

2026 Clerkship Crash Course

Where There's A Will.....



THURGOOD MARSHALL SCHOOL OF LAW LIBRARY STAFF

WILL VALIDITY AND PROBATE

SPRING 2026

Note from Senior Partner

Dear Spring Associate,

Please read through the following case file. **On behalf of our client, Sheila Wayward, draft an Application for Probate and any other documents necessary for a probate hearing.** Remember, that since the estate is also being sought by Donald Worthless, we will need court intervention, i.e. dependent administration. Also, please research whether the will that was prepared in the hospital is valid. Once you have done the research and prepared all the documents for filing probate, submit them to me for review.

Regards, Senior Partner

Contents of Case File

Kevin Willmaker, a widower and Harris County, Texas resident, executed a valid, attested, self-proved will in 2018, in which he left all of his modest estate to his daughter, Sheila Wayward. In 2021, after Sheila was arrested for drug possession for the fifth time, Kevin handwrote the following language on the back of the last page of his 2018 will, did not date it, and signed only his first name:

I hereby change my will to now give to my next-door neighbor, Donald Worthless, the sum of \$75,000 at my death, instead of to my daughter Sheila Wayward as stated in my will.

/s/ Kevin

In January 2026, Kevin was seriously injured in a car accident while on vacation in El Paso, Texas, and was admitted to an El Paso hospital. Sheila went to the hospital to visit her father and learned from the doctors that he was near death. Wanting to make amends with her father, Sheila asked him to forgive her for her past drug use and promised that she would not use drugs again. Kevin forgave Sheila and immediately announced, in the presence of Sheila and two hospital staff members, the following: "I hereby revoke the \$75,000 bequest to Donald, and I give it all to my daughter Sheila at my death."

Kevin died in the hospital five days later. On the date of Kevin's death, Sheila and the two hospital staff members wrote, signed and had notarized affidavits stating the substance of what Kevin said in their presence. Kevin's estate at death consisted of \$100,000 in cash and miscellaneous personal belongings. He had no creditors.

Shelia is seeking to inherit everything in Kevin's estate, giving nothing to Donald Worthless, and wants to know if the affidavits are enough to prove she is entitled to it.

ASSOCIATE ASSIGNMENT

1. Is the will made in the hospital valid?
2. What documents are needed to probate a will in Texas?

2026 Crash Course Answer

Search Terms

| CATEGORIES OF INFORMATION | INITIAL SEARCH TERMS | SYNONYMS OR RELATED TERMS |
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| Parties Involved •Describe by relationship (such as landlord/tenant) | | |
| Places and Things •Geographic location (Miami) •Type of location (school) •Tangible objects (truck) •Intangible concepts (reputation) | | |
| Potential claims & defenses •Parties' conduct •Parties' mental state •Injury suffered | | |
| Relief sought by the complaining or injured party | | |

- **PARTIES**
 - Kevin Willmaker: The decedent or Testator
 - Sheila Wayward: Our Client; Will beneficiary to the 2018 will and the Oral Will made in 2026.
 - Donald Wirthless: Opposing Party/Will Contestant: Beneficiary of the will codicil made in 2021

- **PLACES & THINGS**
 - Houston, Harris County, Texas
 - 2018 Last Will and Testament
 - 2021 Codicil and the
 - Oral Will made in the Hospital.

- **POTENTIAL CLAIMS AND DEFENSES**
 - Sheila claims
 - that the prior wills were revoked by the Oral Will in the hospital and she gets everything.
 - Or in the alternative, the 2021 will codicil is not valid so she gets everything
 - Donald claims that he gets \$50,000 based on the 2017 will codicil

- **RELIEF SOUGHT**
 - Sheila wants the entire estate.

ISSUES

- a. Is the oral will made in the hospital valid so Sheila can inherit the estate?
- b. What has to be filed to begin probate?

Issue a. Is the oral will valid?

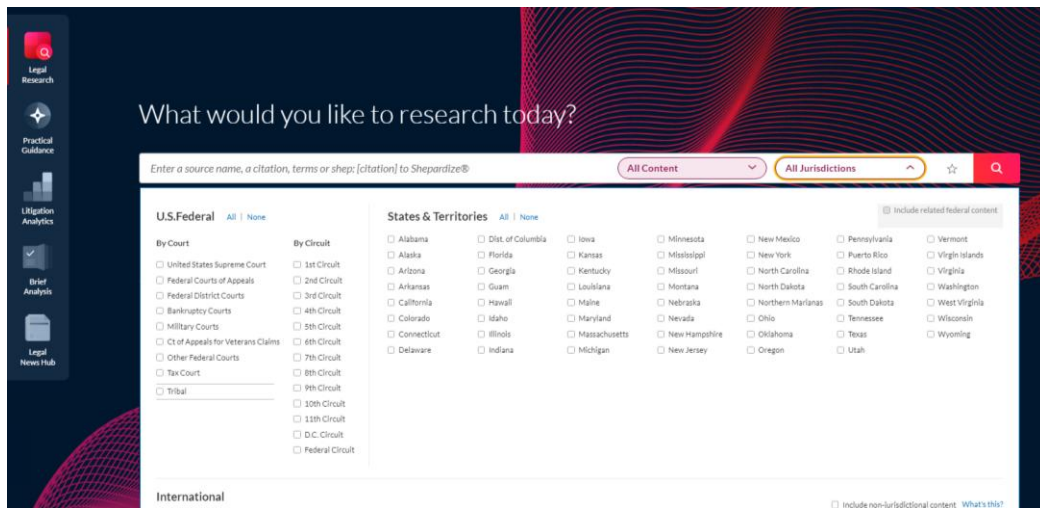
Terms: will; oral will;

LEXIS

From the Homepage



Limit your jurisdiction to TEXAS: Under the jurisdiction tab, pick TEXAS.



Then a google type search: Is an oral will valid?

Lexis answers for you. And refers you to a secondary source so you can read more about it.

Take notice that right under

[24 Dorsaneo, Texas Litigation Guide § 392.18 \(2022\)](#)

Is a sentence that says:

Proof of Will | Compliance With Formalities | Requirement of Writing; Nuncupative Wills Invalid

Texas Litigation guide, section 392.18 states

In general, to be valid under Texas law, a will must be [[Tex. Estates Code § 251.051](#)]:

- In writing [*see [b], below*].
- Signed by the testator in person, or by another person on the testator's behalf in the testator's presence and under his or her direction [*see [c], below*].
- Attested by two or more credible witnesses who are at least 14 years of age and who subscribe their names to the will in their own handwriting in the testator's presence [*see [d], below*].

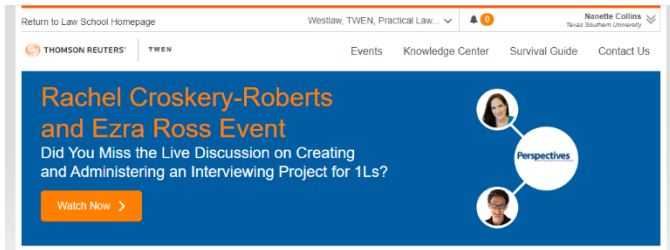
It cross references you to pertinent provisions of the Texas Estates Code and contains many case references so you can click around and find out all about it.

So, the oral will is not valid.

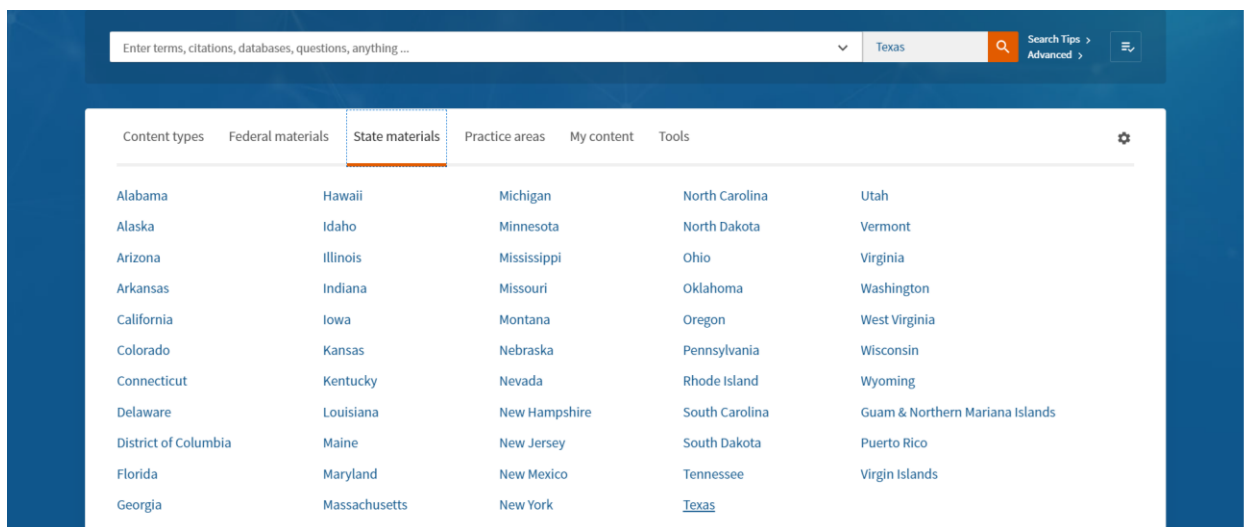
Issue b. What has to be filed to begin probate?

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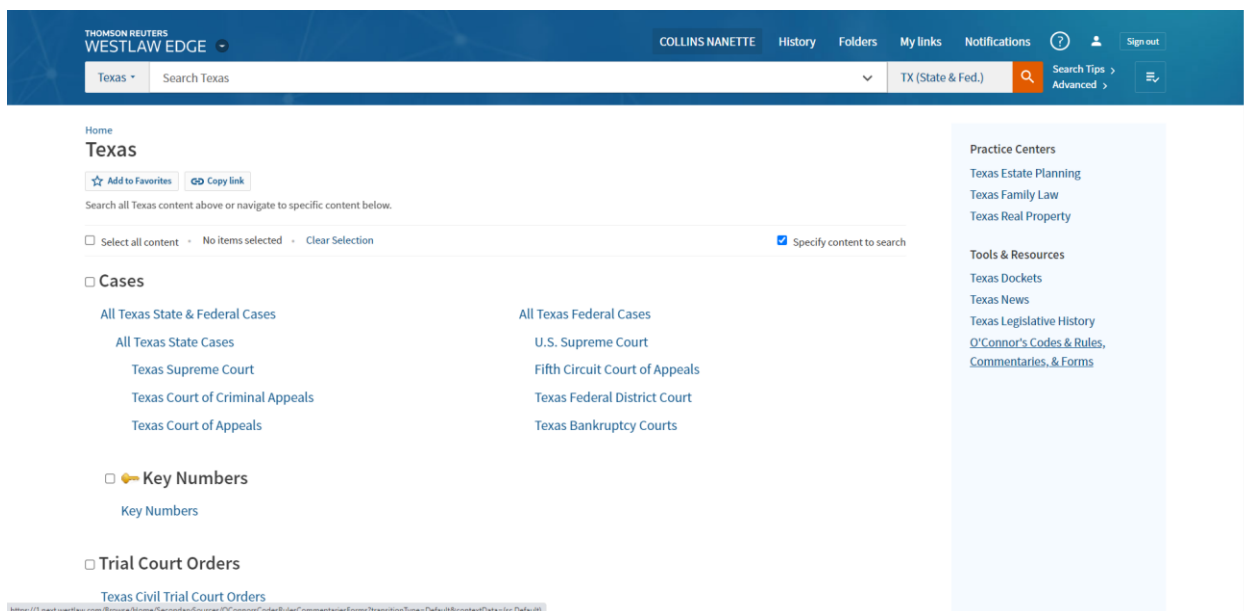
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Search using the Search Box or Table of Contents for the form to file. (An Application for Probate.)

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