



## Document Retrieval Results

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Honorable Jimmy W. Jones  
 1998 WL 703786  
 Opinion No. 98-0474  
 September 04, 1998

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1998 WL 703786 (Miss.A.G.)

Office of the Attorney General  
 State of Mississippi  
 Opinion No. 98-0474

September 4, 1998

Re: Recording and Probate of Foreign Wills

Honorable Jimmy W. Jones  
 Chancery Clerk, Franklin County  
 P. O. Box 297  
 Meadville, MS 39653

Dear Mr. Jones:

Attorney General Mike Moore has received your request for an opinion and has assigned it to me for research and reply. Your letter states and asks as follows:

What is the minimum legal requirement for a "will" probated in another state to be placed of record in the chancery clerk's office? Does it have to be admitted to probate in Mississippi prior to recording it in the county records? ← **Yes**  
 Does the chancery clerk have the legal authority to place of record a court document from another state that has not been authenticated under the acts of Congress (triple certificate)?

You state in your letter that you often receive court documents to be placed in the official records of the county from out of state courts relative to estates and that these documents are often submitted by banks, attorneys and individuals.

In response to your first question, Section 91-7-33 of the Mississippi Code provides as follows:

Authenticated copies of wills proven according to the laws of any of the states of the union, of the territories, of the District of Columbia, or of any foreign country, in affecting or disposing of property within the state, may be admitted to probate in a proper court. Such will may be contested as the original might have been if it had been executed in the state or the original will may be proven and admitted to record here.

Therefore, if the will in question affects property in your county it may be admitted to probate in your court. In our opinion, the above statute answers your second question in the affirmative. In response to your last question, the only mention of authentication under the acts of Congress found in the Mississippi Code is at 11-7-303 regarding the enrollment of foreign judgments in the circuit clerk's office. Obviously, this does not apply to your office. Section 91-7-33 supra, allows for the admission into probate of copies of wills that are "authenticated". It is our opinion that it is within the discretion of the chancery court to determine whether any particular court document has properly been "authenticated" under the statute and to thereby admit the will to probate. As to documents other than wills, it will depend upon the nature of the document as to whether it has been properly authenticated and is entitled to recordation in your office.

Very truly yours,

Mike Moore  
 Attorney General

By: Mike Lanford  
 Assistant Attorney General

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