

Unsent text message passes for will in Australia

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The draft text message recognised as a legitimate will by an Australian court was found on a man's phone after he took his own life aged 55

A dead man's unsent text message leaving his home and pension to his brother rather than his wife and son and signed off with a smiley face emoji has been ruled a legitimate will by an Australian court.

The draft message, addressed to the man's brother, was found on his

phone after he took his own life in October 2016, aged 55.

"The informal nature of the [text](#) does not exclude it from being sufficient to represent the deceased's testamentary intentions," said Justice Susan Brown when handing down her decision at the Brisbane Supreme Court.

The unsent text released by the court described how the man had become disgruntled with his wife.

"You and (nephew) keep all that I have house and superannuation, put my ashes in the back garden... (wife) will take her stuff only she's ok gone back to her ex AGAIN I'm beaten," it read.

The message provided the man's bank account details and was signed off "My will", followed by the smiling character.

The man's wife argued that it could not be accepted as a will since the message was never sent, but the court found Monday that the wording of the text indicated the man's intent to have it included in his will.

"The reference to his house and superannuation and his specification that the (wife) was to take her own things indicates he was aware of the nature and extent of his estate, which was relatively small," Brown added.

The [court](#) said the deceased did not have any real contact with his son and a "rocky" relationship with his wife, although they did in the past enjoy "happier times".

Despite the ruling, the judge found that the man's [wife](#) could make a further application for the estate under family law.

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