



**COURT OF APPEALS
SECOND DISTRICT OF TEXAS
FORT WORTH**

NO. 02-17-00265-CV

ESTATE OF JOHN DAVID HARRIS,
DECEASED

FROM PROBATE COURT NO. 2 OF TARRANT COUNTY
TRIAL COURT NO. 2011-PR00903-1-2

MEMORANDUM OPINION¹

Pro se Appellant David Glen Harris attempts to appeal from the trial court's July 6, 2017 order appointing a temporary dependent administrator in this probate proceeding. Because we conclude this order is not final for purposes of appeal, we dismiss this appeal for want of jurisdiction.

¹See Tex. R. App. P. 47.4.

On July 6, 2017, the trial court signed an order appointing a temporary dependent administrator “for the limited purposes of obtaining any personal assets, including bank accounts, life insurance [and/or] monies kept by the State of Texas on behalf of the Decedent so that the Ad Litem’s fee can be paid,” subject to the posting of a \$20,000 corporate security bond. The order further provides that any such assets “shall be deposited into the Registry of the Court until such orders of this Court.” Harris attempts to appeal from that order.

On August 23, 2017, we notified Harris of our concern that we lack jurisdiction over this appeal because the trial court’s July 6, 2017 order did not appear to be a final judgment or appealable interlocutory order. We informed him that unless he or any party desiring to continue the appeal filed a response by September 5, 2017, showing grounds for continuing the appeal, we would dismiss this appeal for want of jurisdiction. See Tex. R. App. P. 42.3(a), 44.3. Harris filed a response, but it does not show grounds for continuing this appeal.

Generally, appeals may be taken only from final judgments or interlocutory orders that are authorized by statute. *Lehmann v. Har-Con Corp.*, 39 S.W.3d 191, 195, 200 (Tex. 2001). A judgment or order is final if it disposes of every pending claim and party. *Id.* at 205. Probate proceedings are an exception to the one-final-judgment rule because they may involve multiple orders on discrete issues, each of which may be final for purposes of appeal. *De Ayala v. Mackie*, 193 S.W.3d 575, 578 (Tex. 2006) (op. on reh’g). However, not all interlocutory probate orders are appealable. *Id.* The supreme court has stated that the

appropriate test for determining whether a probate order is final for purposes of appeal is as follows:

If there is an express statute, such as the one for the complete heirship judgment, declaring the phase of the probate proceedings to be final and appealable, that statute controls. Otherwise, if there is a proceeding of which the order in question may logically be considered a part, but one or more pleadings also part of that proceeding raise issues or parties not disposed of, then the probate order is interlocutory.

Id. (quoting *Crowson v. Wakeham*, 897 S.W.2d 779, 783 (Tex. 1995)). In other words, where no statute expressly provides that a particular probate order is final and appealable, such an order is interlocutory and not subject to immediate appeal unless it disposes of all parties or issues in a particular phase of the proceedings. See *id.* at 579; *Estate of Rodriguez*, No. 14-16-00507-CV, 2017 WL 61840, at *1 (Tex. App.—Houston [14th Dist.] Jan. 5, 2017, no pet.) (mem. op.). Harris has not identified any statute that expressly authorizes an immediate appeal from the trial court’s July 6, 2017 order appointing a temporary dependent administrator. Additionally, the order appointed a dependent temporary administrator for the limited purpose of collecting any personal assets kept by the State of Texas on behalf of the decedent “so that the Ad Litem’s fee can be paid.” But it does not order the payment of any ad litem fees. See *Trevino v. Reese*, No. 01-10-00717-CV, 2011 WL 2436523, at *3 (Tex. App.—Houston [1st Dist.] June 16, 2011, no pet.) (mem. op.) (order that not only required appellant to pay ad litem fees but also released ad litem in guardianship proceeding was appealable because it concluded a discrete phase of the

proceedings); *In re Guardianship of Humphrey*, No. 12-06-00222-CV, 2008 WL 2445503, at *3 (Tex. App.—Tyler June 18, 2008, pet. denied) (mem. op.) (concluding that “order authorizing attorney ad litem fees concluded a discrete phase of the guardianship proceedings in the probate court and [was] final and appealable”). We conclude the trial court’s July 6, 2017 order is not a final, appealable probate order. See *De Ayala*, 193 S.W.3d at 578–79; *Estate of Rodriguez*, 2017 WL 61840, at *1. Accordingly, we dismiss this appeal for want of jurisdiction. See Tex. R. App. P. 42.3(a), 43.2(f).

PER CURIAM

PANEL: GABRIEL, SUDDERTH, and KERR, JJ.

DELIVERED: September 21, 2017