Estate Planning Attorney Sarah Sadler for The Journal Record: Medical Moves and Probate Venue

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There is only one proper venue for Oklahoma probates involving Oklahoma residents—the decedent's county of residence at the time of his or her death. 58 Okla. Stat. § 5. But what happens when someone relocates shortly before their death to receive medical treatment or to be cared for by a loved one? These late-in-life, health-related moves are common and can make determining one's county of residence at death less clear.

In the fall of 2025, the Oklahoma Supreme Court decided *In re Estate of Jimmy Fred Cunningham* and addressed the impact of late-in-life, health-related moves on probate venue. 2025 OK 72. Generally, under Oklahoma probate law, residence is synonymous with domicile and can only be changed where an individual abandons their first domicile without intent to return and resides in another place with intent to make it a permanent home.

In *Cunningham*, the decedent lived for several decades in Oklahoma County but moved permanently to his farm in Johnston County in 2018, selling his Oklahoma County property. After living at the farm for approximately four years, the decedent's health issues brought him back to Oklahoma County. Initially he was transported to Oklahoma County by ambulance and was treated at a hospital. He then proceeded to a skilled nursing facility, then to an assisted living center, and ultimately passed away in an Oklahoma County hospital after being in Oklahoma County for approximately five months.

Despite some evidence that the decedent expressed regret about ever leaving Oklahoma County and a desire to move back to Oklahoma County, the Oklahoma Supreme Court affirmed the District Court's finding that Johnston County was the decedent's county of residence at the time of his death. The Court emphasized the fact that, at all the locations the decedent lived in his final five months in Oklahoma County, the decedent was a patient and receiving medical treatment. The Court noted that the moves were "medically driven decisions, not housing choices."

The Court's decision in Cunningham highlights the fact that a move for the purpose of receiving medical treatment or caregiving is not, alone, sufficient to change a person's domicile. This case should also serve as a reminder to attorneys administering estates that, even when a decedent had been living for some time in a care facility or with a relative, that may not be the end of the venue analysis.

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