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# SUPREME COURT OF ALABAMA

OCTOBER TERM, 2020-2021

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**Thomas John Martin**

v.

**Sheila Martin, as personal representative and trustee under the  
will of Henry Thomas Martin, deceased**

**Appeal from Colbert Circuit Court  
(CV-17-900200)**

MITCHELL, Justice.

Thomas John Martin ("Thomas") appeals from a judgment of the Colbert Circuit Court dismissing his declaratory-judgment action for lack of subject-matter jurisdiction. Because we determine that the circuit court

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has subject-matter jurisdiction under the Alabama Uniform Trust Code, we reverse the judgment.

### Facts and Procedural History

Henry Thomas Martin ("Henry") died and was survived by his wife, Sheila Martin ("Sheila"), and his two children, Thomas and Dawn Michelle Martin ("Dawn"). Henry's will was admitted to probate in the Colbert Probate Court.

Among other dispositions, Henry's will created a testamentary trust for the benefit of Dawn ("the testamentary trust"). The will directed the trustee to hold 25% of Henry's residuary estate in trust and to pay Dawn, in estimated equal monthly installments, the net income from the trust along with any surplus net incomes. Following Henry's death, Dawn died without a will. Henry's will was silent, however, about what happened to the principal of the testamentary trust upon Dawn's death.

While the Colbert Probate Court proceedings were pending, Thomas filed a complaint in the Colbert Circuit Court seeking a judgment declaring the following:

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"a. [t]he amount and nature, if any, of [his] interest in the reversions held by [Henry's] heirs, successors, and assigns;

"b. [t]he proper and timely distribution of any and all property and assets held as such reversionary interest; and

"c. [t]he various rights, titles, and interests of the parties in and to the assets belonging to [Henry] at the time of his death and the allocation of those assets among the various trusts established under the Will."

Sheila, as the personal representative of Henry's estate and the trustee of the testamentary trust, moved to dismiss Thomas's declaratory-judgment action under Rule 12(b), Ala. R. Civ. P., arguing that the circuit court lacked subject-matter jurisdiction. Following briefing and a hearing, the circuit court granted Sheila's motion and dismissed the action, explaining:

"[Thomas] claims a reversionary interest in the principal of a testamentary trust which terminated upon the death of the beneficiary [(Dawn)]. [Thomas] claims the undistributed principal passes by intestacy to the sole surviving heir, [Thomas], pursuant to § 43-8-40 of the Code of Alabama 1975. [Thomas] cites to the Court § 19-3B-203 of the Code of Alabama 1975 in support of his position that this court has jurisdiction. The Court finds § 19-3B-203 to be inapplicable in this case as this proceeding is not being brought by a trustee or a beneficiary under the trust concerning the administration of a trust. [Thomas's] claim is as a sole heir under intestate

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succession which is under the jurisdiction of the probate court."

Thomas appealed.

### Standard of Review

We review issues of subject-matter jurisdiction de novo. DuBose v. Weaver, 68 So. 3d 814, 821 (Ala. 2011).

### Analysis

The issue presented is which court -- circuit or probate -- has subject-matter jurisdiction to hear Thomas's declaratory-judgment action concerning the testamentary trust. Thomas argues that the Colbert Circuit Court has jurisdiction because he seeks an equitable remedy and the Colbert Probate Court lacks jurisdiction to grant equitable relief. Sheila argues, however, that the Colbert Probate Court has jurisdiction and that Thomas cannot simply reframe a probate matter as a declaratory-judgment action in an effort to get into circuit court. To resolve this issue, we begin with the statutory framework outlining the subject-matter jurisdiction of both the circuit and probate courts.

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Circuit courts have subject-matter jurisdiction over equitable matters that "extend[s] ... [t]o all civil actions in which a plain and adequate remedy is not provided in the other judicial tribunals." § 12-11-31(1), Ala. Code 1975. By contrast, the subject-matter jurisdiction of probate courts "is limited to the matters submitted to it by statute." Wallace v. State, 507 So. 2d 466, 468 (Ala. 1987). Section 12-13-1, Ala. Code 1975, vests probate courts with original and general jurisdiction over controversies involving the administration of a decedent's estate. See § 12-13-1(b)(3); Suggs v. Gray, 265 So. 3d 226, 230 (Ala. 2018). As a court of law, the probate court " 'generally does not possess jurisdiction to determine equitable issues.' " Suggs, 265 So. 3d at 230 (quoting Lappan v. Lovette, 577 So. 2d 893, 896 (Ala. 1991)).

Currently, only five Alabama probate courts may exercise equitable jurisdiction. See Segrest v. Segrest, [Ms. 1190676, December 4, 2020] \_\_\_ So. 3d \_\_\_ (Ala. 2020). The Jefferson Probate Court and the Mobile Probate Court share equity jurisdiction with circuit courts by local act. See Act. No. 974, Ala. Acts 1961; Act No. 1144, Ala. Acts 1971. And the Shelby, Pickens, and Houston Probate Courts may share equity

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jurisdiction with circuit courts by local constitutional amendments. See Ala. Const. 1901, Local Amendments, Shelby County, § 4 (proposed by Amend. No. 758); Ala. Const. 1901, Local Amendments, Pickens County, § 6.10 (proposed by Amend. No. 836); Ala. Const. 1901, Local Amendments, Houston County, § 3.50 (proposed by Amend. No. 898). Thus, while all probate courts have subject-matter jurisdiction over general matters of estate administration, only five probate courts in the State have jurisdiction to hear equitable matters and to fashion equitable remedies. See Suggs, 265 So. 3d at 230-31.

With trusts, the Alabama Uniform Trust Code, § 19-3B-101 et seq., Ala. Code 1975 ("the Alabama UTC"), provides the statutory framework for subject-matter jurisdiction as between circuit and probate courts:

"(a) Except as provided in subsection (b), the circuit court has exclusive jurisdiction of proceedings in this state brought by a trustee or beneficiary concerning the administration of a trust.

"(b) A probate court granted statutory equitable jurisdiction has concurrent jurisdiction with the circuit court in any proceeding involving a testamentary or inter vivos trust."

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§ 19-3B-203, Ala. Code 1975. By its text, § 19-3B-203(a) provides that circuit courts have exclusive jurisdiction over cases "brought by a trustee or beneficiary concerning the administration of a trust." See also Regions Bank v. Reed, 60 So. 3d 868, 880 (Ala. 2010) (noting that subsection (a) provides the general rule and subsection (b) acts as an exception to the general rule vesting "those [probate] courts that have been granted those broader [statutory equitable] powers [with] the same jurisdiction to hear actions brought by trustees or beneficiaries concerning the administration of trusts as do the circuit courts of this State").

Although Thomas asserts that he is, in some respect, a beneficiary by virtue of having a reversionary interest in the testamentary trust, it is not necessary to determine whether he actually is for purposes of subsection (a), because this case can be resolved under subsection (b). Subsection (b) establishes that in a proceeding involving a testamentary or inter vivos trust, only those probate courts that have statutory equitable jurisdiction have concurrent jurisdiction with the circuit courts. See § 19-3B-203(b).

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It is a well established principle of statutory interpretation that "[t]he expression of one thing implies the exclusion of others." Antonin Scalia & Bryan A. Garner, Reading Law: The Interpretation of Legal Texts § 10, at 107-11 (Thomson/West 2012) (discussing the negative-implication canon). Indeed, the use of negative implication is consistent with this Court's jurisprudence. See, e.g., New Props., L.L.C. v. Stewart, 905 So. 2d 797, 800 (Ala. 2004) (noting that where Rule 52(b), Ala. R. Civ. P., excuses a losing party from certain objections and motions if the trial court does make findings of fact in a nonjury case, the negative implication of the rule is that no such excuse is permitted when the trial court does not make findings of fact (quoting Ex parte James, 764 So. 2d 557, 560-61 (Ala. 1999) (Lyons, J., concurring in the result))); Southern Guar. Ins. Co. v. First Alabama Bank, 540 So. 2d 732, 734 (Ala. 1989) ("Under Alabama's commercial code, a bank may charge a customer's account only when an item is deemed 'properly payable.' Ala. Code 1975, § 7-4-401. Thus, by negative implication, § 7-4-401 imposes liability on a drawee bank that charges a customer's account for items not properly payable.").



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When the principle of negative implication is applied to subsection (b), it is clear that those probate courts that have not been granted statutory equitable jurisdiction do not share jurisdiction with the circuit courts in inter vivos or testamentary-trust cases. Thus, where the probate court lacks concurrent jurisdiction, the circuit court must have jurisdiction.

With this jurisdictional framework, we turn to Thomas's claim. In his complaint, Thomas seeks a declaration of whether he has an interest in the testamentary trust and, if so, the amount of his interest, the amount of others' interests, and the proper and timely distribution of those interests. He brings his claim as an action under § 6-6-225, Ala. Code 1975, which provides:

"Any person interested as or through an executor, administrator, trustee, guardian, or other fiduciary, creditor, devisee, legatee, heir, next of kin, or cestui que trust, in the administration of a trust, or of the estate of a decedent, infant, incompetent, or insolvent may have a declaration of rights or legal relations in respect thereto:

"...

"(3) To determine any question arising in the administration of the estate or trust, including

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questions of construction of wills and other writings."

Based on the statute providing for Thomas's cause of action and the relief sought, this case is "a proceeding involving a testamentary ... trust," § 19-3B-203(b), brought by an heir "[t]o determine [a] question arising in the administration of [a] trust." § 6-6-225. Because the Colbert Probate Court is not one of the probate courts with statutory equitable jurisdiction, it lacks concurrent jurisdiction with the circuit court to hear this testamentary-trust case. See § 19-3B-203(b). Consequently, the Colbert Circuit Court must have subject-matter jurisdiction, which means it erred in dismissing this case.

Sheila nonetheless argues that this Court's decision in Suggs prevents the circuit court from exercising jurisdiction because, she says, Thomas's action involves issues that are exclusively within the jurisdiction of the probate court. But Suggs actually demonstrates that the circuit court here has subject-matter jurisdiction. Suggs involved a dispute between the estates of a deceased married couple who died four months apart. The personal representatives who were appointed to each

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of the estates jointly agreed to sell the marital home and that the proceeds from the sale would be held in a law firm's trust account. Some time thereafter, the personal representative of the wife's estate notified the law firm that the wife's estate had a claim against the husband's estate and instructed the law firm not to disburse any of the funds held in its trust account until that claim was resolved. While both estates were pending in the probate court, the personal representative of the husband's estate filed a declaratory-judgment action in the circuit court, seeking a disbursement of the proceeds held in the trust account. The wife's estate then filed a counterclaim, alleging, among other things, that it was entitled to assets in possession of the husband's estate.

The circuit court entered summary judgments deciding ownership of the disputed assets and concluding that the husband's estate was entitled to a disbursement of the proceeds of the sale of the marital home. The wife's estate appealed, arguing, that the circuit court lacked subject-matter jurisdiction because the administration of both estates remained pending in the probate court when the action was filed and the probate

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court retained jurisdiction to determine which assets belonged to which estate.

The judgments were partially affirmed and partially vacated on appeal. This Court held that the circuit court lacked jurisdiction to enter judgments adjudicating the proper ownership of the disputed assets; those issues remained within the jurisdiction of the probate court. Suggs, 265 So. 3d at 232. But this Court held that the circuit court did have subject-matter jurisdiction over the disbursement of those funds generated by the sale of the marital home and held in the law firm's trust account. Id. at 231. Suggs, therefore, drew a distinction between (1) determining the ownership of the separate estate assets (a normal matter of estate administration) and (2) determining the proper disbursement of funds being held in a law firm's trust account that were claimed by both estates (an area that does not fall within general estate administration and has not been afforded to probate courts by statute).

That distinction is instructive. Here, Henry's will created a testamentary trust but failed to account for what would happen to the principal of the trust when the beneficiary of that trust died. Unlike the

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estate assets in Suggs, which were solely within the province of the probate court, questions involving testamentary trusts are generally directed to the circuit court by statute. Although the distribution of separate estate assets is clearly within the probate court's jurisdiction, the Alabama UTC empowers only circuit courts -- and those probate courts that have statutory equitable jurisdiction -- to adjudicate testamentary-trust claims like the one here. Put another way, in a county where the probate court has not been granted statutory equitable jurisdiction, the circuit court has jurisdiction over cases involving testamentary trusts under § 19-3B-203(b). As a result, this Court's ruling in Suggs does not preclude the Colbert Circuit Court from exercising subject-matter jurisdiction over this declaratory-judgment action.

We emphasize that the question presented by this appeal is narrow: which court -- circuit or probate -- may decide this case? Nothing in today's decision is intended to expand the jurisdiction of the circuit courts to matters of general estate administration. To the contrary, our holding today plainly states what the Legislature accomplished by enacting § 19-3B-203(b) -- that testamentary-trust questions are to be heard by either

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circuit courts or those probate courts granted statutory equitable jurisdiction. If or to the extent the Colbert Circuit Court determines that the testamentary trust has terminated and that the assets have not effectively been disposed of under Henry's will in accordance with § 43-8-40, Ala. Code 1975, the allocation of those intestate assets under the intestate-succession laws would come within the jurisdiction of the Colbert Probate Court. See Gardner v. Gardner, 244 Ala. 107, 107-08, 11 So. 2d 852, 853 (Ala. 1943) ("The jurisdiction of the probate court, among other things, is ... for the sale and disposition of the real and personal property belonging to intestate's estate and for the distribution of same ..."). But questions involving the testamentary trust -- its continuance, termination, or otherwise -- are left to the Colbert Circuit Court under § 19-3B-203(b).

### Conclusion

Thomas filed this declaratory-judgment action in the Colbert Circuit Court seeking to determine the rights, obligations, and liabilities of the parties with respect to the testamentary trust and the allocation of the assets contained within that trust. Although certain probate courts in Alabama have been vested with jurisdiction to hear cases involving

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testamentary trusts, the Colbert Probate Court is not one of them. As a result, only the Colbert Circuit Court has subject-matter jurisdiction under § 19-3B-203(b) to consider arguments about whether the testamentary trust continues or has terminated.

**REVERSED AND REMANDED.**

Parker, C.J., and Bolin, Wise, and Stewart, JJ., concur.

Sellers and Mendheim, JJ., concur in the result.

Shaw and Bryan, JJ., dissent.

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SHAW, Justice (dissenting).

I do not believe that the plaintiff below, Thomas John Martin, can bring this action in the circuit court under the Alabama Uniform Trust Code ("the Alabama UTC"), Ala. Code 1975, § 19-3B-101 et seq., or that he has demonstrated that the administration of a trust is even at issue in this action. Therefore, I respectfully dissent.

The main opinion holds that the circuit court had jurisdiction under the Alabama UTC. Alabama Code 1975, § 19-3B-203, states:

"(a) Except as provided in subsection (b), the circuit court has exclusive jurisdiction of proceedings in this state brought by a trustee or beneficiary concerning the administration of a trust.

"(b) A probate court granted statutory equitable jurisdiction has concurrent jurisdiction with the circuit court in any proceeding involving a testamentary or inter vivos trust."

The main opinion expressly declines to address whether § 19-3B-203(a) applies and instead holds that § 19-3B-203(b) provides the circuit court with jurisdiction. I disagree that anything in subsection (b) provides the circuit court with jurisdiction in addition to what is provided in subsection (a). Specifically, subsection (a) provides the circuit court with jurisdiction



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over certain actions "concerning the administration of trusts," and describes subsection (b) as an exception. Subsection (b) states that certain probate courts with equitable jurisdiction have "concurrent jurisdiction" with the circuit court in proceedings involving "a testamentary or inter vivos trust." It seems to me that the circuit court's jurisdiction with which the probate court's jurisdiction is "concurrent" is the jurisdiction already provided to the circuit court under subsection (a). Subsection (b) simply extends to certain probate courts that have broader equity powers than others the same jurisdiction subsection (a) provides the circuit court. Our decision in Regions Bank v. Reed, 60 So. 3d 868, 880 (Ala. 2010), described the Code section as follows:

"A plain reading of § 19–3B–203 indicates that subsection (b) acknowledges that certain probate courts have been granted broader powers and that the exception referenced in subsection (a) is that those [probate] courts that have been granted those broader powers have the same jurisdiction to hear actions brought by trustees or beneficiaries concerning the administration of trusts as do the circuit courts of this State."

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(Emphasis added.) Reed thus states that the jurisdiction granted to certain probate courts in subsection (b) is the jurisdiction provided to circuit courts in subsection (a).

Subsection (b) does not separately grant the circuit court jurisdiction different from, or in addition to, subsection (a). What is granted to the circuit court in subsection (a) limits both the parties to the action -- "a trustee or beneficiary" -- and the subject of the proceedings -- "concerning the administration of a trust." (Emphasis added.) If subsection (b) also grants jurisdiction to the circuit court over "any proceeding involving a testamentary or inter vivos trust," then that would be a much broader grant of jurisdiction -- not limited to certain parties or to the administration of a trust -- rendering subsection (a) superfluous. (Emphasis added.) However, ""[t]here is a presumption that every word, sentence, or provision [of a statute] was intended for some useful purpose, has some force and effect, and that some effect is to be given to each, and also that no superfluous words or provisions were used."" Ex parte Children's Hosp. of Alabama, 721 So. 2d 184, 191 (Ala.1998) (quoting

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Sheffield v. State, 708 So.2d 899, 909 (Ala. Crim. App. 1997), quoting in turn 82 C.J.S. Statutes § 316 (1953)).

Instead, by referencing "any proceeding involving a testamentary or inter vivos trust," subsection (b) is actually designating that the "concurrent jurisdiction" granted to those probate courts with broader equity powers is related to actions involving two types of trusts: testamentary or inter vivos. In sum, subsection (b) is simply an exception to subsection (a), Reed, supra, to also grant to certain probate courts in cases involving testamentary and inter vivos trusts the jurisdiction that subsection (a) provides to the circuit court; it does not separately grant more jurisdiction to the circuit court that would make subsection (a) unnecessary in the first place.

Thomas suggested below that subsection (a) provides the circuit court with jurisdiction. The trial court disagreed:

"[Thomas] claims a reversionary interest in the principal of a testamentary trust which terminated upon the death of the beneficiary.

"[Thomas] claims the undistributed principal passes by intestacy to the sole surviving heir, [Thomas], pursuant to §43-8-40 of the Code of Alabama.

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"[Thomas] cites to the Court §19-36-203 of the Code of Alabama in support of his position that this court has jurisdiction.

"The Court finds §19-36-203 to be inapplicable in this case as this proceeding is not being brought by a trustee or a beneficiary under the trust concerning the administration of a trust.

"[Thomas's] claim is as a sole heir under intestate succession which is under the jurisdiction of probate court."

To hold that the circuit court has jurisdiction under § 19-3B-203(a), I believe that we must address whether Thomas is in fact a "trustee or beneficiary." Thomas points to the definition of the word "beneficiary" in Ala. Code 1975, § 19-3B-103(3)(A), as "a person that ... has a present or future beneficial interest in a trust, vested or contingent." However, as discussed further below, Thomas contends that the trust actually terminated, and his "interest," according to him, is as an heir under intestacy law to any funds that remain after the termination of the trust. In his reply brief, Thomas expressly states: "Indeed, the Appellee Sheila Martin argues that Thomas John Martin is 'someone other than a beneficiary or trustee of the trust.' This is conceded to be a correct statement."

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Additionally, for jurisdiction to exist under § 19-3B-203(a), we must determine whether the action is "concerning the administration of a trust." If not, then § 19-3B-203(a) does not apply and no other identified impediment to the probate court's exercising jurisdiction would exist.

Thomas's argument is that the trust terminated as a matter of law, and he seeks to determine his rights under the laws of intestacy to any funds resulting from the termination of the trust. His complaint alleges that the termination resulted in a "reversion" -- presumably to Henry's estate -- and seeks a determination as to any interest Thomas has in the reversion as an heir. According to the complaint, the beneficiary of the trust, Dawn Michelle Martin, died in 2017, and the "trust ... terminated upon her death pursuant to Ala. Code § 19-3B-410 in that no purpose of the trust remains to be achieved or the purpose[s] of the trust have become impossible to achieve." (Emphasis added.)<sup>1</sup> The trial court's order

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<sup>1</sup>Alabama Code 1975, § 19-3B-410(a), states in pertinent part: "[A] trust terminates to the extent ... no purpose of the trust remains to be achieved, or the purposes of the trust have become ... impossible to achieve." Thomas's argument that the trust terminated is repeated several times in the record.

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appears also to accept that the trust terminated. Thomas further alleged that he “is the owner and holder of a reversion in a portion or all of the property not otherwise disposed” in the will, including “the reversion following the termination of the trust.” (Emphasis added.) In his prayer for relief, Thomas sought a determination of

"a. [t]he amount and nature, if any, of [Thomas's] interest in the reversions held by Henry Thomas Martin's heirs, successors, and assigns;

"b. [t]he proper and timely distribution of any and all property and assets held as such reversionary interest; and

"c. [t]he various rights, titles, and interests of the parties in and to the assets belonging to Henry Thomas Martin at the time of his death and the allocation of those assets among the various trusts established under the Will."

Contrary to the main opinion, it does not appear that the complaint "seeks a declaration as to whether [Thomas] has an interest in the testamentary trust," \_\_\_ So. 3d at \_\_\_, or otherwise concerns "the administration of a trust." Thomas -- who is Henry's son -- instead alleged that the trust of which his sister was the beneficiary terminated and sought a determination as to his entitlement to the "reversion." I see no demonstration on appeal that that claim falls under the purview of § 19-

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3B-203 or that the probate court would not have jurisdiction to hear such a claim, which is related to the administration of Henry's estate currently pending in that court. Ala. Code 1975, § 12-13-1(b)(3).

On appeal, Thomas continues to argue that the trust terminated, that there was a "reversion" of the trust funds, and that he can seek a determination as to whether those funds pass to him under the laws of intestacy. Thomas states that, to the extent that there is any question regarding whether the trust terminated upon Dawn's death, then jurisdiction under § 19-3B-203 is appropriate. For the reasons stated above, I disagree with that proposition, because Thomas is neither a trustee nor a beneficiary of the trust. Further, if, as a matter of law, the termination of the trust did not result in its funds reverting to the estate, and thus the administration of the trust or any legal issues relating to trust law remain at issue, then Thomas, as the appellant, must demonstrate that such is the case. That argument, however, seems inconsistent with his position. Thomas also appears to allege that he seeks equitable relief that the probate court has no jurisdiction to provide. Precisely how the relief requested is equitable in nature is not discussed;

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if, as Thomas alleged in his complaint, the trust terminated and there is a reversion that passes to him under intestacy, then I see no jurisdictional impediment demonstrated on appeal to the probate court providing such relief under its jurisdiction relating to the administration of estates.

The circuit court could have jurisdiction under Ala. Code 1975, § 12-11-31(1) (providing jurisdiction where a remedy is not provided in another court), or Ala. Code 1975, § 6-6-225 (authorizing declaratory-judgment actions for estate and trust matters). Section 12-11-31(1) would not apply if the probate court could exercise jurisdiction. Further, if no trust issue exists, § 6-6-225 would not allow the circuit court to exercise jurisdiction over the administration of the estate without proper removal of the estate action from the probate court to the circuit court, which has not occurred. Suggs v. Gray, 265 So. 3d 226 (Ala. 2018). I thus respectfully dissent.

Bryan, J., concurs.