* [In re Guardianship](https://casetext.com/case/in-re-guardianship-4?jxs=tx&p=1&q=a%20statutory%20probate%20court's%20jurisdiction%20is%20independent%20of%20its%20probate%20jurisdiction&sort=relevance&type=case&ssr=false&scrollTo=true&find=&resultsNav=false" \l "p871" \t "_blank)

253 S.W.3d 866 (Tex. App. 2008)[Cited 12 times](https://casetext.com/case/in-re-guardianship-4/how-cited?jxs=tx&p=1&q=a%20statutory%20probate%20court's%20jurisdiction%20is%20independent%20of%20its%20probate%20jurisdiction&sort=relevance&type=case&ssr=false&scrollTo=true&find=&resultsNav=false)[2 legal analyses](https://casetext.com/case/in-re-guardianship-4/analysis?jxs=tx&p=1&q=a%20statutory%20probate%20court's%20jurisdiction%20is%20independent%20of%20its%20probate%20jurisdiction&sort=relevance&type=case&ssr=false&scrollTo=true&find=&resultsNav=false)

A statutory probate court may exercise only that jurisdiction accorded it by statute. Former section 5(e) provides that "[a] statutory probate court has concurrent jurisdiction with the district court . . . in air actions involving an inter vivos trust . . . and in all actions involving a testamentary trust." Likewise, former section 5A(c) provides that "[a] statutory probate court has concurrent jurisdiction with the district court in all actions . . . (2) involving an inter vivos trust; . . . and (4) involving a testamentary trust." Former section 5A(d) provides that "[a] statutory probate court may exercise the pendent and ancillary jurisdiction necessary to promote judicial efficiency and economy."

* + [In re Guardianship of Gibbs](https://casetext.com/case/in-re-guardianship-of-gibbs?jxs=tx&p=1&q=a%20statutory%20probate%20court's%20jurisdiction%20is%20independent%20of%20its%20probate%20jurisdiction&sort=relevance&type=case&ssr=false&scrollTo=true&find=&resultsNav=false)

No. 02-05-143-CV (Tex. App. Oct. 5, 2006)

A statutory probate court may exercise only that jurisdiction accorded it by statute. Former section 5(d) provides that "[a] statutory probate court has concurrent jurisdiction with the district court . . . in all actions involving an inter vivos trust . . . and in all actions involving a testamentary trust." Likewise, former section 5A(c) provides that "[a] statutory probate court has concurrent jurisdiction with the district court in all actions . . . (2) involving an inter vivos trust; . . . and (4) involving a testamentary trust." Former section 5A(d) provides that "[a] statutory probate court may exercise the pendent and ancillary jurisdiction necessary to promote judicial efficiency and economy."

* + [Sabine Gas Transmission Co. v. Winnie Pipeline Co.](https://casetext.com/case/sabine-gas-trans-v-winnie-pl?jxs=tx&p=1&q=a%20statutory%20probate%20court's%20jurisdiction%20is%20independent%20of%20its%20probate%20jurisdiction&sort=relevance&type=case&ssr=false&scrollTo=true&find=&resultsNav=false#p201)

15 S.W.3d 199 (Tex. App. 2000)[Cited 8 times](https://casetext.com/case/sabine-gas-trans-v-winnie-pl/how-cited?jxs=tx&p=1&q=a%20statutory%20probate%20court's%20jurisdiction%20is%20independent%20of%20its%20probate%20jurisdiction&sort=relevance&type=case&ssr=false&scrollTo=true&find=&resultsNav=false)[1 legal analysis](https://casetext.com/case/sabine-gas-trans-v-winnie-pl/analysis?jxs=tx&p=1&q=a%20statutory%20probate%20court's%20jurisdiction%20is%20independent%20of%20its%20probate%20jurisdiction&sort=relevance&type=case&ssr=false&scrollTo=true&find=&resultsNav=false)

Before analyzing the probate court's actions, it is important to determine how it acquired jurisdiction over the claims before it. The probate court acquired jurisdiction over the claims against the Executors under § 5A(c) of the Probate Code which states "[a] statutory probate court has concurrent jurisdiction with the district court in all actions by or against a person in the person's capacity as a personal representative." Tex. Prob. Code Ann. § 5A(c)(1) (Vernon Supp. 2000). The court acquired jurisdiction over the claims against Sabine under § 5A(d), which provides that "[a] statutory probate court may exercise the pendent and ancillary jurisdiction necessary to promote judicial efficiency and economy." Id. § 5A(d) (Vernon Supp. 2000). Further, the Code allows probate courts to exercise concurrent, pendent, or ancillary jurisdiction over claims regardless of whether the claims are appertaining or incident to the estate. See Acts 1989, 71st Leg., ch 1035, § 3, eff. Sept. 1, 1989, amended by Acts 1999, 76th Leg., ch. 64, § 1, eff. Sept. 1, 1999.

 [Narvaez v. Powell](https://casetext.com/case/narvaez-v-darron-powell-darron-powell-pllc?jxs=tx&p=1&q=a%20statutory%20probate%20court's%20jurisdiction%20is%20independent%20of%20its%20probate%20jurisdiction&sort=relevance&type=case&ssr=false&scrollTo=true&find=&resultsNav=false" \l "p58" \t "_blank)

564 S.W.3d 49 (Tex. App. 2018)[Cited 8 times](https://casetext.com/case/narvaez-v-darron-powell-darron-powell-pllc/how-cited?jxs=tx&p=1&q=a%20statutory%20probate%20court's%20jurisdiction%20is%20independent%20of%20its%20probate%20jurisdiction&sort=relevance&type=case&ssr=false&scrollTo=true&find=&resultsNav=false" \t "_blank)

A probate court may exercise pendent and ancillary jurisdiction as necessary to promote judicial efficiency and economy. TEX.ESTATES CODE ANN. § 32.001(b). In order for a probate court to assert jurisdiction over matters incident to an estate, a probate proceeding must be pending in the court. See Frost National Bank , 315 S.W.3d at 506. That requisite is satisfied here. Typically, probate courts exercise ancillary or pendent jurisdiction when a close relationship exists between the non-probate claims and the claims against the estate. See Shell Cortez Pipeline Co. v. Shores , 127 S.W.3d 286, 294 (Tex.App.—Fort Worth 2004, no pet.), citing Sabine Gas Trans. Co. v.Winnie Pipeline Co. , 15 S.W.3d 199, 202 (Tex.App.—Houston [14th Dist.] 2000, no pet.) ; Goodman v. Summit at W. Rim, Ltd. , 952 S.W.2d 930, 933 (Tex.App.—Austin 1997, no pet.) (holding that probate court can exercise "ancillary" or "pendent" jurisdiction over a claim only if it bears some relationship to the estate). That is, probate courts exercise their ancillary or pendent jurisdiction over non-probate matters only when doing so will aid in the efficient administration of an estate pending in the probate court. Shell Cortez Pipeline , 127 S.W.3d at 294-95.

* [In re Stavron](https://casetext.com/case/in-re-stavron?jxs=tx&p=1&q=a%20statutory%20probate%20court's%20jurisdiction%20is%20independent%20of%20its%20probate%20jurisdiction&sort=relevance&type=case&ssr=false&scrollTo=true&find=&resultsNav=false#p7)

No. 02-20-00404-CV (Tex. App. Nov. 10, 2021)[Cited 2 times](https://casetext.com/case/in-re-stavron/how-cited?jxs=tx&p=1&q=a%20statutory%20probate%20court's%20jurisdiction%20is%20independent%20of%20its%20probate%20jurisdiction&sort=relevance&type=case&ssr=false&scrollTo=true&find=&resultsNav=false" \t "_blank)

The Estates Code gives a probate court pendent and ancillary jurisdiction "as necessary to promote judicial efficiency and economy." Id. § 32.001(b). "Typically, probate courts exercise ancillary or pendent jurisdiction when a close relationship exists between the nonprobate claims and the claims against the estate." Shell Cortez Pipeline Co., 127 S.W.3d at 294 (citing Sabine Gas Transmission Co. v. Winnie Pipeline Co., 15 S.W.3d 199, 202 (Tex. App.-Houston [14th Dist] 2000, no pet.)). In reviewing a probate court's exercise of pendent and ancillary jurisdiction, "the fundamental question [a court must ask] is whether there was a close relationship between [the non-probate claims and the probate proceeding] such that the probate court's exercise of jurisdiction will aid it in the efficient administration of the [estate]." Schuchmann v. Schuchmann, 193 S.W.3d 598, 603 (Tex. App.-Fort Worth 2006, pet. denied). However, a probate court has jurisdiction "to resolve ancillary claims against third parties only to the extent that such claims were necessary to resolve claims within its original jurisdiction." Goodman v. Summit at W. Rim, Ltd., 952 S.W.2d 930, 934 (Tex. App.-Austin 1997, no pet.).

* [In re Rushing](https://casetext.com/case/in-re-rushing-20?jxs=tx&p=1&q=a%20statutory%20probate%20court's%20jurisdiction%20is%20independent%20of%20its%20probate%20jurisdiction&sort=relevance&type=case&ssr=false&scrollTo=true&find=&resultsNav=false#p388)

644 S.W.3d 383 (Tex. App. 2022)[Cited 1 time](https://casetext.com/case/in-re-rushing-20/how-cited?jxs=tx&p=1&q=a%20statutory%20probate%20court's%20jurisdiction%20is%20independent%20of%20its%20probate%20jurisdiction&sort=relevance&type=case&ssr=false&scrollTo=true&find=&resultsNav=false" \t "_blank)

Probate courts also have "pendent and ancillary jurisdiction as necessary to promote judicial efficiency and economy." TEX. EST. CODE ANN. § 32.001(b). "Typically, probate courts exercise ancillary or pendent jurisdiction when a close relationship exists between the nonprobate claims and the claims against the estate." Jurgens v. Martin , 631 S.W.3d 385, 400 (Tex. App.—Eastland 2021, no pet.) (quoting Shell Cortez Pipeline Co. v. Shores , 127 S.W.3d 286, 294 (Tex. App.—Fort Worth 2004, no pet.) ); see also Narvaez v. Powell , 564 S.W.3d 49, 57 (Tex. App.—El Paso 2018, no pet.) ; Sabine Gas Trans. Co. v. Winnie Pipeline Co. , 15 S.W.3d 199, 202 (Tex. App.—Houston [14th Dist.] 2000, no pet.). In reviewing a probate court's exercise of pendent and ancillary jurisdiction, "the fundamental question ... is whether there was a close relationship between [the non-probate claims and the probate proceeding] such that the probate court's exercise of jurisdiction will aid it in the efficient administration of the [estate]." In re Estate of Hallmark , 629 S.W.3d 433, 438 (Tex. App.—Eastland 2020, no pet.) (quoting Schuchmann v. Schuchmann , 193 S.W.3d 598, 603 (Tex. App.—Fort Worth 2006, pet. denied) ). A probate court has jurisdiction to resolve ancillary claims against third parties only to the extent that such claims were necessary to resolve claims within its original jurisdiction. Id. "Pendent and ancillary" claims are nonprobate claims. Jurgens , 631 S.W.3d at 400 (citing Shores , 127 S.W.3d at 294 ).

* [Kondos v. Carrico](https://casetext.com/case/kondos-v-carrico?jxs=tx&p=1&q=a%20statutory%20probate%20court's%20jurisdiction%20is%20independent%20of%20its%20probate%20jurisdiction&sort=relevance&type=case&ssr=false&scrollTo=true&find=&resultsNav=false)

No. 02-05-374-CV (Tex. App. Mar. 8, 2007)[Cited 1 time](https://casetext.com/case/kondos-v-carrico/how-cited?jxs=tx&p=1&q=a%20statutory%20probate%20court's%20jurisdiction%20is%20independent%20of%20its%20probate%20jurisdiction&sort=relevance&type=case&ssr=false&scrollTo=true&find=&resultsNav=false" \t "_blank)

Both the Kondoses and Carricos cite the same two cases for their opposite contentions concerning whether the statutory probate court here either did or did not lose jurisdiction over the Carricos' cross-claim when the Robbins settled the quiet title action. See Sabine Gas Transp. Co. v. Winnie Pipeline Co., 15 S.W.3d 199, 200-01 (Tex.App.-Houston [14th Dist.] 2000, no pet.) (determining whether statutory probate court's jurisdiction over unrelated claims vanished when the underlying claims against executors of estate settled); Goodman, 952 S.W.2d at 932 (determining whether statutory probate court's jurisdiction over third-party claims against executors of estate vanished after the probate court dismissed all claims by and against the estate). But the procedural posture of this case is distinguishable from both Sabine and Goodman, where the issue was whether the statutory probate court's jurisdiction pursuant to probate code section 5A vanished upon subsequent events. See Sabine Gas Transp. Co., 15 S.W.3d at 200-01; Goodman, 952 S.W.2d at 932. Here, the probate court undisputedly exercised its initial jurisdiction over Robbins's quiet title action pursuant to government code section 25.0635(d); the probate court's jurisdiction pursuant to probate code section 5A was not invoked. Accordingly, we hold that probate code section 5A did not confer subject matter jurisdiction on the Denton County statutory probate court over the Carricos' breach of contract action. If the probate court had subject matter jurisdiction over the breach of contract cross-claim at issue here, that jurisdiction must arise from government code section 25.0635.

* [Sabine Gas Transmission Co. v. Winnie Pipeline Co.](https://casetext.com/case/sabine-gas-trans-v-winnie-pl?jxs=tx&p=1&q=a%20statutory%20probate%20court's%20jurisdiction%20is%20independent%20of%20its%20probate%20jurisdiction&sort=relevance&type=case&ssr=false&scrollTo=true&find=&resultsNav=false#p200)

15 S.W.3d 199 (Tex. App. 2000)[Cited 8 times](https://casetext.com/case/sabine-gas-trans-v-winnie-pl/how-cited?jxs=tx&p=1&q=a%20statutory%20probate%20court's%20jurisdiction%20is%20independent%20of%20its%20probate%20jurisdiction&sort=relevance&type=case&ssr=false&scrollTo=true&find=&resultsNav=false)[1 legal analysis](https://casetext.com/case/sabine-gas-trans-v-winnie-pl/analysis?jxs=tx&p=1&q=a%20statutory%20probate%20court's%20jurisdiction%20is%20independent%20of%20its%20probate%20jurisdiction&sort=relevance&type=case&ssr=false&scrollTo=true&find=&resultsNav=false)

In support of its position, Sabine points to the general rule that once a court obtains jurisdiction over a case, it retains jurisdiction throughout the case. Sabine argues for the application of this rule to probate courts, making the probate court's dismissal of Winnie's claims an abuse of discretion. Sabine cites many cases in support of this proposition, though none of them squarely address the issue before the court. See, e.g., Bell v. Mores, 832 S.W.2d 749, 754 (Tex.App.-Houston [14th Dist.] 1992, writ denied) (finding that a trial court cannot acquire jurisdiction over claims while a suit is pending); but see Tex. Prob. Code Ann. § 5A(d) (allowing a probate court to exercise ancillary or pendent jurisdiction over claims after the probate proceeding has begun). Winnie, however, relies heavily on a case from the Austin Court of Appeals, Goodman v. Summit at West Rim, Ltd., 952 S.W.2d 930 (Tex.App.-Austin 1997, no pet.), which it believes is directly on point.

* [Jurgens v. Martin](https://casetext.com/case/jurgens-v-martin?jxs=tx&p=1&q=a%20statutory%20probate%20court's%20jurisdiction%20is%20independent%20of%20its%20probate%20jurisdiction&sort=relevance&type=case&ssr=false&scrollTo=true&find=&resultsNav=false#p400)

631 S.W.3d 385 (Tex. App. 2021)[Cited 8 times](https://casetext.com/case/jurgens-v-martin/how-cited?jxs=tx&p=1&q=a%20statutory%20probate%20court's%20jurisdiction%20is%20independent%20of%20its%20probate%20jurisdiction&sort=relevance&type=case&ssr=false&scrollTo=true&find=&resultsNav=false" \t "_blank)

Probate courts also have "pendant and ancillary jurisdiction as necessary to promote judicial efficiency and economy." Id. § 32.001(b). "Typically, probate courts exercise ancillary or pendent jurisdiction when a close relationship exists between the nonprobate claims and the claims against the estate." Shell Cortez Pipeline Co. v. Shores , 127 S.W.3d 286, 294 (Tex. App.—Fort Worth 2004, no pet.) (citing Sabine Gas Trans. Co. v. Winnie Pipeline Co. , 15 S.W.3d 199, 202 (Tex. App.—Houston [14th Dist.] 2000, no pet.) ). As reflected in Shores , "pendant and ancillary" claims are nonprobate claims. Id. As a nonprobate claim, the amount-in-controversy limits of Section 25.1672(a)(2) would apply to an ancillary claim. See, e.g., Dowell , 462 S.W.3d at 585–86.

* [Kondos v. Carrico](https://casetext.com/case/kondos-v-carrico?jxs=tx&p=1&q=a%20statutory%20probate%20court's%20jurisdiction%20is%20independent%20of%20its%20probate%20jurisdiction&sort=relevance&type=case&ssr=false&scrollTo=true&find=&resultsNav=false)

No. 02-05-374-CV (Tex. App. Mar. 8, 2007)[Cited 1 time](https://casetext.com/case/kondos-v-carrico/how-cited?jxs=tx&p=1&q=a%20statutory%20probate%20court's%20jurisdiction%20is%20independent%20of%20its%20probate%20jurisdiction&sort=relevance&type=case&ssr=false&scrollTo=true&find=&resultsNav=false" \t "_blank)

The version of probate code section 5A in effect when the Carricos filed their cross-claim authorized statutory probate courts to exercise pendent and ancillary jurisdiction necessary to promote judicial efficiency and economy when the pendent or ancillary claims bear some relationship to an estate pending before the court or when exercising jurisdiction would aid in the efficient administration of an estate pending in the probate court. See Acts of May 23, 1989, 71st Leg., ch. 1035, § 3, 1989 Tex. Gen. Laws 4162, 4163-64 (repealed 2003); Shell Cortez Pipeline Co., 127 S.W.3d at 294-95; Goodman v. Summit at W. Rim, Ltd., 952 S.W.2d 930, 934 (Tex.App.-Austin 1997, no pet.) (holding that section 5A(d) gives a probate court (discretion to resolve ancillary claims against third parties only to the extent that such claims were necessary to resolve claims within its original jurisdiction").

* [Johnson v. Johnson](https://casetext.com/case/johnson-v-johnson-51278?jxs=tx&p=1&q=a%20statutory%20probate%20court's%20jurisdiction%20is%20independent%20of%20its%20probate%20jurisdiction&sort=relevance&type=case&ssr=false&scrollTo=true&find=&resultsNav=false#p6)

No. 04-19-00500-CV (Tex. App. Jan. 15, 2020)

A probate court may also "exercise pendent and ancillary jurisdiction as necessary to promote judicial efficiency and economy." TEX. EST. CODE § 32.001(b). "Typically, probate courts exercise pendent and ancillary jurisdiction when a close relationship exists between the non-probate claims and the claims against the estate." Narvaez v. Powell, 564 S.W.3d 49, 57 (Tex. App.—El Paso 2018, no pet.). In reviewing a probate court's exercise of pendent and ancillary jurisdiction, "the fundamental question . . . is whether there was a close relationship between [the non-probate claims and the probate proceeding] such that the probate court's exercise of jurisdiction will aid it in the efficient administration of the [estate]." Schuchmann v. Schuchmann, 193 S.W.3d 598, 603 (Tex. App.—Fort Worth 2006, pet. denied). A probate court has jurisdiction "to resolve ancillary claims against third parties only to the extent that such claims were necessary to resolve claims within its original jurisdiction." Goodman v. Summit at W. Rim, Ltd., 952 S.W.2d 930, 934 (Tex. App.—Austin 1997, no pet.) (applying the predecessor to Texas Estates Code section 32.001(b)).

* [Sabine Gas Transmission Co. v. Winnie Pipeline Co.](https://casetext.com/case/sabine-gas-trans-v-winnie-pl?jxs=tx&p=1&q=a%20statutory%20probate%20court's%20jurisdiction%20is%20independent%20of%20its%20probate%20jurisdiction&sort=relevance&type=case&ssr=false&scrollTo=true&find=&resultsNav=false#p201)

15 S.W.3d 199 (Tex. App. 2000)[Cited 8 times](https://casetext.com/case/sabine-gas-trans-v-winnie-pl/how-cited?jxs=tx&p=1&q=a%20statutory%20probate%20court's%20jurisdiction%20is%20independent%20of%20its%20probate%20jurisdiction&sort=relevance&type=case&ssr=false&scrollTo=true&find=&resultsNav=false)[1 legal analysis](https://casetext.com/case/sabine-gas-trans-v-winnie-pl/analysis?jxs=tx&p=1&q=a%20statutory%20probate%20court's%20jurisdiction%20is%20independent%20of%20its%20probate%20jurisdiction&sort=relevance&type=case&ssr=false&scrollTo=true&find=&resultsNav=false)

Before analyzing the probate court's actions, it is important to determine how it acquired jurisdiction over the claims before it. The probate court acquired jurisdiction over the claims against the Executors under § 5A(c) of the Probate Code which states "[a] statutory probate court has concurrent jurisdiction with the district court in all actions by or against a person in the person's capacity as a personal representative." Tex. Prob. Code Ann. § 5A(c)(1) (Vernon Supp. 2000). The court acquired jurisdiction over the claims against Sabine under § 5A(d), which provides that "[a] statutory probate court may exercise the pendent and ancillary jurisdiction necessary to promote judicial efficiency and economy." Id. § 5A(d) (Vernon Supp. 2000). Further, the Code allows probate courts to exercise concurrent, pendent, or ancillary jurisdiction over claims regardless of whether the claims are appertaining or incident to the estate. See Acts 1989, 71st Leg., ch 1035, § 3, eff. Sept. 1, 1989, amended by Acts 1999, 76th Leg., ch. 64, § 1, eff. Sept. 1, 1999.

* [In re Estate of Hallmark](https://casetext.com/case/in-re-estate-of-hallmark?jxs=tx&p=1&q=a%20statutory%20probate%20court's%20jurisdiction%20is%20independent%20of%20its%20probate%20jurisdiction&sort=relevance&type=case&ssr=false&scrollTo=true&find=&resultsNav=false#p438)

629 S.W.3d 433 (Tex. App. 2020)[Cited 3 times](https://casetext.com/case/in-re-estate-of-hallmark/how-cited?jxs=tx&p=1&q=a%20statutory%20probate%20court's%20jurisdiction%20is%20independent%20of%20its%20probate%20jurisdiction&sort=relevance&type=case&ssr=false&scrollTo=true&find=&resultsNav=false)[1 legal analysis](https://casetext.com/case/in-re-estate-of-hallmark/analysis?jxs=tx&p=1&q=a%20statutory%20probate%20court's%20jurisdiction%20is%20independent%20of%20its%20probate%20jurisdiction&sort=relevance&type=case&ssr=false&scrollTo=true&find=&resultsNav=false)

Holloway asserted in her petition that the trial court had ancillary jurisdiction to consider her request for a declaratory judgment concerning the Estate's interest in the Hallmark Ranch partnership. "A probate court may exercise pendent and ancillary jurisdiction as necessary to promote judicial efficiency and economy." EST. § 32.001(b). "Typically, probate courts exercise ancillary or pendent jurisdiction when a close relationship exists between the non-probate claims and the claims against the estate." Narvaez v. Powell , 564 S.W.3d 49, 57 (Tex. App.—El Paso 2018, no pet.). In reviewing a probate court's exercise of pendent and ancillary jurisdiction, "the fundamental question ... is whether there was a close relationship between [the non-probate claims and the probate proceeding] such that the probate court's exercise of jurisdiction will aid it in the efficient administration of the [estate]." Schuchmann v. Schuchmann , 193 S.W.3d 598, 603 (Tex. App.—Fort Worth 2006, pet. denied). A probate court has jurisdiction "to resolve ancillary claims against third parties only to the extent that such claims were necessary to resolve claims within its original jurisdiction." Goodman v. Summit at W. Rim, Ltd. , 952 S.W.2d 930, 934 (Tex. App.—Austin 1997, no pet.) (applying the predecessor to Section 32.001(b) of the Texas Estates Code ).

* [Sabine Gas Transmission Co. v. Winnie Pipeline Co.](https://casetext.com/case/sabine-gas-trans-v-winnie-pl?jxs=tx&p=1&q=a%20statutory%20probate%20court's%20jurisdiction%20is%20independent%20of%20its%20probate%20jurisdiction&sort=relevance&type=case&ssr=false&scrollTo=true&find=&resultsNav=false#p202)

15 S.W.3d 199 (Tex. App. 2000)[Cited 8 times](https://casetext.com/case/sabine-gas-trans-v-winnie-pl/how-cited?jxs=tx&p=1&q=a%20statutory%20probate%20court's%20jurisdiction%20is%20independent%20of%20its%20probate%20jurisdiction&sort=relevance&type=case&ssr=false&scrollTo=true&find=&resultsNav=false)[1 legal analysis](https://casetext.com/case/sabine-gas-trans-v-winnie-pl/analysis?jxs=tx&p=1&q=a%20statutory%20probate%20court's%20jurisdiction%20is%20independent%20of%20its%20probate%20jurisdiction&sort=relevance&type=case&ssr=false&scrollTo=true&find=&resultsNav=false)

Having found that the court abused its discretion, we must determine if the error was harmless. See Tex. R. app. p. 44.1. Here, it is clear that the court had the discretionary power to dismiss the claims. Probate courts exercise their ancillary or pendent jurisdiction over non-probate claims only when doing so aids the efficient administration of the estate. See Tex. Prob. Code Ann. § 5A(d). The impetus behind the court's decision is usually, as it was in this case, the close relationship between the non-probate claims and the claims against the estate. Once that relationship ceases to exist due to the settlement or dismissal of the claim against the estate, the court may find its resolution of the non-probate claims no longer efficient.

* [Smith's Inc. v. Sheffield](https://casetext.com/case/smiths-inc-v-sheffield?jxs=tx&p=1&q=a%20statutory%20probate%20court's%20jurisdiction%20is%20independent%20of%20its%20probate%20jurisdiction&sort=relevance&type=case&ssr=false&scrollTo=true&find=&resultsNav=false)

No. 03-02-00109-CV (Tex. App. Jan. 30, 2003)

Because the estate was never made a party, we reject appellants' argument that the trial court retains probate jurisdiction over Sheffield's claims because the estate administration is still pending. Cf. Sabine Gas Transmission Co. v. Winnie Pipeline, 15 S.W.3d 199, 201 (Tex.App.-Houston [14th Dist.] 2000, no pet.) (holding trial court abused discretion where estate was still party to probate proceeding when trial court dismissed ancillary and pendent claims).

* [Smith's Inc. v. Sheffield](https://casetext.com/case/smiths-inc-v-sheffield?jxs=tx&p=1&q=a%20statutory%20probate%20court's%20jurisdiction%20is%20independent%20of%20its%20probate%20jurisdiction&sort=relevance&type=case&ssr=false&scrollTo=true&find=&resultsNav=false)

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* [Smith's Inc. v. Sheffield](https://casetext.com/case/smiths-inc-v-sheffield?jxs=tx&p=1&q=a%20statutory%20probate%20court's%20jurisdiction%20is%20independent%20of%20its%20probate%20jurisdiction&sort=relevance&type=case&ssr=false&scrollTo=true&find=&resultsNav=false)

No. 03-02-00109-CV (Tex. App. Jan. 30, 2003)

Furthermore, we cannot say that the trial court abused its discretion by holding that it lost jurisdiction. See Sabine Gas Transmission Co. v. Winnie Pipeline, 15 S.W.3d 199, 201 (Tex.App.-Houston [14th Dist.] 2000, no pet.) (stating issue as whether "a probate court abuse[s] its discretion by holding that it loses jurisdiction over claims which it has ancillary or pendent jurisdiction when no other claims before the court have any relationship to those claims even though the estate administration is still pending"). Sheffield's lawsuit was transferred to the probate proceeding because the parties agreed that it was a matter incident to Smith's estate. However, because there was never any attempt to make it an action incident to the estate by naming the estate or the representative as a defendant, the trial court could decide that its continued entertainment of Sheffield's claims did not efficiently promote the administration of Smith's estate, and that those claims should be decided elsewhere. Because the trial court found that it never properly acquired jurisdiction, it was not an abuse of discretion to dismiss without prejudice.

* [Smith's Inc. v. Sheffield](https://casetext.com/case/smiths-inc-v-sheffield?jxs=tx&p=1&q=a%20statutory%20probate%20court's%20jurisdiction%20is%20independent%20of%20its%20probate%20jurisdiction&sort=relevance&type=case&ssr=false&scrollTo=true&find=&resultsNav=false)

No. 03-02-00109-CV (Tex. App. Jan. 30, 2003)

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* [In the Estate of Williams, 14-09-00520-CV](https://casetext.com/case/in-the-estate-of-williams?jxs=tx&p=1&q=a%20statutory%20probate%20court's%20jurisdiction%20is%20independent%20of%20its%20probate%20jurisdiction&sort=relevance&type=case&ssr=false&scrollTo=true&find=&resultsNav=false)

Nos. 14-09-00520-CV, 14-09-00674-CV (Tex. App. Feb. 3, 2011)

In response to Williams' claim that the probate court lacked jurisdiction over his own lawsuit once his mother's estate was closed, we have previously held that jurisdiction over related claims may continue in the probate court even after the estate claims are settled. Cf. Sabine Gas Transmission Co. v. Winnie Pipeline Co., 15 S.W.3d 199, 201-02 (Tex. App.-Houston [14th Dist.] 2000, no pet.) ("Should the court have desired, it could have dismissed the claims based on a finding that its continued entertainment of them would not promote 'judicial efficiency and economy.' However, the probate did not lose jurisdiction; its jurisdiction over the claims would still run concurrently with the district court."); see also In re Estate of Trevino, 195 S.W3d 223, 228 (Tex. App.-San Antonio 2006, no pet.) (en banc). Additionally, the sections of the Texas Probate Code in effect at the time this lawsuit was commenced provide that a probate court "has concurrent jurisdiction with the district court in all personal injury, survival, or wrongful death actions by or against a person in the person's capacity as a personal representative[,]"Tex. Probate Code Ann. § 5(e) (West 2003), and "may exercise the pendant and ancillary jurisdiction necessary to promote judicial efficiency and economy." Act of April 18, 1989, 71st Leg., R.S., ch. 1035 § 3, 1989 Tex. Gen. Laws 4164, repealed by Act of April 2, 2009, 81st Leg., R.S., ch. 1351 § 12(h), 2009 Tex. Gen. Laws 4279. Thus, we conclude that in order to promote judicial efficiency and economy, the probate court properly retained jurisdiction over Williams' claims even after his mother's estate was closed.

* [Schuchmann v. Schuchmann](https://casetext.com/case/schuchmann-v-schuchmann?jxs=tx&p=1&q=a%20statutory%20probate%20court's%20jurisdiction%20is%20independent%20of%20its%20probate%20jurisdiction&sort=relevance&type=case&ssr=false&scrollTo=true&find=&resultsNav=false#p603)

193 S.W.3d 598 (Tex. App. 2006)[Cited 6 times](https://casetext.com/case/schuchmann-v-schuchmann/how-cited?jxs=tx&p=1&q=a%20statutory%20probate%20court's%20jurisdiction%20is%20independent%20of%20its%20probate%20jurisdiction&sort=relevance&type=case&ssr=false&scrollTo=true&find=&resultsNav=false)[1 legal analysis](https://casetext.com/case/schuchmann-v-schuchmann/analysis?jxs=tx&p=1&q=a%20statutory%20probate%20court's%20jurisdiction%20is%20independent%20of%20its%20probate%20jurisdiction&sort=relevance&type=case&ssr=false&scrollTo=true&find=&resultsNav=false)

Typically, probate courts exercise pendant or ancillary jurisdiction when a close relationship exists between the nonprobate claims and the matter pending in the probate court. Shell Cortez Pipeline Co. v. Shores, 127 S.W.3d 286, 294 (Tex.App.-Fort Worth 2004, no pet.). That is, probate courts exercise their pendant or ancillary jurisdiction over nonprobate matters only when doing so will aid in the efficient administration of a matter pending in the probate court. Id. at 294-95.

* [Smith v. Lanier](https://casetext.com/case/smith-v-lanier-6?jxs=tx&p=1&q=a%20statutory%20probate%20court's%20jurisdiction%20is%20independent%20of%20its%20probate%20jurisdiction&sort=relevance&type=case&ssr=false&scrollTo=true&find=&resultsNav=false#p330)

998 S.W.2d 324 (Tex. App. 1999)[Cited 45 times](https://casetext.com/case/smith-v-lanier-6/how-cited?jxs=tx&p=1&q=a%20statutory%20probate%20court's%20jurisdiction%20is%20independent%20of%20its%20probate%20jurisdiction&sort=relevance&type=case&ssr=false&scrollTo=true&find=&resultsNav=false" \t "_blank)

Statutory probate courts have jurisdiction over all matters relating to the settlement, partition, and distribution of estates of deceased persons. See Tex. Prob. Code Ann. § 5A(b) (West Supp. 1999). Moreover, a probate court may exercise the pendent and ancillary jurisdiction necessary to promote judicial efficiency and economy. Id. § 5A(d).

* [Smith's Inc. v. Sheffield](https://casetext.com/case/smiths-inc-v-sheffield?jxs=tx&p=1&q=a%20statutory%20probate%20court's%20jurisdiction%20is%20independent%20of%20its%20probate%20jurisdiction&sort=relevance&type=case&ssr=false&scrollTo=true&find=&resultsNav=false)

No. 03-02-00109-CV (Tex. App. Jan. 30, 2003)

The trial court below did not dismiss Sheffield's cause of action on the ground that it was not a matter "incident to" the estate of Frank Smith. Rather, relying on this Court's opinion in Goodman v. Summit at West Rim, Ltd., 952 S.W.2d 930 (Tex.App.-Austin 1997, no pet.), the court dismissed on the basis that "an estate is an indispensable party to any proceeding in the probate court." Id. at 933. In Goodman, the executor of an estate filed an action to clear title to property she claimed was part of the estate; the decedent had entered into a contract to sell the property before her death, but the purchaser had not accomplished all of the obligations he had to meet before the purchase. Id. at 932. The purchaser counterclaimed against the executor and another owner of the property for specific performance, as well as filing a third-party action against the City of Austin for not issuing the approvals necessary for him to complete the purchase contract. Id. The probate court exercised jurisdiction over all of the actions, but later dismissed all claims by and against the estate. After the estate administration concluded, upon motion by the third-party defendants the court determined that it had no remaining jurisdiction over the third-party claims and dismissed them without prejudice. Id. We held that the probate court "may only exercise `ancillary' or `pendent' jurisdiction over a claim that bears some relationship to the estate. Once the estate settles, the claim is `ancillary' or `pendent' to nothing, and the court is without jurisdiction." Id. at 933.

* [Smith's Inc. v. Sheffield](https://casetext.com/case/smiths-inc-v-sheffield?jxs=tx&p=1&q=a%20statutory%20probate%20court's%20jurisdiction%20is%20independent%20of%20its%20probate%20jurisdiction&sort=relevance&type=case&ssr=false&scrollTo=true&find=&resultsNav=false)

No. 03-02-00109-CV (Tex. App. Jan. 30, 2003)

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* [Dailey v. McAfee](https://casetext.com/case/dailey-v-mcafee?jxs=tx&p=1&q=a%20statutory%20probate%20court's%20jurisdiction%20is%20independent%20of%20its%20probate%20jurisdiction&sort=relevance&type=case&ssr=false&scrollTo=true&find=&resultsNav=false#p13)

NO. 01-18-01060-CV (Tex. App. Aug. 18, 2020)[Cited 4 times](https://casetext.com/case/dailey-v-mcafee/how-cited?jxs=tx&p=1&q=a%20statutory%20probate%20court's%20jurisdiction%20is%20independent%20of%20its%20probate%20jurisdiction&sort=relevance&type=case&ssr=false&scrollTo=true&find=&resultsNav=false" \t "_blank)

Statutory probate courts are courts of limited jurisdiction. See Stauffer v. Nicholson, 438 S.W.3d 205, 213 (Tex. App.—Dallas 2014, no pet.) (citing In re United Servs. Auto. Ass'n, 307 S.W.3d 299, 302-03 (Tex. 2010)) (contrasting limited jurisdiction of statutory probate courts with general jurisdiction of district courts); see also Narvaez v. Powell, 564 S.W.3d 49, 54 (Tex. App.—El Paso 2018, pet. denied). Dailey argues that the probate court had jurisdiction over her declaratory judgment action pursuant to Chapter 32 of the Texas Estates Code. See TEX. EST. CODE §§ 32.001(b), 32.005(a), 32.007(4). Section 32.001(b) grants a probate court "pendent and ancillary jurisdiction as necessary to promote judicial efficiency and economy." Id. § 32.001(b). In order for a probate court to assert jurisdiction over matters incident to an estate, a probate proceeding must already be pending in the probate court. See Narvaez, 564 S.W.3d at 57-58 (stating "probate courts exercise their ancillary or pendent jurisdiction over non-probate matters only when doing so will aid in the efficient administration of an estate pending in the probate court") (citing Shell Cortez Pipeline Co. v. Shores, 127 S.W.3d 286, 294-95 (Tex. App.—Fort Worth 2004, no pet.)). We note that McAfee does not dispute that Carl's probate proceeding was pending when Dailey filed her petition for declaratory judgment in June 2014. We further note that if Carl's probate proceeding was closed when Dailey filed her petition for declaratory judgment, the probate court would not have had jurisdiction to hear the petition. See Narvaez, 564 S.W.3d at 57-58. There is nothing in the appellate record, however, that reflects the status of the probate proceeding when the petition was filed. See PNS Stores, Inc., 379 S.W.3d at 273 (stating trial court's prior judgment is void and subject to collateral attack if record affirmatively demonstrates that court lacked subject matter jurisdiction over suit). Because the appellate record does not demonstrate that the probate proceeding was closed when Dailey filed her petition, we must presume that the default declaratory judgment is valid. See id. (stating courts presume that judgment being collaterally attacked is valid unless record establishes jurisdictional defect, effectively rebutting presumption).

* [Goodman v. Summit at West Rim, Ltd.](https://casetext.com/case/goodman-v-summit-at-west-rim-ltd?jxs=tx&p=1&q=a%20statutory%20probate%20court's%20jurisdiction%20is%20independent%20of%20its%20probate%20jurisdiction&sort=relevance&type=case&ssr=false&scrollTo=true&find=&resultsNav=false#p932)

952 S.W.2d 930 (Tex. App. 1997)[Cited 22 times](https://casetext.com/case/goodman-v-summit-at-west-rim-ltd/how-cited?jxs=tx&p=1&q=a%20statutory%20probate%20court's%20jurisdiction%20is%20independent%20of%20its%20probate%20jurisdiction&sort=relevance&type=case&ssr=false&scrollTo=true&find=&resultsNav=false)[1 legal analysis](https://casetext.com/case/goodman-v-summit-at-west-rim-ltd/analysis?jxs=tx&p=1&q=a%20statutory%20probate%20court's%20jurisdiction%20is%20independent%20of%20its%20probate%20jurisdiction&sort=relevance&type=case&ssr=false&scrollTo=true&find=&resultsNav=false)

The probate court chose to exercise ancillary jurisdiction over the third-party claims, pursuant to Texas Probate Code section 5A(d). Tex. Prob. Code Ann. § 5A(d) (West Supp. 1997). By December 21, 1995, the probate court had dismissed all claims by and against the estate. At that point, the only unresolved claims in the probate court were Weaver's third-party claims against the City, the Planning Commission, and the individual commission members.

* [Peralez v. Peralez](https://casetext.com/case/peralez-v-peralez?jxs=tx&p=1&q=a%20statutory%20probate%20court's%20jurisdiction%20is%20independent%20of%20its%20probate%20jurisdiction&sort=relevance&type=case&ssr=false&scrollTo=true&find=&resultsNav=false#p13)

No. 13-09-259-CV (Tex. App. Jun. 24, 2010)[Cited 4 times](https://casetext.com/case/peralez-v-peralez/how-cited?jxs=tx&p=1&q=a%20statutory%20probate%20court's%20jurisdiction%20is%20independent%20of%20its%20probate%20jurisdiction&sort=relevance&type=case&ssr=false&scrollTo=true&find=&resultsNav=false" \t "_blank)

"After a will has been admitted to probate, any interested person may institute suit in the proper court to contest the validity thereof, within two years after such will shall have been admitted to probate. . . ." TEX. PROB. CODE ANN. § 93 (Vernon 2003). At the period of time applicable here, the probate code provided that a statutory probate court had jurisdiction over any matter appertaining to an estate or incident to an estate and could exercise pendent and ancillary jurisdiction necessary to promote judicial efficiency and economy. TEX. PROB. CODE ANN. § 5(h), (i) (repealed by Acts 2009, 81st Leg. Ch. 1351, § 12(h)). In proceedings in constitutional county courts and statutory county courts at law, "the phrases `appertaining to estates' and `incident to an estate' in this Code include the probate of wills . . . and also include, but are not limited to, all claims by or against an estate, . . . and generally all matters relating to the settlement, partition, and distribution of the estates of deceased persons." TEX. PROB CODE ANN. § 5A(a) (repealed by Acts 2009, 81st Leg., ch 1351, § 12(h), eff. Sept. 1, 2009).

* [Estate of Arlitt v. Paterson](https://casetext.com/case/estate-of-arlitt-v-paterson?jxs=tx&p=1&q=a%20statutory%20probate%20court's%20jurisdiction%20is%20independent%20of%20its%20probate%20jurisdiction&sort=relevance&type=case&ssr=false&scrollTo=true&find=&resultsNav=false#p718)

995 S.W.2d 713 (Tex. App. 1999)[Cited 26 times](https://casetext.com/case/estate-of-arlitt-v-paterson/how-cited?jxs=tx&p=1&q=a%20statutory%20probate%20court's%20jurisdiction%20is%20independent%20of%20its%20probate%20jurisdiction&sort=relevance&type=case&ssr=false&scrollTo=true&find=&resultsNav=false)[2 legal analyses](https://casetext.com/case/estate-of-arlitt-v-paterson/analysis?jxs=tx&p=1&q=a%20statutory%20probate%20court's%20jurisdiction%20is%20independent%20of%20its%20probate%20jurisdiction&sort=relevance&type=case&ssr=false&scrollTo=true&find=&resultsNav=false)

As set forth in the Arlitts' petition, Mrs. Arlitt sues in both her individual and representative capacities. In her representative capacity, Mrs. Arlitt seeks to recover the fees and expenses allegedly paid by the estate as a consequence of the Attorneys' wrongful conduct. If successful, this claim would directly impact the assimilation of assets for the estate and was therefore within the statutory probate court's jurisdiction. See id. We therefore hold the claims asserted by Mrs. Arlitt in her representative capacity were within the probate court's subject matter jurisdiction. We likewise hold the claims asserted by Mrs. Arlitt, individually, and her children were also within the statutory probate court's jurisdiction. To do otherwise would require the Arlitts to litigate the same case in two different courts — an absurd interpretation of the statutes and thus not attributable to the Texas Legislature. See City of Amarillo v. Martin, 971 S.W.2d 426, 435 n.1 (Tex. 1998); see also Tex. Prob. Code Ann. §§ 5(d), 5A(c)(4) (Vernon Supp. 1998) (statutory probate court has concurrent jurisdiction over all claims involving a testamentary trust); id. § 5A(d) ("A statutory probate court may exercise the pendent and ancillary jurisdiction necessary to promote judicial efficiency and economy.").

* [In re Est. of Treviño](https://casetext.com/case/in-re-est-of-trevino-1?jxs=tx&p=1&q=a%20statutory%20probate%20court's%20jurisdiction%20is%20independent%20of%20its%20probate%20jurisdiction&sort=relevance&type=case&ssr=false&scrollTo=true&find=&resultsNav=false#p228)

195 S.W.3d 223 (Tex. App. 2006)[Cited 17 times](https://casetext.com/case/in-re-est-of-trevino-1/how-cited?jxs=tx&p=1&q=a%20statutory%20probate%20court's%20jurisdiction%20is%20independent%20of%20its%20probate%20jurisdiction&sort=relevance&type=case&ssr=false&scrollTo=true&find=&resultsNav=false)[2 legal analyses](https://casetext.com/case/in-re-est-of-trevino-1/analysis?jxs=tx&p=1&q=a%20statutory%20probate%20court's%20jurisdiction%20is%20independent%20of%20its%20probate%20jurisdiction&sort=relevance&type=case&ssr=false&scrollTo=true&find=&resultsNav=false)

In their first issue, the Appellants contend that the probate court lacked subject matter jurisdiction to consider Hailey's request for the appointment of a receiver because the request did not involve a matter "appertaining to or incident to an estate." The phrase "incident to an estate" has been held to have a broad meaning covering a wide range of situations. Novak v. Stevens, 596 S.W.2d 848, 851 (Tex. 1980). Section 5A of the Texas Probate Code defines "appertaining to estates" and "incident to an estate" as including "all claims by or against an estate." TEX. PROB. CODE ANN. § 5A(b) (Vernon Supp. 2004-2005). Hailey's request for a receiver was an action against the estate as the shareholder of the corporation which co-owned the business of the bar. Even if we assume that the estate was not a necessary or proper party to the receivership action, the action appears to be the culmination of two years of ongoing litigation arising from the probate court's approval of a contingency fee contract. Accordingly, even absent any other basis for the probate court's exercise of jurisdiction, the probate court properly exercised jurisdiction under section 5(i) of the Probate Code, formerly section 5A(d), which gives a statutory probate court "pendant and ancillary jurisdiction necessary to promote judicial efficiency and economy." TEX. PROB. CODE ANN. § 5(i) (Vernon Supp. 2004-2005).

* [Barton v. Buchanan](https://casetext.com/case/barton-v-buchanan?jxs=tx&p=1&q=a%20statutory%20probate%20court's%20jurisdiction%20is%20independent%20of%20its%20probate%20jurisdiction&sort=relevance&type=case&ssr=false&scrollTo=true&find=&resultsNav=false)

No. 03-02-00596-CV, 03-02-00632-CV (Tex. App. Aug. 14, 2003)

Whether a trial court has subject matter jurisdiction is a question of law that we review de novo. Herring v. Welborn, 27 S.W.3d 132, 136 (Tex.App.-San Antonio 2000, pet. denied). Generally, district courts have exclusive jurisdiction to determine title to real property. See Tex. Const. art. 5, § 8; Tex. Gov't Code Ann. § 26.043 (West 1988); Falcon v. Ensignia, 976 S.W.2d 336, 338 (Tex.App.-Corpus Christi 1998, no pet.). However, a county court at law sitting in probate has jurisdiction to hear "all matters incident to an estate" already pending before the court. Tex. Prob. Code Ann. § 5(f) (West 2003); see Bailey v. Cherokee County Appraisal Dist., 862 S.W.2d 581, 585 (Tex. 1993); Goodman v. Summit at West Rim, Ltd., 952 S.W.2d 930, 933 (Tex.App.-Austin 1997, no pet.). Matters incident to an estate are "generally all matters relating to the settlement, partition, and distribution" of the estate, including claims by or against the estate and actions to try title to land incident to the estate. Tex. Prob. Code Ann. § 5A(a) (West 2003); see Bailey, 862 S.W.2d at 585. Therefore, a statutory county court sitting in probate would have jurisdiction over a suit regarding title to real property only if it was incident to an estate being probated in the county court. Goodman, 952 S.W.2d at 933.

* [Lee v. Ronald E. Lee Jr., Katherine Lee Stacy, & Legacy Trust Co.](https://casetext.com/case/lee-v-ronald-e-lee-jr-katherine-lee-stacy-legacy-trust-co-1?jxs=tx&p=1&q=a%20statutory%20probate%20court's%20jurisdiction%20is%20independent%20of%20its%20probate%20jurisdiction&sort=relevance&type=case&ssr=false&scrollTo=true&find=&resultsNav=false#p213)

528 S.W.3d 201 (Tex. App. 2017)[Cited 19 times](https://casetext.com/case/lee-v-ronald-e-lee-jr-katherine-lee-stacy-legacy-trust-co-1/how-cited?jxs=tx&p=1&q=a%20statutory%20probate%20court's%20jurisdiction%20is%20independent%20of%20its%20probate%20jurisdiction&sort=relevance&type=case&ssr=false&scrollTo=true&find=&resultsNav=false" \t "_blank)

See, e.g., Tex. Est. Code Ann. § 36.001 (defining the term "probate proceeding"); Valdez v. Hollenbeck, 465 S.W.3d 217, 224 n.8 (Tex. 2015) (explaining that "[t]he heirs initially filed their lawsuit in the original probate proceeding as a suit appertaining and incident to a probate estate under [the predecessor statute] section 5A of the Probate Code," under which "a probate proceeding must be pending for a probate court to exercise jurisdiction over matters related to that proceeding"); Frost Nat'l Bank v. Fernandez, 315 S.W.3d 494, 506 (Tex. 2010) (holding that a probate court lacked jurisdiction over a proceeding to declare heirship because a "court empowered with probate jurisdiction may only exercise its probate jurisdiction over matters incident to an estate when a probate proceeding related to such matters is already pending in that court" (emphasis added) (quoting Bailey v. Cherokee Cty. Appraisal Dist., 862 S.W.2d 581, 585 (Tex. 1993) )); In re John G. & Marie Stella Kenedy Mem'l Found., 315 S.W.3d 519, 522 (Tex. 2010) (orig. proceeding) (quoting the same language from Bailey ); Goodman v. Summit at W. Rim, Ltd., 952 S.W.2d 930, 933 (Tex. App.—Austin 1997, no pet.) (citing Bailey ); In re Estate of Hanau, 806 S.W.2d 900, 904 (Tex. App.—Corpus Christi 1991, writ denied) ("The trial court has power to hear all matters incident to an estate only in those instances where a probate proceeding, such as the administration of an estate, is actually pending in the court in which the suit is filed, relating to a matter incident to that estate." (emphasis added) (citing Interfirst Bank–Hous. v. Quintana Petroleum Corp., 699 S.W.2d 864, 873 (Tex. App.—Houston [1st Dist.] 1985, writ ref'd n.r.e.) )); Pullen v. Swanson, 667 S.W.2d 359, 363 (Tex. App.—Houston [14th Dist.] 1984, writ ref'd n.r.e.) (stating that a statutory probate court's jurisdiction "to hear all matters incident to an estate necessarily presupposes that a probate proceeding is already pending in that court" (emphasis added)).

* [Lawton v. Lawton](https://casetext.com/case/lawton-v-lawton-10?jxs=tx&p=1&q=a%20statutory%20probate%20court's%20jurisdiction%20is%20independent%20of%20its%20probate%20jurisdiction&sort=relevance&type=case&ssr=false&scrollTo=true&find=&resultsNav=false#p5)

NO. 01-12-00932-CV (Tex. App. Mar. 6, 2014)

Whether a trial court has subject matter jurisdiction is a question of law that we review de novo. See Tex. Natural Res. Conservation Comm'n v. IT-Davy, 74 S.W.3d 849, 855 (Tex. 2002). Although courts generally do not lose subject matter jurisdiction once it attaches, a probate court is a specialized court that can lose jurisdiction over matters incident to an estate if it loses jurisdiction over the probate matters. See Goodman v. Summit at West Rim, Ltd., 952 S.W.2d 930, 933 (Tex. App.—Austin 1997, no pet.). In other words, once an estate closes, incident claims are pendent or ancillary to nothing, and the probate court loses jurisdiction. Id.; see also Schuld v. Dembrinski, 12 S.W.3d 485, 487 (Tex. App.—Dallas 2000, no pet.) ("The pendency of a probate proceeding is a requisite for a court's exercise of jurisdiction over matters related to it."); Garza v. Rodriguez, 18 S.W.3d 694, 698 (Tex. App.—San Antonio 2000, no pet.) ("Before a matter can be regarded as incident to an estate . . . a probate proceeding must actually be pending.").

* [Lawton v. Lawton](https://casetext.com/case/lawton-v-lawton-13?jxs=tx&p=1&q=a%20statutory%20probate%20court's%20jurisdiction%20is%20independent%20of%20its%20probate%20jurisdiction&sort=relevance&type=case&ssr=false&scrollTo=true&find=&resultsNav=false#p5)

NO. 01-12-00932-CV (Tex. App. Jul. 10, 2014)[Cited 2 times](https://casetext.com/case/lawton-v-lawton-13/how-cited?jxs=tx&p=1&q=a%20statutory%20probate%20court's%20jurisdiction%20is%20independent%20of%20its%20probate%20jurisdiction&sort=relevance&type=case&ssr=false&scrollTo=true&find=&resultsNav=false" \t "_blank)

Whether a trial court has subject matter jurisdiction is a question of law that we review de novo. See Tex. Natural Res. Conservation Comm'n v. IT Davy, 74 S.W.3d 849, 855 (Tex. 2002). Although courts generally do not lose subject matter jurisdiction once it attaches, a probate court is a specialized court that can lose jurisdiction over matters incident to an estate if it loses jurisdiction over the probate matters. See Goodman v. Summit at West Rim, Ltd., 952 S.W.2d 930, 933 (Tex. App.—Austin 1997, no pet.). In other words, once an estate closes, incident claims are pendent or ancillary to nothing, and the probate court loses jurisdiction. Id.; see also Schuld v. Dembrinski, 12 S.W.3d 485, 487 (Tex. App.—Dallas 2000, no pet.) ("the pendency of a probate proceeding is a requisite for a court's exercise of jurisdiction over matters related to it"); Garza v. Rodriguez, 18 S.W.3d 694, 698 (Tex. App.—San Antonio 2000, no pet.) ("before a matter can be regarded as incident to an estate ... a probate proceeding must actually be pending").

* [John G. Marie Stella Kenedy](https://casetext.com/case/john-g-marie-stella-kenedy?jxs=tx&p=1&q=a%20statutory%20probate%20court's%20jurisdiction%20is%20independent%20of%20its%20probate%20jurisdiction&sort=relevance&type=case&ssr=false&scrollTo=true&find=&resultsNav=false#p522)

315 S.W.3d 519 (Tex. 2010)[Cited 29 times](https://casetext.com/case/john-g-marie-stella-kenedy/how-cited?jxs=tx&p=1&q=a%20statutory%20probate%20court's%20jurisdiction%20is%20independent%20of%20its%20probate%20jurisdiction&sort=relevance&type=case&ssr=false&scrollTo=true&find=&resultsNav=false" \t "_blank)

As we held in Frost National Bank and Kenedy Memorial Foundation, Fernandez's bill of review claims in the district court are barred by limitations, and the original judgments regarding Kenedy's will and East's will are binding. Frost Nat'l Bank, 315 S.W.3d at 497; Kenedy Mem'l Found., 315 S.W.3d at 513. Under those final judgments, Fernandez cannot establish intestacy as a basis for the probate court's jurisdiction. See TEX. PROB. CODE § 48(a) (permitting suit for declaration of heirship "[w]hen a person dies intestate"). Nor can the probate court assert jurisdiction based on matters incident to an estate when there is no open or pending probate matter to which Fernandez's heirship claim would be incident. See Frost Nat'l Bank, 315 S.W.3d at 506 (citing Bailey v. Cherokee County Appraisal Dist., 862 S.W.2d 581, 585 (Tex. 1993) ("A court empowered with probate jurisdiction may only exercise its probate jurisdiction over matters incident to an estate when a probate matter proceeding related to such matters is already pending in that court.")); Schwartz v. Jefferson, 520 S.W.2d 881, 889 (Tex. 1975) ("The mere filing of a bill of review does not affect the finality of the judgment which is sought to be set aside."); see also TEX. PROB. CODE §§ 5(f), 5A. Although the merits of the probate court bills of review and applications for declaration of heirship are not yet before us, we can conceive of no alternative means by which Fernandez might successfully attack the final district court judgment which declared that Kenedy died without heirs and that any interest in property passed to his wife under the will. There being no final judgment to attack by bill of review in probate court, no possibility of intestacy under the binding final judgments, and no pending probate proceeding — the only possible bases by which Fernandez could establish jurisdiction in the probate court — the court lacked jurisdiction to enter any order other than to dismiss. See State v. Morales, 869 S.W.2d 941, 949 (Tex. 1994) ("When a court lacks jurisdiction, its only legitimate choice is to dismiss."). As a result, we conclude that the probate court's exhumation order was void. See In re Dep't of Family Protective Servs., 273 S.W.3d 637, 641 (Tex. 2009) (observing that orders made without jurisdiction are void). Because its order was void, the probate court's order constituted an abuse of discretion, and mandamus relief is appropriate without a showing that the relators lack an adequate appellate remedy. See Sw. Bell Tel. Co., 35 S.W.3d at 605.