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WHAT “SURPRISES” COMPARATIVE MATERIAL MAY HIDE?

Summary

The article presents one aspect of the research within the comparative material, which is the analysis to determine the executive homogeneity of the comparative records and assess the reliability of this material as coming from the person whose handwriting is identified. These issues are illustrated by a case report in which sample material from two individuals was presented for the will’s scribal expertise.

Keywords: handwriting examinations, comparative material, will, consolidation of comparative material

Introduction

Quantity and quality - these are the two terms most often encountered in the literature when referring to comparative material in forensic handwriting and signature examinations, i.e., a scribal opinion. But surely only these two factors are important? The following article, using the example of the benchmark material that the expert received for examination, shows the importance of consolidation studies within the benchmark material. In the case under review, as a result of preliminary research, the comparison material was divided into two study groups. Some of this material (graphism 1) was classified as coming from the testator, while the comparative material classified in the second study group (graphism 2) was considered to be from another person. In the described case, the subject of the scribal expertise was a will (Fig. 1), the authenticity of which has been questioned.

Scribal expertise is one type of forensic expertise¹. The very term “scribal expertise” is not unambiguous. Some researchers treat it as synonymous

¹ M. Goc, *Współczesny model ekspertyzy pismoznawczej. Wykorzystanie nowych metod i technik badawczych*, wyd. 3, Polskie Towarzystwo Kryminalistyczne, Warsaw 2020, p. 37.

with handwriting expertise, others associate the term with document expertise². Usually, however, it is identified with the so-called classic document expertise, and it includes:

- handwriting research (including, but not limited to, identification of individuals based on handwritten records, assessment of executive homogeneity of handwriting, and determination of the number of performers of handwritten records);
- verification of the authenticity of signatures and identification of their executors;
- determination of the presumed period of outlining the records under study based on analysis of graphic features and evaluation of the order in which the records were applied to the substrate of the document (relative age studies);
- group and individual identification of typewriters;
- group and individual identification of seals, stamps, stamps and their impressions;
- inferring the personal-cognitive characteristics of the author and performer of a written statement³.

From the practice of the handwriting and signature examiner, it can be deduced that a written opinion is prepared first, while an oral opinion (referred to in Article 200 § 1 of the Code of Criminal Procedure), if necessary, is submitted at a later stage, before the court. Do wykonania opinii z zakresu pisma ręcznego niezbędny jest materiał dowodowy (kwestionowany), ale także odpowiedni materiał porównawczy. The exceptions are when the subject of the scribal study is only the material in question, for example, if the purpose of the scribal opinion is to analyze this material for uniformity of performance. Most often, however, the object of identification research in

² E.g., M. Owoc believes that “with the decreasing participation of the hand in the creation of documents, the part of the document subject to classical identification and comparison studies has shortened. Accordingly, typewritings, prints, stamp impressions, seal impressions and [more recently] computer printouts have also become the subject of broadly understood scribal expertise” (M. Owoc, *Komputerowe wspomaganie ekspertyzypismoznawczej*, Publishing House of the Institute of Forensic Expertise, Cracow 1997, p. 4).

³ Cf. among others M. Goc, A. Łuszczuk, E. Oleksiewicz, *Document as a forensic trace*, in: M. Goc, J. Moszczyński (ed.), *Ślady kryminalistyczne: ujawnianie, zabezpieczanie, wykorzystanie*, Difin, Warsaw 2007, pp. 251-252; M. Kulicki, V. Kwiatkowska-Wójcikiewicz, L. Stępa (ed.), *Kryminalistyka. Wybrane zagadnienia teorii i praktyki śledczo-sądowej*, Wydawnictwo Naukowe Uniwersytetu Mikołaja Kopernika, Toruń 2009, pp. 606-607; J. Kasprzak, *Kryminalistyczne badania dokumentów*, in J. Kasprzak, B. Młodziejowski, W. Brzęk, J. Moszczyński (eds.), *Kryminalistyka*, Difin, Warsaw 2006, pp. 139-140; M. Goc, B. Goc-Ryszawa, *Modern methods and techniques of scribal research*, “Problemy Współczesnej Kryminalistyki” 2013, vol. XVII, pp. 25-26.

a scribal expert opinion is the evidence and comparison material as a pattern of graphism of the person whose handwriting is examined.

The literature emphasizes the importance of adequate quantity and quality of comparative material⁴ but does not always raise the no less important issue of consolidation studies within this material. Comparative material for scribal research is most often taken “on instruction” (influential material), which, however, does not apply to the study of wills, and therefore, as a rule, documents of deceased persons. Exceptions include situations where such material was collected for another case while the testator was still alive. In testamentary cases, the comparative material is non-influential and usually consists of various types of official documents found in tax offices (tax returns and statements), communications departments (vehicle registration applications, driver’s license applications), passport departments (passport applications), the Social Security Administration (insurance documentation) and other institutions, workplaces and public administration units. Such material can also be private documents (letters, postcards, notebooks, contracts, etc.) provided by the parties. In such cases, a very important issue is to assess the reliability of the reference material presented for examination from the point of view of the possibility of attributing its execution to the person whose handwriting is identified. This applies both to the private documents submitted by the parties to the proceedings and the official documents collected by the trial authority. This is because comparative material cannot be indiscriminately considered reliable just because it comes from the office, since it is not certain who filled in the boxes of the documents and who signed them.

In my practice as a handwriting research expert, I have more than once encountered quite interesting cases, related to the issues presented in the

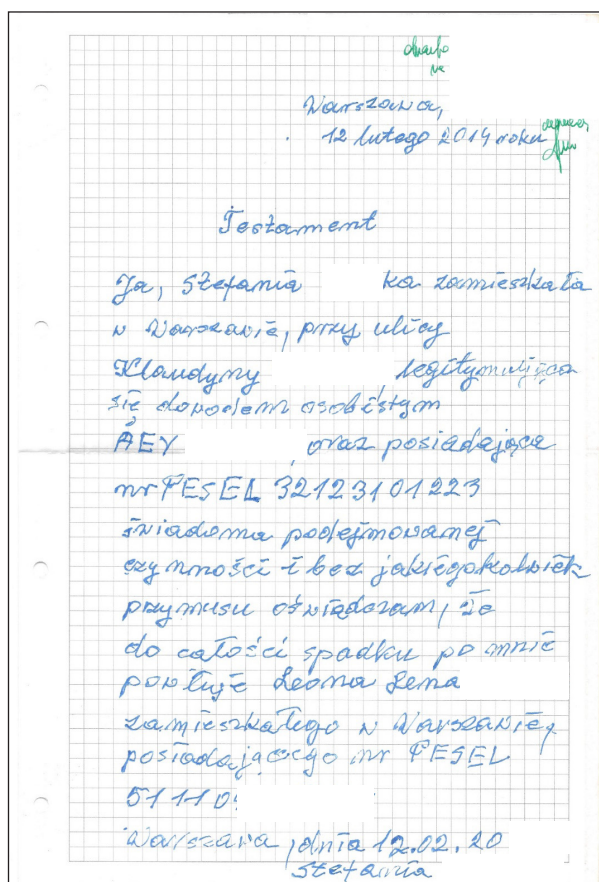
⁴ See, among others: M.E. Oleksiewicz, *Podstawowe zasady pobierania materiału porównawczego do ekspertyzy identyfikacyjnej pisma ręcznego, podpisów oraz pisma maszynowego*, „Problemy Kryminalistyki” 1998, no .220, pp. 53-59; A. Felus, *Identyfikacja na podstawie pisma ręcznego*, in J. Widacki (ed.), *Kryminalistyka*, Wydawnictwo C.H. Beck, Warsaw 1999, pp. 210-211; *idem*, *Pobranie materiału porównawczego do ekspertyzy pismoznawczej*, in J. Błachut, M. Szewczyk, J. Wójcikiewicz (eds.), *Nauka wobec przestępczości. Księga ku czci Profesora Tadeusza Hanauska*, Wydawnictwo Instytutu Ekspertyz Sądowych, Cracow 2001, pp. 112-119; T. Tomaszewski, *Możliwości badań identyfikacyjnych wykonawców paraf*, „Problemy Współczesnej Kryminalistyki” 2001, vol. IV, pp. 287-301; A. Koziczak, *akość materiału porównawczego – pojęcie wielowymiarowe*, in Z. Kegel (ed.), *Problematyka dowodu z ekspertyzy dokumentów*, vol. 1, Uniwersytet Wrocławski, Wydział Prawa, Administracji i Ekonomii, Katedra Kryminalistyki, Wrocław 2002, pp. 294-298; C. Grzeszyk, M. Dudewicz, *Zasady pobierania materiału porównawczego do kryminalistycznych ekspertyz pismoznawczych*, in: C. Grzeszyk (ed.), *Kryminalistyczne badania pismoznawcze*, Czesław Grzeszyk, Warsaw 2006, pp. 136-150.

introduction, which, as they go beyond standard situations, can be useful for expert practice. One such case is presented below.

Case description

In the present case, a will dated February 12, 2014, was sent for examination. (Fig. 1).

Fig. 1. The will was dated February 12, 2014.

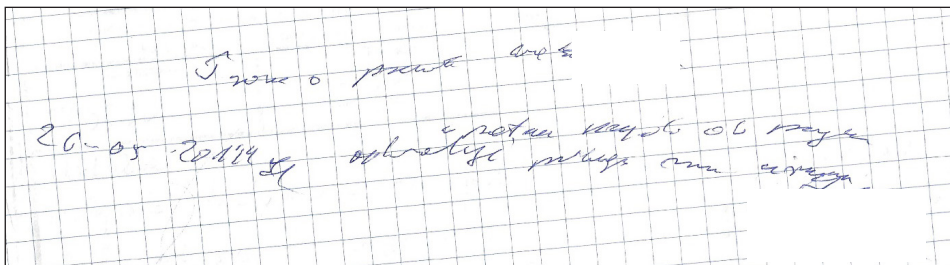


Source: own study.

Along with the evidence, quite extensive comparative material was submitted for expert opinion. It was graphically diverse. Already a preliminary analysis has made it possible to identify two groups of graphisms in this material. Differences were observed between the two groups, including in

the overall image of the handwriting, its quality and level of craftsmanship, as well as its size. Differences were also noted regarding the construction of individual letters. This division did not immediately mean that the possibility of drafting this material (conventionally classified into two groups) by one person was excluded. Although initially it could not be ruled out that the testator used two types of graphisms, detailed analysis showed that the differences found were so strong and habitually significant that a division into two separate groups of comparative graphisms was deemed most appropriate. Fig. 2 shows an example of graphism classified as graphism No. 1, which was also the closest in date to the date of the disputed document (i.e., 2014). This was one of the documents in the testator’s medical records.

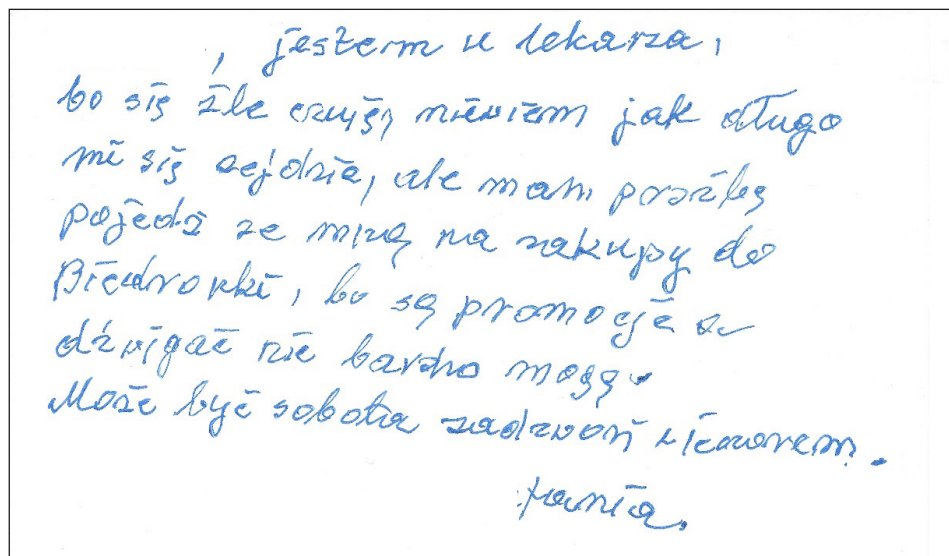
Fig. 2. Comparative material qualified for graphism No. 1 - document dated May 26, 2014.



Source: own study.

Fig. 3 presents an example of a document presented for examination by a person who, according to the will, was to inherit all of the deceased’s property. Interestingly, and apparent at first glance (this was also confirmed by microscope examination), both the contested will (Fig. 1), as well as the document presented for examination as coming from the testator (Fig. 3) were drawn up with the same writing instrument, i.e. the gel-pen type. The writing line is characterized by a relatively intense, fairly thick saturation of the duct with opaque material. The expert’s attention was drawn to the fact that the ink used to draft the text of both the will and the comparison document had glitter in its composition.

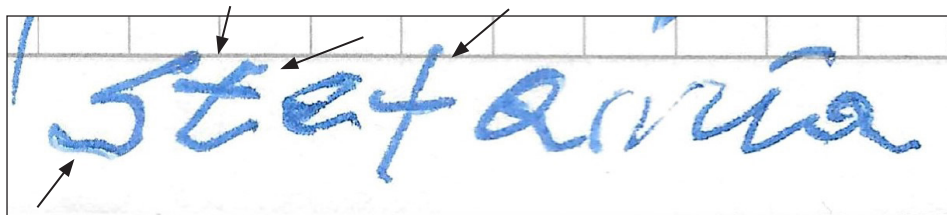
Fig 3. Comparative material qualified for graphism No. 2 - document was not dated



Source: own study.

The detailed study carried out, the features determined in the evidence, and the features determined in the comparative material included in the first research group, allowed us to conclude that there are significant graphical differences between the compared graphisms (examples of which are presented in Fig.s 4-5). These differences occurred in all analyzed sets of traits (synthetic, topographic, motor, measurable, and structural). Among the most noTab. are:

- a different overall picture of the magazine,
- a different level of handwriting elaboration, the level of its legibility (comparative graphism is partially illegible, which is not reflected in the evidence),
- different sizes of writing (smaller handwriting and comparative signatures),
- a different density of writing,
- a different construction of individual signs, such as *S*, *t*, and *f*.

Fig. 4. Documentary evidence dated February 12, 2014.

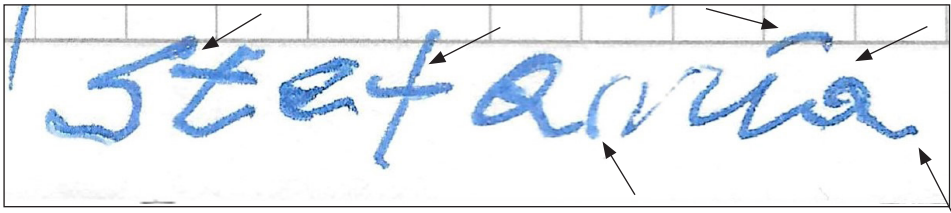
Source: own study.

Fig. 5. Comparative material - document dated February 27, 2013.

Source: own study.

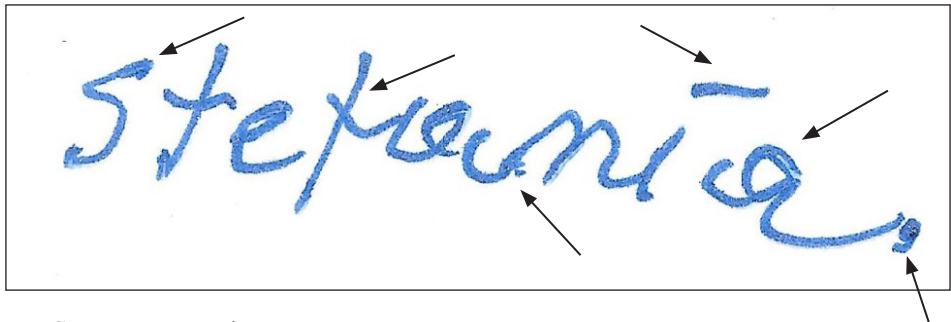
On the other hand, the research conducted within the evidence and the comparative material included in the second research group gave rise to the conclusion that the analyzed writings were drawn by a single person. Among other things, a concordant class of writing, a concordant overall picture of the analyzed records, concordant measurement properties, the same letter impulse of writing, analogous drafting, and construction of individual characters, e.g.: *S, f, n, a*.

Fig. 6. Documentary evidence dated February 12, 2014



Source: own study.

Fig. 7. Comparative material - document was not dated



Source: own study.

It should be noted that the material included in group one was reliable, as it was found in medical and official records. The research carried out within it and the designated compatible features made it possible to conclude that it is graphically consistent. In contrast, the material included in the second group was submitted by the party. The research carried out provided the basis for determining that the person who outlined the disputed will was a person interested in the inheritance, who provided the comparative material outlined by him.

The occurrence of congruent features, as determined within the will in evidence and the comparative material classified as the second study group, and thus presented for examination by the party interested in the provisions in the will, made it possible to conclude that they were outlined by a single person. The authenticity of the contested will was therefore ruled out.

Conclusion

The above-described case only reinforces the importance and impact of conducting consolidation studies within the comparative material. Particular

caution should be exercised concerning private documents, presented by persons who are interested in a positive “settlement” of the case and can prepare appropriate comparative material.

One connotation comes to mind here - “not all gold that glitters”, and in this case, even glitter did not help.

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