



School of Law
UNIVERSITY OF GEORGIA

Digital Commons @ University of Georgia
School of Law

Scholarly Works

Faculty Scholarship

1-1-1966

Identity of Sarapio, Socrates, Logus and Nilus in the Will of C. Longinus Castor

Alan Watson

University of Georgia School of Law, wawatson@uga.edu



Repository Citation

Alan Watson, *Identity of Sarapio, Socrates, Logus and Nilus in the Will of C. Longinus Castor* (1966),
Available at: https://digitalcommons.law.uga.edu/fac_artchop/723

This Article is brought to you for free and open access by the Faculty Scholarship at Digital Commons @ University of Georgia School of Law. It has been accepted for inclusion in Scholarly Works by an authorized administrator of Digital Commons @ University of Georgia School of Law. [Please share how you have benefited from this access](#)
For more information, please contact tstriepe@uga.edu.

THE IDENTITY OF SARAPIO, SOCRATES, LONGUS AND NILUS IN THE WILL OF C. LONGINUS CASTOR

(For Julia, and in memory of Michael)

ALAN WATSON*

The will of the Roman veteran, C. Longinus Castor of the village of Caranis, was sealed on the 17th November, 189 A.D. We do not possess the will itself, but we have the translation into Greek made for the official record at Arsinoe on 21st February, 194. The translation begins:

¹[Ἑρμηνί]α διαθ[ήκης]. ²[Γάιος Λογγίνος
Κάστωρ οὐε]τρανὸς ἐντίμως ἀπολυθε[ί]ς ³[ἐκ κλάσ-
σης πραιτωρί]ας Μισσηνῶν [δια]θήκην ἐποί[ησεν].
⁴[ἐλευθέρας εἶναι κελεύω] Μαρκέλλαν· δού[λῃ]ν μ[ο]ν
μίζονα ἐ[τ]ῶν ⁵[τριάκοντα καὶ Κλεοπάτραν] δούλῃν
μου μ[ί]ζονα ἐ[τ]ῶν τριάκ[οντα] ⁶[καὶ ἐκάστη ἐστο
κληρο]νόμος ἐξ ἴσου μ[έ]ρους ἐμοῦ. {κληρον[ομ] .}.
⁷[οἱ δὲ λοιποὶ πά]ν[τε]ς ἀποκληρόνομοί [μου]
ἔστωσαν. προσε[ρ]χέσ-⁸[θωσάν τε τῇ κληρονομίᾳ]
μὲν ἐκάστη ὑπὲρ τοῦ ἰδίου μέρους ὁπότ[α]ν ⁹[φαίνη-
ται ἐκάστη μα]ρ[τύ]ρασθαι ἑαυτὴν ἐμοῦ κλ[η]ρο-
νόμον εἶναι, μὴ ἐξί-¹⁰[ναι δὲ] π[ι]π[ρ]ά[σκειν] μὴδὲ
ὑποτίθεσθαι. ἀλλ' εἴ τι ἐὰν ἀν[θ]ρώπιν[ο]ν πά-
¹¹θη Μαρκέλλ[α] ἢ προγεγραμμένη, τότε τὸ μέρος
τῆς κληρονομίας ἑαυτῆς ¹²[πρ]ὸς Σαραπίωνα καὶ
Σωκράτην καὶ Λόγγον καταστήσαι θέλω. ὁμοίως
¹³[Κλε]οπάτραν τὸ μέρος αὐτῆς πρὸς Νεῖλον κατα-
στήσαι θέλω.

Thus, Longinus orders his two slave-women, Marcella and Cleopatra, to be free and, to show that he is acting in accordance with the *lex Aelia Sentia* (1), he declares that they are both over the age of thirty. These two women are instituted his heirs in equal shares and everyone else is disinherited. Further down, the testator declares that if Marcella should die her share of the inheritance is to go to Sarapio, Socrates and Longus, and likewise if Cleopatra should die her share is to go to Nilus. These four gentlemen are not further described, they are not referred to later in the will, and they are not left legacies. The clauses which concern them have given rise to some difficulty. The general view is that the clauses are nothing other than *substitutiones vulgares* (2). The imperative words of the Roman rules,

*Professor of Civil Law, University of Glasgow.

(1) G.1.17.

(2) See now the references given by Arangio-Ruiz, *FIRA* III, p. 148 n. 3; and most recently, Taubenschlag, *The Law of Greco-Roman Egypt in the Light of the Papyri*, 2nd ed. (Warsaw), 1955), p. 195.

it is said (3) have been departed from and we have a faithful imitation of the Hellenistic forms. A minority view is that a *fideicommissum* is imposed on the two heirs to restore the whole inheritance when they die to the four men (4). We are not concerned with the correctness of these views but with a point made by Arangio-Ruiz who supports the minority view. He says (5) that we cannot guess who these four men are—their names alone are given—and therefore he suspects that this part of the official translation has been shortened.

But is it in fact impossible to guess who these four men are? The real question, of course, should be rather different, namely, is there sufficient evidence in the document for it to have been unambiguously apparent at the time who these four men were? I submit that even at this distance of time it is not difficult to make a plausible suggestion as to the identity of these men and that, therefore, there is no need to postulate that the translation of the will is abbreviated.

The translation contains one very important clue to their identity, namely that Sarapio, Socrates and Longus are to succeed to Marcella, while Nilus alone is to succeed to Cleopatra. This is not consistent with a simple hypothesis that Longinus wished Nilus to have a share three times as large as that of Sarapio, Socrates or Longus. If this had been his intention, one would not have expected the gifts to the men to be related to the deaths of the two women in the way that they are. One might have expected rather that in the event of the death of either woman, or of both of them, Nilus was to succeed to one-half share, the other three each to one-sixth. Moreover, on that hypothesis, if the provisions are in fact *substitutiones vulgares*, the testator's intentions are likely to be upset if one, but only one, of the women were to die before the will took effect. And, likewise on that hypothesis, if the provisions are really *fideicommissa*, the danger ought to have been foreseen that one of the women might prove to be improvident. The dependence of the bequests to Sarapio, Socrates and Longus on the one hand and to Nilus on the other on the deaths of Marcella and Cleopatra respectively is explicable only on the hypothesis that there was a particular connexion between the three first named men and Marcella, and between Nilus and Cleopatra. The best clue to the nature of this connexion is that the four men are apparently free—at least there is no sign that they were slaves either of Longinus (6) or of another. Since three men are to succeed to Marcella one can exclude the possibility that the men were free men who were allowed to associate with the slave-women in a manner akin to marriage. Again if one suggests that

(3) Taubenschlag, loc. cit.

(4) Cf. Arangio-Ruiz, loc. cit.

(5) Loc. cit.: "Ceterum qui sint viri, quorum nomina summatim enunciantur, divinari non potest: quocirca suspicamur hanc interpretationis partem in breve coactam esse."

(6) If they were slaves of Longinus the provisions, which contain no gift of liberty, are absurd.

the men are the brothers or cousins of the women it is very difficult to understand why the former should be free and the latter slaves. How would such a factual situation come about? But one form of blood relationship would explain the situation, namely that Sarapio, Socrates and Longus are the sons of Marcella, and Nilus is the son of Cleopatra; and that *Longinus* is the natural father of all four males and hence has manumitted them. That a manumittens was the natural father was treated as a *iusta causa* under the *lex Aelia Sentia* for allowing a slave freed under the age of thirty to be a Roman citizen (7). This suggestion would also explain why Longinus freed Marcella and Cleopatra and made them his heirs—they were or had been his mistresses.

This solution meets no obstacle in the fact that there is only a general clause of *exhereditatio*. Natural sons who were not in their father's *potestas* did not have to be disinherited *nominatim* (8). Nor is it really an obstacle that the will in a later provision shows that Cleopatra had a daughter, Sarapias, who had not been previously manumitted but is to be freed by a *fideicommissum* under the will and given property. She may not have been the child of Longinus and even if she were (9) he may not have felt the same desire to manumit her. A more serious objection might be that Longinus could have been expected to state that Sarapio, Socrates, Longus and Nilus were his sons whom he had manumitted. But one can appreciate that a man might not wish to declare expressly in his will that four of the beneficiaries are his illegitimate children by his slave-girls and that the two principal beneficiaries are not only his slaves but his mistresses. This attitude is understandable even though Longinus would have had to declare at the time of the manumissions that the slaves were his natural children. On this hypothesis it would have been tasteless for Longinus to describe the four males simply as the manumitted sons of Marcella and Cleopatra.

If this suggestion is correct then it will be seen that there was really no need—for the sake of identification—to describe Sarapio, Socrates, Longus and Nilus more closely in the will; on the contrary, an argument can be found to explain why they were *not* more fully described.

(7) G.1.19.

(8) For the rules see Buckland, *A Textbook of Roman Law*, 3rd ed. by Stein (Cambridge, 1963), pp. 321ff.

(9) Cf. e.g., Arangio-Ruiz, *La successione testamentaria secondo i papiri greco-egizii* (Naples, 1906) p. 227 and n. 2.