

CAN I MAKE MY OWN WILL?

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Always an interesting topic when talking to non-lawyers is the subject of handwritten Wills. "I have heard that all you have to do to make a Will is write it out, sign it and have it notarized," or something similar, is a common comment.

Oklahoma has a statute:

"54. **Holographic wills - Requisites.** A holographic will is one that is entirely written, dated and signed by the hand of the testator himself. It is subject to no other form, and may be made in or out of this State, and need not be witnessed." (84 O.S. 54)

In the past, I would patiently explain that a Will entirely written, dated and signed by a person would be a legal Will in Oklahoma. But no more! If I am asked that question, it means the person is not a lawyer and is not knowledgeable about testamentary planning. S/he cannot hand-write a Will. S/he may not hand-write a Will well, *technically*, s/he may and can **BUT!**

Why? To save money. S/he doesn't have to pay a lawyer. True, not then - but the intended beneficiaries will likely pay BIG attorneys fees if the Will is contested. The inadequacy of poor planning is very expensive in many ways.

This year, another lawyer and I successfully established that a handwritten document was a Will. It said it was a Will. There were several special bequests. Children and grandchildren and a lawyer friend received bequests. BUT two of the three nearly disinherited daughters contested. The fourth daughter was the primary beneficiary. The contestants finally, three days before trial, admitted that it was entirely written, dated and signed by the testator. Their remaining legal theory for contest: Decedent did not intend the document to be a Will. He would not leave such an important document in his briefcase instead of putting it in his safe deposit box! He would have discussed it with his lawyer friends. Eight months after testator's death, and after several days of trial, the judge found that it was a Will and admitted it to probate.

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