

**PRO SE POLICY OF THE COUNTY COURT
GONZALES COUNTY, TEXAS
JUDGE PATRICK C. DAVIS**

1. The Court does not allow a personal representative, which includes an independent executor, dependent executor, independent administrator, temporary administrator or dependent administrator, of a decedent's estate to be appointed unless represented by an attorney who is licensed to practice law in Texas.
2. Pro se representation in these circumstances is the practice of law without a license because these positions have a fiduciary duty to represent the best interest of all heirs or beneficiaries and legitimate creditors of the estate.
3. Pro se applicants are allowed to represent only themselves before the court. Pro se applicants are not allowed to question witnesses before the court and are not allowed to represent other beneficiaries named in the Will because these acts involve the practice of law.
4. This policy is supported by *Steele v. McDonald*, 202 S.W.3d 926 (TX Ct. App., 10th Dist., Waco 2006).
5. The Court allows a pro se applicant to probate a Will as a Muniment of Title (no personal representative is appointed and no letters are issued) if all of the following circumstances are met:
 - a. Four years have not elapsed since the decedent's death;
 - b. The original Will is filed with the Gonzales County Clerk;
 - c. The Will was signed by the decedent and at least two witnesses;
 - d. The Will has a valid self-proving affidavit that complies with Texas Estates Code Section 251.104;
 - e. The applicant is the sole beneficiary under the Will; and
 - f. There are no unpaid debts owed by the decedent other than debts secured by liens on real estate.
6. Prior to proceeding with an Application to Probate Will as Muniment of Title, you should contact each entity holding assets and verify that they will release the assets to you upon your presentment to them of a certified copy of the Order Admitting Will to Probate as Muniment of Title. Some entities, especially those holding stocks and bonds, will not release the assets without Letters Testamentary or Letters of Administration. If so, you should consult with an attorney.
7. Please consult the attorney of your choice if you wish to be appointed as a personal representative or your Will does not meet all of the requirements in item 5 above. If you do not know any attorneys who practice probate law, you may contact the **Gonzales Area Bar Association**.
8. If you are the only beneficiary of a Will that meets all the requirements listed above in item 5 and you wish to probate the Will as a Muniment of Title, you may proceed by completing and filing an Application for Probating a Will as Muniment of Title with the clerk.
9. The original Will and Application should be filed with the Gonzales County Clerk on the second floor of the Randle Rather Building at 427 St. George Street, Gonzales, Texas. If you have any questions regarding filing fees, you may contact the Clerk's office at 830-672-2801.
10. After filing, the Clerk will issue citation which must be posted at the Courthouse until the next Monday to occur after 10 days from the date of filing. When you file your Application, the Clerk will provide you with the "Return Date."
11. You must call the County Judge's, Court Coordinator at 830-672-2327, or you can send an email to cjadmin@co.gonzales.tx.us to set a hearing on your Application on the Return Date or on any day occurring after the Return Date. Please have your cause number to schedule a hearing.

12. Prior to the hearing, you should complete the Proof of Death and Other Facts and the Order Admitting Will to Probate as Muniment of Title. Please make a copy of each of these documents and bring these to the hearing. **Do not sign the Proof of Death and Other Facts until after the hearing.**
13. At the hearing, you must appear in person before the Judge and present your testimony. Please hand your proposed order to the Judge, along with the original unsigned Proof of Death and Other Facts. The Judge will swear you in under oath. You should then begin your testimony by reading the items listed on your copy of the Proof of Death and Other Facts. After you have presented your testimony, the Judge may ask you some further questions and will then render his verdict. The Judge will then ask you to sign the Proof of Death and Other Facts. The Judge will conform the copy of the Order and hand it to you. **Immediately following the hearing, take the Proof of Death and Other Facts and Order Admitting Will to the County Clerk's office located on the second floor of the Randle Rather Building.**

PLEASE NOTE: The County Judge and court staff cannot guide you or advise what you should do in your case. Please consult with an attorney.