

FILEDSTATE OF MINNESOTA
COUNTY OF CARVERNOV 30 2016
CARVER COUNTY COURTSDISTRICT COURT
FIRST JUDICIAL DISTRICT
PROBATE DIVISION

In Re: Estate of:

Court File No. 10-PR-16-46

Prince Rogers Nelson,
Deceased.**ORDER AUTHORIZING
GENETIC TESTING
OF COREY D. SIMMONS**

In the “Order & Judgment Denying Heirship Claims of Brianna Nelson, V.N. and Corey Simmons” filed October 26, 2016, this Court excluded Brianna Nelson and V. N. as heirs of Decedent’s estate. The Court further ordered that by no later than November 25, 2016, Corey Simmons provide the Court *prima facie* evidence supporting his claim via a theory of equitable adoption that John L. Nelson intended to adopt Duane Nelson, Sr.; and that if such evidence was not provided by November 25, 2016, Corey Simmons would also be excluded as an heir of Decedent’s Estate. Counsel for Corey Simmons sought leave to file a motion for reconsideration, which was generally denied by the Court on November 2, 2016; however, that “Order Denying Request for Motion for Reconsideration” provided as follows: “Mr. Simmons request for genetic testing is contingent upon his providing to the Court, by no later than November 25, 2016, *prima facie* evidence of a genetic relationship between himself and Decedent Prince Rogers Nelson. If such evidence is provided to the Court’s satisfaction, the Court will vacate the Order automatically excluding Mr. Simmons as an heir to the Estate, and order Mr. Simmons undergo genetic testing. If such evidence is not provided by November 25, 2016, nor evidence supporting his claim via a theory of equitable adoption, Mr. Simmons shall be excluded as an heir of the Estate.”

On November 18, 2016, counsel for Mr. Simmons filed his “Motion for Presentation of Prima Facie Evidence of Genetic Relationship between Decedent and Corey D. Simmons.” Mr. Simmons’ motion, along with the accompanying affidavit and exhibits, establishes a *prima facie* showing of a genetic relationship between Mr. Simmons and Decedent such as to justify genetic testing.

On November 22, 2016, counsel for Brianna Nelson and V.N. filed their “Response of Brianna Nelson and V.N. to Memorandum for Presentation of Prima Facie Evidence of Genetic Relationship between Decedent and Corey D. Simmons.” Their Response asserts that they are

appealing the Court's October 26, 2016 Order excluding them as heirs, and that if their appeal is successful, they should be permitted to submit evidence that Duane Nelson did not have a parent-child relationship with Corey Simmons, and that John L. Nelson did have a parent-child relationship with Duane Nelson. While challenging some of the assertions made by Mr. Simmons regarding Duane Nelson's acknowledgment of Mr. Simmons as his son, nothing in their Response would preclude authorization for genetic testing.

Now, based upon the file and record herein, the Court makes the following:

ORDER

1. The Court's October 26, 2016 Order providing "Corey Simmons shall also be excluded as an heir of Decedent's Estate." is vacated.
2. Corey Simmons' claim via a theory of equitable adoption that John L. Nelson intended to adopt Duane Nelson, Sr. is hereby dismissed with prejudice.
3. Corey Simmons shall be allowed to undergo genetic testing through DNA Diagnostics Center to determine whether he has a genetic relationship to Decedent pursuant to the protocol for genetic testing established by the Special Administrator. Mr. Simmons shall undergo genetic testing by December 15, 2016. Mr. Simmons shall bear the cost of the testing and cost of any comparative test analysis.
4. The DNA sample obtained from Mr. Simmons shall be compared with the samples already obtained from the Decedent, Sharon Nelson, Noreen Nelson and John R. Nelson. The results of Mr. Simmons' testing and the comparisons shall be reported to the Court, the Special Administrator and counsel for Mr. Simmons no later than January 6, 2016.
5. If Mr. Simmons' is not determined to be genetically related to Decedent, he shall be excluded as an heir of the Estate.
6. A copy of this Order shall be served on DNA Diagnostics Center.

Date: November 29, 2016

BY THE COURT:

Kevin W. Eide
Judge of District Court

NOTICE: A true and correct copy of this Order/Notice has been served by EFS upon the parties. Please be advised that orders/notices sent to attorneys are sent to the lead attorney only.