

STATE OF NORTH CAROLINA

IN THE SUPERIOR COURT

COUNTY OF HENDERSON

In the Matter of Last Will and Testament)
of Henry I. Middleton,)

PETITION

TO THE HONORABLE GEORGE W. FLETCHER, CLERK OF THE SUPERIOR COURT
OF HENDERSON COUNTY, NORTH CAROLINA:

Now comes Beverly H. Middleton and Evelyn Howe Middleton and show
the Court:

That they are the persons named in the paper writing exhibited to
this Court and designated as residuary devisees and appointed as Executor
and Executrix of the Last Will and Testament of Henry I. Middleton.

That each for himself and herself states that the said Henry I.
Middleton was a legal resident of Volusia County, Florida, and has been for
a great number of years; that the said Henry I. Middleton owned a house in
Henderson County and that prior to the death of his wife in ¹⁹⁴³1944, it was
his custom for a number of years to reside in Florida part of the time and
in Henderson County part of the time, and that he had always maintained his
legal residence in Florida. That upon the death of his wife it was estab-
lished that she was a legal resident of Florida. That the said Henry I.
Middleton immediately prior to the death of his wife and because of physical
infirmities sold his house in Florida and has been since 1944 more or less
an invalid, seldom leaving his house and requiring considerable attention to
meet his needs and wants. That affiants are husband and wife, affiant
Beverly H. Middleton being the natural nephew and adopted son of the said
Henry I. Middleton, and that they are both residents of Henderson County,
North Carolina, and have for the past several years been residing in the house
occupied by the said Henry I. Middleton and have undertaken to look after
him, and, in particular, affiant Evelyn Howe Middleton has kept his books
and records and has paid the appropriate taxes in Volusia County, Florida,
as to Intangible taxes and as to Federal Income taxes, and has made these
payments in Jacksonville, Florida, and that to her own knowledge the said

Henry I. Middleton never changed his legal residence from Florida, but retained such residence, and had hoped, if his physical condition permitted, to resume spending part of his time in Florida, but had little expectation of realizing this hope because of his physical condition.

That the said Henry I. Middleton had certain intangible property in Louisiana and other places outside of the State of North Carolina, but that all of said property owned by the said Henry I. Middleton had been assembled into the State of North Carolina for safekeeping; that the said Henry I. Middleton's estate consists of substantial assets and that the said Henry I. Middleton has never been engaged in business of any kind in North Carolina, and affiants are informed and believe that the intangibles brought into this State for safekeeping did not acquire a taxable situs, and affiants each state that the said Henry I. Middleton was for many years prior to his death and at the time of his death a legal resident of the State of Florida and at the time of his death had substantial assets in Henderson County.

WHEREFORE, your petitioners pray that jurisdiction be taken by this Court to take the proofs of the Will of the said Henry I. Middleton and issue letters testamentary as is authorized by G. S. 28-1, (4), as that of a person not being domiciled in North Carolina and dying in Henderson County and leaving assets in Henderson County.

Respectfully submitted this 19th day of December, 1952.

Evelyn Home Middleton
Beverly M. Middleton

STATE OF NORTH CAROLINA
COUNTY OF HENDERSON

BEVERLY M. MIDDLETON and EVELYN HOME MIDDLETON, each for himself and herself being first duly sworn, says: that the foregoing Petition has been read and that they are familiar with the contents thereof, that the same is true, according to their own knowledge, except as to those matters and things therein stated upon information and belief, and as to those matters and things therein stated upon information and belief they believe them to be true.

Evelyn Home Middleton
Beverly M. Middleton

Sworn to and subscribed before me this 19 day of December, 1952.

E. A. Hesterly, Deputy C. S. C.
NOTARY-PUBLIC

My commission expires:

STATE OF NORTH CAROLINA

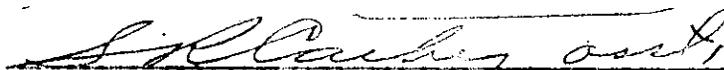
COUNTY OF HENDERSON

ORDER

This cause coming on to be heard before the undersigned Clerk and the Court finding as facts from the foregoing Affidavits that Henry I. Middleton was not domiciled in the State of North Carolina and was not a legal resident of the State of North Carolina at the time of his death, and that Henry I. Middleton died in Henderson County, North Carolina, leaving assets in Henderson County, North Carolina.

The Court concludes as a matter of law and finds as a matter of fact that Henry I. Middleton died in Henderson County, North Carolina, and at the time of his death was not domiciled in the State of North Carolina, and that this Court has jurisdiction to take proof of probate of the Last Will and Testament of Henry I. Middleton and to issue Letters Testamentary.

This 19th day of December, 1953.


CLERK OF SUPERIOR COURT

AND THEREUPON THE FOLLOWING PROCEEDINGS WERE HAD:

STATE OF NORTH CAROLINA

IN THE SUPERIOR COURT

COUNTY OF HENDERSON

BEFORE THE CLERK

In the Matter of Last Will and Testament
of Henry I. Middleton, Deceased

The paper-writing hereto attached and purporting to be the Last Will and Testament of Henry I. Middleton, deceased, is exhibited before the undersigned Clerk of Superior Court of Henderson County, North Carolina, by Beverly H. Middleton and Evelyn Howe Middleton, the executor and Executrix therein named, and thereupon the following proof thereof is taken by the oath and examination of Rena Williams and J. C. Williams, two of the subscribing witnesses thereto, as follows:

STATE OF NORTH CAROLINA

COUNTY OF HENDERSON

RENA WILLIAMS AND J. C. WILLIAMS being duly sworn, depose and say and each for herself and himself deposes and says, that she and he is a subscribing witness to the said paper-writing now shown them, purporting to be the Last Will and Testament of Henry I. Middleton, and that she and he saw Henry I. Middleton execute this writing as his Last Will and Testament, and that affiants attested it in the presence and at the request of the said Henry I. Middleton; and that at the time of its execution the said Henry I. Middleton was, in affiants' opinion, of sound mind and disposing memory.

Severally subscribed and sworn to before me

this 19 day of December, 1952.

E. S. R. Hesterly, Deputy
CLERK OF SUPERIOR COURT

AND, THEREUPON, IT IS CONSIDERED AND ADJUDGED by the Court that the said paper-writing and every part thereof is the Last Will and Testament of Henry I. Middleton, Deceased, and it is ordered that the same, with the foregoing examinations and this certificate, be recorded and filed.

This 19th day of December, 1952.

[Signature]
CLERK SUPERIOR COURT OF HENDERSON COUNTY, N. C.