When a Child is not an Heir, They May Still be an Interested Person: Navigating Standing Under the Texas Estates Code

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A biological child excluded from a parent's will does not qualify as an heir under Texas law merely because of that familial relationship. But exclusion from a will does not necessarily foreclose the child's rights as an interested person in the estate. In *Estate of Thorn*, the Twelfth Court of Appeals addressed both issues, holding that a daughter qualified as neither an heir nor a devisee under her mother's will, and that her unresolved claim to property under her grandmother's will could ultimately establish – though it had not yet done so – a separate interest entitling her to compel an estate inventory as an interested person.

In *Estate of Judy Kay Thorn*, No. 12-26-00026-CV, 2026 WL 3082954 (Tex. App.—Tyler Oct. 14, 2026) (mem. op.), Judy Kay Thorn left her entire estate to one daughter, Kristi Huskey, whom she also named independent executor. Her other daughter, Kerri Hass, disputed whether Judy could leave certain real property and mineral interests exclusively to Huskey because, she contended, Judy's mother's will (Kristy's and Kerri's grandmother) gave Judy only a life estate, with the remainder passing equally to Kristy and Kerri.

Separate litigation regarding the grandmother's will remained pending in Wood County. Meanwhile, the Smith County probate court admitted Judy's will and appointed Kristy independent executor. After Kristi filed an affidavit in lieu of inventory, Kerri requested a complete, itemized accounting based on her claimed remainder interest. The probate court declined to compel production, leaving the Twelfth Court to determine whether Kerri had established a sufficient interest in Judy's estate to demand its inventory.

A biological child may not be an heir, but may still have standing as an interested person

Section 309.056(c) of the Texas Estates Code entitles an "interested person" to receive an estate inventory upon written request, even when the independent executor has filed an affidavit in lieu of inventory. If the executor refuses, the interested person may seek an order compelling production, which the probate court may grant or deny in its discretion. Kerri's right to the inventory therefore depended on whether she qualified as an interested person under Texas Estates Code Section 22.018, which includes "an heir, devisee, spouse, creditor, or any other having a property right in or claim against an estate being administered."

Potentially surprising to non-probate practitioners, *Thorn* explains that a biological child does not qualify as an "heir" merely because of that relationship. Instead, Texas Estates Code Section 22.015 defines an heir as someone entitled to inherit from a decedent "who dies intestate." As the court explained, "When a decedent dies testate—that is, leaving a will—there is no 'heir' within the meaning of the Estates Code definition," when the will disposes of all estate property. *Thorn*, 2026 WL 3082954, at *9. Because Judy's admitted will disposed of her entire

estate, Kerri did not qualify as an heir. Nor was she a devisee because the will left her nothing. *Id.*

Kerri nevertheless had another potential basis for establishing her status as an interested person. Section 22.018 also recognizes anyone possessing a property right in or claim against the estate. Kerri therefore relied on her asserted remainder interest under her grandmother's will, claiming ownership of property that Kristi treated as belonging to Judy's estate.

But the pending Wood County litigation had not yet established that interest. Although the probate court recognized that Kerri might eventually have a claim against Judy's estate, the Twelfth Court concluded that she had not yet done so. Because Kerri bore the burden of proving her status as an interested person, the court affirmed the refusal to compel the inventory. *Id.* at *9 (citing *In re Davidson*, 485 S.W.3d 927, 930 (Tex. App.—Tyler 2016, no pet.)). The court left ownership of the disputed property to the Wood County litigation. In short, although that litigation might eventually establish an interest sufficient to confer standing, the possibility of a favorable outcome in the Wood County litigation could not substitute for actual proof of Kerri's status as an interested person.

Additional procedural reminders for probate practitioners

Kerri's inability to compel the inventory was not her only setback. She also lost opportunities to challenge the probate of Judy's will, seek abatement, and pursue removal of the executor because she failed to satisfy separate procedural requirements. Those failures offer three additional reminders:

- Finality of probate orders. Kerri failed to timely appeal the January 2024 order admitting Judy's will and appointing Kristi as independent executor. Although the estate administration continued, the order finally resolved a discrete phase of the proceeding and prevented Kerri from challenging it absent a timely appeal. As the court explained, a probate order becomes final when it "actually disposes of all parties or issues in a particular phase of the proceedings or clearly and unequivocally states that it does so." *Id.* at *5 (quoting *Estate of Wheatfall*, 729 S.W.3d 788, 792 (Tex. 2026)).

- Dominant jurisdiction. Kerri argued that the Smith County proceeding should have been abated in favor of the related Wood County litigation, but she failed to preserve that complaint. Merely identifying the other proceeding did not suffice. "The proper method to assert a claim of dominant jurisdiction is through a plea in abatement in the second-filed suit." *Id.* at *8 (citing *In re Pioneer Energy Services Corp.*, 696 S.W.3d 743, 748 (Tex. App.—San Antonio 2024, no pet.)).

- Preservation of error. Kerri sought removal of Kristi as executor but failed to obtain an express ruling or object to the court's failure to rule. She also failed to adequately brief the issue on appeal. As the court reiterated, "the trial court must have either ruled or refused to rule on the request (in which case the complaining party must have objected to the trial court's refusal to rule)." *Id.* at *7 (citing TEX. R. APP. P. 33.1). Even assuming an implicit denial, inadequate briefing independently prevented appellate review. *Id.* at *9–10.