

STATE OF MINNESOTA

**FILED**

DISTRICT COURT

COUNTY OF CARVER

**JUN 22 2016**

**CARVER COUNTY COURTS**

FIRST JUDICIAL DISTRICT

PROBATE DIVISION

Case Type: Special Administration

In the Matter of:

Court File No. 10-PR-16-46

Estate of Prince Rogers Nelson,

Decedent,

and

Tyka Nelson,

Petitioner.

**ORDER DENYING AUDIO AND VIDEO  
RECORDING OF PROCEEDING ON  
JUNE 27, 2016**

On May 6, 2016, this Court filed an Order Authorizing Genetic Testing of the Decedent's Blood. In a separate Order Regarding Claims Pursuant to the Parentage Act and Probate Code, filed May 18, 2016, the Court permitted the genetic testing of those claiming to be an heir of the Decedent, but subject to a genetic testing protocol that was to be developed by the Special Administrator. Finally, on June 6, 2016, the Court filed an Order Approving Protocol, where the Court approved the protocol for genetic testing. In both the May 18, 2016 and the June 6, 2016 Orders, the Court stated that any party wishing to bring a motion before the Court regarding, or wishing to object to, the Court's Order Regarding Claims Pursuant to the Parentage Act and Probate Code or the Order Approving Protocol could have those motions or objections heard before this Court on June 27, 2016 at 8:30 a.m.

Since the opening of this file, the Court and the Special Administrator have received a number of filings from persons claiming to be an heir of the Decedent. Some of those persons claim to be a child of the Decedent. Some of those persons claim to be a sibling, a half-sibling or

a more distant relative of the Decedent. All of these claims require the establishment of paternity, either directly with the Decedent or with a common parent or grandparent of the Decedent. It is impossible for the Court to delineate whether some of the proceeding regarding the determination of heirs is in the nature of a paternity proceeding and whether other portions are not.

The general policy of the public's access to courts is set forth in Rule 2 of the Minnesota Rules of Public Access to Judicial Records. While this rule expressly relates to court records, it also sets forth the general policy that the courts in the state of Minnesota will be open to the public unless other restrictions apply.

Several rules or statutes address the closing of the courtroom or the use of audio or video recording in proceedings relating to paternity or the Parentage Act.

Minn. Stat. §257.70 (a) states:

“Notwithstanding any other law concerning public hearings and records, any hearing or trial held under sections 257.50 to 257.74 shall be held in closed court without admittance of any person other than those necessary to the action or proceeding. All papers and records, other than the final judgment, pertaining to the action or proceeding, whether part of the permanent record of the court or of a file in the state Department of Human Services or elsewhere, are subject to inspection only upon consent of the court and all interested persons, or in exceptional cases only upon an order of the court for good cause shown.”

Rule 4.02 (c) of the Minnesota General Rules of Practice for the District Courts provides in the relevant part:

“A judge may authorize...without consent of all parties in civil proceedings, the photographic or electronic recording and reproduction of appropriate court proceedings under the following conditions:

...

(vi) There shall be no audio or video coverage in cases involving...paternity proceedings.”

The Probate Code does not mandate the exclusive use of the Parentage Act to determine paternity and parentage may also be established in probate court by clear and convincing evidence. *In Re Estate of Martignacco*, 689 N.W. 2d 262, 267-68 (Minn. Ct. App. 2004), rev. denied (January 26, 2005) and *In Re Estate of Palmer*, 658 N.W. 2d 197 (Minn. 2003). The Parentage Act may or may not apply to these proceedings.

The Court has directed that the matters for consideration at the hearing on June 27, 2016 will be limited to the legal application of the Parentage Act generally to these probate proceedings, the specific application of presumptions of paternity or the lack of a presumption, and the genetic testing protocol which has been previously approved by the Court. At the June 27, 2016 hearing, the Court will not be addressing where a particular claimant is, in fact, a legal heir of the Decedent. Such a claim shall be scheduled for a separate evidentiary hearing.

The Court infers that the closing of the courtroom or the barring of audio or video recording in paternity related proceedings protects the privacy of the applicant both by treating the subject matter of the applicant’s claim of paternity and the likeness (photograph) of the applicant as confidential. Due to the scope of the hearing as determined by the Court, the Court believes that the subject matter of an applicant’s claim can be reasonably protected. The Court cannot protect the likeness of an applicant with cameras in the courtroom. Nor can the Court escape the prohibition of Rule 4.02 (c) of the Minnesota General Rules of Practice for the District Courts.

Relying heavily on the presumption that the District Courts in the State of Minnesota shall be open to the public, the Court will allow the media and public into all, or part, of the proceeding on June 27, 2016. However, without a presumption in civil cases that audio or video recording

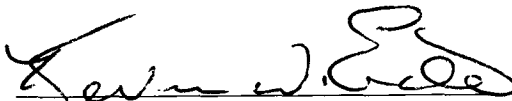
shall be allowed, in light of Rule 4.02(c) of the Minnesota General Rules of Practice for the District Courts, and to respect the privacy of any persons claiming to be heirs, the Court is declining to allow audio and video recording of this portion of the proceeding.

Accordingly, based upon the record, the Court hereby **ORDERS** that:

1. The use of audio or video recording, and the use of sketch artists, shall not be allowed at the hearing on June 27, 2016.

2. Members of the public and members of the media will be allowed in the courtroom, as space allows, during the hearing on June 27, 2016. If, however, the Court determines at some point in the proceeding that it must directly address the application of the Parentage Act to a specific person, the Court reserves the right to remove all persons not necessary to the proceedings from the courtroom in compliance with Minn. Stat. §257.70(a).

Dated: June 22, 2016

  
\_\_\_\_\_  
Kevin W. Eide  
Judge of District Court