

Donatio Mortis Causa

By

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P. Cairo Mus.inv.No 3729 / 10
21.1 x 8.3 cm.

Provenance Caranis
29 November 169 A.D.

This papyrus consists of 27 lines. The left hand side is incomplete, there are about 45 missing letters per line on this side. On the other hand, the right side margin has not been completely preserved. Most of the last letters contained in this side seem to be complete, whereas ligatures of some other letters reach to the edge of this side. There is an upper margin of 2.7 cm. and a lower margin of ca. 7 cm. The papyrus suffers 2 vertical rifts, besides; it has some worm holes. The writing is on the recto. The document, which is on its verso, is a copy of a report made by a sitologus of Caranis addressed to the strategus in 222 A.D., in which this papyrus remained without reusing for about 53 years (See; E.G. Turner, *Recto and Verso*, JEA, 40, 1954, 102 ff.).

This document is a will of the Egyptian type, i.e. "*donatio mortis causa*". In other words, to be effective only after the death of testator, μετὰ τὴν τελευτήν (cf. line 11). Since the papyrus is much mutilated, about 4 letters are missed per line, it could not be possible to guess the name(s) of the heir(s), or the inheritance itself. It is not known whether this document is the original of the authentic will, διαθήκη αὐθεντικῆ, or a copy taken after the authentic will was opened (cf. lines 4 - 5).

In this document, the testator is a woman called, Τοιευνημέρος, it appears from the name that she is an Egyptian woman. The position of the slave, Βερνίκη, that occurs in line 13 is not clear; whether she would have been emancipated by the force of this will, or she would have been inherited. The text contains two obligations imposed on the heir. First; is to pay back a debt that may appear, καὶ ἐὰν δέ τι φανῆ ὀφείλων ἀποδώσει (cf. line 14), Second; is to defray the expenses of the funeral and burial of the testatrix body at death,

αὐτῆς κηδείαν καὶ περιστολῆν ἀργυρίου δραχμῶς (cf. line 15)

There is also a special clause inserted in this document which indicates that the testatrix keeps for herself the right to dispose of her property, whatever way she wishes, as long as she lives (cf. lines 15 - 16). And perhaps to annul her will.

After the death of the testatrix the heir took his official certificate ἐκδόσιμον τῆς διαθήκης, to the agoranomeion, asking for opening of the will. The Application for opening of wills was presented to the strategus, who had to attend the procedures of its opening. Witnesses or at least the majority of them "*maior pars signatorum*" who had sealed the will, had also to attend these procedures to revise their seals and to make sure that the will was under seals ἐπί σφραγίδων, and that the seals were intact.

Text

- [ἔτους ἐνάτου Αὐτοκράτορος Καίσαρος Μάρκου
Αἰρηλίου Ἀντωνείνου
[Σεβαστοῦ Ἀρμενιακοῦ Μηδικοῦ Παρθικοῦ
Μεγίστου καὶ] Αὐτοκράτορος Καίσαρος Λουκίου
[Αἰρηλίου Οὐήρου Σεβαστοῦ Ἀρμενιακοῦ Μηδικοῦ
Παρθικοῦ] Μεγίστου μηνός Ἀδριανοῦ γ [
[τῆς Ηρακλείδος μερίδος τοῦ Ἀρσινόϊτου νομοῦ ± 7].
ἐκ τῆς λυθείσης ἀθένητικης
5 [διαθήκης .. (ἔτει) Αὐτοκράτορος Καίσαρος Μάρκου
Αἰρηλίου Ἀντωνείνου Σεβαστοῦ Ἀρμενιακοῦ
[Μηδιλοῦ Παρθικοῦ Μεγίστου καὶ Αὐτοκράτορος
Καίσαρος Λουκίου Αἰρηλίου Οὐήρου Σεβαστοῦ
[Ἀρμενιακοῦ Μηδικοῦ Παρθικοῦ Μεγίστου μηνός ± 7].
α. ὁμολογῆ] Τεσημέρος
[± 43 μή]τρος Ἀρτέμη[ς] ἀπὸ κώμης Καρά[νιδος]
[± 45]λι διὰ Αἰλίου Σαραπίωνος ἐνάρχου
10 [± 44 Π]ασοξείτου Πολυνδικου ἀπὸ τῆ[ς
[αὐτῆς κώμης Καράνιδος ± 25].. μετὰ τὴν ἐαυτῆς
τελευτήν
[± 45]αρου Ἰουλίου Σερῆνου τοῦ Παρ-
[± 44 α]ύτης δούλην ἐνό[μ]ατι Βερνείκην
[± 45]καὶ ἐὰν δὲ τι φανῆ ὀφείλων ἀποδώσει
15 [± 45]ἔχειν αὐτήν τὴν τῶν ἰδίων ἐξουσίαν
[± 45] περι αὐτῶν ὡς ἐὰν βουλῆται τρῶ[σι]τω
[± 44 α]ύτης κηδείαν καὶ περιστο[λ]ήν ἀργυρίου
(δραχμάς) ..

- [±44 ὑπογραφεὺς τῆς [ὁ]μολογο[ύ]σης
 [±45]ος Ἀσκ[ληπι]άδου τοῦ Σωκράτους
 20 [±45]νου τοῦ Λεωνίδου ὡς (ἔτων) λγ οὐλή[
 [±43 ὡς] (ἔτων) κδ οὐλή παρ' ὀφθαλμον δεξιῶν
 [±30 ὡς (ἔτων).. οὐλή ἀντικνημῖοι ἀριστερῶι Μεῦρος
 Δίδυμου
 [±45 Ἀύρη]λίου Ἀπολλωνίου τοῦ Σαρραπίωνου
 [±45]ρογιλον καὶ ἀντέβαλ[ο]ν προ[.]λου
 25 [±45](ἔτους) θ' Ἀντωνείνου καὶ Οὐήρου τῶν
 [κυρίων Σεβαστῶν 26 παρα]δίδει καὶ ὑπογραφεῖ
 βιβ[λιοφύ]λ'(ἀξι) Ἀρσινοεῖ[του
 [±45] ὡς πρόκειται.

Translation

" The 9th year of the Emperor Caesar Marcus Aurelius Antoninus Augustus Armeniacus Medicus Parthicus the Great and the Emperor Caesar Loucius Aurelius Verus Augustus Armeniacus Medicus Parthicus the Great, 3rd of Hadrianus month, in accordance with the authentic will, which was opened in the ...th year of the Emperor Caesar Marcus Aurelius Antoninus Augustus Armeniacus Medicus Parthicus the Great and the Emperor Caesar Loucius Aurelius Verus Augustus Armeniacus Parthicus the Great (month date). Taeuemeris (daughter of N.N. ?) whose mother is Arteme, from the village of Caranis in the division of the Heraclides in the Arsinoite Nome, through Aelius Sarapion, at office (of the notaries), ... Pasoxites son of Polyndicus, from the same village, acknowledges that she bequeaths, after her death.... Ioulius Serenos. Concerning her own female slave, whose name Bernice..., and he / she (the heir) ought to pay any debt that may appear. As long as she is alive, she is to have her power over (? to revoke the will, to us and to dispose) of them, in whatever way she wishes. He / she "the heir" ought also to perform the obsequies and laying out her (body). After the acknowledgment had been signed, (the will was sealed) by ... and ... Asclepidius son of Socrates, and ...nos son of Leonides, whose age is about 33 years old, having a scar ... and ..., whose age is about 24 years old, having a scar beside the left eye, and ... having a scar on the right leg, and Meyrus son of Didymus and Aurelius Apollonius son of Sarapionos, and (the will) was revised. In the 9th year of Antoninus and Verus the Lords Augusti....., she handed over and signed (the acknowledgment) for the keepers of the archive of the Arsinoite Nome, as mentioned above. "

Notes

1-3, 5-7 The calculation of the length of the missing part on the left side is based on the imperial titles in these lines, cf. e.g. P. Lond. 336, 1- (Arsinoe, 167 A.D.); P. Flor. 382 (Arsinoite Nome, 166 / 167 A.D.), 67 - 72. This document dates back to the 9th regnal year of the Emperors Marcus Aurelius and Verus, who were ruling together from 161 to 169 A.D. They enjoyed the titles *Μηδικοὶ Παρθικοὶ Μέγιστοι* only in the Summer of 166 A.D.; i.e. sometime during their 6th or 7th regnal year. (For the imperial titles see; Paul Bureth, *les Titulatures Imperiales dans les Papyrus, les Ostraca, les Inscriptions d' Egypte*, Bruxelles, 1964; see also; W.H.M. Liesker & P. Sijpesteijn, *More remarks on some Imperial Titles in the Papyri III*, ZPE, 36 (1986), 284 ff.) (cf. line 25).

Ενάτου is reconstructed in accordance with the letter "Θ" of L.25. The 3rd of Hadrianus = 29 November. It is remarkable that months in Roman names are usually preceded by *μήν* (month) see; e.g. P. Wisconsin II, 13 (Oxyrhynchus, early second century A.D.), 1: "*μηνός Νεοῦ Σεβαστοῦ κς*" and note loc. cit.; P. Flor. 68, 4, 12; P.Oxy. 2589, 7; 2590, 15.

4 - 5 Restoring the *διαθήκης* after the *αὐθέντικης* is common (see e.g. BGU 326, ii, 23 = A. El-Mosallamy, *Revocation*, P.61; SB 1050C 35 sqq.). *Διαθήκης αὐθέντικη* is to be followed by the date in which the will was opened as the verb, *λυεῖν*, takes place. (See e.g. P.Oxy. 715 (13 A.D.), 19-20. In spite of the fact that the great number of parallel documents dealing with the opening of the wills are available. I do not find elsewhere close parallel to the construction of "... ἐκ τῆς λυθείσης

αὐθιγντικῆς ... κτλ." cf. P.Merton 75, 3 - 5 (Oxyrhynchus, 181 A.
 "ἀρεθεῖσι πρὸς τῆ λύσει τῶν διαθηκῶν", 18-19 " ἀξιῶ
 λυθῆναι παρόντων πρὸς τὴν λύσειν " ; BGU 361, ii, 22, 25, iii, 4,
 (Arsinoite Nome, 184 A.D.), ; P.Ryl. 109, 8 (note) (Hermopolis, 235 A.D.
 P.Oxy.907, 28 (276 A.D.); P. Lond. 171b, 18 (Arsinoite Nome, III Cent
 A.D.); P .Fouad 32, 14 (Oxyrhynchus, 174 A.D.) .

Wills were usually opened and read on the same day before the strateg
 see BGU 326, II, 21 (189 - 194 A.D., Arsinoite Nome): ἡνύγησα
 καὶ ἀνεγνώσθησαν τῆ αὐτῆ ἡμέρα ἐν ἧ καὶ ἡ διαθήκη
 ἔλυθη. They were also opened before an official body, " statio vicesimari
 in the temple of the Emperor, or in the forum of the Emperor; see BGU 3
 II, 10 -11: ἡνυγη [καὶ] ἀνεγνώσθη Ἀρσινοεῖτη μητροπόλι
 ἐν τῆ Σε<βαστῆ ἀγορᾷ ἐν τῆ> στατιῶνι τῆς εἰ)κοσ-τῆς τῶι
 κληρονομιῶν ...κτλ."; P. Berol. 7124, 11 (Arsinoite nome, 131 A.D.)
 "Ape[r]t(um) et recitat(um) in foro Augusto ante sta[t]ione(m) l
 he(reditatium) in Arsino[e]" (See H.Kreller, op. cit. 404).

7 - 9 Ταευημέρος occurs many times in the Tax Lists from Caran
 cf. P.Mich. 224, 257, 5234, 5297, 5350, 5368 (Caranis, 173 - 174 A.E.
 The full name of this testatrix lies in the lacuna of the beginning of line 8, l
 father's name and grandfather's name. But her mother's name Arteme has be
 preserved. The construction of the "ὁμολογεῖ N.N." is common, follow
 by full details related to the acknowledger, i.e.; his (her) full name, locati
 age, distinguishing scars see; P. Wisconsin II, 13, 13 (note) (Oxyrhynchus, ea
 second cent. A.D.). In this approach " τῆς Ηρακλείδου μερίδος τα
 Ἀρσινοεῖτου νομοῦ " could be supplemented at the lacuna from:

beginning of line 9 see; e.g. SB. 10797, 2- 3 (Caranis, 232 - 236 A.D.):
ἀπὸ κώμης [Καράνιδος] [τῆς Ἡρακλ]είδου μερίδος τοῦ Ἀροσινοῦ νομοῦ". About 7 letters, which should be the date, will be nevertheless left without restoration.

10- *Πασοξείτου Πολυνδίκου*, this name also occurs many times in the Tax Rolls from Caranis, see e.g.; P. Mich. 223, 2418 (Caranis, 172 A.D.); 224, 3746, 5128, 5906 (Caranis, 173 - 174 A.D.); 225, 86 (Caranis, 174 - 175 A.D.). In our document Pasoxitos might be either the heir or one of the associates of the agoranomeus Aelius Sarapion.

[*Αὐτῆς κώμης*, it would be plausible to be given at the beginning of line 11, to go with *ἀπὸ τῆς* of line 10, for this construction see; e.g.; SB.10880, 4 (Arsinoite Nome, after 119 A.D.).

11- *Μετὰ τὴν ἑαυτῆς τελευτῆν* indicates that such a will, will be only in force, after the testatrix's death, and as long as she is alive she keeps for herself the right to dispose of her property in whatever way she wishes, she may also keep for herself the right to annul the will whenever she likes. (See Taubenschlag, *The Law of Greco-Roman Egypt in the Light of the Papyri from 332 B.C - 640 A.D.*, Warszawa, 1955, pp. 204 - 207; Kreller, *Erbrechtliche Untersuchungen Aufgrund der Graeco-Aegyptischen Papyrusurkunden*, Berlin, 1919, 215 ff.; O. Montivecchi, *La Papirologia*, Torino, 1973; 207; P. Merton 105, Introduction, (Tebtunis, 164 A.D.)). It would be plausible to insert before or after the phrase, *μετὰ τὴν ἑαυτῆς τελευτῆν*, verbs such as: *καταλείπειν*, to leave, *συνχώρειν*, to concede etc. See; e.g. P. Oxy. 493, 16 (early second century A.D.); BGU 86, 5 (Arsinoite Nome, 155 A.D.); SB.10888, 2 - 3 (Arsinoite

Nome, after 119 A.D.); 11042, 25 (Caranis, 320 A.D.); P.Fouad 33, 21 (I C A.D.).

12-]αρου, there are various forms of names ending with -α e.g. Διδάρος, Οινάρος, Πολύαρος, Έσχάρος ... etc. see; B. Han Rucklaufiges Wörterbuch der Griechischen Eigenamen, Berlin, 1957. Πα There are also various forms of names beginning with Παρ- Παραδείσος, Παράδοχος, Παράμεως...etc. (see; P/N and F/O).

13- Since this line does not contain a verb indicating whether the female slave Bernice, would be emancipated or be inherited, the lacuna at the beginning of this line is left without any restoration see; e.g. P. Lugd. Batava 14, 13 (Arsinoite nome, II cent. A.D.) "

μενή δουλή μου ὀνόματι Σῦραν "; P.Oxy. 907, 14 - 15 (276 A.D. καὶ καταλείπω τὴν δουλήν ὀνόματι Εὐνοίαν.

14- In accordance with the Egyptian law of inheritance, the heir v responsible to pay any debt made by the testator or encumbrance that may appear (Taubenschlag, Law, 218). See e.g. P. Oxy. 3498, 33 (274 A.D.)

ἐὰν δὲ τι φανῆ ὀφειλόμενον ἢ ἐξακολουθῶν, P. Oxy.494, 22 (156 A.D.) ἀποδώσει πάντα ἃ ἐὰν φανῶ ὀφείλων, SB.10888, 13 (Arsinoite Nome, after 119

A.D.)καὶ ἀποδώσεως) ὧν ἐὰν φανῆ ὀφείλων); P.Lugd. Batava XIII, 14, 20 (Arsinoite Nome, II Cent. A.D.)

ἐὰν δὲ τι φανῶ ὀφείλων For the responsibility of the heir. (See Taubenschlag, Law, 192, 218.) (Cf. also line 17).

15 - 16 Verbs such as *χράσθαι* (to use), *διοικεῖν* (to dispose of), *ἐπιτελεῖν* (to make any further provisions), *μεταδιατίθεσθαι* (to alter), *ἀκυροῦν* (to revoke); some of them or altogether could be given in the lacuna of line 16 before *περὶ αὐτῶν* " to show that the testatrix insists on her right; ; e.g. P.Oxy. 1048-9; BGU 183, 25; P. Oxy. 1200, 26ff. In this regard [ἐ]ξούσιαν ἔχειν [.]..[.]ων in line 22 of SB. 11042 (Tebtunis, 33 A.D.) must be reconsidered and the lacuna left could be supplemented to be [ἐ]ξούσιαν ἔχειν [π]άμ[ε]των.

17- Also, out of the obligations imposed on the heir, is to defray the expenses of the funeral and burial of the testatrix's body at death. (See BGU 896, 7 (Arsinoite Nome, 161 - 169 A.D.); P. Lund. VI, 6, 10 ff. (Arsinoite nome, 190 - 191 A.D.); P. Oxy. 2348, 34 - 35 (224 A.D.); P. Tebt. 381 (124 A.D.), 17; P. Tebt. 493, 5 (190A.D.); SB. 10888, 12 (Arsinoite Nome, after 119 A.D.)) Cf. line 14.

19 - 23 These lines contain names of the witnesses who sealed the will. Their full names as well as their identifications are mentioned such as; age *ὡς* (ἔτων).., and their distinguishing scars. It is noticeable that most of the readable names listed occur in the Tax Rolls from Caranis; cf. P. Mich. 223, 224; 225. Concerning]νου which lies in line 20, there are various forms of names ending with -νος e.g. *Βάνος*, *Πολεμά=ανος*, *Λουκίανος* ...etc (see; H/R).

To make the will valid, witnesses were required either when the will was drawn up before the notaries or had been written by the testator and handed over to the notaries. Sealers who witnessed wills were in general six in number.

but few documents record seven witnesses instead of six, e.g. BGU III, 43: "ἑπτὰ εἰσὶν σφραγιστάι" see also P. Lond. 171 b, intro., Mario Amelotti, Il testamento romano attraverso la prassi documentale, Fire 1966 in his note on L. 14 on PER 1702 (13) in p.272.

24- Although most of this line falls in the lacuna ἀντιέβαλλε could be easily restored, see; e.g. P. Berol. 7124, 8 - 11 (131 A.D., Arsino Nome) Μάρκος Σεμπρόνιος Πρεΐσκος ἰ ἀντιέβαλλομένην τὴν δθηκὴν καὶ ἰ ἐπανέγνωσθη μοὶ καθὼς πρό- ἰ κεῖται. P. Ha 72, 48 - 51 (2nd cent. A.D.); P. Oxy. 1478, 4 (Late First Century A.D.). (cf. O. Gueraud & P. Jouguet, Un Testament Latin, Etudes de Papyrologie, T. Sixieme, Le Caire, 1940, Ll. 48 - 51; H. Kreller, Festschriftliche, 404 - 405).

25-26 For the titles of these two emperors together; see P. Ryd. II 167 A.D.), 6-7; P. Amh. 75 (161 - 168 A.D.), 4; P. Tebt. 306 (162 - 1 A.D.), 1. (cf. ll. 1-3, 5-7 (note)).

It is supposed that this document would be an acknowledgment made the testatrix (cf. line 7), handed over to the agoranomeus in office (cf. line and signed there (cf. line 18). Perhaps after the procedures of opening the were over, the agoranomeion took this official copy and sent it to ἰ βιβλιοφύλακες of the Arsinoite nome to be recorded in their registers. (cf. the structure and function of the bibliophylkes, See Taubenschlag, Law, 222; El-Mosallamy, Revocation, 59 ff.; P. Lond. 299 intro.; BGU 825, 14.)

27- ὅτι-clause might be supplied in the lacuna, verbs of report such as ὑπογράφω (cf. line 26) are attested with ὅτι-infinitive (see; Mandilaras, The verb in the Greek Non-Library Papyri, Athens, 1973, 803, 331).



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DONATIO MORTIS CAUSA
169 A.D.