

**Matter of Susan**

2012 NY Slip Op 33998(U)

August 10, 2012

Surrogate's Court, New York County

Docket Number: File No. 2012-1226

Judge: Nora S. Anderson

Cases posted with a "30000" identifier, i.e., 2013 NY Slip Op 30001(U), are republished from various New York State and local government sources, including the New York State Unified Court System's eCourts Service.

This opinion is uncorrected and not selected for official publication.

SURROGATE'S COURT : NEW YORK COUNTY

-----X  
In the Matter of the an Application  
Relating to the Adoption of a Child Whose  
First Name is

File No. 2012-1226

SUSAN.

-----X  
A N D E R S O N , S.

An adult has petitioned to unseal the records of her adoption as a child. DRL 114 permits access to sealed adoption records only on good cause shown. Section 114(4) provides that a prima facie case of good cause is made when a petition is accompanied by a certification from a New York licensed physician that the relief requested "is required to address a serious physical or mental illness." In the absence of such certification, a petitioner must otherwise make a showing of good cause in order to overcome the strong public and private interests in the secrecy of the adoption process (*Matter of Linda F. M.*, 52 NY2d 236 [1981], *appeal dismissed* 454 US 806; *Matter of Donald*, NYLJ, Sept. 5, 1991, at 27, col 1 [Surr Ct, New York County]; *Matter of Romano*, 109 Misc 2d 99 [Surr Ct, Kings County, 1981]).

Petitioner bases her application on both medical and non-medical grounds. Her medical ground is supported by a letter from a New York physician who has reviewed information from her out-of-State treating physicians, and who reports that she has a history of depression and anxiety, a weight problem, and high cholesterol, all conditions which may have a genetic component.

The letter suggests that knowledge of petitioner's family medical history could be useful to determine a correct course of treatment for the conditions that she has and also could reveal whether she has a propensity to develop other illnesses with genetic components.

The cases interpreting the requirement of good cause in the context of a medical claim require more than a showing that the adoptee has a disease or condition which has a genetic component. In *Golan v Louise Wise Services*, 69 NY2d 343, 349 (1987), the Court of Appeals recognized that "[a] rule which automatically gave full disclosure to any adopted person confronted with a medical problem with some genetic implications would swallow New York's strong policy against disclosure as soon as adopted people approached middle age..." (see also, e.g., *Matter of Timothy AA*, 72 AD3d 1390 (3d Dept 2010); *Matter of Craig J.S.J.*, 309 AD2d 1284 (4<sup>th</sup> Dept 2003); *Matter of Gerald Feldman*, NYLJ, Aug. 23, 2011, at 17, col 3 (Surr Ct, Kings County); *Matter of Camille C.C.B.*, NYLJ, June 12, 2003, at 17, col 3 (Surr Ct, Nassau County). Petitioner's allegations, like most of these cases, fall short of identifying specific medical information which is needed to treat a serious physical or mental health condition, which the statute contemplates before disclosure is allowed.

Furthermore, a guardian ad litem appointed in an earlier application brought by petitioner for the same relief recently has advised the court that the adoption records contain no

information of medical importance and that the adoption agency has already advised petitioner of this fact.

Accordingly, petitioner's application is insufficient to justify disclosure on medical grounds.

Petitioner also asserts a non-medical ground for the unsealing of her file. She alleges that she has located persons she is almost certain are biological half-siblings, and she seeks confirmation of the relationship. The cases hold, however, that a desire to know your biological kin does not constitute good cause sufficient to outweigh the secrecy of adoption records (see *Matter of Linda F. M.*, *supra*, 52 NY2d at 240 ["general curiosity about. . . parentage" in the absence of compelling psychological need does not constitute good cause to unseal adoption records]; see also, *Matter of Robert W. S.*, 147 Misc 2d 569 [Fam Ct, Schoharie County, 1990]; *Matter of Donald*, *supra*).

Petitioner does not demonstrate the type of compelling need for access to the sealed record which the statute and cases require, and she thus fails to overcome the strong public policy interests in preserving the confidentiality of the adoption process. Accordingly, the application is denied.

This decision constitutes the order of the court.

  
\_\_\_\_\_  
S U R R O G A T E

Dated: August 10, 2012