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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF MONROE

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Index #: 2005/12940

In the Matter of the Application of
Anonymous
for Leave to Change Name from a
Female Name to a Male Name

APPEARANCES OF COUNSEL

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D E C I S I O N

POLITO, J.

STATEMENT OF FACTS

Name Change Application denied without prejudice to reapply.

This is an application pursuant to Article 6 of the New York State Civil Rights Law, for a judicial change of name from an obviously female name, Sarah Elizabeth to an obviously male name, Evan Kyle.

The 25 year old petitioner was anatomically and genetically born a female. She alleges to be suffering from a Gender Identity Disorder (transexualism), "presently undergoing hormone and related therapy" and is under the care of Dr Dennis Foley, a psychotherapist. She is not "post-operative" although living her "daily life completely as a male".

Petitioner has submitted no underlying medical proof as to her status.

APPLICATION OF LAW

While the Court is sensitive to the need to assist those in the human turmoil of a psychological sexual orientation in

conflict with their actual anatomical sex, "the courts controlling responsibility must be to insure against the possibility that its order will lend legal credence to confusing or misleading the public." *Matter of Anonymous*, 153 Misc.2d 893 at 895 (Civ. Ct. Queens County, 1992).

For instance, the courts have refused name changes to transvestites - persons who dress as the opposite sex (*Id.* At 893; see also *Anonymous*, 155 Misc.2d 241 (Civ. Ct. Queens County, 1992)).

In order to grant the application in case of a transexual, the supporting competent medical evidence needs to corroborate that the decision to live as a female is irreversible and completely permanent. See *Matter of Anonymous*, 57 Misc.2d 813 (Civ. Ct. NY County, 1968); *Matter of Anonymous*, 64 Misc2d 310 (Civ. Ct. NY County, 1970); *Matter of Anonymous*, 153 Misc2d 893 (Civ. Ct. Queens County, 1992); *Matter of Anonymous*, 155 Misc2d 241 (Civ. Ct. Queens County, 1992).

Although a lesser standard was accepted in *Matter of William Rivera*, 165 Misc2d 307, Civ. Ct. Bronx, 1995, where the petitioner intended to but could not yet afford the sex change operation, there was substantial medical corroboration and a long standing and determined history from which the court found "a totality of circumstances" and made a conditional order. *Id.* at 311.

The instant application lacks any medical, psychiatric, or psychological corroborative support concerning the petitioner's alleged psychological/anatomical sexual conflict. Nor has any long term credible history been submitted.

"Without such support evidence, the change of name from a "male" name to a "female" name would be fraught with danger of deception and confusion and contrary to the public interest. *Matter of Jeveno*, NYLJ Oct. 18, 1976 at 15 col. 4)", (*Anonymous*, 155 Misc2d 214, at 242, (1992)).

Of course, under Common Law, and the facts asserted in this petition, the petitioner may change her name as she so desires, by simply using the new name, and no judicial proceeding is necessary to accomplish the same. *Id.* at 241, 242 (See also *Matter of Hallegin*, 46 AD2d 170, (1974)).

DECISION AND ORDER


Now, upon reading the petition dated and sworn to on November 17, 2005, and upon all prior proceedings herein, and due deliberations having been had, it is hereby

ORDERED that the petition for change of name from female gender to male gender is denied without prejudice to petitioner to reapply, and it is further

ORDERED that pursuant to CPLR 3024(b), the name of the pleadings shall be changed to "In Matter of Anonymous", and it is further

ORDERED that the filing of the underlying petition and papers are hereby dispensed with pursuant to CPLR 2220(a).

Dated this 22th day of November, 2005 at Rochester, New York.

11/23/05 

HON. WILLIAM P. POLITO
JUSTICE SUPREME COURT

ENTER