

6-1-1952

# Forged Wills Revealed by Scientific Examination of Documents

Ordway Hilton

Follow this and additional works at: <http://repository.law.miami.edu/umlr>

---

## Recommended Citation

Ordway Hilton, *Forged Wills Revealed by Scientific Examination of Documents*, 6 U. Miami L. Rev. 560 (1952)  
Available at: <http://repository.law.miami.edu/umlr/vol6/iss4/5>

This Article is brought to you for free and open access by Institutional Repository. It has been accepted for inclusion in University of Miami Law Review by an authorized administrator of Institutional Repository. For more information, please contact [library@law.miami.edu](mailto:library@law.miami.edu).

## FORGED WILLS REVEALED BY SCIENTIFIC EXAMINATION OF DOCUMENTS

ORDWAY HILTON\*

On October 5, 1951 the Supreme Court of Florida brought to a close an extended legal struggle for the estate of Julia C. Kearney. Its decision<sup>1</sup> put an end to the final attempt to steal this estate by affirming earlier decisions of both the Circuit Court of Dade County and the court of original jurisdiction, the County Judge's Court of Dade County,<sup>2</sup> which had declared the will offered by Mrs. Mauldin a forgery.

The Florida Supreme Court did more than this, however. It took a positive and progressive stand on the testimony of handwriting experts, reaffirming its earlier position that testimony of such experts was sufficient to prove forgery despite an alleged eye witness to the execution.<sup>3</sup> Commenting on the evidence in the case before it, the court stated, "The handwriting experts were of the highest order of integrity, and we have heretofore held that such testimony alone is sufficient to establish forgery. The County Judge who heard and observed the witnesses, . . . gave no credence to the testimony of the proponents of the will and agreed with the handwriting experts that the will was a forgery. . . . We think there can be no question that this was the correct decision."<sup>4</sup> It is interesting to note at this point that in the *Estate of Johanne Bentzen*, Judge Blanton, confronted again with very similar circumstances and testimony, also followed the evidence presented by an expert on questioned documents declaring the will a forgery.<sup>5</sup> On December 11, 1951 after careful review, the Florida Supreme Court affirmed this decision as well.<sup>6</sup> Florida courts thus stand in an enviable position of readily accepting properly presented scientific evidence.

The County Judge's Court was confronted with a series of complicated, technical problems when this case arose there. The hearings involved the question of whether not one but two proffered wills were the genuine testaments of Julia C. Kearney. In addition, one proponent also brought forth a series of letters and post cards with which she hoped to bolster her claim. Through the skills of examiners of questioned documents, both wills and

---

\*Examiner of Questioned Documents, New York, N. Y.; Member, American Society of Questioned Document Examiners.

1. *Mauldin v. Reel*, 56 So.2d 918 (Fla. 1951).
2. *Estate of Julia C. Kearney*, Dade County Judge's Court, Probate No. 21252 (Sept. 13, 1950) (order denying all wills to probate).
3. *Boyd v. Gosser*, 78 Fla. 64, 82 So. 758 (1919).
4. *Mauldin v. Reel*, 56 So.2d 918, 919 (Fla. 1951).
5. *Estate of Johanne Bentzen*, Dade County Judge's Court, Probate No. 22416 (Oct. 20, 1950) (order denying original order to probate).
6. *In re Estate of Johanne Bentzen*, 55 So.2d 810 (1951).

all the alleged supporting documents were shown to be fraudulent. This article deals specifically with these technical findings.

#### BACKGROUND

Julia C. Kearney died in July of 1948 in Miami, Florida, where for a number of years she had lived as a recluse and in a manner suggestive of extreme poverty. Upon her death, however, \$120,000 in securities were found in her home. There were no known heirs. Due to newspaper publicity over eighty claimants came forward, but actually only three groups pressed their claims to trial; the first, the brothers and sisters of Mrs. Kearney who ultimately received the estate; the second, Mary Moxley Calton, who claimed to be Mrs. Kearney's illegitimate daughter; and finally, Bernice B. Mauldin, who claimed to be the niece of Mrs. Kearney. In an earlier trial, which is not the subject of this article, the County Judge of Dade County denied both these latter claims.<sup>7</sup>

This decision appeared to end the contest for the estate, but such was far from the fact. Two months after the County Judge had entered his order against Mrs. Mauldin, she appeared with a purported will dated July 25, 1945—found by chance behind a picture—which named Mary Moxley Calton as sole beneficiary and Mrs. Mauldin as executrix. Almost simultaneously, a new claimant, Mrs. Rachel Newton Harrell, brought forward a will dated April 2, 1942, naming her as sole beneficiary. It had just been discovered wrapped around a bar of soap which Mrs. Kearney had some years before left with Mrs. Harrell.

#### HARRELL WILL

The document which Rachel N. Harrell claimed was the last will and testament of Julia C. Kearney bore the signatures of three witnesses and consisted of six lines of typewriting on thin onionskin paper. Besides disposing of the estate there was the request that if Mrs. Kearney's child, Jophic Kathrin, was found, Mrs. Harrell should help her.

Only one witness, Virginia Miller, appeared for the proponent and testified that while she was attempting to obtain a room at the Partridge Inn, near Camp Gordon, Georgia, she was asked to step into the notary's office to witness a document. She knew no one present, each signed in her presence, and she too signed a document which was folded over and covered so that she could not tell its nature.

*Will Signature.* The foremost question was: Did Julia C. Kearney sign this will? Scientific study of the will signature and comparison with authentic signatures of Mrs. Kearney established that it was a faulty and inaccurate imitation. It did not contain the free, natural writing qualities and habits of Julia C. Kearney's signatures and furthermore was filled with

---

7. Estate of Julia C. Kearney, Dade County Judge's Court, Probate No. 21252 (Jan. 3, 1950) (order determining heirs).

clumsy patchings and overwritings which clearly marked it a forgery.<sup>8</sup> These facts were demonstrated to the court.

*Supplementary Documents.* Mrs. Harrell, however, was not satisfied to take her chances on the will alone. In the course of her presentation she brought forward a series of letters and post cards in an effort to show a long friendship and close relationship between herself and the decedent. No independent evidence could be discovered which even suggested that the two women had known each other. Nevertheless, unchallenged, these letters presented a serious obstacle.

*1918 Letters.* The two earliest documents dated in 1918 were letters to Mrs. Harrell from the Rev. R. Edbrooke, Rector of Grace Church, New Orleans, replying to inquiries about Mrs. Kearney. Both were typewritten with a typewritten signature and three handwritten initials beneath. The purported writer had died in 1925, and no correspondence could be located in the church files.

Examination of the typewriting disclosed their fraudulent nature. Both letters were written on a Remington portable typewriter equipped with a design of typeface first manufactured in 1946, twenty-eight years after their ostensive dates.<sup>9</sup>

*Other Letters and Envelopes.* Several other Harrell exhibits consisted of typewritten letters and mailing envelopes bearing postmarks in 1939 and subsequently thereto. With one exception the typewritten envelopes were addressed on an Underwood machine and all of their contents were prepared on this machine. It was the same typewriter which had written the will. Infrared and ultraviolet examination of the envelopes, however, showed partially erased traces of the original addresses. None had come from Mrs. Kearney.

One envelope, Harrell Exhibit 5, bore a 1945 Pittsburgh postmark and had been addressed with an old Royal portable. Investigation in Pittsburgh disclosed the fact that Mrs. Miller, the will witness, owned a Royal typewriter. When its work was compared with the typewriting on the Pittsburgh envelope, it was clear that her typewriter had addressed the envelope. Yet Mrs. Miller had testified that she had not known the testatrix.

*Post Cards.* Two picture post cards from Mrs. Kearney, typewritten on the Underwood machine, were addressed to Mrs. Harrell in Augusta, Georgia. One, postmarked Miami, May, 1942, informed Mrs. Harrell of the delivery of a package on April 22, which purportedly was the will wrapped with a bar of soap and was "not to be opened until after my death." The second card, from Pittsburgh in August, 1942, referred to Mrs. Kearney's search for her lost daughter, Jophie—the constant theme of this fictitious Kearney-Harrell correspondence.

At the time of trial this writer's associate, Elbridge W. Stein, who testi-

---

8. See Figures 1 and 2 *infra*.

9. See Figure 3 *infra*.

fied concerning all of the documentary evidence, had his first opportunity to examine these cards. Ultraviolet examination established that the original ink writing had been chemically erased but under this radiation could be read. The Pittsburgh card had been written by Mrs. Miller to Mrs. Harrell. After a visual demonstration the court asked whether the results could be photographed, and it was stipulated then by both parties that these documents could be forwarded to New York City for photographing in the witness's laboratory.

Photographs<sup>10</sup> were made and subsequently admitted into evidence, at which time counsel for Mrs. Harrell petitioned the court to withdraw from the case. The request was granted.

*The Underwood Typewriter.* Only a few days before trial, investigators in Augusta located a typewriter company which had rented an Underwood machine to Mrs. Harrell. When proper standards were obtained, it was possible to identify this machine as the one which wrote the will and all of the other Underwood typewriting in the case. This determination left little doubt as to the fraudulent nature of the entire claim.

The evidence contained in each of these documents pointed toward fraud, and in combination left no shadow of doubt. The decision of the court rested on a firm foundation of fact. Within the very documents by which the claimant hoped to steal this estate was the evidence to deny her claims. All that was needed was discovery and interpretation by a qualified document examiner.

#### THE CALTON-MAULDIN WILL

The will which Bernice B. Mauldin presented was completely typewritten except for the name "Julia C. Kearney" written at the top and the date "July 25, 1945" immediately above the signature. Besides the alleged signature of Julia C. Kearney there were the signatures of two witnesses, Blanche Ranson and Mrs. Mauldin herself. The will read in part as follows:

FIRST—I give bequeath, and devise to my ownly [*sic*] beloved blood daughter, Mary Moxley Calton, of Oldtown, Florida, in Dixie County. Way down upon the Suwannee River. and her heirs and assigns, forever.

All and any of the following of which I die possessed: All of my Real-estate and personal property, including household furniture and effects, silver-ware, linens, Jewelry, and Jewels, Antiques, Stocks and Bonds, Cash in Banks and Cash on hand, Certificates and Dividends, Interest, Trunks and Chests, Boxes with contents, etc. Bank Books, cancelled checks, old letters and correspondence, Receipts, Club Memberships and Cards, Pictures and Photographs, etc. all old newspapers and clippings. My dear CATS, their cages, pictures, cards, collars etc. and their kittens. My Beauty Lotions, Creams, Aids Together with all Formulas, etc. for same. My Berth [*sic*] Certificate, Marriage Certificates, and Divorce Papers. My

---

10. See Figure 4 *infra*.

Bibles. All Books. All Christian Science Bibles and Papers. My Rosary and Crucifix.

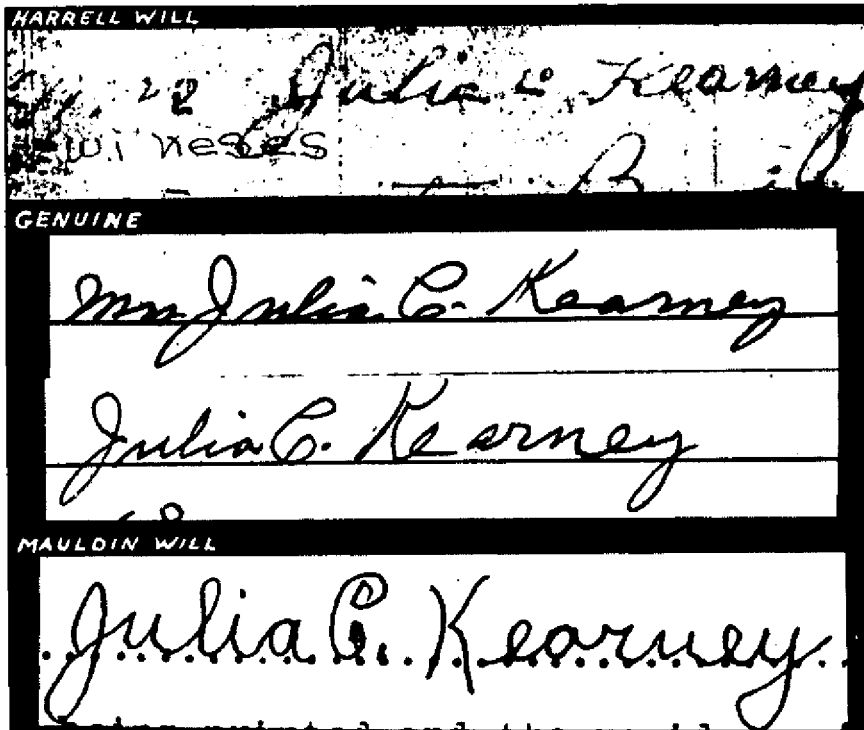
I make, constitute and appoint BERNICE BRITTON MAULDIN of Tampa, Florida, to be my EXECUTRIX of this my last will and TESTAMENT, authorised hereby to pay my lawful debts if any, and the funeral and burial expenses.

The basic question was: "Did Mrs. Kearney execute this will?" The signature hardly resembled Mrs. Kearney's signature.<sup>11</sup> Apparently little attempt was made to imitate her writing. Mr. Stein testified that it was his opinion that Mrs. Mauldin had just written the name "Julia C. Kearney" on this will. Upon objection by counsel for Mrs. Mauldin, Mr. Stein voluntarily modified his statement to: "The signature 'Julia C. Kearney' was written by someone who writes like Mrs. Mauldin." This answer stood on the record.

Giving credence to this testimony, the court denied probate and declared the will a forgery. Mrs. Mauldin's appeal from the decision finally led to its affirmation by the Supreme Court of Florida.<sup>12</sup>

Today scientific methods and the administration of justice are not strangers. In the field of questioned document examination the documents themselves can be made to testify to the truth. The facts are there; they await only the accurate interpretation of the document examiner. Thus it was with the estate of Julia C. Kearney. Through science and the progressive administration of justice, right triumphed.

FIGURE 1



The signature to the Harrell will appears at the top. This forgery is characterized by a number of overwritings and patchings (see Figure 2) and significant variations in the form of many of the letters. Note particularly the "C" and "K" and the size of the "earn" compared to the "K."

The two middle signatures are genuine signatures of Julia C. Kearney.

At the bottom is the signature to the Mauldin will. This forgery is not made in close imitation of Mrs. Kearney's genuine signatures. There are sharp differences in the form of the letters, their size, and slant, as can be seen by comparison with the genuine signatures above.

FIGURE 2



An enlarged portion of the signature from the Harrell will, consisting of the letters "arn," shows glaring examples of the overwriting and patching which occur throughout this forgery. The arrows point to the double lines of the connecting strokes between the "a" and "r" and between the "r" and "n." This unnatural attention to the details of the signature is strong evidence of forgery.

FIGURE 3

1918 REMINGTON    DISPUTED LETTERS    1946 REMINGTON



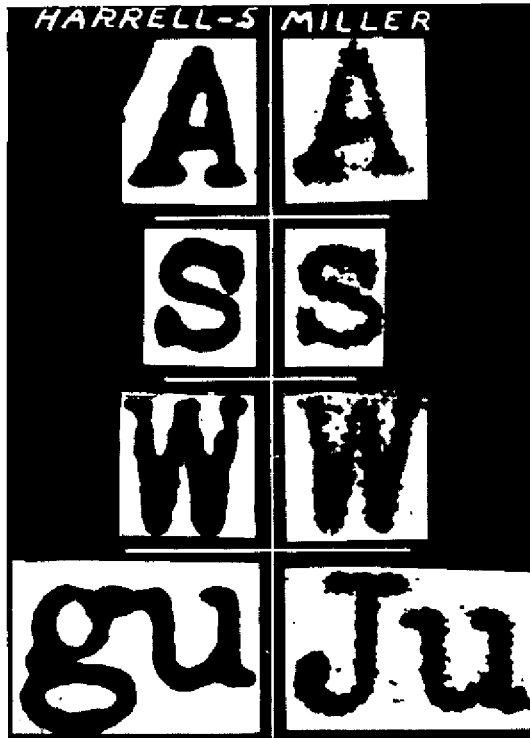
In the central column appear two words taken from the disputed 1918 New Orleans letters. The design of the "M" and "w" in these words is not

11. See Figure 1 *infra*.

12. See note 1 *supra*.

that found on a 1918 Remington Typewriter, (left column) but rather is a design first used on the Remington Portable Typewriter in 1946 (right column). Other characters, such as the "y," found in the disputed 1918 letters established clearly that these letters were written on a Remington machine, but the two key letters "M" and "w" show that both 1918 letters could not have been typewritten on their purported dates.

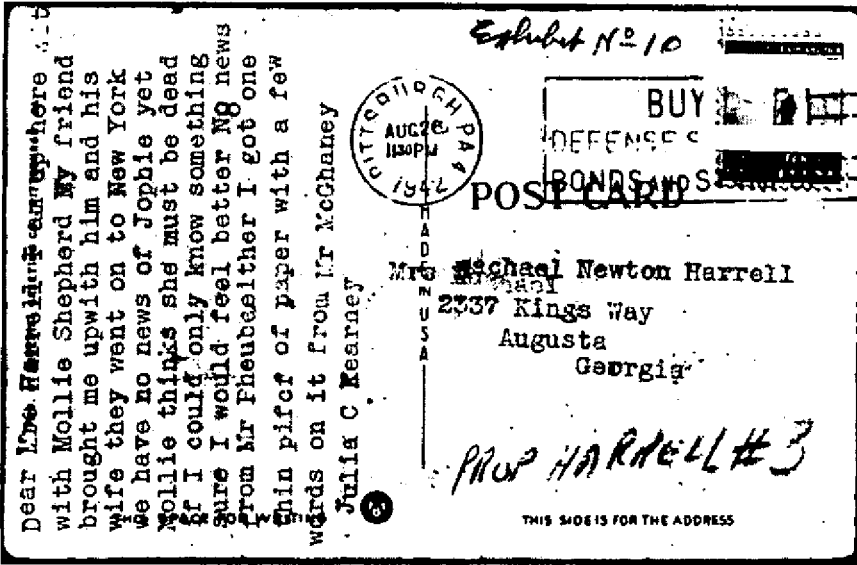
FIGURE 4



A comparison of some of the defective letters common to the envelope of Harrell Exhibit 5 and work from the Miller typewriter includes: The "A" printing heavier on the left side than the right; the "s," too heavy on the top; the "W," lighter at the top than at the bottom; and the "u" twisted on its axis so that it leans slightly to the left. The combination of these and other defective letters in the two specimens of typewriting establishes that the Miller typewriter wrote the envelope of Harrell Exhibit 5.



FIGURE 5



At the top is shown one of two typewritten post cards as offered in evidence by Mrs. Harrell. Below is a photograph of the card as it appeared when viewed under ultraviolet light. All of the original ink writing which now shows had been erased chemically and the typewriting inserted.

