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| DOCKET                | 13-24-00304-CV                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| DISPOSITION           | affirmed                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| PROCEDURAL POSTURE    | Appeal from orders granting appellees' plea to the jurisdiction and no-evidence and traditional motions for summary judgment on standing, denying appellant's motion to disqualify counsel, and granting objections to and striking appellant's motion for new trial in a will-probate proceeding.                                                                                                                                                                                                                    |
| STANDARD OF REVIEW    | Standing and pleas to the jurisdiction are reviewed de novo. When a plea to the jurisdiction challenges the existence of jurisdictional facts, the review mirrors the summary-judgment standard. Where no-evidence and traditional summary-judgment motions are both presented, the court first applies the no-evidence standard; the nonmovant must produce more than a scintilla of probative evidence raising a genuine issue of material fact. The record is viewed in the light most favorable to the nonmovant. |
| PRECEDENTIAL VALUE    | Published opinion                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |

## PARTIES

Carmen E. Schwab v. Joe E. Schwab, Frank W. Burns III

## TOPICS

probate procedure

standing

summary judgment

appellate procedure

will contests

## PRACTICE AREAS

probate

estate litigation

civil procedure

appellate procedure

## QUESTIONS PRESENTED

1. Whether Carmen raised a genuine issue of material fact that she had a justiciable interest in June's estate through equitable adoption or adoption by estoppel and therefore had standing to contest June's will.
2. Whether the trial court erred in denying Carmen's motion to disqualify appellees' attorneys based on an alleged conflict of interest.
3. Whether the trial court erred in granting appellees' objections and motion to strike Carmen's motion for new trial.

## HOLDINGS

1. Carmen lacked standing because she failed to raise a genuine issue of material fact that she had a justiciable interest in June's estate. She did not produce more than a scintilla of evidence that James agreed with both biological parents to adopt her, that her biological father abandoned her, or that James attempted to adopt her.

## KEY QUOTATIONS

*"In sum, we hold that Carmen failed to raise a genuine issue of material fact that an agreement to adopt existed."* (10)

*"The trial court's judgment is affirmed."* (11)

## FACTUAL BACKGROUND

June Nell Schwab executed a 2021 will leaving her estate to her son Joe. Appellant Carmen E. Schwab was the stepdaughter of June's deceased son James and claimed she had been equitably adopted by James, making her an interested person entitled to contest June's will. Carmen presented evidence of a close parent-child relationship, including affidavits and records identifying her as James's daughter, but she acknowledged that her biological father did not consent to termination of his parental rights and that no adoption was completed. The evidence did not show that James's agreement with both biological parents to adopt Carmen existed, that her biological father abandoned her, or that James made an actual effort to adopt her.

## PROCEDURAL HISTORY

Carmen E. Schwab opposed the application to probate June Nell Schwab's 2021 will, alleging lack of testamentary capacity, undue influence, and fraud. The matter was transferred from the county court to the 135th

District Court of DeWitt County. The district court concluded Carmen lacked standing, granted appellees' plea to the jurisdiction and summary-judgment motions, denied Carmen's motion for summary judgment and motion to disqualify appellees' counsel, and struck her motion for new trial. The court of appeals affirmed based on the standing issue and declined to reach the remaining issues.

## DISPOSITION

affirmed

## CASES CITED

- Frost Nat'l Bank v. Fernandez, 315 S.W.3d 494, 502 (Tex. 2010)
- Moody v. Moody, 613 S.W.3d 707, 716 (Tex. App.—Houston [14th Dist.] 2020, pet. denied)
- Ford Motor Co. v. Ridgway, 135 S.W.3d 598, 600 (Tex. 2004)
- King Ranch, Inc. v. Chapman, 118 S.W.3d 742, 751 (Tex. 2003)
- Tex. Dep't of Parks & Wildlife v. Miranda, 133 S.W.3d 217, 226 (Tex. 2004)
- Cantu v. Perales, 97 S.W.3d 861, 862 (Tex. App.—Corpus Christi—Edinburg 2003, no pet.)
- Town of Shady Shores v. Swanson, 590 S.W.3d 544, 550 (Tex. 2019)
- Dampier v. Williams, 493 S.W.3d 118, 121-22 (Tex. App.—Houston [1st Dist.] 2016, no pet.)
- Spiers v. Maples, 970 S.W.2d 166, 170-72 (Tex. App.—Fort Worth 1998, no pet.)
- Heien v. Crabtree, 369 S.W.2d 28, 30 (Tex. 1963)
- Estate of Hines, No. 06-20-00007-CV, 2020 WL 5948803, at \*4, \*6 (Tex. App.—Texarkana Oct. 8, 2020, no pet.) (mem. op.)
- Luna v. Estate of Rodriguez, 906 S.W.2d 576, 579 n.3, 581-83 (Tex. App.—Austin 1995, no writ)
- Cavanaugh v. Davis, 235 S.W.2d 972, 974-75 (Tex. 1951)
- Johnson v. Chandler, No. 14-03-00123-CV, 2004 WL 1946077, at \*4-5 (Tex. App.—Houston [14th Dist.] Sept. 2, 2004, no pet.) (mem. op.)
- In re Estate of Whiting, No. 04-11-00011-CV, 2011 WL 4825886, at \*3-4 (Tex. App.—San Antonio Oct. 12, 2011, pet. denied) (mem. op.)