

ROYAL COURT  
(Probate Division)

34

16th February, 1996

Before: P. R. Le Cras, Esq., Lieutenant Bailiff, and  
Jurats Coutanche and Gruchy.

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Representation of Kathleen Lillian Wills  
(née Blampied).  
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No reasoned judgment was delivered, however, the Court wishes its  
decision to be recorded in the Jersey Unreported Judgments series  
with a list of the authorities cited at the hearing.

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Advocate N.M. Santos Costa for the Representor.  
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DECISION.

WHEREAS on the 12th January, 1996, Kathleen Lillian Wills,  
née Blampied, (hereinafter called "the representor") represented  
to the Court:-

- 5 1. That she is the executrix of the purported will of personalty  
of her late husband John William Francis Wills (hereinafter  
called "the deceased").
- 10 2. That the deceased died on the 15th June, 1995, leaving a  
typewritten document consisting of two pages the first page  
of which is dated the 4th September, 1994.
- 15 3. That the said document which purports to be the deceased's  
last will and testament, revokes all previous wills of  
personalty and bears a signature on both pages of the said  
document which purports to be the signature of the deceased.
- 20 4. That the said document reflects the true intention of the  
deceased in that the legacies contained therein contingent  
upon predecease of the spouse are identical to those

contained in the last will and testament of personalty of the representor, as evidenced in her sworn affidavit to this effect.

- 5        5.    That although the deceased's signature on the first page of  
the document is witnessed by the signatures of James  
Wakefield and Maria Susan Cutts, née Penneyston, the  
signature on the second page is not witnessed despite the  
10        said witnesses having seen the testator sign both pages in  
their presence, as evidenced in their sworn affidavit to this  
effect.
- 15        6.    That it is verily believed that the said document was typed  
by the deceased personally using his typewriter at his place  
of residence and that the said signatures on the document  
are, in fact, those of the deceased, the same by reason of  
the three persons who have sworn affidavits to this effect.
- 20        7.    That the second page of the said document is not dated.
- 25        8.    That it is verily believed that the date of the document was  
that contained on it's first page, namely the 4th September,  
1994, as evidenced by the sworn affidavits of the two  
witnesses to this effect.

WHEREFORE the representor brought the above matters to the notice of the Court and prayed:-

30        (a)    That the Court consider:-

- 35        (i)    whether the said typewritten document signed by the  
said deceased is capable of being a valid non-holograph  
will, despite the second page of the document not being  
witnessed, and if so,
- 40        (ii)   whether the deceased did, in fact, personally sign the  
said document in order to constitute the same as a  
valid non-holograph will, and if so,
- 45        (iii)  whether the said typewritten document is a valid non-  
holograph will despite the second page of the document  
being undated.

45        (b)    Further and alternatively to consider:-

- 50        (i)    whether a document typewritten by the deceased  
personally and signed by him is capable of being a  
holograph will although typewritten, and if so,
- 55        (ii)   whether the testator did, in fact, personally typewrite  
and sign the said document, and if so,

(iii) whether the said document is a valid holograph will despite the second page being undated.

5 (c) To order that, in the event that the Court find in the affirmative to the above three questions in (a) or the above three questions in (b), the said document be admitted to probate as the deceased's will of personalty; and

10 (d) to order that the costs of the proceedings be paid out of the gross of the deceased's personal estate.

15 Upon reading the said representation, and upon hearing the representor's advocate, the Court adjourned the further consideration thereof until, another day.

NOW THIS DAY upon hearing the representor, Maria Susan Cutts, née Penneyston and James Wakefield, upon oath the Court:-

20 (a) held that the typewritten second page in question is capable of being a holograph will;

(b) held that the deceased did personally typewrite and sign the document in question and that it is a valid holographed will;

25 (c) that although the witnesses did not actually attest the signature:-

30 (i) the deceased signed both pages of the documentation in their presence;

(ii) that they verily believed that both signatures represented the true and proper handwriting of the deceased ;

35 (iii) that after the deceased signed the document, they then attested the first page in the presence of the deceased;

40 (iv) that although the second page of the document is undated, the date on the first page of the document, the 4th September, 1994, is the true date of the document;

(d) directed that probate should issue.

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Authorities

In the will of Russell (1963) JJ 259.

Representation of J. Cowap (née Evans) (1975) 2 PD 24.

re C.S. Cowap, deceased (1975) 2 PD 26.

re C.S. Cowap, deceased (1976) 2 PD 40.

in re Mansell (12th December, 1990) Jersey Unreported; (1990) JLR  
N.21.

in re Standfast (12th August, 1992) Jersey Unreported; (1992) 4 PD  
72.

in re Estate Forbes (6th September, 1995) Jersey Unreported;  
(1995) 4 PD.

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