

<b>Matter of George</b>
2019 NY Slip Op 31998(U)
July 9, 2019
Surrogate's Court, New York County
Docket Number: 2019-1560
Judge: Nora S. Anderson
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SURROGATE'S COURT : NEW YORK COUNTY

New York County Surrogate's Court

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In the Matter of an Application  
Relating to the Adoption of a Child  
Whose First Name Is

Date: JULY 9, 2019

File No. 2019-1560

GEORGE.

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

This is an application by an adult who was adopted seventy years ago as an infant and now seeks access to the sealed files of his adoption pursuant to DRL 114(2). On the facts presented, petitioner has demonstrated both good cause for unsealing the records and that the privacy rights of any interested persons will not be implicated. The application is therefore granted to the limited extent set forth below.

Petitioner avers, with supporting documentation, that he was born in New York in 1949, surrendered for adoption by his biological parents, and adopted in this court on May 9, 1950. The records of his adoption were sealed in accordance with the mandate of New York statutory law (DRL § 114), which requires a showing of good cause for access to or inspection of sealed adoption records, as well as notice to the adoptive parents and any additional persons as the court may direct (DRL § 114[2]).

Petitioner seeks proof of Italian birth parentage in order to obtain Italian citizenship which, in turn, will facilitate his plans to retire to Italy for both personal and economic reasons.

The grant of Italian citizenship requires proof of a blood tie to his biological father, whom, petitioner alleges, was Italian. Petitioner asks the court to allow him access to the sealed record for the purpose of obtaining a copy of the sole document which will establish that tie, i.e., his original pre-adoption birth certificate. Case law has established that allegations such as petitioner's constitute good cause (see, *Matter of Rose*, 137 AD3 431 [1<sup>st</sup> Dept 2016]; *Matter of S.P.*, 2010 NY Slip Op 50783[U], 27 Misc 3d 1217[A], 910 NYS2 765 [Sur Ct, Bronx County 2010]; *Matter of Regine*, NYLJ, April 14, 2010, at p 34, col 4, 2010 NYLJ LEXIS 902 [Sur Ct, NY County]; *Matter of Victor M. I. I.*, 2009 NY Slip Op 50557[U], 23 Misc 3d 1103 [A], 881 NYS2 367 [Sur Ct, Nassau County 2009]).

After a demonstration of good cause, the court must determine whether access to the sealed file violates the privacy interests of those intended to be protected by the sealing in which case the court must allow such interested persons an opportunity to oppose the application (DRL § 114[2]). As explained by the Court of Appeals in *Matter of Linda F. M.*, 52 NY2d 236 (1981), strict confidentiality serves several purposes:

"It shields the adopted child from possibly disturbing facts surrounding his or her birth and parentage, it permits the adoptive parents to develop a close relationship with the child free from interference or distraction, and it provides the natural parents with an anonymity that they may consider vital [cite omitted]. The State's interest in fostering an orderly and supervised system of adoptions

is closely tied to these interests of the parties involved [cite omitted]."

52 NY2d at 239.

None of the privacy concerns identified by the Court of Appeals in *Matter of Linda F. M.* applies here. Petitioner states that his adopted parents told him that he was adopted and gave him the relevant facts and documents, including a certified copy of the Order of Adoption which identified his biological parents. With this information, petitioner located his biological mother and learned from her that his biological father had died many years previously. From the time of their initial contact until his biological mother died two years later, she and petitioner maintained a close relationship, speaking on the telephone two to three times a week. Furthermore, the record contains death certificates of both adoptive parents and both biological parents. The state's interest in maintaining confidentiality as part of an orderly system of adoption is not a factor here, since there is no information contained in the requested document which petitioner does not already possess, and since petitioner is not requesting unfettered access to the entire adoption file (see, *Matter of Victor M. I. I., supra.*) Accordingly, since no privacy interests are at risk of being violated, no further notice is required before a determination is reached.

After an in camera inspection of the sealed adoption file, the court confirms that the requested document is in the file.

The court thus directs that a certified copy of petitioner's pre-adoption birth certificate be issued to petitioner upon his paying the applicable court fees.

This decision constitutes the order of the court.

NSA

S U R R O G A T E

Dated: July 9 , 2019