Rel: December 4, 2020

SUPREME COURT OF ALABAMA

OCTOBER TERM, 2020-2021

1190676

Robert Segrest, Jr.

v.

Patricia Segrest, as personal representative of the Estate of Robert C. Segrest, deceased

Appeal from Macon Circuit Court
(CV-19-007)

BOLIN, Justice.

Robert Segrest, Jr., appeals the Macon Circuit Court's judgment dismissing his petition to contest the validity of the will of Robert C. Segrest.[1] We reverse and remand.

Facts and Procedural History

On November 15, 2018, Robert C. Segrest, a resident of Macon County, executed a will. In his will, Robert bequeathed to his wife, Patricia Segrest, a defeasible life estate in his real property. That bequest was defeasible because Robert provided that should Patricia leave the property for a period of more than 6 months the real property would pass to his son, John Paul Segrest. Robert also left certain personal property, but no real property, to his son, Robert, Jr. Robert died on November 24, 2018.

On January 22, 2019, Patricia filed in the Probate Court of Macon County a petition for probate of Robert's will and an accompanying

[1]Robert, Jr., named as appellees the "Estate of Robert C. Segrest, Patricia Segrest, and John Paul Segrest." We note that John Paul is identified as an "an interested party" in the will contest. However, the only issue before this Court involves the motion to dismiss filed by Patricia, in her capacity as personal representative of Robert C. Segrest's estate. We have restyled the appeal accordingly.

petition for issuance of letters testamentary to herself, as the personal representative appointed in Robert's will. In her petition for probate, she listed as Robert's next of kin: herself, Robert's widow; Robert, Jr., a son; and John Paul Segrest, a son. On March 7, 2019, the probate court admitted Robert's will to probate and granted letters testamentary to Patricia, the personal representative. On April 26, 2019, Robert, Jr., filed in the probate court a "Notice of Intent to file Will Contest." In the notice, Robert, Jr., asserted his intent to contest Robert's will in the circuit court; advised Patricia, as the personal representative of Robert's estate, not to sell or distribute any real property in Robert's estate until further notice; and, provided notice of his intent to contest Robert's will to any bona fide purchasers of the property in Robert's estate.

On April 30, 2019, Robert, Jr., filed in the Macon Circuit Court a petition to remove the administration of Robert's estate from the probate court to the circuit court. The petition was captioned and designated as being "In the Circuit Court of Macon, County"; stated the title of the case as "In Re: the Estate of Robert C. Segrest, [Decedent]"; and was accompanied by a filing fee in the amount of $278.00. The clerk

designated the case with circuit court case number, CV-19-007. In the petition for removal, Robert, Jr., alleged that he had a vested interest in the administration of Robert's estate, that no final settlement or proceedings in preparation of a final settlement had occurred in the probate court, and that the circuit court could better handle the administration of Robert's estate. On that same day, the circuit court entered an order removing the estate from the probate court to the circuit court and ordered "the judge of probate to transmit to the circuit court the file and all papers in connection with the probate" of Robert's estate.

On May 7, 2019, Robert, Jr., filed in the circuit court a "Petition to Contest Validity of Decedent's Will." The petition was captioned and designated as being "In the Circuit Court of Macon County, Alabama"; stated the title of the case as "In Re: estate of Robert C. Segrest, Decedent"; and set forth the pending circuit court estate-administration case number, CV-19-007. It does not appear that Robert, Jr., paid an additional filing fee when he filed this petition to contest the will. In the petition, Robert, Jr., stated that he was Robert's son and that he brought

the will contest pursuant to § 43-8-199, Ala. Code 1975. Robert, Jr., asserted:

> "1. [Robert] died in the State of Alabama on 11-24-2018 in Macon County, Alabama.
>
> "2. At the time of the [Robert's] death, your petitioner was a resident of the State of Alabama residing in Macon County for more than 6 months preceding [Robert's] death. The other interested parties in this matter are John Paul Segrest (son) and Patricia Segrest (widow), the appointed representative. The 'proponent' is Patricia Segrest.
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> "3. This case [-- the administration of Robert's estate --] was removed to the circuit court on 4-30-2019.
>
> "4. The writing purporting to be [Robert's] last will and testament was admitted to probate in the Probate Court of Macon County, Alabama, on March 7, 2019.
>
> "5. The will which was admitted to probate court upon which letters testamentary were issued is due to be deemed invalid."

(Emphasis added.) Robert, Jr., maintained that the will is invalid because, he said, at the time Robert executed the will Robert was the subject of "much undue influence" by Patricia and lacked testamentary capacity as a result of his failing health and strong medications. The petition was signed by counsel for Robert, Jr.

On May 13, 2020, Robert, Jr., filed a "Petition for Orders to Personal Representative," asking the circuit court to order Patricia, among other things, not to distribute any of the assets in Robert's estate. On June 17, 2020, the circuit court conducted a hearing to address the petition, and on June 19, 2020, the circuit court issued an order, stating that Robert, Jr., was Robert's son and prohibiting Patricia from selling, distributing, or encumbering the assets in Robert's estate. That same day, Patricia filed a motion, entitled "Executor's Motion to Reschedule Hearing." In her motion, Patricia asked that the hearing conducted on June 17, 2019, be "rescheduled." She set forth the following grounds:

> "1) Letters Testamentary were issued to Patricia Segrest by the Probate Court of Macon County on March 7, 2019.
>
> "2) On April 30, 2019, a petition for removal of estate from probate court was filed [in the circuit court] on behalf of [Robert, Jr.], and this Court entered its order the same date removing administration of the estate to circuit court.
>
> "3) On May 7, 2019, a petition to contest validity of [Robert's] will was filed ... on behalf of [Robert, Jr.].
>
> "4) On May 13 2019, a petition for orders to personal representative was filed ... on behalf of [Robert, Jr.], and the court entered an order on the same date setting that motion for hearing on June 17, 2019.

> "5) Neither Patricia Segrest, as executor of the estate of [Robert], nor [her] counsel were given notice of the setting of the matter for hearing."

(Emphasis added.)

Patricia also filed a document, entitled "Executor's Motion to Alter, Amend or Vacate Order to Personal Representative Dated June 19, 2019," asking the circuit court to vacate its June 19, 2020, order because, she said, she did not receive notice of the petition and hearing and asking the court to add her, as the personal representative of Robert's estate, as a party to the proceedings removed from the probate court. In her motion, Patricia acknowledged that on May 7, 2019, Robert, Jr., had filed a petition contesting the validity of Robert's will.

On June 20, 2019, the circuit court issued an order granting Patricia's motion to vacate the order issued on June 19, 2019, and setting a hearing to address the matter. On July 26, 2019, after conducting a hearing, the circuit court entered an order requiring Patricia to submit an inventory and prohibiting Patricia "from selling, encumbering, or transferring any interests in the real estate along with any and all other

personal property or intangible assets of [Robert's] estate, without prior approval of the court."

On July 30, 2019, Robert, Jr., filed a motion to appoint a special process server pursuant to Rule 4(i)(B), Ala. R. Civ. P., to obtain service of process on Patricia and John Paul "in the heretofore filed contest of will." On August 1, 2019, the circuit court appointed a special process server. The circuit court's order showed the title of the case as "Segrest, Robert C. v. Defendant" and set forth the circuit court estate-administration case number, CV-19-007.

On September 16, 2019, Patricia, as personal representative of Robert's estate, filed a motion to dismiss the will-contest petition filed by Robert, Jr. In her motion, Patricia argued that, because, she said, Robert, Jr., had not complied with the statutory requirements for filing a will contest after an estate had been admitted to probate, the jurisdiction of the circuit court had not been invoked over the will-contest action and that, therefore, the petition was due to be dismissed. She maintained that, because Robert, Jr., filed his petition after Robert's will had been admitted to probate and because no will contest had been filed in the

probate court, § 43-8-199 provided the only means for commencing a will contest. She then directed the court to § 43-8-199, which provides that, after a will has been admitted to probate, a person can file a complaint in the circuit court in the county in which the will was probated, contesting the validity of a will within six months after the admission of the will in probate court. She asserted that the "petition to contest the validity of the Last Will and Testament of Robert C. Segrest was not filed as a separate proceeding ..., nor was it filed prior to the probate of the will in probate court, and is due to be dismissed." (Emphasis added.) She reasoned that because Robert, Jr., did not file a will-contest action in the circuit court, i.e., initiate a direct, original action, separate from the case administrating Robert's estate, within six months after the admission of Robert's will to probate, the circuit court did not have jurisdiction over the case. She argued:

> "13.) Subject-matter jurisdiction cannot be waived. In McElroy v. McElroy, 254 So. 3d 872, 875 (Ala. 2017), the Supreme Court of Alabama stated:
>
> > " 'Although neither party raises a question before this Court regarding the circuit court's subject-matter jurisdiction to consider the

> appellants' will contest, the absence of subject-matter jurisdiction cannot be waived, and it is the duty of an appellate court to notice the absence of subject-matter jurisdiction ex mero motu. See MPQ, Inc. v. Birmingham Realty Co., 78 So. 3d 391, 393 (Ala. 2011). If the circuit court's jurisdiction to consider the will contest was never properly invoked, then the judgment entered on December 29, 2016, is void and would not support an appeal. MPQ, 78 So. 3d at 394 (" 'A judgment entered by a court lacking subject-matter jurisdiction is absolutely void and will not support an appeal; an appellate court must dismiss an attempted appeal from such a void judgment.' " (quoting Vann v. Cook, 989 So. 2d 556, 559 (Ala. Civ. App. 2008))).'

"14.) In Steven Christopher Jones v. Tammy Brewster and Jeffery Eugene Brewster, Supreme Court of Alabama, March 15, 2019, [282 So. 3d 854] the Court stated:

> " 'In a will contest, the subject-matter jurisdiction of both the probate court and the circuit court is statutory and limited. Kaller v. Rigdon, 480 So. 2d 536, 539 (Ala. 1985). In a long line of cases, this Court has held that strict compliance with the statutory language pertaining to a will contest is required to invoke the jurisdiction of the appropriate court.'

"15.) The current case pending before the circuit court is a removal of the administration of the estate from the probate court to the circuit court, filed after the will was admitted to probate. There has been no original will contest filed with the circuit court within the six-month period invoking the

> statutory subject-matter jurisdiction of the circuit court. The 'contestant' in this case is attempting to invoke the jurisdiction of the circuit court by motion in this case where he has asked the circuit court to administer probate of the will. There has been no original proceeding filed and this Court lacks subject-matter jurisdiction.
>
> "16.) This court lacks subject-matter jurisdiction because no original complaint has been filed with the circuit court within the required six-month period as required by statute and is due to be dismissed."

On October 15, 2019, Robert, Jr., filed a motion for default judgments against Patricia and John Paul Segrest based on their failure to answer his petition contesting the validity of Robert's will. That motion was also filed in the circuit court estate-administration proceeding, case no. CV-19-007.

On October 24, 2019, Patricia filed a response to the motion for a default judgment. That response states:

> "1. Patricia Segrest was appointed Executor of the Estate of Robert C. Segrest by the Probate Court of Macon County, Alabama, and Letters Testamentary [were] issued on March 7, 2019.
>
> "2. The six-month statutory period for filing claims against the estate has expired.

> "3. A Petition to Contest the Validity of Decedent's Will was filed in this proceeding (the administration of the Estate of Robert C. Segrest) on May 7, 2019. No new proceeding was filed within the six-month statutory period.
>
> "4. The Executor of the Estate filed a Motion to Dismiss the purported will contest on September 16, 2019, and this Honorable Court scheduled a hearing on all pending motions on December 18, 2019."

On November 26, 2019, Robert, Jr., filed a reply, arguing that an original action, separate from the case administering Robert's estate, did not need to be created for the circuit court to have jurisdiction over the will contest. He reasoned that, because the circuit court had already assumed jurisdiction over the entirety of Robert's estate with the entry of its order removing the administration of the estate from the probate court to the circuit court, the filing of a petition contesting Robert's will in the case administering Robert's estate had invoked the circuit court's jurisdiction to determine the validity of the will. In that reply, he asserted:

> "2. As to the substantive merits of the allegations brought before this court, it appears clearly from the record that the only minute way this court could dismiss this will contest is to say that no type of allegations have been filed in the Circuit Court in conformity with Alabama Code [1975,] §

43-8-199 -- 'Contest in circuit court after admission to probate -- Generally. Any person interested in any will who has not contested the same under the provisions of this article, may, at any time within the six months after the admission of such will to probate in this state, contest the validity of the same by filing a complaint in the circuit court in the county in which such will was probated.'

"While the motion to dismiss is ambiguous, it seems that the movant is implying that no contest has been filed in the Circuit Court. It could be further assumed arguendo that the movant is saying that only a distinctly separately filed lawsuit in the Circuit Court is the only proper way of filing a will contest. The case was properly removed to the Circuit Court for administration. The movant's motion clearly states that this court has proper jurisdiction of the matter as such. The only semblance of an argument that the movant has is that a separate action was not filed within the 6-month statutory period for filing a will contest. ...

"The Alabama statutes are not specifically clear on this point. In the case before this court a verified petition of will contest was indeed filed timely. This the record clearly reflects! The movant is wrongly stating that this court does not have subject matter jurisdiction of this will contest. This is entirely outside of the holding of all the Alabama cases. In this case, a complaint in the form of a verified petition to contest the will was indeed timely filed. It appears that the movant is stating that only a separately filed action under another case number is sufficient to meet requirements of § [43-8-]199. This is simply not the case. ... [T]he Alabama Supreme Court [has] held ' "the filing of a petition for removal in the circuit court and the entry of an order of removal by that court are prerequisites to that court's acquisition of jurisdiction over the administration of the estate pursuant to

§ 12-11-41[, Ala. Code 1975]." ' McElroy v. McElroy, 254 So. 3d 872, 876 (Ala. 2017), quoting DuBose [v. Weaver], 68 So. 3d [814,] 822 (Ala. 2011) .... The Court in DuBose further noted that ' "the probate court does not have authority to transfer the administration of an estate to the circuit court; the authority to remove the administration of an estate from the probate court to the circuit court resides in the circuit court," ' McElroy v. McElroy, 254 So. 3d 872, 876 (Ala. 2017), quoting DuBose, 68 So. 3d at 817 n.4. ... The court in the case at bar properly ordered removal and accepted jurisdiction of the case.

" In the probate court when a will contest is initiated, no separate case needs to be opened. The statute does not state that. Nor does any such Alabama case hold that. A complaint in the form of the 'Verified Petition' was properly and timely filed in this Circuit Court in which valid jurisdiction existed. The probate court in its original jurisdiction has the right and ability to proceed on the merits of the contest within its own administration. The movant in this case is apparently saying that this court does not have jurisdiction (like the probate court does in its administration) and ability to proceed because a separately filed case has not been filed. This is just not so.

"In conclusion, the removal of the administration of the estate from the probate court was properly initiated in the Circuit Court of Macon County, Alabama pursuant to Ala. Code [1975,] § 12-11-41. Accordingly, '[o]nce the administration and settlement of an estate are removed from the probate court, the probate court loses jurisdiction over the estate, and the circuit court obtains and maintains jurisdiction until the settlement of the case.' Oliver v. Johnson, 583 So. 2d 1331, 1332 (Ala. 1991). A complaint in the form of the 'Verified Petition' was properly and timely filed in the circuit court in which valid jurisdiction existed. There is nothing in Alabama law that requires two separate actions be initiated in

> the Circuit Court. Thus, the motion to dismiss should be dismissed because the Circuit Court's jurisdiction was properly invoked by initiating the action in the Circuit Court."

(Emphasis added.)

On December 20, 2019, after a hearing had been conducted,[2] the circuit court entered an order granting Patricia's motion to dismiss the will contest. The circuit court's order provided:

> "That Patricia Segrest was named the Executor of the Estate of Robert C. Segrest by the probate court of Macon County, Alabama on March 7, 2019. On April 30, 2019, Robert Segrest, Jr., filed a petition to remove the administration of said estate to the circuit court of Macon County, Alabama and this court entered its order granting the removal of the administration to circuit court on the same day. The case was designated case number CV-2019-007. Following the removal of the administration, Robert Segrest, Jr., filed a 'petition to contest validity of decedent's will' in CV-2019-007 on May 7, 2019.
>
> "[Patricia] filed her motion to dismiss, arguing that the statutory requirements for contesting the validity of a will had not been strictly followed and that the purported will contest was due to be dismissed. Robert Segrest, Jr., argues that the will contest was properly filed in the instant case because this Court had already assumed jurisdiction over the estate following the removal order.

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[2]The record does not include a transcript of the hearing.

> "The applicable statute in this matter is § 43-8-199, Ala. Code 1975. That code section provides as follows:
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> > "'Contest in circuit court after admission to probate -- Generally. Any person interested in any will who has not contested the same under the provisions of this article, may, at any time within the six months after the admission of such will to probate in this state, contest the validity of the same by filing a complaint in the circuit court in the county in which such will was probated.'
>
> "(Emphasis added.)
>
> "In addressing this issue, the Alabama Supreme Court has recently held that 'after a will has been admitted to probate in the probate court, jurisdiction in the circuit court cannot be invoked pursuant to a transfer under § 43-8-198[, Ala. Code 1975].[3] Within six months following the admission

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[3]Section 43-8-198 is entitled "Transfer of contest to circuit court; appeal from judgment of circuit court; certification of judgment, etc., to probate court" and provides:

> "Upon the demand of any party to the contest, made in writing at the time of filing the initial pleading, the probate court, or the judge thereof, must enter an order transferring the contest to the circuit court of the county in which the contest is made, and must certify all papers and documents pertaining to the contest to the clerk of the circuit court, and the case shall be docketed by the clerk of the circuit court and a special session of said court may be called for the trial of said contest or, said contest may be tried by said circuit court at any special or regular session of said court. The issues must be

> of the will to probate, however, a person with an interest in the will may file a will contest directly in the circuit court pursuant to § 43-8-199, Ala. Code 1975 ...' Jones v. Brewster, [282 So. 3d 854 (Ala. 2019)].
>
> "Here, the Last Will and Testament of Robert C. Segrest was admitted to probate on March 7, 2019. The record reflects that no complaint contesting the validity of the will was filed directly in the Circuit Court of Macon County within six months of the admission of the will to probate.
>
> "It is therefore ORDERED, ADJUDGED, and DECREED ....
>
> "1. That the motion to dismiss purported will contest is hereby GRANTED."

(Capitalization in original.)

> made up in the circuit court as if the trial were to be had in the probate court, and the trial had in all other respects as trials in other civil cases in the circuit court. An appeal to the supreme court may be taken from the judgment of the circuit court on such contest within 42 days after the entry of such judgment. After a final determination of the contest, the clerk of the circuit court shall certify the transcript of all judgments of the circuit court in such proceedings, together with all of the papers and documents theretofore certified to the circuit court by the probate court, back to the probate court from which they were first certified to the circuit court, and thereafter shall be recorded in the probate court as all other contested wills are recorded in the probate court."

On April 30, 2020, Robert, Jr., after he had filed a notice of appeal and this Court determined that a final judgment had not been entered,[4] filed in the circuit court a motion to reconsider the dismissal of his will-contest petition. The motion showed the title of the case as "In Re: The Estate of Robert C. Segrest, Decedent," and set forth the case no. as CV-19-007. In his motion, Robert, Jr., argued that a timely, valid will contest was filed in the form of a verified petition within the existing estate-administration case in the circuit court and that, therefore, dismissal was improper. Specifically, he argued:

> "[Robert, Jr.,] presumes that [Patricia] ... asserts the petition is not a 'separate lawsuit' and [Robert, Jr.,] should have filed a will contest action in addition to the case initiated in May of 2019. ... [Patricia states] that the petition fails as a complaint and that the contest of the will must be dismissed. At no time in any Alabama case, has the Supreme Court or any Civil Appeals Court suggested that § 43-8-199, requires two separate and distinct cases to be filed in the circuit court."

On May 1, 2020, the circuit court denied the motion to reconsider. The circuit court also entered an order certifying the judgment as final under Rule 54(b), Ala. R. Civ. P. Robert, Jr., appeals.

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[4]That appeal, case no. 1190372, was ultimately dismissed.

Standard of Review

> " 'A ruling on a motion to dismiss is reviewed without a presumption of correctness. Nance v. Matthews, 622 So. 2d 297, 299 (Ala. 1993). This Court must accept the allegations of the complaint as true. Creola Land Dev., Inc. v. Bentbrooke Housing, L.L.C., 828 So. 2d 285, 288 (Ala. 2002). Furthermore, in reviewing a ruling on a motion to dismiss we will not consider whether the pleader will ultimately prevail but whether the pleader may possibly prevail. Nance, 622 So.2d at 299.'
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> "Newman v. Savas, 878 So. 2d 1147, 1148–49 (Ala. 2003). We construe all doubts regarding the sufficiency of the complaint in favor of the plaintiff. Drummond Co. v. Alabama Dep't of Transp., 937 So. 2d 56, 58 (Ala. 2006)[, abrogated on other grounds, Ex parte Moulton, 116 So. 3d 1119 (Ala. 2013)]."

Daniel v. Moye, 224 So. 3d 115, 127 (Ala. 2016).

Discussion

The dispositive question in this appeal is whether the circuit court obtained jurisdiction over the will contest. Robert, Jr., after Robert's will had been admitted to probate and letters testamentary had been issued but before a final settlement of the estate was reached, moved in the circuit court for the removal of the administration of Robert's estate from the probate court to the circuit court, and he subsequently filed a petition

to contest the will in the circuit court case addressing the administration of Robert's estate. To determine the circuit court's jurisdiction in the will contest, we need to examine the commencement of the administration of the estate in the probate court, the removal of the administration of the estate from the probate court to the circuit court, and, crucially, the commencement of the proceeding challenging the validity of the will after the administration of the estate was removed from the probate court to the circuit court.

A. Commencement of the administration of an estate in the probate court.

Generally, when a person dies, the assets of his or her estate, both real property and personal property, devolve to the proper recipients pursuant to the provisions of § 43-2-830, Ala. Code 1975.[5] The

[5]At a person's death, the decedent's real property devolves in accordance with the decedent's will or, in the absence of testamentary disposition, to the decedent's heirs or their substitutes. See § 43-2-830(a). The decedent's personal property devolves to the personal representative for distribution. See § 43-2-830(b). The decedent's real and personal property are subject to "homestead allowance, exempt property, family allowance, rights of creditors, elective share of the surviving spouse, and to administration." See § 43-2-830(c).

administration of an estate broadly refers to the process of making an inventory of estate assets; collecting, safeguarding, and managing the estate; paying the lawful debts of the decedent, as well as the fees incurred in and the costs of administration; and distributing the remaining property to either the heirs at law in cases of intestacy or beneficiaries taking pursuant to the terms of a valid will in testate proceedings. Put another way, the end game of the administration of an estate is the ultimate distribution of remaining estate assets pursuant to law and guided either by the terms of a decedent's valid will or by the laws of descent and distribution of this State. See § 43-8-1 et seq., Ala. Code 1975. If there is a will, a proceeding to administer the decedent's estate is initiated in the appropriate probate court by a person or entity designated in § 43-8-160, Ala. Code 1975, by a petition to probate the will, followed by the admission of the will to probate, and then by the issuance of letters testamentary from the probate court to the personal representative, who is determined by appointment in the decedent's will, or by law in default thereof. See § 43-2-1 et seq., Ala. Code 1975. In a filing to probate a will, the petitioner identifies the heirs at law of the decedent, as defined by

statute, and any other interested parties, and provides notice to those individuals of his or her actions. See § 43-8-164, Ala. Code 1975.

In Knox v. Paull, 95 Ala. 505, 507, 11 So. 156, 157 (1891), this Court explained that the administration of an estate is an in rem proceeding:[6]

> "A proceeding for the probate of a will, whether at common law or under the statute, is in the nature of a proceeding in rem, so that a judgment admitting the instrument to probate as the last will and testament of the decedent, until it is avoided in some mode prescribed by law, establishes, as against the whole world, the instrument as the law of descent and distributions governing the particular estate, unless it contravenes some rule of law or of public policy; and the judgment giving this operation to the instrument can not be collaterally impeached for irregularities which may have intervened in the proceedings after the jurisdiction of the court attached."

This Court further explained in McCann v. Ellis, 172 Ala. 60, 69, 55 So. 303, 305 (1911):

> "It has been uniformly ruled by all English and American cases which we have examined that proceedings to probate or to set aside the probate of wills are proceedings in rem and not in personam; that such proceedings are exclusively to determine the status of the res, and not the rights of the parties. Judgments or decrees as to the status of the res, in

[6]An action in rem is a proceeding that takes no notice of the owner of the property but determines rights in the property that are conclusive against all the world. 1 Am. Jur. 2d Actions § 29 (2016).

> proceedings strictly in rem, are conclusive against all the world as to that status; while such judgments as to the rights of parties, whatever may be the point adjudicated, not being as to the status, are only conclusive between the parties or privies to the suit."

An order of a probate court admitting a will for probate is a final judgment. See Broughton v. Merchants Nat'l Bank, 476 So. 2d 97, 101 (Ala. 1985) (noting that, " '[w]here jurisdiction has attached, a decree of the Probate Court, within its sphere of jurisdiction, is as conclusive as that of any other court of general jurisdiction, and is aided by the same intendments of law' " (quoting White v. Hilbish, 282 Ala. 498, 502, 213 So. 2d 230, 234 (1968))). See also Ex parte Taylor, 252 So. 3d 637, 642 (Ala. 2017), in which we stated:

> "[A]n order dismissing a petition to probate a will is an appealable order. See Ala. Code 1975, § 12–22–20 ('An appeal lies to the circuit court or Supreme Court from any final decree of the probate court, or from any final judgment, order or decree of the probate judge....'); Smith v. Chism, 262 Ala. 417, 419, 79 So. 2d 45, 47 (1955)(citing the essentially identical predecessor statute to § 12–22–20 and noting that an order admitting a will to probate is an appealable order)."

Here, when Patricia submitted by petition Robert's will for probate and an accompanying petition for letters testamentary to be issued to

herself as the appointed personal representative, the preliminary inception of the administration of Robert's estate commenced. The probate court's order admitting Robert's will for probate was issued on March 7, 2019, and constituted a final and appealable judgment.

B. Removal of the administration of an estate from the probate court to the circuit court.

Generally, probate courts have such jurisdiction as is granted by statute; they do not have equitable jurisdiction.[7] Bryars v. Mixon, 292

[7]By local acts, the probate courts of Jefferson and Mobile Counties have concurrent jurisdiction with the circuit courts of said counties in estate administration. See Act No. 974, Ala. Acts 1961, and Act No. 1144, Ala. Acts 1971, respectively. By local constitutional provision, the probate courts of Shelby, Pickens, Houston, Baldwin, Bibb, Marengo, and Walker Counties have concurrent jurisdiction with the respective circuit courts in those counties. See Act No. 2003-123, Ala. Acts 2003; Amendment No. 836, Ala. Const. 1901, ratified in 2010 (Local Amendments, Pickens County, § 6.10); Act No. 2019-190, Ala. Acts 2019; Act No. 2019-229, Ala. Acts 2019; Act No. 2020-91, Ala. Acts 2020; Act No. 2020-173, Ala. Acts 2020; and Act No. 2020-96, Ala. Acts 2020, respectively. Because the judges of the probate courts in Pickens, Baldwin, Bibb, Marengo, and Walker Counties are not required to be attorneys, the concurrent jurisdiction between the probate courts and the circuit courts in those counties is limited to when an attorney is serving as probate judge. See also Bond v. Pylant, 3 So. 3d 852, 854 n. 3 (Ala. 2008)("The probate courts of Mobile, Jefferson, and Shelby Counties have concurrent jurisdiction with the circuit court to try will contests after a will has been admitted to probate based on local acts."); and Coleman v. Richardson, 421 So. 2d 113

Ala. 657, 699 So. 2d 259 (1974). An interested party, however, can request the removal of the administration of any estate from the probate court to the circuit court, see Kelen v. Brewer, 221 Ala. 445, 129 So. 23 (1930), allowing, in all counties, the introduction of equity principles to the decision-making process during the administration of the pending estate in such estates that have been properly removed to the circuit court.

With regard to the process for removing a decedent's estate for administration from a probate court to a circuit court, we note, in general:

> "The probate court has both original and general jurisdiction over matters relating to the administration of an estate. § 12–13–1, Ala. Code 1975. The circuit court may acquire subject-matter jurisdiction over the administration of an estate if the administration of the estate is properly removed from the probate court to the circuit court pursuant to § 12–11–41[, Ala. Code 1975]. Section 12–11–41 provides:
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> > " 'The administration of any estate may be removed from the probate court to the circuit court at any time before a final settlement thereof, by any heir, devisee, legatee, distributee, executor,

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(Ala. 1982)(addressing the concurrent jurisdiction of the Mobile Circuit Court and the Mobile County Probate Court in hearing a will contest after a will has been admitted to probate). Thus, in those counties where the probate court has concurrent jurisdiction with the circuit court, the probate court has equitable jurisdiction.

> administrator or administrator with the will annexed of any such estate, without assigning any special equity; and an order of removal must be made by the court, upon the filing of a sworn petition by any such heir, devisee, legatee, distributee, executor, administrator or administrator with the will annexed of any such estate, reciting that the petitioner is such heir, devisee, legatee, distribute, executor, administrator or administrator with the will annexed and that, in the opinion of the petitioner, such estate can be better administered in the circuit court than in the probate court.'

"In order to effect the removal of an administration of an estate from the probate court to the circuit court pursuant to § 12–11–41, the party seeking to remove the administration of the estate must file in the circuit court -- after the estate has been admitted to probate and letters testamentary or letters of administration issued by the probate court but before final settlement thereof -- a petition asserting that the petitioner is 'such heir, devisee, legatee, distributee, executor, administrator or administrator with the will annexed and that, in the opinion of the petitioner, such estate can be better administered in the circuit court than in the probate court.' § 12–11–41; Taylor v. Estate of Harper, 164 So. 3d 542 (Ala. 2014); DuBose v. Weaver, 68 So. 3d 814 (Ala. 2011); Ex parte Terry, 957 So. 2d 455 (Ala. 2006); and Ex parte McLendon, 824 So. 2d 700 (Ala. 2001). Once a party seeking to remove the administration of an estate from the probate court to the circuit court has satisfied the pleading requirements of § 12–11–41, the circuit court must enter an order removing the administration of the estate from the probate court to the circuit court. Ex parte McLendon, supra."

Daniel, 224 So. 3d at 128 (footnote omitted; first emphasis added). See also Allen v. Estate of Juddine, 60 So. 3d 852, 856 (Ala. 2010)(Bolin, J., concurring specially)("At the time of removal, the estate res is carried with the estate to the circuit court, which then takes sole jurisdiction of the in rem proceeding."). Thus, the removal of an estate, pursuant to § 12-11-41, Ala. Code 1975, invokes the circuit court's jurisdiction over the ongoing administration of the estate, i.e., authorizes the circuit court to conduct the administration of the estate pursuant to statute and, in testate proceedings, pursuant to the terms and provisions of the will. The removal of an estate from the probate court does not provide the circuit court with authority to set aside the final, appealable judgment of the probate court admitting the will to probate, see Carpenter v. Carpenter, 200 Ala. 96, 75 So. 472 (1917), nor does it authorize the circuit court to entertain a challenge to the validity of that will unless that challenge is timely made and strictly commenced pursuant to statutory, post-admission-to-probate, contest provisions. See Simpson v. Jones, 460 So. 2d 1282 (Ala. 1984).

In Oliver v. Johnson, 583 So. 2d 1331, 1332 (Ala. 1991), this Court discussed the effect of the removal of the administration of an estate from the probate court to the circuit court and the circuit court's authority, stating:

> " '[A] probate court ... shall have ... power to grant letters testamentary, and of administration ... provided, that whenever the circuit court has taken jurisdiction of the settlement of any estate, it shall have power to do all things necessary for the settlement of such estate ....'
>
> "....
>
> "Once the administration and settlement of an estate are removed from the probate court, the probate court loses jurisdiction over the estate, and the circuit court obtains and maintains jurisdiction [over the estate] until the final settlement of the estate.
>
> " '[T]he administration and settlement of a decedent's estate ... is a single and continuous proceeding; and when the administration of an estate is once removed from the probate court into a [circuit court], its jurisdiction becomes exclusive and efficient, and the court must operate to a final settlement governed by its own procedure.'
>
> "Hinson v. Naugher, 207 Ala. 592, 593, 93 So. 560, 561 (1922)."

(Some emphasis added.) Accordingly, the removal of the administration of a decedent's estate from the probate court to the circuit court simply substitutes a new tribunal with equitable powers for the former one that may or may not have such powers.[8] Bonum v. Brewer, 217 Ala. 52, 114 So. 577 (1927).

To invoke the subject-matter jurisdiction of the circuit court over the administration of an estate after the estate has been admitted to probate and letters testamentary or letters of administration issued by the probate court, but before the final settlement of the estate, and, as a basis for the circuit court to quicken its jurisdiction by an order for the removal of the administration of the estate, an interested movant must:

> 1. File a request in the circuit court for the removal of the administration of the estate from the probate court;
>
> 2. Assert that he or she is an "heir, devisee, legatee, distributee, executor, administrator or administrator with the will annexed"; and

[8]As previously noted, the probate courts of Jefferson, Mobile, Shelby, Pickens, Houston, Baldwin, Bibb, Marengo, and Walker Counties have equitable jurisdiction. The rest of the probate courts in this State do not. See supra note 7.

> 3. Assert that the circuit court can better administer the estate than the probate court.

An examination of the petition for removal of the administration of Robert's estate from the probate court to the circuit court indicates that Robert, Jr., satisfied the requirements for petitioning the circuit court for the removal of Robert's estate from the probate court to the circuit court and that the circuit court's removal of the estate for administration from the probate court was proper. Satisfying the first factor, when Robert, Jr., filed his request for removal of the administration of the estate in the circuit court, Robert's will had been admitted to probate and letters testamentary had been issued. Second, although Robert, Jr., did not assert explicitly in his petition for removal his interest in Robert's estate as an "heir, devisee, legatee, distributee, executor, administrator or administrator with the will annexed," the petition provided that the petitioner's name was Robert C. Segrest, Jr.; that Robert C. Segrest, Jr., executed the request for removal; and that Robert C. Segrest, Jr., was requesting the removal of the administration of the estate of Robert C. Segrest, decedent, from the probate court to the circuit court.

Additionally, although the circuit court did not have before it the probate-court record when it issued its order of removal, the subsequently transmitted probate-court record includes Patricia's petition to admit Robert's will to probate, in which she identified Robert, Jr., as Robert's son. Therefore, because Robert's pleading, combined with the probate-court record later provided to the circuit court, indicates that Robert, Jr., is an heir at law to Robert's estate, the requirement that Robert, Jr., have an interest in the estate is satisfied. See Ex parte McLendon, 824 So. 2d 700, 704 (Ala. 2001)("We hold, therefore, that once a party seeking to remove the administration of an estate pursuant to § 12–11–41 makes a prima facie showing that she is an 'heir, devisee, legatee, distributee, executor, administrator or administrator with the will annexed,' the circuit court must order its removal, subject to retransfer upon a motion by the opponent of the transfer, and a finding by the circuit court that the party effecting removal lacked standing under the statute."); Ex parte McLendon, 212 Ala. 403, 405, 102 So. 696, 698 (1924) ("[I]f in fact the petition is presented by one claiming to be a party in interest named in the statute, when in fact the petitioner had no such interest, it could

hardly be contended the order of removal would ... require the [circuit court] to proceed to administer the estate."). Lastly, Robert, Jr., asserted his belief that the circuit court was in a better position to administer Robert's estate. Because the petition for removal satisfied the requirements for removal of the administration of Robert's estate from the the probate court to the circuit court, the circuit court's removal of the case was proper, and its subject-matter jurisdiction over the administration of Robert's estate was properly invoked.

C. Commencement of a circuit- court proceeding contesting the validity of the will after removal of the probate estate to the circuit court.

A will-contest proceeding in the circuit court, with its statutory provisions for challenging the validity of a will, combined with the finality of the adjudication of "will or no will," constitutes an in rem proceeding. See § 43-8-200, Ala. Code 1975.[9] See also Nesmith v. Vines, 248 Ala. 72,

[9]Section 43-8-200, Ala. Code 1975, is entitled "Contest in circuit court after admission to probate -- Parties; conclusiveness of judgment" and provides:

"In the event a contest of the probate of a will is instituted in the circuit court, as is or may be authorized by

73, 26 So. 2d 265, 266 (1946)("The contest of a will by bill in chancery is a proceeding in rem, entirely of statutory creation, and is limited to determining the validity of the will. The issues are confined to the question of 'will or no will.' "). The United States Court of Appeals for the Fifth Circuit in Mitchell v. Nixon, 200 F.2d 50, 52 (5th Cir. 1952), considering its jurisdiction over a contest of a will that had been admitted for probate, opined:

> "[T]he provisions of [Title 61,] Section 64 of the Alabama Code [of 1940] [the predecessor to § 43-8-199, Ala. Code 1975,] ... provides that any interested person may contest the validity of a will within six months after its admission to probate, by a bill in equity in the Circuit Court. Section 65 [the predecessor
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> ---
>
> law, all parties interested in the probate of the will, as devisees, legatees or otherwise, as well as those interested in the testator if he had died intestate, as heirs, distributees or next of kin, shall be made parties to the contest; and if there be minors or persons of unsound mind interested in the estate or in the probate of the will, they shall be represented by their legal guardian, if such they have; if they have no such guardian, the court shall appoint an attorney-at-law as guardian ad litem to represent their interest in the contest, and the final judgment in such contest proceedings shall be conclusive as to all matters which were litigated or could have been litigated in such contest; and no further proceedings shall ever be entertained in any courts of this state to probate or contest the probate of such will."

> to § 43-8-200, Ala. Code 1975,] further provides that in the event a contest of the probate of a will is instituted in the Circuit Court, all interested parties shall be made parties to the contest; that the final decree in such contest proceedings shall be conclusive, and that thereafter no further proceedings shall ever be entertained in any courts of the state to probate or contest the probate of such will. These statutory provisions demonstrate that the contest of a will subsequent to its probate, is but an extension of the probate proceeding -- a proceeding not inter parties but in rem. McCann v. Ellis, 172 Ala. 6, 55 So. 303 [(1911)]; Kaplan v. Coleman, 180 Ala. 267, 60 So. 885 [(1912)]; Ex parte Walter, 202 Ala. 281, 80 So. 119 [(1918)]; Newman v. Martin, 210 Ala. 485, 98 So. 465 [(1923)]; Nesmith v. Vines, 248 Ala. 72, 26 So. 2d 265 [(1946)]."

Thus, in a will-contest proceeding, no one is trying to recover anything from anyone; rather, a will contest is a limited proceeding to determine whether the decedent died testate or intestate. The court's determination of a "will or no will" is a final judgment, subject to appeal, permitting the estate res to be distributed in accordance with the provisions of law and the will, if the contest is denied and the will is determined to be valid. Although a will contest involves a determination independent of the myriad of potential matters considered during the administration of an estate, the decision in a will-contest proceeding is an integral portion of

the judicial road map outlining the orderly administration and final settlement of the estate.

Here, Robert, Jr., did not contest Robert's will in the probate court before the will was admitted to probate. Rather, he filed his petition contesting the validity of Robert's will in the circuit court after the will had been admitted to probate and, importantly in this case, after the circuit court had taken subject-matter jurisdiction over the transferred administration of Robert's estate. Thus, § 43-8-199, Ala. Code 1975, is the only applicable contest statute.

Section 43-8-199 provides:

> "Any person interested in any will who has not contested the same under the provisions of this article, may, at any time within the six months after the admission of such will to probate in this state, contest the validity of the same by filing a complaint in the circuit court in the county in which such will was probated."

(Emphasis added.)

This Court, in the late 19th century, eloquently explained the historical and informative reasons for authorizing a contest of a will that had previously been admitted to probate, stating:

"Those who were served with notice of the proceeding [for the probate of a will], but who did not contest the will in the Probate Court, are not bound by the judgment admitting the instrument to probate, as they would be by an ordinary judgment or decree rendered in a proceeding to which they were made parties by due service of process. Why? Because the statute provides in their favor a special mode of avoiding the effect of the judgment of the Probate Court admitting the instrument to probate. This is the provision: 'Any person interested in any will, who has not contested the same under the provisions of this article, may, at any time within five years after the admission of such will to probate in this state, contest the validity of the same by bill in chancery in the district in which such will was probated, or in the district in which a material defendant resides." Code, § 2000.

"This statute has existed in this state since the year 1806, having undergone some change in phraseology, but not in meaning. Watson v. Turner, 89 Ala. 220[, 8 So. 2d 20 (1890)]; Aiken's Dig. 450. It seems that the original statute had been in force for a number of years before any provision was made, in the ordinary proceeding for the probate of a will, for notice to parties in interest. The earliest statute we have found which made provision for such notice was enacted in 1821. Toulmin's Dig., 887. It is urged in argument that the provision in the statute of 1806 for a contest by bill in chancery, having been enacted at a time when no notice of the application for probate was required, was intended to afford a remedy for those who had had no notice of the original proceeding for the probate of the will; and that the subsequent statute requiring notice to parties interested in such proceeding did not extend the scope of the remedy by bill in chancery, but still left that remedy for the benefit of those only who had failed to be notified of the proceeding for a probate. This contention involves such a restriction of the scope of a

> contest by bill in chancery as would make it merely a new method of taking advantage of the failure to give notice to a party who was entitled to notice when the will was admitted to probate. As has been already stated, for such a mere irregularity in such a case the common law authorized the court granting the probate to set it aside on proper application. Sowell v. Sowell, [40 Ala. 243 (1866)]. The language of the statute does not indicate that the contest of a will by bill in chancery must be based primarily upon a mere irregularity in the original probate. When the statutes were first codified, both the provision for notice to parties in interest in the probate proceedings, and that for a contest of the will by bill in chancery, had long been in force. In view of the fact that there was already another remedy for setting aside a probate, in favor of one who had not received the notice to which he was entitled, it is to be presumed that, if it had been the intention to make the right to contest the will by bill in chancery dependent upon the existence of such mere irregularity in the probate proceeding, such intention would have been manifested in the language of the statute. No such intention is disclosed by the language used. The provision that 'any person interested in any will, who has not contested the same under the provisions of this article, may ... contest the same by bill in chancery,' standing side by side with a provision for notice to all persons interested in the estate, of any application for the probate of a will, clearly implies that the right to contest in chancery is not cut off by the probate of the instrument after notice to the party subsequently desiring to contest. It is perfectly plain that the statutory system of probating and contesting wills contemplates that the widow and next of kin shall have notice of any application for the probate of a will of the decedent, and that, before any instrument is admitted to probate as a last will and testament, all persons interested therein, or in the estate of the decedent if he died intestate, should have an opportunity to contest its

> validity in the Probate Court. We think it is equally plain that it was the intention of the statute to afford the further opportunity of contesting the will in the Chancery Court within five years, to any person interested in the will, who either did not have, or did not avail himself of the opportunity to contest it in the Probate Court.
>
> "Good reasons may be suggested for affording this additional opportunity to contest the validity of a will which has been regularly admitted to probate after due notice to all parties in interest. The application to prove the will usually follows close upon the death of the testator. The application comes on for hearing as soon as the short prescribed terms of notice have expired. It must frequently happen that persons interested in the proceeding are wholly unable, while it is pending, to inform themselves as to the instrument offered for probate, or of the circumstances attending its execution. Facts affecting its validity may be developed afterwards, and the failure to discover them, or to obtain the evidence to prove them, may have been without the fault or any lack of diligence on the part of those interested in making a contest. In view of such contingencies, there is manifest propriety and justice in allowing a reasonable time after a formal and regular probate, for a contest of the validity of the will by one who did not make a contest in the Probate Court. We have no doubt that this was the intention of the statute."

Knox v. Paull, 95 Ala. at 507-10, 11 So. at 157-58.

In Carter v. Davis, 275 Ala. 250, 154 So. 2d 9 (1963), this Court noted that the predecessor statute to § 43-8-199 created a new substantive and independent right that is a statutory extension of the

right to contest a will in the probate court. See also Kaplan v. Coleman, 180 Ala. 267, 60 So. 885 (1912)(recognizing that a will contest in the circuit court is but an extension of the right to contest the will in the probate court).

Moreover, the exercise of this substantive, independent right does not require that the administration of the estate be removed to the circuit court, a circumstance that, as stated above, is present in the instant proceeding. In Queen v. Harden, 924 So. 2d 712 (Ala. Civ. App. 2005), the contestant filed his will-contest complaint in the circuit court, but did not petition to remove the proceedings from the probate court to the circuit court within six months. The Court of Civil Appeals held that, because the contestant met the statutory requirements of § 43-8-199, the jurisdiction of the circuit court to hear the will contest was properly invoked. In support of its conclusion, the Queen court cited Christian v. Murray, 915 So. 2d 23 (Ala. 2005), which provides that a contestant must strictly comply with § 43-8-199 to invoke the circuit court's jurisdiction over a will contest. Judge Pittman, in his concurring opinion in Queen, emphasized that § 43-8-199 "allows a party to collaterally attack a

decision of a probate court to admit a will to probate by initiating a new proceeding in the appropriate circuit court." 924 So. 2d at 716 (first emphasis added).

Under § 43-8-199, a will contest is commenced by the filing of a complaint in the circuit court within the limitations period. In Simpson v. Jones, 460 So. 2d at 1284–85, this Court stated, with regard to commencing a will-contest action under § 43-8-199:

> "Because will contest jurisdiction is statutorily conferred, proceedings under § 43–8–190 and § 43–8–199 must comply exactly with the terms of the applicable statute. 'It is familiar law in Alabama, the only way to quicken into exercise a statutory and limited jurisdiction is by pursuing the mode prescribed by the statute.' Ex parte Pearson, 241 Ala. 467, 469, 3 So. 2d 5, 6 (1941). Section 43–8–199 mandates that, in order to commence a valid contest of a will already admitted to probate, a person with an interest in the will file a complaint in circuit court and 'quicken' that court's jurisdiction of the contest.
>
> "We recognize that § 43–8–199 was enacted to provide an additional opportunity for contesting a will already admitted to probate. Carter v. Davis, 275 Ala. 250, 154 So. 2d 9 (1963). Furthermore, the dismissal of a complaint is not proper if the pleading contains 'even a generalized statement of facts which will support a claim for relief under [Ala. R. Civ. P.] 8' (Dunson v. Friedlander Realty, 369 So. 2d 792, 796 (Ala. 1979)), because '[t]he purpose of the Alabama Rules of Civil Procedure is to effect justice upon the merits of the claim and

> to renounce the technicality of procedure.' Crawford v. Crawford, 349 So. 2d 65, 66 (Ala. Civ. App. 1977). See, also, Schlagenhauf v. Holder, 379 U.S. 104, 121, 85 S.Ct. 234, 244, 13 L.Ed.2d 152 (1964).
>
> "We cannot, however, ignore the ultimate goal of pleadings under the Alabama Rules of Civil Procedure: to provide fair notice to adverse parties of the claim against them and the grounds upon which it rests. Dempsey v. Denman, 442 So. 2d 63 (Ala. 1983); Carter v. Calhoun County Board of Education, 345 So. 2d 1351 (Ala. 1977). The liberality with which the Rules are construed, then, must be balanced against the requisites of fair notice to adverse parties and strict adherence to statutorily prescribed procedures.
>
> "Commencement of an action under § 43–8–199 ... is the commencement of a statutory, adversarial proceeding."

(Some emphasis added.)

In Simpson, the contestant did not comply with the substantive statutory pleading requirements set forth in § 43-8-199 for filing a timely will contest, nor did his pleading create an adversarial proceeding. Specifically, the contestant did not plead that he had an interest in the will, that the will had not been contested earlier, that the will had been admitted previously to probate, or that the pleading alleging the will contest was filed within six months of the probate of the will. Additionally, the contestant failed to identify the adverse parties to be

served with the complaint, which prevented the adverse parties from being informed of the action against them. This Court held that the failure to identify the adverse party "is an indication of the absence of a bona fide intention of immediate service," 460 So. 2d at 1285, and, consequently, the contestant's complaint was not a valid filing that could toll the limitations period for filing the will contest. This Court rejected the contestant's argument that the filing of a complaint alone constituted commencement of the action, reasoning that, if the filing of a complaint without identifying the adverse parties for immediate service constitutes commencement, the fundamental concept of repose within a limitations period would be violated because a contestant could extend the limitations period at will. 460 So. 2d at 1285–86.

Although Bullen v. Brown, 535 So. 2d 76 (Ala. 1988), involved a will contest purportedly initiated in the probate court and later removed to the circuit court, the Bullen Court's discussion of § 43-8-199 and what constitutes a complaint that initiates a will contest is instructive. The Court stated:

"Jurisdiction to entertain a will contest is conferred upon both the probate courts and the circuit courts by statute. Forrester v. Putman, 409 So. 2d 773 (Ala.1981).

"If a will has been probated, one who has not therefore contested it may do so within six months after it has been probated by filing a complaint in circuit court under § 43–8–199:

> " 'Any person interested in any will who has not contested the same under the provisions of this article, may, at any time within the six months after the admission of such will to probate in this state, contest the validity of the same by filing a complaint in the circuit court in the county in which such will was probated.'

"It is clear that will contest jurisdiction, being statutorily conferred, must comply with the statutory language strictly in order to quicken jurisdiction of the appropriate court. Kaller v. Rigdon, 480 So. 2d 536 (Ala. 1985); Ex Parte Stephens, 259 Ala. 361, 66 So. 2d 901 (1953).

"How is a will contested under § 43–8–199? Construing a substantially similar predecessor to this statute, this Court stated in Barksdale v. Davis, 114 Ala. 623, 22 So. 17 (1897) (overruled on other grounds, Alexander v. Gibson, 176 Ala. 258, 57 So. 760 (1912)):

> " 'It is manifest that these provisions [present § 43–8–190 (pre-admission contest) and present § 43–8–199 (post admission contest)] were introduced to change the policy of the law obtaining prior to their adoption, by requiring the contestant, by written procedure, to set forth the grounds upon

> which he expects to contest the validity of the proposed will, and to confine the trial, after proof of the due execution of the will, to the issues which his allegations tender. The purpose of the change was that which underlies the law of pleading generally, -- that the parties may be certainly advised of the issues to be tried, and the court enabled to proceed intelligently in adjudicating their rights....
>
> " 'Upon a contest of a will, when fraud or undue influence is relied upon, the burden is upon the contestant to prove it. The opposite party is only required to prove the due execution of the will according to the statute. It is as essential, therefore, that such party be informed, by distinct averments, of the facts constituting the fraud or undue influence, so as to be prepared to meet them, as that such information be so given to any party in any judicial proceeding; hence there can be no well-founded reason for holding that the legislature intended, when it required that the contest be in writing, and set forth the grounds relied on, that only a general statement of such grounds, conveying to the opposite party practically no information of value to him in the preparation of his cause, should be sufficient.'

"(Emphasis added.) 114 Ala. at 629–30, 22 So. at 19. In Kaller, 480 So. 2d at 538–39, this Court discussed the requirements under § 43–8–198 for a 'demand' for a transfer at the time the contestant files his initial 'pleading.' That discussion is pertinent here:

> " 'Rule 7(a), [Ala. R. Civ. P.], explains the nature of the term "pleading": "There shall be a complaint and an answer; a reply to a counterclaim denominated as such; an answer to a cross-claim, if the answer contains a cross-claim; a third party complaint, if a person who was not an original party is summoned under the provisions of Rule 14; and a third-party answer, if a third-party complaint is served. No other pleading shall be allowed." A motion, defined in Rule 7(b), [Ala. R. Civ. P.], as "an application to the court for an order," is not a pleading. Therefore, although he filed motions and papers with regard to the contest, because the proponent did not file a pleading at the same time he filed the motion to transfer, he did not comply with the procedures mandated by the statute. Since the statute was not exactly complied with, the circuit court lacked jurisdiction to try the contest.
>
> " '....
>
> " 'The "initial pleading" for the contestant in a will contest is the filing of the contest itself in the probate court. See Summerhill v. Craft, 425 So. 2d 1055 (Ala.1982). **This initial pleading is in the nature of a complaint.** Hence, the proponent of a will must file an answer as his responsive pleading to that complaint.' "

535 So. 2d at 78-79 (bold emphasis added).

The Court in Bullen concluded that the heirs at law did not file a complaint that initiated an adversarial proceeding. The Court noted that,

although the potential contestants informed the probate court in a motion for a continuance that the crucial issue was the validity of the will, they did not attack the validity of the will in the motion and, by failing to do so, did not properly initiate a contest of the will in the probate court. Additionally, when they moved for removal of the administration of the estate from the probate court to the circuit court, they did not attack the validity of the will in a pleading in the circuit court. Therefore, the Court observed that, because no pleading was filed that could be construed as a complaint alleging grounds for a will contest until after the six-month limitations period had expired, the limitations period had not ben tolled. The Bullen Court held that the circuit court did not have jurisdiction over the will contest because the contestants had not filed a proper complaint to contest the will.

Additionally, it is worth noting that, in Noe v. Noe, 679 So. 2d 1057 (Ala. Civ. App. 1995), the Court of Civil Appeals rejected the proponent's argument that, because the will-contest complaint filed in the circuit court was a copy of the will-contest complaint filed in the probate court, the statutory requirements of § 43-8-199 were not satisfied. It was only after

the limitations period had expired that the proponent treated the filing in the circuit court as invalid. The Court of Civil Appeals opined:

> "Such an argument defies common sense and leads to unnecessarily punitive results for will contestants .... The statute does not require that a new or different complaint from the one filed in the probate court be filed in the circuit court so as to invoke jurisdiction pursuant to § 43-8-199."

679 So. 2d at 1058 (footnote omitted).

Thus, to invoke the jurisdiction of a circuit court over a proceeding contesting the validity of the will after the will has been admitted to probate, the contestant must file a complaint in the circuit court within six months after the will is admitted to probate and that complaint must:

> 1. Allege that the contestant has an interest in the will;
>
> 2. Allege that the will has not been contested previously under other provisions of the law;
>
> 3. Allege that the will has been admitted to probate in Alabama;
>
> 4. Set forth grounds for challenging the will; and
>
> 5. Initiate an adversarial action by naming adverse parties upon whom service can be made and informing them of the allegations against them.

We now address (1) whether the petition to contest the validity of Robert's will filed by Robert, Jr., satisfies the substantive pleading requirements for a will contest pursuant to § 43-8-199, and, if so, (2) whether the pleading was, from a jurisdictional standpoint, properly filed in the circuit court.

Applying the principles set forth in Simpson and Bullen, we conclude that Robert, Jr., satisfied the substantive pleading requirements for setting forth a complaint initiating an adversarial proceeding contesting the validity of Robert's will.

First, Robert, Jr., satisfied the requirement that he plead that he is a person interested in the will when he stated in his petition that he is Robert's son. Although he did not plead that he is an heir at law to Robert's estate, as Robert's son, Robert, Jr., has a direct and equitable interest in Robert's estate. See Daniel, 224 So. 3d at 137 (recognizing that to satisfy the " 'any person interested in any will' requirement of § 43-8-199, ' "a contestant of a will must have some direct legal or equitable interest in the decedent's estate, in privity with him, whether as heir, purchaser, or beneficiary under another will, which would be destroyed or injuriously affected by the establishment of the contested will" ' " (quoting

Evans v. Waddell, 689 So. 2d 23, 27 (Ala. 1997), quoting in turn Braasch v. Worthington, 191 Ala. 210, 213, 67 So. 1003, 1004 (1915))); Carter v. Davis, 275 Ala. 250, 154 So. 2d 9 (1963)(recognizing that a contest, pursuant to § 43-8-199, may be brought by any person who could have contested the will under § 43-8-190 but neglected to do so); and Stephens v. Gary, 565 So. 2d 73 (Ala. 1990)(recognizing § 43-8-199 is available to any person who could take by descent in case of intestacy.) Additionally, the circuit court, at the time Robert, Jr., filed his petition to contest the validity of Robert's will, had jurisdiction over the entire administration of Robert's estate[10] and had before it the probate-court record that included Patricia's petition for the probate of Robert's will, listing Robert, Jr., as Robert's next of kin. Therefore, although Robert, Jr., did not plead

[10]We recognize that § 12-11-41.1, Ala. Code 1975, authorizes the circuit court to remand the administration of any estate that has been transferred to the circuit court by the probate court pursuant to § 12-11-41 when the circuit court finds that the removal was not proper; when the circuit court has issued a final order on all contested matters before it in the administration of the estate and the time for an appeal of the order has expired without an appeal being filed or, if an appeal has been filed, after the final adjudication of the appeal; or when all the interested parties request remand of the administration of the estate to the probate court.

specifically that he was an interested party, that defect was cured by facts evidenced in the record before the circuit court and did not foreclose the circuit court from obtaining jurisdiction over the will contest.

We note that in Evans v. Waddell, 689 So. 2d 23 (Ala. 1997), this Court held that a complaint asserting will-contest claims that identified familial and business relationships between parties and set out the contestants' allegations against the will proponents and other defendants but did not describe how each, or any, of the contestants had a legal interest in will did not allege, as statutorily required, that any of the contestants had an interest in the will being contested. We observe, however, that the circuit court in Evans did not have the probate-court record before it and that, consequently, dismissal of the action was proper because it was not clear whether any of the contestants could have taken by descent and distribution in case of intestacy. Unlike the circuit court in Evans, the circuit court in this case had before it Patricia's assertion in her petition for probate of Robert's will that Robert, Jr., was Robert's next of kin. This assertion by Patricia establishes Robert's standing in the

circuit court to contest the validity of Robert's will and adequately distinguishes this case from Evans.

Second, Robert, Jr., did not allege that Robert's will had not been contested previously. However, the circuit court had before it the entire contents of the probate-court record from which the circuit court could conclude that the will had not been contested previously. See Daniel, 224 So. 2d at 137-38. Indeed, the probate-court file included an earlier pleading filed by Robert, Jr., in the probate court providing notice of his intent to file a will contest in the circuit court. Because nothing in the record indicated that a previous contest had been filed regarding Robert's will, the absence of an express statement that Robert's will had not been contested previously did not prevent the circuit court from obtaining jurisdiction over the will contest.

Third, regarding the requirement that the pleading allege that the will being contested has been admitted to probate in Alabama, Robert, Jr., satisfied this requirement by pleading: "The writing purporting to be [Robert's] last will and testament was admitted to probate in the Probate Court of Macon County, Alabama, on March 7, 2019."

As to the fourth requirement, Robert, Jr., set forth as grounds with factual assertions for challenging the will that Patricia exerted undue influence over Robert and that Robert lacked testamentary capacity when Robert executed the will. Therefore, Robert, Jr., satisfied the requirement that the pleading set forth grounds for the will contest.

Fifth, a reading of the verified petition to contest the will indicates unequivocally that Robert, Jr., was initiating an adversarial proceeding. In Crawford v. Walter, 202 Ala. 235, 80 So. 73 (1918), this Court held that the designation of plaintiff and defendant are not required in a will contest. Here, the verified petition identifies Patricia and John Paul as other interested parties and specifically names Patricia as the proponent of the will. Additionally, in setting forth his grounds contesting the validity of the will, Robert, Jr., alleges specific conduct by Patricia that he says alienated Robert from Robert, Jr. Admittedly, the petition does not request that Patricia and John Paul be served with the petition. However, Patricia, in several of her pleadings in the circuit court, admits knowledge of the filing of a will contest by Robert, Jr. Furthermore, Robert, Jr., after filing his petition to contest the validity of Robert's will, did request the

circuit court to order service of the petition by a special process server. Therefore, the record does not support a finding that Robert, Jr., engaged in deception or delay. Considering the language in the petition to contest the validity of Robert's will and the record, it can be fairly inferred that Patricia had notice of the claims against her and the grounds upon which they rested. Thus, the circuit court's jurisdiction was not impeded in this regard.

Balancing the requirement that a pleading provide fair notice to adverse parties and strict adherence to statutory pleading requirements against the liberality with which pleadings must be construed, we conclude that the petition to contest the validity of Robert's will constituted a complaint that satisfied the substantive pleading requirements of § 43-8-199.[11] Therefore, the circuit court's jurisdiction was not impaired or impeded by a defect in the pleading.

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[11]It appears that, when the petition to contest the validity of Robert's will was filed, it was identified improperly in the docketing system as a motion. However, the case-action summary and the averments by Patricia in several of her pleadings acknowledge that a will contest had been filed.

We now address the requirement in § 43-8-199 that the complaint be timely "filed" in the circuit court to invoke that court's jurisdiction. In Jones v. Brewster, 282 So. 3d 854 (Ala. 2019), this Court observed that, to satisfy the requirements for initiating a will contest in the circuit court under § 43-8-199, the complaint: (1) must be filed within six months of the admission of the will to probate and (2) must be filed directly in the circuit court.

In this case, Patricia does not contest that Robert, Jr., filed his petition contesting the validity of Robert's will within the six-month limitations period. Robert, Jr., did not aver specifically in his petition that his petition was filed within six months of when the will was admitted for probate and in the same county in which the will was admitted to probate. However, the record indicates that Robert's will was admitted for probate in Macon County on March 7, 2019, and that Robert, Jr., filed his will-contest petition in the Macon Circuit Court on May 7, 2019. Accordingly, we conclude that this statutory requirement is fulfilled. Daniel, supra.

Patricia does, however, contend that Robert, Jr., did not file his will-contest complaint properly in the circuit court. Specifically, she insists that § 43-8-199 requires that an original action, separate and independent of the case administering Robert's estate, must be created to invoke the circuit court's jurisdiction over the will contest.

In Queen, supra, the Court of Civil Appeals addressed the circuit court's jurisdiction over a will contest, pursuant to § 43-8-199, when the administration of the estate remains in the probate court. Unequivocally, in situations in which the administration of an estate remains in the jurisdiction of the probate court, the filing of a will-contest complaint in the circuit court accompanied by a filing fee creates an original, independent action and invokes the circuit court's limited jurisdiction over the will contest.[12]

Our caselaw, however, is not clear with regard to the circumstances presented here, i.e., the invocation of the circuit court's jurisdiction to

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[12]In Opinion of the Clerk, No. 55, 49 So. 3d 1170, 1172 (Ala. 2009), the clerk of the Supreme Court opined that Rule 7, Ala. R. Jud. Admin., requires a filing fee for miscellaneous filings that create an original case, i.e., a filing that presents " ' "a state of facts which furnishes occasion for the exercise of jurisdiction of a court of justice." ' "

entertain a will contest filed in the circuit court after the circuit court has, by the removal from the probate court and transfer of the complete and entire administration of the estate, already obtained jurisdiction over all aspects of the administration of the estate. In other words, the question becomes: When the administration of an estate has been removed to the circuit court, properly invoking the circuit court's general jurisdiction over the estate, and subsequently a timely will contest is filed in the circuit court, can the circuit court's jurisdiction over the will contest be invoked by the filing of a complaint within the existing proceeding administering the estate?

As previously observed, the administration of an estate and the contest of a will are both in rem proceedings. See Knox, supra, and Nesmith, supra. However, unlike the administration of an estate, the commencement of a will contest is the commencement of an adversarial proceeding. Simpson, supra. The proper filing of a § 43-8-199 will-contest complaint, in and of itself, invokes the circuit court's limited jurisdiction to consider the merits of the contest to the purported will and to render a final decision to an interested party who has not previously contested the

will as to whether the will is valid. It requires the adjudication of a single issue -- the validity vel non of the will -- making the proceeding a crucial component, when raised, to the circuit court's proper administration of the estate. Indeed, the determination of the validity of the will directly impacts both the administration of the testator's estate and the ultimate distribution of the estate res. Thus, a will contest filed in the circuit court, after the administration of the estate has already been removed properly to the circuit court, and the circuit court has therefore acquired jurisdiction over the in rem estate proceeding, is an integral part and parcel of the overall administration of the estate that is currently pending in the circuit court and falls within the umbrella of the circuit court's subject-matter jurisdiction over the estate. It is this "symbiotic" relationship between an estate-administration proceeding and a will contest that makes it logical that, after the case administering the estate has been removed properly from the probate court to the circuit court, a will-contest complaint filed in the circuit court, pursuant to § 43-8-199, may be initiated by either (1) a contest within the case administering the estate or (2) an original action, separate and independent of the case

administering the estate, should the contestant so choose. It is the removal of the administration of the estate to the circuit court before the will contest is filed in the circuit court that distinguishes this case from other cases that imply that a will contest must be a separate action.

Therefore, we hold that, after the administration a decedent's estate has been removed to the circuit court, the circuit court's jurisdiction over a will contest filed pursuant to § 43-8-199 may be invoked by filing a complaint with the circuit clerk as an original action, separate and independent of the proceeding administering the estate,[13] or, as herein, by filing the complaint with the circuit clerk as an adversarial proceeding when the circuit court has previously acquired subject-matter jurisdiction over the administration of the testator's estate through its removal from the probate court pursuant to § 12-11-41.[14] To hold otherwise would place

[13]If the contestant chooses to create an original, independent action by filing the complaint separate from the administration of the estate, the contestant's complaint must be accompanied by a filing fee. See Rule 7, Ala. R. Jud. Admin.

[14]If the contestant chooses to file the will contest within the case administering the estate, the decision, as previously noted, rests within the administration of the estate and does not require a filing fee. See Opinion of the Clerk, No. 55, 49 So. 3d 1170 (Ala. 2009)(holding that a filing fee was required when a contempt motion was filed alleging that a

form over substance and thwart judicial economy, in addition to ignoring Rule 1(c), Ala. R. Civ. P., which mandates that the "rules shall be administered to secure the just, speedy and inexpensive determination of every action."

Our holding today is in accord with will contests filed in the probate court in cases administering estates in those counties where the probate court is vested with equity jurisdiction, i.e., where a post-admission-to-probate will contest may also be filed in the same probate-court proceeding that is administering the estate.

Here, the filing of a properly pleaded complaint by Robert, Jr., contesting Robert's purported will in the circuit court's case administering Robert's estate invoked the circuit court's jurisdiction to entertain the will contest. The circuit court erred in dismissing the will contest.

Conclusion

In this case, the administration of Robert's estate had been removed properly from the probate court to the circuit court. Therefore, the

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party had violated a portion of a final judgment, because the issues raised in the contempt motion were not a consideration in the original decision).

pendency of Robert's estate in the circuit court, in conjunction with the filing of the will contest in the case administering Robert's estate, invoked the circuit court's jurisdiction to determine the validity of Robert's will. Accordingly, the judgment of the circuit court is reversed, and this case is remanded for proceedings consistent with this opinion.

REVERSED AND REMANDED.

Parker, C.J., and Shaw, Wise, Bryan, Mendheim, Stewart, and Mitchell, JJ., concur.

Sellers, J., concurs specially.

SELLERS, Justice (concurring specially).

I concur in the main opinion. I agree that the Macon Circuit Court erred in dismissing the will contest filed by Robert Segrest, Jr., based on the circuit court's conclusion that Robert, Jr., was required to initiate a separate will-contest proceeding in the circuit court, even though the circuit court had acquired jurisdiction over the administration of the estate of Robert C. Segrest. When a circuit court issues an order removing an estate administration from the probate court, the circuit court acquires jurisdiction over the entire estate-administration process. During that process, numerous actions may be taken by various parties, including matters as simple as filing a claim for estate assets or as complicated as litigating a will contest. In my view, to promote efficiency and judicial economy, the better practice is to file will contests as part of the administration of the estate in the circuit court. I especially concur with the holding of the main opinion that the language of § 43-8-199, Ala. Code 1975, does not require the commencement of a new action to initiate a will contest after the administration of an estate has been removed to the circuit court. Rather, a will contest filed after an estate is removed can,

and in my view should, be commenced by the filing of a pleading, appropriately titled, in the same action in which the estate is being administered.[15]

[15]That said, I agree with the main opinion that a will contestant may, if he or she chooses to do so, initiate the will contest by the filing of a complaint in a new action, independent of the administration of the estate, in the circuit court.