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NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.,* 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

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MARSHALL *v.* MARSHALL

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

No. 04–1544. Argued February 28, 2006—Decided May 1, 2006

Among longstanding limitations on federal-court jurisdiction otherwise properly exercised are the so-called "domestic relations" and "probate" exceptions. Neither is compelled by the text of the Constitution or federal statute. Both are judicially created doctrines stemming in large measure from misty understandings of English legal history. In view of lower federal-court decisions expansively interpreting the two exceptions, this Court reined in the domestic relations exception in *Ankenbrandt* v. *Richards*, 504 U. S. 689, and endeavored similarly to curtail the probate exception in *Markham* v. *Allen*, 326 U. S. 490.

Petitioner, Vickie Lynn Marshall (Vickie), a.k.a. Anna Nicole Smith, is the surviving widow of J. Howard Marshall II (J. Howard), who died without providing for Vickie in his will. According to Vickie, J. Howard intended to provide for her through a gift in the form of a "catch-all" trust. Respondent, E. Pierce Marshall (Pierce), J. Howard's son, was the ultimate beneficiary of J. Howard's estate plan. While the estate was subject to ongoing Texas Probate Court proceedings, Vickie filed for bankruptcy in California. Pierce filed a proof of claim in the federal bankruptcy court, alleging that Vickie had defamed him when, shortly after J. Howard's death, her lawyers told the press that Pierce had engaged in forgery, fraud, and overreaching to gain control of his father's assets. Pierce sought a declaration that his claim was not dischargeable in bankruptcy. Vickie answered, asserting truth as a defense. She also filed counterclaims, among them a claim that Pierce had tortiously interfered with a gift she expected from J. Howard. Vickie's tortious interference counterclaim turned her objection to Pierce's claim into an adversary proceeding, see Fed. Rule Bkrtcy. Proc. 3007, in which the Bankruptcy Court granted summary judgment for Vickie on Pierce's claim and,

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after a trial on the merits, entered judgment for Vickie on her counterclaim. The court also held that both Vickie's objection to Pierce's claim and her counterclaim qualified as "core proceedings" under 28 U. S. C. §157, which meant that the court had authority to enter a final judgment disposing of those claims. It awarded Vickie substantial compensatory and punitive damages. Pierce then filed a post-trial motion to dismiss for lack of subject-matter jurisdiction, asserting that Vickie's tortious interference claim could be tried only in the Texas probate proceedings. The Bankruptcy Court denied the motion. Relying on *Markham,* the Bankruptcy Court observed that a federal court has jurisdiction to adjudicate rights in probate property, so long as its final judgment does not interfere with the state court's possession of the property. Subsequently, the Texas Probate Court declared that J. Howard's estate plan was valid.

Back in the federal forum, Pierce sought district-court review of the Bankruptcy Court's judgment. Among other things, the District Court held that the probate exception did not reach Vickie's counterclaim. Citing *Markham*, 326 U. S., at 494, the court said that the exception would bar federal jurisdiction only if such jurisdiction would "interfere" with the probate proceedings. It would not do so, the court concluded, because: (1) success on Vickie's counterclaim did not necessitate any declaration that J. Howard's will was invalid, and (2) under Texas law, probate courts do not have exclusive jurisdiction to entertain claims of the kind Vickie's counterclaim asserted. The court also held that Vickie's claim did not qualify as a "core proceedin[g]" over which a bankruptcy court may exercise plenary power, see 28 U. S. C. §157(b)–(c). Accordingly, the District Court treated the Bankruptcy Court's judgment as proposed, rather than final, and undertook *de novo* review. Adopting and supplementing the Bankruptcy Court's findings, the District Court determined that Pierce had tortiously interfered with Vickie's expectancy by, *inter alia*, conspiring to suppress or destroy the *inter vivos* trust instrument J. Howard had directed his lawyers to prepare for Vickie, and to strip J. Howard of his assets by backdating, altering, and otherwise falsifying documents and presenting them to J. Howard under false pretenses. The District Court awarded Vickie some $44.3 million in compensatory damages and, based on "overwhelming" evidence of Pierce's willfulness, maliciousness, and fraud, an equal amount in punitive damages.

The Ninth Circuit reversed. Although the Court of Appeals recognized that Vickie's claim does not involve the administration of an estate, the probate of a will, or any other purely probate matter, it nonetheless held that the probate exception bars federal jurisdiction in this case. It read the exception broadly to exclude from the federal

courts' adjudicatory authority not only direct challenges to a will or trust, but also questions which would ordinarily be decided by a probate court in determining the validity of the decedent's estate planning instrument, whether those questions involve fraud, undue influence, or tortious interference with the testator's intent. The court also held that a State's vesting of exclusive jurisdiction over probate matters in a special court strips federal courts of jurisdiction to entertain any probate related matter, including claims respecting tax liability, debt, gift, and tort. Noting that the Probate Court had ruled it had exclusive jurisdiction over all of Vickie's claims, the Ninth Circuit held that ruling binding on the Federal District Court.

Held: The Ninth Circuit had no warrant from Congress, or from this Court's decisions, for its sweeping extension of the probate exception recognized in those decisions. Because this case does not fall within the exception's scope, the District Court properly asserted jurisdiction over Vickie's counterclaim against Pierce. Pp. 8–18.

(a) *Ankenbrandt* addressed the domestic relations exception's derivation and limits. Among other things, the Court, 504 U. S., at 693–695, traced the current exception to *Barber* v. *Barber*, 21 How. 582, 584–589, in which the Court had announced in dicta—without citation or discussion—that federal courts lack jurisdiction over suits for divorce or alimony. Finding no Article III impediment to federal-court jurisdiction in domestic relations cases, 504 U. S., at 695–697, the *Ankenbrandt* Court, *id.*, at 698–701, anchored the exception in the Judiciary Act of 1789, which, until 1948, provided circuit court diversity jurisdiction over "all suits of a civil nature at common law or in equity." The *Barber* majority, the *Ankenbrandt* Court acknowledged, 504 U. S., at 698, did not expressly tie its announcement of a domestic relations exception to the text of the diversity statute, but the *Barber* dissenters made the connection. Because English chancery courts lacked authority to issue divorce and alimony decrees, the dissenters stated, United States courts similarly lacked authority to decree divorces or award alimony, 21 How., at 605. The *Ankenbrandt* Court was "content" "to rest [its] conclusion that a domestic relations exception exists as a matter of statutory construction not on the accuracy of [*Barber*'s] historical justifications, but, "rather," on "Congress' apparent acceptance of this construction of the diversity jurisdiction provisions in the years prior to 1948," 504 U. S., at 700. *Ankenbrandt* further determined that Congress did not intend to terminate the exception in 1948 when it "replace[d] the law/equity distinction with the phrase 'all civil actions.' " *Id.,* at 700. The *Ankenbrandt* Court nevertheless emphasized that the exception covers only "a narrow range of domestic relations issues." *Id.*, at 701. Noting that some lower federal courts had applied the exception "well beyond the cir-

cumscribed situations posed by *Barber* and its progeny," *ibid.*, the Court clarified that only "divorce, alimony, and child custody decrees" remain outside federal jurisdictional bounds, *id.*, at 703, 704. While recognizing state tribunals' "special proficiency" in handling issues arising in the granting of such decrees, *id.*, at 704, the Court viewed federal courts as equally equipped to deal with complaints alleging torts, *ibid.* Pp. 8–11.

(b) This Court has recognized a probate exception, kin to the domestic relations exception, to otherwise proper federal jurisdiction. See, *e.g., Markham,* the Court's most recent and pathmarking pronouncement on the subject. Among other things, the *Markham* Court first stated that, although "a federal court has no jurisdiction to probate a will or administer an estate[,] it has [long] been established . . . that federal courts of equity have jurisdiction to entertain suits 'in favor of creditors, legatees and heirs' and other claimants against a decedent's estate 'to establish their claims' so long as the federal court does not interfere with the probate proceedings or assume general jurisdiction of the probate or control of the property in the custody of the state court." 326 U. S., at 494. The Court next described a probate exception of distinctly limited scope: "[W]hile a federal court may not exercise its jurisdiction to disturb or affect the possession of property in the custody of a state court, . . . it may exercise its jurisdiction to adjudicate rights in such property where the final judgment does not undertake to interfere with the state court's possession save to the extent that the state court is bound by the judgment to recognize the right adjudicated by the federal court." *Ibid.* The first of these quoted passages is not a model of clear statement, and some lower federal courts have read the words "interfere with the probate proceedings" to block federal jurisdiction over a range of matters well beyond probate of a will or administration of a decedent's estate, including an executor's breach of fiduciary duty. This Court reads *Markham*'s enigmatic words, in sync with the second above-quoted passage, to proscribe "disturb[ing] or affect[ing] the possession of property in the custody of a state court." *Ibid.* Though that reading renders the first-quoted passage in part redundant, redundancy in this context is preferable to incoherence. This Court therefore comprehends *Markham*'s "interference" language as essentially a reiteration of the general principle that, when one court is exercising *in rem* jurisdiction over a *res*, a second court will not assume *in rem* jurisdiction over the same *res.* See, *e.g.*, *Penn General Casualty Co.* v. *Pennsylvania ex rel. Schnader*, 294 U. S. 189, 195–196. Thus, the probate exception reserves to state probate courts the probate or annulment of a will and the administration of a decedent's estate; it also precludes federal courts from disposing of property that is in the custody

of a state probate court. But it does not bar federal courts from adjudicating matters outside those confines and otherwise within federal jurisdiction. Pp. 11–15.

(c) Vickie's claim does not involve the administration of an estate, the probate of a will, or any other purely probate matter. Provoked by Pierce's claim in the bankruptcy proceedings, Vickie's claim alleges the widely recognized tort of interference with a gift or inheritance. She seeks an *in personam* judgment against Pierce, not the probate or annulment of a will. Cf. *Sutton* v. *English,* 246 U. S. 199, 208. Nor does she seek to reach a *res* in a state court's custody. See *Markham*, 326 U. S., at 494. Furthermore, no "sound policy considerations" militate in favor of extending the probate exception to cover this case. Cf. *Ankenbrandt*, 504 U. S., at 703. Trial courts, both federal and state, often address conduct of the kind Vickie alleges. State probate courts possess no "special proficiency" in handling such issues. Cf. *id.*, at 704. P. 15.

(d) This Court rejects the Ninth Circuit's alternate rationale that the Texas Probate Court's jurisdictional ruling bound the Federal District Court. Texas courts have recognized a state-law tort action for interference with an expected gift or inheritance. It is clear, under *Erie R. Co.* v. *Tompkins*, 304 U. S. 64, that Texas law governs the substantive elements of Vickie's tortious interference claim. But it is also clear that Texas may not reserve to its probate courts the exclusive right to adjudicate a transitory tort. See *Tennessee Coal, Iron & R. Co.* v. *George*, 233 U. S. 354, 360. Jurisdiction is determined "by the law of the court's creation and cannot be defeated by the extraterritorial operation of a [state] statute . . . , even though it created the right of action." *Ibid.* Directly on point, the Court has held that federal-court jurisdiction, "having existed from the beginning of the Federal government, [can] not be impaired by subsequent state legislation creating courts of probate." *McClellan* v. *Carland*, 217 U. S. 268, 281. *Durfee* v. *Duke*, 375 U. S. 106, on which the Ninth Circuit relied, is not to the contrary. *Durfee* stands only for the proposition that a state court's final judgment determining *its own* jurisdiction ordinarily qualifies for full faith and credit, so long as the jurisdictional issue was fully and fairly litigated in the court that rendered the judgment. See *id.*, at 111, 115. At issue here, however, is not the Texas Probate Court's jurisdiction, but the federal courts' jurisdiction to entertain Vickie's tortious interference claim. Under our federal system, Texas cannot render its probate courts exclusively competent to entertain a claim of that genre. Pp. 15–17.

(e) The Ninth Circuit may address on remand the questions whether Vickie's claim was "core" and Pierce's arguments concerning claim and issue preclusion. P. 17–18.

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392 F. 3d 1118, reversed and remanded.

GINSBURG, J., delivered the opinion of the Court, in which ROBERTS, C. J., and SCALIA, KENNEDY, SOUTER, THOMAS, BREYER, and ALITO, JJ., joined. STEVENS, J., filed an opinion concurring in part and concurring in the judgment.