

**Spiezia v New York City Dept. of Health & Mental
Hygiene Bur. of Vital Records**

2022 NY Slip Op 32498(U)

July 26, 2022

Supreme Court, New York County

Docket Number: Index No. 155196/2022

Judge: Arlene Bluth

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**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. ARLENE BLUTH PART 14

Justice

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JOHN ROBERT SPIEZIA

Petitioner,

- v -

NEW YORK CITY DEPARTMENT OF HEALTH AND
MENTAL HYGIENE BUREAU OF VITAL RECORDS,

Respondent.

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INDEX NO. 155196/2022

MOTION DATE 07/25/2022

MOTION SEQ. NO. 001

**DECISION + ORDER ON
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 001) 1- 24, 25, 26, 27, 28 were read on this motion to/for CHANGE VITAL RECORDS.

The petition to *inter alia* amend various alleged misspellings, inconsistencies, dates, and places of birth in the vital records of petitioner’s ancestors is denied.

Background

Petitioner contends that he is in the process of applying for dual citizenship with Italy. He claims that he wants to make numerous changes to the records of his deceased grandfather and his deceased grandmother while also seeking a “one and the same order” for his paternal great-grandfather, paternal great-grandmother, his paternal grandfather his paternal grandmother, his mother and father.

Respondent offers a “response” in which it opposes the relief, in part, and does not oppose other relief requested by petitioner.

Discussion

The New York City Health Code (24 RCNY § 207.01) provides that the “[a]pplication for amendments of a birth certificate shall be made by the parents or surviving parent, or by the

legal guardian of the person whose birth certificate is to be corrected or by the person if such person is 18 years of age or over.” It also provides that an “[a]pplication for amendment of a death certificate, or of a confidential medical report of death shall be made by the person in control of disposition as defined in Article 205 of this Code or by the person identified on the death certificate as providing the personal particulars pursuant to Article 205 of this Code” (*id.*).

Here, the application is not made by a *parent, guardian, or the certificate holder* or the person *in control of disposition*. Petitioner seeks to amend the birth certificates of two of his grandparents, both of whom have passed away. The language of the statute cited above does not contemplate that a grandchild could change his grandparents’ birth certificates and petitioner did not cite any binding caselaw that gives petitioner the power to make those changes.

This Court views the statute to provide a process for changing the vital records of someone’s own records, the records of their child or a child for whom they are legal guardian. The applications to change vital records that this Court regularly reviews often include requests that arise from birth certificate misspellings, dates that are incorrect, a miscommunication at the hospital, or a flat-out mistake. And while those are not the only reasons that people seek to change records, they are all made by the parent or the person herself. In nearly every situation, the requested change is a discreet issue that has obvious implications. For instance, applicants may be attempting to get a driver’s or marriage license and there is a discrepancy in his or her vital records that presents an obstacle.

The situation here is different. Petitioner does not seek the types of changes described above, which the Court views as, essentially, ministerial changes. The requested changes here raise numerous questions about the effects these changes could have. To grant the changes here would affect marriage certificates, birth certificates of the grandparents’ children and death

certificates that might mention these ancestors. If the Court were to change the birth certificate of petitioner's grandfather, then, presumably, every birth, marriage and death certificate for every one of his grandfather's children would have to be changed. Otherwise, all of those records would contain contradictory information. The Court declines to create such chaos.

The Court must keep in mind the purpose for which petitioner seeks these changes. This is not an application to correct a long-ago mistake that has the potential for serious negative consequences and justice requires the Court to consider overlooking a procedural requirement. Instead, petitioner wants to acquire dual citizenship. There is no reason why the Italian government cannot make its own determination about whether or not to overlook the apparent inconsistencies in the documents (some of which originate in Italy) cited by petitioner. This Court need not act as a reference for petitioner's application for Italian citizenship.

The Court also denies the petition to the extent it seeks one and the same orders. For the reasons stated above, the Court declines to engage in a historical fact-finding mission about petitioner's great-grandparents and grandparents. And petitioner did not explain why his parents did not bring a petition for a one and the same order about themselves. Petitioner did not cite a sufficient basis for this requested relief and this relief appears to be moot in light of the Court's decision not to change the birth certificates.

The Court recognizes that petitioner wants these changes in order to get dual citizenship. But that does not mean this Court should abdicate its responsibility to ensure that vital records are accurate. This Court cannot act as a "rubber stamp" even though respondent apparently has little interest in the integrity of these records. Many of these records are over a century old and attempting to recreate the past is a fraught process better suited for genealogists. And petitioner

failed to identify a statute upon which this Court can change ancestors' records as part of a dual citizenship application.

Accordingly, it is hereby

ADJUDGED that the petition is denied and the Clerk is directed to enter judgment in favor of respondent and against petitioner along with costs and disbursements upon presentation of proper papers therefor.

7/26/2022
DATE


ARLENE BLUTH, J.S.C.

CHECK ONE:

<input checked="" type="checkbox"/>	CASE DISPOSED		
<input type="checkbox"/>	GRANTED	<input checked="" type="checkbox"/>	DENIED
<input type="checkbox"/>	SETTLE ORDER		
<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN		

<input type="checkbox"/>	NON-FINAL DISPOSITION		
<input type="checkbox"/>	GRANTED IN PART	<input type="checkbox"/>	OTHER
<input type="checkbox"/>	SUBMIT ORDER		
<input type="checkbox"/>	FIDUCIARY APPOINTMENT	<input type="checkbox"/>	REFERENCE

APPLICATION:

CHECK IF APPROPRIATE: