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**SUPREME COURT RULES THAT  
FEDERAL COURT HAS JURISDICTION  
OVER STATE PROBATE MATTER**  
*(Vickie Lynn Marshall v. E. Pierce Marshall, No. 04-1544)*

The United States Supreme Court this week reversed a court of appeals decision that held that a federal bankruptcy court did not have jurisdiction to hear a challenge by the bankrupt to the rights to her late husband's estate that were in probate proceedings in state court. In doing so, the Court ruled that the probate exception to federal jurisdiction should be narrowly interpreted, and that in this case, the federal court could adjudicate the dispute. However, the Court remanded the case to the lower court to consider additional arguments as to why the judgment should be set aside.

In *Vickie Lynn Marshall v. E. Pierce Marshall*, the petitioner (also known as Anna Nicole Smith) originally challenged the will and trust estate plan of her billionaire husband, J. Howard Marshall II, in a Texas probate court. The jury in that court upheld the will and ultimately rejected her claims. In the meantime, Ms. Marshall filed for personal bankruptcy in federal court in California and filed a counterclaim in that court against E. Pierce Marshall, the primary beneficiary of her late husband's estate. In those federal proceedings, she made claims similar to those that were then pending in the probate proceeding, namely, that Pierce Marshall had allegedly interfered with her expectation of an inheritance. The bankruptcy court awarded her \$450 million which was reduced to \$88.5 million on appeal to the federal district court.

The U.S. Court of Appeals for the Ninth Circuit vacated the district court ruling, finding that this was a "thinly veiled will contest," and thus, the probate exception to federal jurisdiction applies. This is so because the exercise of a court of *in rem* jurisdiction (such as litigation over property or an estate) has a binding effect "upon the whole world." Thus, the federal bankruptcy court could not simultaneously exercise jurisdiction over the same property over which another court had assumed jurisdiction. WLF argued in its brief that if the court of appeals decision were reversed, that would have a disastrous impact upon the orderly and effective administration of justice in many other lawsuits where a one court has already asserted *in rem* jurisdiction over the matter.

The Supreme Court disagreed with WLF's arguments and ruled that the federal court had jurisdiction over the *in personam* dispute between Vickie Marshall and Pierce Marshall, and that the federal court need not decide the underlying probate dispute that was adjudicated in Texas state court. In doing so, the Court traced the lengthy history of

its prior decisions and admitted that they have caused some confusion in this complicated area of federal and state jurisdiction. The Court then held that the probate exception should be narrowly interpreted to preclude federal jurisdiction over adjudicating the specifics of a will dispute. Nevertheless, the Court noted that since the judgment in the federal case that was favorable to Vickie Marshall was issued about a month *after* the adverse decision she received in the Texas state court, Pierce Marshall may present further arguments as to why Ms. Marshall should not receive any award. In particular, Mr. Marshall could argue on remand that the prior state court decision essentially invalidated the later decided federal court ruling. Further litigation to resolve this issue may take several more years.

WLF's brief was drafted with the *pro bono* assistance of Sidney P. Levinson, partner in the Los Angeles law firm of Hennigan, Bennett & Dorman, LLP. Mr. Levinson specializes in bankruptcy law.

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