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In Propria Persona

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF

In the Matter of) Case No.: (assigned by the court)
)
)
) **VERIFIED PETITION AND**
) **DECLARATION TO UNSEAL BIRTH**
) **RECORDS AND ADOPTION**
) **INFORMATION**
)

TO THIS HONORABLE COURT:

Petitioner, , seeks an order from this Court granting petitioner’s access to petitioner’s birth records and adoption information for the purpose of determining in which Indian tribe petitioner’s birth parent claimed membership. Upon such determination, petitioner will pursue enrollment in that tribe as well as all rights flowing from that relationship.

I, , declare as follows:

1. On information and belief, I was born on at in , . My original birth name is .

1 2. On _____, this Court ordered my adoption to _____ under
2 the name _____. My Case File Number is _____.

3 3. Attached hereto as Exhibit A is a true and correct copy of my Adoptive Birth
4 Certificate.

5 4. On _____, I married _____. My legal name is now
6 _____ . Attached hereto as Exhibit B is a true and correct
7 copy of the Marriage Certificate of _____.

8 5. On information and belief, my birth _____ born in
9 _____ and was American Indian. I do not know my birth parents' names, dates of
10 birth or in which tribe _____ held membership _____.

11 6. On information and belief, my birth _____ was born in _____.

12 7. On information and belief,
13 _____ . Also see _____ .
14 Attachment/Declaration of _____, for additional detail.

15 8. On information and belief, I believe I am American Indian. I
16 petition as follows.

17 9. On information and belief, I believe I am American Indian but I currently have little or
18 no legal proof of my Indian ancestry. Without legal proof, I am unable to enroll with a tribe or
19 establish my status as an Indian person. As a result I am not able to access programs and funding
20 available to Indian people.

21 10. California Family Code §9200 recognizes that the judge of the superior court may
22 authorize inspection of documents filed in adoption proceedings in exceptional circumstances
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1 and for good cause approaching the necessitous. The documents which may be disclosed
2 according to the discretion of the superior court are specified in §9200:

3 The petition, relinquishment or consent, agreement, order, report to the court from any
4 investigating agency, and any power of attorney and deposition filed in the office of the
5 county clerk pursuant to this part is not open to the inspection by any person other than
6 the parties to the proceeding and their attorneys and the department, except upon the
7 written authority of the judge of the superior court. A judge of the superior court may not
8 authorize anyone to inspect the petition, relinquishment or consent, agreement, order . . .
9 except in exceptional circumstances and for good cause approaching the necessitous.
10

11 11. The Indian Child Welfare Act (“ICWA”), 25 U.S.C. § 1901 et. seq., California
12 Family Code § 9209(a) and the California Health and Safety Code § 102705, provide the basis
13 for this petition.
14

15 12. ICWA section 25 U.S.C. § 1917 specifically provides as follows:
16

17 Upon application by an Indian individual who has reached the age of eighteen
18 and who was the subject of an adoptive placement, the court which entered the
19 final decree shall inform such individual of the tribal affiliation, if any, of this
20 individual’s biological parents and provide such other information as may be
21 necessary to protect any rights flowing from the individual’s tribal
22 relationship. 25 U.S.C. § 1917.

23 13. California Family Code § 9209(a) mirrors a similar language as follows:
24

25 Upon application by an Indian individual who has reached the age of 18 years
26 and who was the subject of an adoptive placement, the court which entered the
27 final decree of adoption shall inform that individual of the tribal affiliation, if
28 any, of the individual's biological parents and provide any other information

1 as may be necessary to protect any rights flowing from the individual's tribal
2 relationship, including, but not limited to, tribal membership rights or
3 eligibility for federal or tribal programs or services available to Indians.

4
5 14. In order for a tribe to enroll a person who is eligible for enrollment but has been
6 adopted, the adoptee must furnish the tribe with proof, among other things, that he/she is a
7 descendant of a member of the tribe. Most tribes require a certified copy of an original birth
8 certificate.

9
10 15. On information and belief, the applicable state law allows access to birth records
11 when a petitioner files “a verified petition setting forth facts showing the necessity of such an
12 order” granting access. Cal. Health and Safety Code § 102705. On information and belief, a
13 petitioner may determine the names and addresses of the birth parents if they “are necessary to
14 assist . . . in establishing a legal right.” Cal. Health and Safety Code § 102705.

15
16 16. California Health and Safety Code § 102705 states as follows:

17 All records and information specified in this article, other than the newly
18 issued birth certificate, shall be available only upon the order of the superior
19 court of the county of residence of the adopted child or the superior court of
20 the county granting the order of adoption.

21 No such order shall be granted by the superior court unless a verified petition
22 setting forth facts showing the necessity of the order have been presented to
23 the court and good and compelling cause is shown for the granting of the
24 order. The clerk of the superior court shall send a copy of the petition to the
25 State department of Social Services and the department shall send a copy of
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1 all records and information it has concerning the adopted person with the
2 name and address of the natural parents removed to the court. The court
3 must review these records before making an order and the order should so
4 state. If the petition is by or on behalf of an adopted child who has attained
5 majority, these facts shall be given great weight, but the granting of any
6 petition is solely within the sound discretion of the court.
7

8 The name and address of the natural parents shall be given to the petitioner
9 only if he or she can demonstrate that the name and address, or either of
10 them, are necessary to assist him or her in establishing a legal right.
11

12 17. I am currently seeking the identity of my birth and my birth
13 tribe so that I can pursue enrollment as a member of that tribe. My claim to such membership is
14 based upon my belief that my birth an American Indian, and my relatives
15 would presumably be registered members of that tribe. In order for a tribe to enroll me as a tribal
16 member, I must furnish it with proof, among other things, that I am a descendant of a member of
17 the tribe. On information and belief, I can satisfy a tribe's enrollment requirements by providing
18 a certified copy of my original birth certificate.
19

20 18. On information and belief, I state that the California Department of Social Services
21 maintains files regarding my adoption.
22

23 19. On information and belief, I state that the California Office of Vital Records keeps
24 my original birth certificate under seal, and this seal can be broken only upon order of the court.
25

26 **WHEREFORE, petitioner prays that the Court:**

27 1. Order the California State Department of Social Services and/or any other state or
28 local agency having custody of subject records, no later than two (2) months from the date of the

1 order, to provide the Court with all records and information concerning petitioner pursuant to
2 California Health and Safety Code § 102705 and California Family Code § 9209(a).

3 2. Order the State Office of Vital Records and/or any other state or
4 local official having custody of subject records, no later than two (2) months from the date of the
5 order, to permit petitioner to obtain and inspect said records, including but not limited to a
6 certified copy of petitioner's original birth certificate.

7
8 3. Grant such other and further relief as the Court may deem just and proper.

9 DATED: _____ SIGNED: _____

10
11 **VERIFICATION**

12 I declare under penalty of perjury that I have personal knowledge of the foregoing
13 allegations and that they are true and correct except where stated on information and belief, and
14 as to those matters I believe them to be true.
15

16 Executed at _____, on _____, 20____.

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19 DATED: _____ SIGNED: _____