

CASE REPORT

*John Paul Osborn*¹

Fraudulent Photocopy of a Promissory Note

REFERENCE: Osborn, J. P., "Fraudulent Photocopy of a Promissory Note," *Journal of Forensic Sciences*, JFSCA, Vol. 32, No. 1, Jan. 1987, pp. 282-284.

ABSTRACT: This case report describes a search for evidence that was made beyond the questioned photocopy involved, resulting in a lucky find and requiring some interesting courtroom demonstration techniques.

KEYWORDS: questioned documents, photocopiers, fraud, signatures

The use of the photocopier as a means to create a fraudulent document has become an increasingly prevalent problem of identification by the questioned document examiner. Many courts, still unaware of the ease with which many types of "prepared" documents can be produced, will readily accept photocopies in lieu of original documents. In the case described in this report, a search for evidence was made beyond the questioned photocopy resulting in a lucky find and requiring some interesting courtroom demonstration techniques.

The matter began as the simple denial of a signature by the author's client on a handwritten promissory note for six thousand dollars. The client, Smart, supplied a great quantity of exemplar material and a photocopy of the note containing the questioned signature. Smart denied any knowledge of the note's existence before the production of a photocopy by the plaintiff, Grant.

Examinations of the photocopy submitted led to a verbal report by the author that the signature appeared to be genuine, but the quality of the copy and the fact that it was a copy warranted a request by Smart's attorney to allow an examination of the original. Efforts to have Grant (the plaintiff acted as his own attorney) produce the original note brought an admission that the original did not exist (it had been lost). Despite protests by Smart's attorney, the copy was allowed as evidence.

Consultation with Smart after it was reported that the original note would not be available for examination revealed that a criminal conviction against Grant had occurred, wherein Smart was the complainant. That conviction required several depositions signed by Smart for the local District Attorney's office. These complaints, or copies of them, were in the possession of Grant. It was suggested that Smart's attorney approach the District Attorney with a request to allow examination of all of the material from that conviction which had been made available to Grant and contained Smart's signature.

Presented at the 38th Annual Meeting of the American Academy of Forensic Sciences, New Orleans, LA, 10-15 Feb. 1986. Received for publication 21 Feb. 1986; accepted for publication 21 March 1986.

¹Examiner of questioned documents, Paul A. Osborn & Son, New York, NY.

Among various documents and copies of documents found in the District Attorney's files was a photocopy of a deposition containing Smart's signature. Comparisons of this signature with the one in question revealed a striking similarity. There was no doubt that these signatures were identical.

Figure 1 is a photograph of the questioned and known signatures that were examined. One of the most interesting problems confronted in this case was demonstration of the evidence to a jury. The difficulty lay in showing that the signature on the deposition (or a copy of the deposition), although noticeably smaller in reproduced size than the signature on the questioned note, was the source for a pasteup on the questioned note. The concern was for a clear and unmistakable approach to accounting for an enlargement caused by a multi-generation copy, showing the exact "sameness" of the questioned and known signatures and holding the attention of the jurors.

One aspect of physical evidence was helpful in this regard. The deposition signature (known) was originally written on a dotted baseline. Although, by opaquing fluid or other methods, this baseline had been covered, some evidence of the small dots remained on the questioned photocopy. These uncovered baseline dots on the copy of the questioned promissory note can be seen just above the base of the capital letter "A," on either side of the lower portion of the cross-stroke in the small letter "x," just to the left of the beginning of the capital letter "S," and on the right of the left and middle downstrokes of the small letter "m." The presence of these parts of the original baseline was particularly fortunate towards proving the source of the original signature to the jury. Another aspect of the questioned signature was that the enlargement was far more horizontal than vertical in relation to the deposition signature (source signature).

Simple preparations for testimony were made by mounting photographic enlargements of several genuine signatures of Smart along with the deposition signature and the questioned promissory note signature. This adequately demonstrated that, as most people's will, Smart's signatures varied slightly in comparison with one another, yet the promissory note signature and the deposition signature were exactly the same. Explanation was then made about the tendency of some photocopiers to slightly reduce or enlarge original images and that multiple copies can change the size between a multigeneration copy and its original

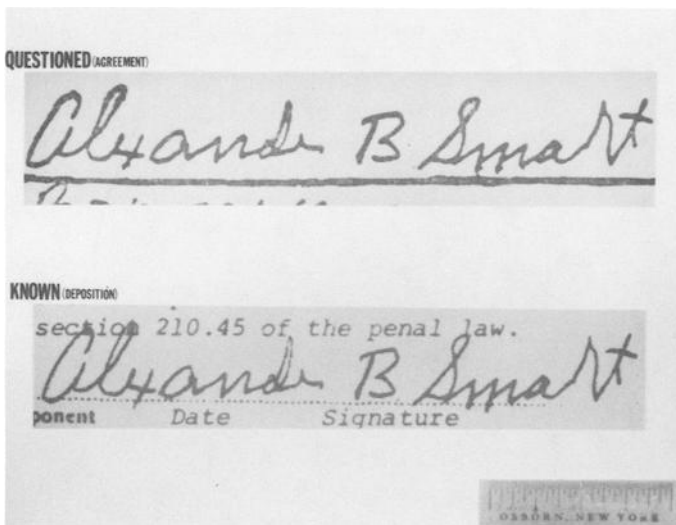


FIG. 1—Photograph of questioned and known signatures.

noticeably. A mounted photocopy of the deposition was then distributed to each juror, along with a separate transparency of the questioned promissory note. The jurors were then instructed to align the first letter in the two signatures, and, by moving the transparency slowly across the mounted copy, match each of the successive letters in the two signatures, paying particular attention to the way the letters lined up exactly and the remains of the dotted baseline matched up with the baseline of the original.

The method of demonstration used seemed to be the least confusing allowing the court and the jury to not only see the evidence and fully understand its meaning, but actually to manipulate the demonstrative tools individually, thereby adding an element of interest and spark of curiosity to a group of normally passive listeners.

Address requests for reprints or additional information to
John Paul Osborn
139 Fulton St.
New York, NY 10038