

STATE OF MINNESOTA
CARVER COUNTY

FILED
MAR 06 2017
CARVER COUNTY COURTS

DISTRICT COURT
FIRST JUDICIAL DISTRICT
PROBATE DIVISION

In Re:

Court File No. 10-PR-16-46

Estate of Prince Rogers Nelson,
Deceased.

**MOTION FOR ORDER REQUIRING MINNESOTA DEPARTMENT OF HEALTH
TO PRODUCE DOCUMENTS CONCERNING DUANE JOSEPH NELSON**

Brianna Nelson and V.N., by her mother and guardian Jeannine Halloran, file this motion seeking an order requiring the Minnesota Department of Health to produce documents it may have concerning the relationship between John L. Nelson and Duane Joseph Nelson. This motion and the proposed order are filed under seal. The Minnesota Department of Health will not provide Brianna and V.N. with these documents without a court order.

Brianna is the niece of Decedent and V.N. is the grandniece of Decedent. On June 10, 2016, Brianna and Jeannine Halloran submitted affidavits, statements, and documents to Special Administrator Bremer Trust pursuant to the genetic testing protocol.

On June 15, 2016, Bremer Trust's counsel notified counsel for Brianna Nelson and V.N. that they did not consider the affidavits, statements, and documents submitted on June 10 to be sufficient to support their status as heirs. Bremer Trust did not foreclose the possibility of there being evidence or documentation that could be sufficient to establish their status as heirs. Specifically, Bremer Trust stated that "unless such evidence of a presumption under Minn. Stat. § 257.55 can be produced, the alleged parent-child

relationship between John and Duane will need to be established through genetic testing, in a manner determined by the Court.”

Bremer Trust contends that Brianna and V.N. have not sufficiently shown that Duane Joseph Nelson Senior (“Duane Nelson” or “Duane”) is the son of John L. Nelson, Decedent’s father. Duane is the father of Brianna Nelson and the grandfather of V.N.

Duane’s mother, Vivian Nelson, died in 1973. Duane’s father, John L. Nelson, died in 2001. Duane died in 2011.

According to the Minnesota Department of Health, documents concerning parentage may only be obtained by the individual at issue (Duane) or a parent (Vivian Nelson or John Nelson). Because Duane and his parents are deceased, the Minnesota Department of Health will not release records of Duane’s parentage, or even reveal the existence of such records, without a court order.

We have learned that John L. Nelson and Vivian Howard obtained a marriage license on or about October 25, 1938. Counsel is not aware of any marriage certificate being issued. A document obtained by Lommen Abdo that purports to be a divorce decree states that John and Vivian’s divorce was effective March 14, 1957. As counsel informed Bremer Trust, counsel has not had the opportunity to evaluate the authenticity of this document or review the court file. We understand that Bremer Trust has obtained a marriage certificate indicating that John L. Nelson married Decedent’s mother, Mattie Shaw, on August 31, 1957.

Marriage, however, is not the only way to establish a father/son relationship. Under the Minnesota Parentage Act, a father may recognize he is the father of a child

born outside of marriage. Thus, despite a divorce and later marriage, John L. Nelson is still the father of Duane Nelson.

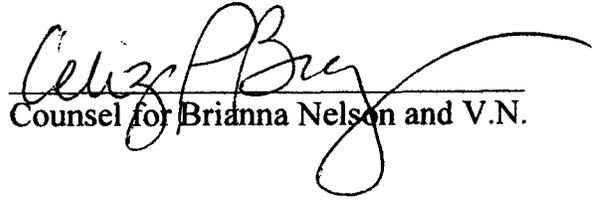
John L. Nelson's name appears on Duane's birth certificate. A copy of the birth certificate is attached as Exhibit 1. Under the current version of Minnesota Statute section 257.75, subdivision 1, when an unmarried woman gives birth, she must obtain the consent of the father before identifying him on a birth certificate. The father either obtains a court order or submits a recognition of parentage. According to the Minnesota Department of Health, in the past there were similar prerequisites for someone other than a woman's husband to be identified as the father on a child's birth certificate.

We expect such documents to exist because John L. Nelson and Duane Nelson had a father/son relationship and John went out of his way to have a relationship with Duane and Duane's children. John L. Nelson treated Duane's children (Brianna and Duane Nelson Jr.) as his grandchildren. When Duane was in college, John L. Nelson would travel to the University of Wisconsin campus in Milwaukee to attend Duane's basketball games. John L. Nelson spoke with personal pride of Duane's athletic success in high school and college. And he would correct family members who questioned whether Duane was a "real" Nelson.

Over the last six weeks, Brianna, Jeannine, and counsel have engaged in a wide-ranging investigation. In addition to the efforts documented in the materials provided to Bremer Trust on June 10, 2016, Brianna, Jeannine, and counsel have sought the following documents:

- a. Hennepin County Probate Court: Given that Duane's mother, Vivian, passed away when Duane was still a minor, counsel has requested that records of Vivian's probate records be made public and produced to Counsel. The documents are under review and it will take two to four weeks before we can review the documents;
- b. Hennepin County Juvenile Court: Counsel contacted the juvenile court to determine whether John L. Nelson adopted Duane or at any time declared that he was his father, particularly at the time of Vivian's death;
- c. Duane's Elementary and High School Records: Brianna Nelson submitted a release for Duane's Elementary and High School records from St. Paul Public Schools, Independent School District No. 625 to acquire school records that identify Duane's father;
- d. Duane's College Records: Counsel has contacted numerous departments of the University of Wisconsin-Milwaukee, including the Registrar, Bursar, Financial Aid Office, Athletic Office, Scholarship Office, and Records Department to obtain documents regarding Duane's father. Thus far, no documents have been located.
- e. Hospital Records: Counsel has contacted the hospital where Duane was born to obtain relevant records in its possession;
- f. Medical Records: Counsel is searching for records where John L. Nelson may have submitted documentation showing he was Duane's father; and
- g. Tax Records: Counsel is searching for John L. Nelson's tax returns to determine whether he submitted documentation in connection with claiming Duane as a dependent.

For the foregoing reasons, Brianna Nelson and Jeannine Halloran, on behalf of V.N., ask that the Court issue the enclosed proposed order requiring that the Minnesota Department of Health produce all documents concerning the parentage of Duane J. Nelson, including but not limited to any recognition of parentage, declaration of parentage, court order, or affidavit.


Counsel for Brianna Nelson and V.N.

Dated: June 20, 2017

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