

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

No. _____

SCOTT PORTER, a/k/a CHAUNTEY MO'NIQUE PORTER; ADOLPHUS
TALLEY, JR., a/k/a ALONDA TALLEY; ROBERT LEE NOAKER, JR., a/k/a
PRISCYLLA RENEE VON NOAKER,

Petitioners,

v.

COMMONWEALTH OF PENNSYLVANIA; PENNSYLVANIA DEPARTMENT
OF STATE; and KATHY BOOCKVAR, in her capacity as Acting Secretary of the
Commonwealth,

Respondents.

On Petition for Declaratory and Injunctive Relief;
Original Jurisdiction Under 42 Pa.C.S. § 761(a)(1)

PETITION FOR REVIEW

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INTRODUCTION

1. Petitioners are three transgender women who live openly in accordance with their female gender but who are forced to use male legal names. When engaging in everyday transactions, including attempting to secure employment or medical treatment, they are hampered by the discrimination and confusion that results from being women who present identification that causes them to be incorrectly perceived as male. Petitioners want to change their names to reflect their female gender, but are barred from doing so simply because they were convicted of felonies years ago.

2. A provision in Pennsylvania's name change statute codified at 54 Pa.C.S. § 702(c)(1)–(2) (the “irrebuttable conviction bar”) precludes people convicted of felonies from obtaining a name change. That statutory bar is unconstitutional on its face and as applied to Petitioners under Pa. Const. art. I, § 1 (due process) and Pa. Const. art. I, § 7 (free speech).

3. Citizens of this Commonwealth long have possessed the right to control their names. In 1852, Pennsylvania's legislature established a name change procedure in affirmance of that inherent right. In 1998, however, the legislature amended the statute to bar name changes for individuals with felony convictions. The bar precludes anyone convicted of a felony from obtaining a name change until at least two years have elapsed from the completion of the person's sentence, and precludes those convicted of certain serious felonies from *ever* obtaining a name change, no matter how long ago the convictions occurred, and no matter the reasons for the name

change. The asserted justification for the irrebuttable conviction bar is to prevent fraud. But that justification does not withstand constitutional scrutiny under Pennsylvania law.

4. *First*, the irrebuttable conviction bar is facially unconstitutional because it violates Pa. Const. art. I, § 1's due process guarantee. The right to control one's name is a fundamental right under Pa. Const. art. I, § 1 because it is encompassed within both the right to "acquir[e], possess[] and protect [one's] reputation," as well as the right to privacy. The fundamental right to control one's name cannot be abridged by an irrebuttable presumption that people previously convicted of felonies are engaging in fraudulent activity when they seek to change their names. The Pennsylvania Constitution does not allow for a system under which a person has no opportunity to show that they are seeking a name change for a non-fraudulent purpose (such as to reflect a gender transition), and a court has no opportunity to decide whether the petitioner is seeking a name change for a non-fraudulent purpose.

5. *Second*, the irrebuttable conviction bar is facially unconstitutional because it violates Pa. Const. art. I, § 7's guarantee against compelled speech, which protects the right to refrain from engaging in expressive conduct, such as identifying oneself by an undesired name. When people are denied the right to change their names, they are forced to speak and write an undesired name in order to travel, vote, pay taxes, or simply conduct their daily lives. No legitimate government interest can justify this constitutional infringement.

6. *Third*, the irrebuttable conviction bar is also unconstitutional as applied to Petitioners because it violates their paramount interest in avoiding disclosure of personal matters under Pa. Const. art. I, § 1. When transgender individuals are denied the right to obtain official documentation reflecting the gender-congruent name that they use in everyday life, they must broadcast an undesired name every time their name is required. This inherently requires them to publicize intimate medical information—the fact that they are transgender—against their will every time they seek to engage in everyday transactions such as paying with a debit card, visiting the dentist, or applying for a job. This has caused Petitioners to experience discrimination, ridicule, and contempt. No legitimate government interest can justify this constitutional infringement.

7. Petitioners do not ask this Court to declare the name change statute unconstitutional in its entirety. They only ask for a declaration that the irrebuttable conviction bar at 54 Pa.C.S. § 702(c)(1)–(2) is unconstitutional and an injunction against its enforcement. The name change statute will operate perfectly (and constitutionally) if § 702(c)(1)–(2) is declared unconstitutional and not enforced. Under other provisions in the statute, people in Petitioners' situation who seek a name change would still be required to publish notice of their scheduled name change hearing, show the court that they are not seeking a name change for any fraudulent purpose, and show the court they have no outstanding judgments against them. The court then will notify the Office of Attorney General, the Pennsylvania State Police,

and the office of the district attorney of the county in which the person resides of the name change. In that manner, all state interests will be accommodated, and Petitioners' fundamental rights will be effectuated.

STATEMENT OF JURISDICTION

8. This action seeks declaratory and injunctive relief against the Commonwealth and an officer thereof in her official capacity. This Court thus has original jurisdiction under 42 Pa.C.S. § 761(a)(1). Petitioners have standing to bring this action because they have a “substantial, direct and immediate interest in the outcome of the litigation.” *Yocum v. Commonwealth Pa. Gaming Control Bd.*, 161 A.3d 228, 235 (Pa. 2017) (citation omitted).

9. Because of the irrebuttable conviction bar, there is no statutory basis for Petitioners to obtain a desired name change, no matter what reasons are offered. A petitioner subject to the irrebuttable conviction bar is identified early in the name change process, even before a hearing can be scheduled, and thus lacks any opportunity to make a case for a name change. *See* Allegheny County Civil and Family Court Rules, Local Rule 505(3)(d)–(e); Exhibit 1, Affidavit of Matthew D. Rosso (“Rosso Aff.”) ¶¶ 4–6 and Exhibit A thereto.¹

10. For example, the Allegheny County Local Rules indicate that a petitioner who is subject to the irrebuttable conviction bar cannot even receive a name change

¹ Exhibits are attached to this Petition for Review.

hearing. *See* Allegheny County Civil and Family Court Rules, Local Rule 505(3)(d)–(e) (stating that “[t]he Motions Judge shall schedule the time and date for a hearing” and “[w]here the Petitioner has a prior conviction of a felony *but is not barred by 54 Pa.C.S. § 702(c) from obtaining a judicial change of name*, the Petitioner shall provide the Court with an envelopes affixed with sufficient postage and pre-addressed ... so that copies of the Order Scheduling Hearing on Name Change may be sent”) (emphasis added).

11. Petitioners face the same obstacles in Philadelphia County. Before a hearing can be scheduled, the petitioner’s fingerprints are sent to the state police for a criminal background check, and the police send a letter to the prothonotary indicating whether the conviction bar prevents the petitioner from obtaining a name change. Exhibit 1, Rosso Aff. ¶ 5. If the bar applies, the letter indicates that “[t]his person has been convicted of a felony violation(s) for which the court may not order a change of name.” *Id.* ¶ 6 and Exhibit A thereto.

PERSONS SEEKING RELIEF

A. Chaunty Mo’Nique Porter

12. Ms. Porter is known as and identifies as Chaunty Mo’Nique Porter, but she was born “Scott Porter.” Exhibit 2, Affidavit of Scott Porter ¶ 1. Her birth name is not the name by which Ms. Porter is known in the community nor how she expresses her identity. *Id.* ¶ 4. Nevertheless, this name and false expression of

personal identity is unwillingly forced upon her by law, due to the irrebuttable conviction bar.

13. Ms. Porter is a 39-year-old transgender woman who prefers female pronouns. *Id.* ¶ 5. She works at Central Outreach Wellness Center, a holistic multicultural, LGBTQIA, and HIV & Hepatitis C health organization in Allegheny County, Pennsylvania. *Id.* ¶ 6. Over a decade ago, in 2008, she was convicted of aggravated assault. *Id.* ¶ 7. Ms. Porter openly talks about her experience as an incarcerated woman of color with the LGBTQIA youth who she mentors at the Wellness Center. *Id.* ¶ 8.

14. Ms. Porter wants to change her name under Pennsylvania law. *Id.* ¶ 9. However, because of her aggravated assault conviction, she is barred from doing so by 54 Pa.C.S. § 702(c)(2). *Id.* ¶ 10. Because of that bar, the name on her government-issued identification card does not match her gender expression or identity. *Id.* ¶ 11. As a result, Ms. Porter has endured abuse, harassment, and humiliation from police, employers, co-workers, and other service providers, such as bank employees. *Id.* ¶ 12. Recently, while attending a club with friends, a bouncer viewed her government-issued identification card and announced “That’s a dude!” to surrounding patrons. *Id.* ¶ 13. In addition, as recently as 2017, Ms. Porter was told by doctors that she does not qualify for gender confirmation surgery because she is not “living as a woman” with her undesired, legally-imposed name. *Id.* ¶ 14.

B. Alonda Talley

15. Ms. Talley is known as and identifies as Alonda Talley, but she was born “Adolphus Talley, Jr.” Exhibit 3, Affidavit of Adolphus Talley, Jr. ¶ 1. Her birth name is not the name by which Ms. Talley is known in the community nor how she expresses her identity. *Id.* ¶ 4. Nevertheless, this name and false expression of personal identity is unwillingly forced upon her by law.

16. Ms. Talley is a 32-year-old transgender woman who prefers female pronouns. *Id.* ¶ 5. She previously worked as an Outreach Intern at the Mazzoni Center, an organization dedicated to meeting the health and wellness of the LGBTQIA communities in Philadelphia. *Id.* ¶ 7. Ms. Talley currently volunteers as a receptionist at The Philadelphia AIDS Consortium (TPAC), a community legal aid organization that works to ensure the availability and coordination of comprehensive and integrative health and social services. *Id.* ¶ 8. She attends Level Up church in Philadelphia. *Id.* ¶ 9. A decade ago, in 2009, she was convicted of aggravated assault. *Id.* ¶ 6.

17. Ms. Talley wants to change her name under Pennsylvania law. *Id.* ¶ 10. However, because of her aggravated assault conviction, she is barred from doing so by 54 Pa.C.S. § 702(c)(2). *Id.* ¶ 11. Because of that bar, the name on Ms. Talley’s government-issued identification card does not match her gender expression or identity. *Id.* ¶ 12. When police have viewed her government identification card, they have insisted that Adolphus is not Ms. Talley’s “real name” and have threatened to

arrest her for “misrepresentations” or “false pretenses.” *Id.* ¶ 13. Ms. Talley avoids travel that requires her to show identification. *Id.* ¶ 14. For example, she did not travel to the 2009 National Black Trans Advocacy Conference in Dallas, Texas due to fear of harassment when traveling. *Id.* Ms. Talley would also like to travel outside of the country, but is afraid to do so. *Id.* ¶ 15.

18. Ms. Talley’s identity has been questioned when she has sought to vote.² *Id.* ¶ 16. In addition, she has faced repeated difficulties paying bills by telephone because phone company employees do not believe that she is “Adolphus Talley.” *Id.* ¶ 17. As a result, Ms. Talley is forced to inform strangers that she is transgender or forced to come to an office in person to complete tasks that others can do quickly over the phone. *Id.* She also has been subjected to harassment and scorn when socializing at restaurants and bars where she needs to show identification. *Id.* ¶ 19. For example, Ms. Talley experienced difficulties entering a bar when there was a “women enter free” promotion. *Id.*

19. These issues and concerns keep Ms. Talley from feeling like she is able to be a productive member of society because she cannot complete tasks and duties that others can. *Id.* ¶ 20. Ms. Talley does not feel like she can procure employment outside of organizations that work closely with the LGBTQIA community because she must explain why she has a male name. *Id.*

² Persons with felony convictions who are not incarcerated at the time of an election are permitted to vote in Pennsylvania.

C. Priscylla Renee Von Noaker

20. Ms. Von Noaker is known as and identifies as Priscylla Renee Von Noaker, but she was born “Robert Lee Noaker, Jr.” Exhibit 4, Affidavit of Robert Lee Noaker, Jr. ¶ 1. Her birth name is not the name by which Ms. Von Noaker is known in the community nor how she expresses her identity. *Id.* ¶ 4. Nevertheless, this name and false expression of personal identity is unwillingly forced upon her by law due to the irrebuttable conviction bar.

21. Ms. Von Noaker is a 68-year-old transgender woman who prefers female pronouns. *Id.* ¶ 5. She identifies as American Indian Two Spirit and teaches about Two Spirit and transgender issues. *Id.* ¶ 6. Over 30 years ago, she was convicted of rape and served 10 years in prison. *Id.* ¶ 7.

22. Ms. Von Noaker wants to change her name under Pennsylvania law. *Id.* ¶ 8. However, because of her 1987 conviction, she is barred from doing so by 54 Pa.C.S. § 702(c)(2). *Id.* ¶ 9. As a result, the name on her government-issued identification card does not match her gender expression or identity. *Id.* ¶ 10. Ms. Von Noaker has suffered two recent heart attacks, but when she goes to the hospital for treatment, she cannot use her preferred name; instead, she must use a name that does not match her gender expression and with which she has never identified. *Id.* ¶ 11.

GOVERNMENT RESPONDENTS

23. Commonwealth of Pennsylvania. The statute being challenged—54 Pa.C.S. § 702(c)(1)–(2)—is a law of the Commonwealth of Pennsylvania.

24. Pennsylvania Department of State. Pennsylvania's name change statute—including the provisions at 54 Pa.C.S. § 702(c)(1)–(2)—falls under the purview of the Pennsylvania Department of State. *See* 54 Pa.C.S. §§ 101, 102, 701–705.

25. Kathy Boockvar, Acting Secretary of the Commonwealth. The Secretary of the Commonwealth leads the Department of State.

STATEMENT OF MATERIAL FACTS

26. Petitioners incorporate by reference all of the preceding allegations of this Petition as though fully set forth herein.

27. In 1998, Pennsylvania's legislature amended the name change statute to provide that a court must send the State Police a copy of the person's name change petition and a set of the person's fingerprints before granting a name change. In 1998, the legislature also instituted the irrebuttable conviction bar, which states:

(1) The court may order a change of name for a person convicted of a felony, subject to provisions of paragraph (2), if:

(i) at least two calendar years have elapsed from the date of completion of a person's sentence and that person is not subject to the probation or parole jurisdiction of any court, county probation agency or the Pennsylvania Board of Probation and Parole; or

(ii) the person has been pardoned.

(2) The court may not order a change of name for a person convicted of murder, voluntary manslaughter, rape, involuntary deviate sexual intercourse, statutory sexual assault, sexual assault, aggravated indecent assault, robbery as defined in 18 Pa.C.S. § 3701(a)(1)(i) (relating to

robbery), aggravated assault as defined in 18 Pa.C.S. § 2702(a)(1) or (2) (relating to aggravated assault), arson as defined in 18 Pa.C.S. § 3301(a) (relating to arson and related offenses), kidnapping or robbery of a motor vehicle or criminal attempt, criminal conspiracy or criminal solicitation to commit any of the offenses listed above or an equivalent crime under the laws of this Commonwealth in effect at the time of the commission of that offense or an equivalent crime in another jurisdiction.

54 Pa.C.S. § 702(c)(1)–(2); Act of June 18, 1998, P.L. 638, No. 83.

28. A petitioner subject to the irrebuttable conviction bar is identified early in the name change process, even before a hearing can be scheduled, and thus lacks any opportunity to make a case for a name change. *See* Allegheny County Civil and Family Court Rules, Local Rule 505(3)(d)–(e); Exhibit 1, Rosso Aff. ¶¶ 4–6 and Exhibit A thereto.

29. In 2004, the legislature added further procedural details to the name change statute, requiring that a petition state the reason for the name change, and that a petitioner publish notice of the hearing in two newspapers of general circulation. 54 Pa.C.S. § 701(a.1); Act of November 30, 2004, P.L. 1684, No. 214. At the hearing, the petitioner must present proof of publication and an official search of the proper county offices showing no outstanding judgments against the petitioner. Any person having a lawful objection to the name change can appear and be heard. The court then may enter a decree changing the name as petitioned if the court is satisfied that there is no lawful objection to granting the petition.

CLAIMS FOR RELIEF

I. Pa. Const. art. I, § 1 – Due Process – The Right to Control One’s Name (Facial Challenge)

30. Petitioners incorporate by reference all of the preceding allegations of this Petition as though fully set forth herein.

31. The name change statute’s irrebuttable conviction bar at 54 Pa.C.S. § 702(c)(1)–(2) violates Pa. Const. art. I, § 1’s due process guarantee, which includes two fundamental rights relevant here: (1) the right to acquire, possess, and protect one’s reputation; and (2) the right to privacy. The right to control one’s name is encompassed within each of these fundamental rights.

32. The bar’s irrebuttable presumption that individuals previously convicted of felonies are engaging in fraud when they seek a name change unconstitutionally infringes upon the right to control one’s name. No matter what level of scrutiny is applied, an irrebuttable presumption is unconstitutional where: (1) it encroaches on an interest protected by the due process clause; (2) the presumption is not universally true; and (3) reasonable alternative means exist for ascertaining the presumed fact. The name change statute’s irrebuttable conviction bar does not pass muster under this test.

33. The bar could not withstand scrutiny even if it did not fail this test. Because it infringes a fundamental right, the bar warrants strict scrutiny—that is, it is only constitutional if it is narrowly tailored to a compelling state interest. It is not.

Indeed, the bar would not withstand even rational basis review, because it lacks a real and substantial relation to the object of preventing fraud.

II. Pa. Const. art. I, § 7 – Free Speech – Guarantee Against Compelled Speech (Facial Challenge)

34. Petitioners incorporate by reference all of the preceding allegations of this Petition as though fully set forth herein.

35. The irrebuttable conviction bar at 54 Pa.C.S. § 702(c)(1)–(2) also violates Pa. Const. art. I, § 7's guarantee against compelled speech. Pa. Const. art. I, § 7 protects the right to refrain from engaging in expressive conduct, such as identifying oneself by an undesired name. When Pennsylvanians are denied a right to change their names, they are forced to express an undesired name on a regular basis. Government-issued identification (with a person's government-recognized name) is required in order to vote for the first time in a precinct, travel overseas, drive, and (soon) even enter government buildings.

36. Outside of name changes due to marriage, divorce, or naturalization, the only way to obtain a name change on a government-issued identification card is to go through the court-ordered name change process under 54 Pa.C.S. § 701 *et seq.* Thus, unless people with felony convictions choose to relinquish their constitutionally-protected rights to vote and travel freely, they must express their undesired names by force of law.

III. Pa. Const. art. I, § 1 – Due Process – Forced Disclosure of Personal Matters (As Applied Challenge)

37. Petitioners incorporate by reference all of the preceding allegations of this Petition as though fully set forth herein.

38. The name change statute's irrebuttable conviction bar at 54 Pa.C.S. § 702(c)(1)–(2) also is unconstitutional as applied to Petitioners because it violates their interest in avoiding disclosure of personal matters under Pa. Const. art. I, § 1. When transgender individuals are denied the right to change their names, they cannot obtain official documentation accurately reflecting their gender and must instead use an undesired, gender-inapposite name on a daily basis.

39. This situation leads to a dangerous mismatch between the individual's outward gender presentation and the gender indicated by the name on the official documents. Transgender people who must present mismatched identification are often verbally harassed, physically assaulted, denied service or benefits, or asked to leave the premises.

40. Forced publicity of a transgender person's most private information is not justified by any legitimate government interest. To the contrary, it exposes transgender individuals to a substantial risk of stigma, discrimination, intimidation, and violence.

RELIEF SOUGHT

Petitioners request that this Court grant the following relief:

41. Declare the name change statute's irrebuttable conviction bar at 54 Pa.C.S. § 702(c)(1)–(2) to be unconstitutional under Pa. Const. art. I, § 1 because it improperly infringes the right to control one's name.

42. Declare the name change statute's irrebuttable conviction bar at 54 Pa.C.S. § 702(c)(1)–(2) to be unconstitutional under Pa. Const. art. I, § 7 because it improperly infringes the guarantee against compelled speech.

43. Declare the name change statute's irrebuttable conviction bar at 54 Pa.C.S. § 702(c)(1)–(2) to be unconstitutional under Pa. Const. art. I, § 1 as applied to Petitioners because it violates their interest in avoiding disclosure of personal matters.

44. Permanently enjoin the Commonwealth from enforcing the irrebuttable conviction bar at 54 Pa.C.S. § 702(c)(1)–(2). Petitioners have a clear right to relief, there is an urgent necessity to avoid an injury which cannot be compensated for by damages, and greater injury will result from refusing rather than granting injunctive relief.

45. Provide such other relief as this Court deems just and proper.

Dated: May 29, 2019

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Respectfully submitted,

/s/ Luke E. Debevec

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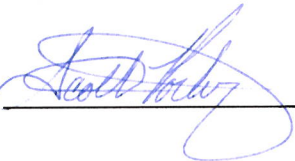
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Counsel for Petitioners

VERIFICATION

I, Scott Porter, a/k/a Chaunty Mo’Nique Porter, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

Date: 5/16/19

Signature: 

VERIFICATION

I, Adolphus Talley, Jr., a/k/a Alonda Talley, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

Date: 5-10-2019

Signature: A. Talley

VERIFICATION

I, Robert Lee Noaker, Jr., a/k/a Priscylla Renee Von Noaker, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

Date: May 22, 2019

Signature: Robert Lee Noaker, Jr. & Priscylla Renee Von Noaker

NOTICE TO PLEAD

To:

Kathy Boockvar
Acting Secretary of the Commonwealth
302 North Office Building
401 North Street
Harrisburg, PA 17120

Pennsylvania Department of State
Legal Office
Penn Center
2601 N. 3rd Street
Harrisburg, PA 17110

Pennsylvania Department of State
Office of Chief Counsel
306 North Office Building
401 North Street
Harrisburg, PA 17120

Pennsylvania Office of Attorney General (on behalf of the Commonwealth)
16th Floor, Strawberry Square
Harrisburg, PA 17120

You are notified to file a written response to the enclosed Petition for Review within 30 days from service hereof or a judgment may be entered against you.

Respectfully submitted,

/s/ Luke E. Debevec

Luke E. Debevec (PA ID 92860)
ldebevec@reedsmith.com
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CERTIFICATE OF COMPLIANCE WITH PUBLIC ACCESS POLICY

I certify pursuant to Pa. R. App. P. 127 that this filing complies with the provisions of the *Public Access Policy of the United Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* (eff. 1/5/2018) that require filing of confidential information and documents differently than non-confidential information and documents.

/s/ Luke E. Debevec

CERTIFICATE OF SERVICE

On May 29, 2019, and pursuant to Pa.R.A.P. 1514(c) and Pa.R.A.P. 121, I caused a copy of the foregoing to be served via certified mail and UPS on the following:

Kathy Boockvar
Acting Secretary of the Commonwealth
302 North Office Building
401 North Street
Harrisburg, PA 17120

Pennsylvania Department of State
Legal Office
Penn Center
2601 N. 3rd Street
Harrisburg, PA 17110

Pennsylvania Department of State
Office of Chief Counsel
306 North Office Building
401 North Street
Harrisburg, PA 17120

Pennsylvania Office of Attorney General
16th Floor, Strawberry Square
Harrisburg, PA 17120

/s/ Luke E. Debevec

EXHIBIT

1

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

SCOTT PORTER, a/k/a CHAUNTEY
MONIQUE PORTER; ADOLPHUS TALLEY,
JR., a/k/a ALONDA TALLEY; ROBERT LEE
NOAKER, JR., a/k/a PRISCYLLA RENEE
VON NOAKER,

Petitioners,

v.

COMMONWEALTH OF PENNSYLVANIA;
PENNSYLVANIA DEPARTMENT OF
STATE; and KATHY BOOCKVAR, in her
capacity as Acting Secretary of the
Commonwealth,

Respondents.

____ C.D. ____

AFFIDAVIT OF MATTHEW D.
ROSSO

Before me, the undersigned authority, personally appeared Matthew D. Rosso,
who being first duly sworn and of sound mind, states as follows:

1. My name is Matthew D. Rosso, and I am a partner at the law firm of Reed Smith LLP in Philadelphia, PA.
2. I am licensed to practice in the Commonwealth of Pennsylvania.
3. As part of my practice, in a pro bono capacity, I have represented individuals who have petitioned for a name change in the Court of Common Pleas of Philadelphia County.

4. In my experience, a name change petitioner who is subject to the irrebuttable conviction bar of 54 Pa.C.S. § 702(c)(1)–(2) has no chance to obtain a name change.

5. Before any hearing can be scheduled, the petitioner’s fingerprints are sent to the state police for a criminal background check, and the police send a letter to the prothonotary indicating whether the conviction bar prevents the petitioner from obtaining a name change. If the irrebuttable conviction bar applies, then no name change can be granted.

6. Attached at **Exhibit A** is an example of a redacted letter from the state police stating that “[t]his person has been convicted of a felony violation(s) for which the court may not order a change of name.”

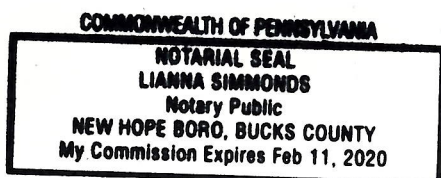
I declare under penalty of perjury that the above statements are true and correct to the best of my personal knowledge, information and belief.

FURTHER AFFIANT SAYETH NOT.

Date: May 21, 2019

Matthew D. Rosso
Matthew D. Rosso

Subscribed and sworn to me, a BUCKS COUNTY
Notary Public, this 21 day of MAY 2019.
My Commission Expires: FEBRUARY 11, 2020



Lianna Simmonds

EXHIBIT A



CITY OF PHILADELPHIA
 DISPUTE RESOLUTION CENTER
 691 CITY HALL
 215-686-7914
 215-686-7915 FAX

FACSIMILE TRANSMITTAL SHEET

TO: MATT ROSSO, JR FROM: PETER DIVON
 COMPANY: _____ DATE: _____
 FAX NUMBER: (215) 851-1420 TOTAL NO. OF PAGES INCLUDING COVER: 2
 PHONE NUMBER: _____ SENDER'S REFERENCE NUMBER: _____
 RE: _____ YOUR REFERENCE NUMBER: _____

- URGENT FOR REVIEW PLEASE COMMENT PLEASE REPLY PLEASE RECYCLE

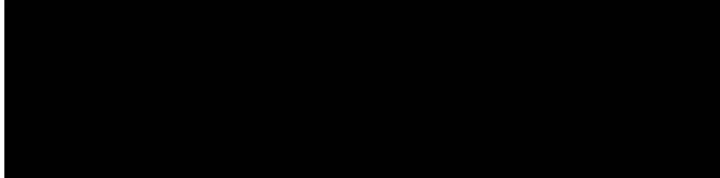
NOTES/COMMENTS:

Peter. Divon @ COUNTS. PHILA. GOV

PENNSYLVANIA STATE POLICE
CENTRAL REPOSITORY
1800 ELMERTON AVENUE
HARRISBURG, PA 17110
717-783-3762

DATE: Monday, November 09, 2015

PETER J. DIVON
DISCOVERY COURT MANAGER
CITY HALL ROOM 691
PHILADELPHIA, PA 19107



In accordance with the Name Change Act of 1998, the fingerprint cards of the above named individual, who has applied for a name change, has been searched in the files of the Pennsylvania State Police, Criminal Records and Identification Division Central Repository, and:

- This person is not subject to 18 PA C.S. Chapter 91, and the fingerprints have been destroyed.
- This person is subject to 18 PA C.S. Chapter 91, and the name change has been noted on the person's criminal history record information.
- A criminal record was revealed containing felony convictions. IN ACCORDANCE WITH THE NAME CHANGE ACT, THE COURT SHALL NOTIFY THE PENNSYLVANIA STATE POLICE WHEN A NAME CHANGE FOR A PERSON CONVICTED OF A FELONY HAS BEEN ORDERED. The Pennsylvania State Police, upon receipt of this notice, shall include the change of name information in the Central Repository as provided for in 18 PA C.S., Chapter 91 (relating to criminal history record information).
- This person has been convicted of felony violation(s) for which the court may not order a change of name.
- A criminal record was revealed that might prohibit a name change. Because the subsection(s) of the affected conviction(s) has not been provided to us, we are unable to determine whether a name change can or cannot be made. Please provide the subsection(s) of the following crime(s): _____
if available.

You are also advised that the above response is based on comparison of fingerprints and associated requester-furnished information against a name index and fingerprints contained in the files of the Pennsylvania State Police Central Repository - only - and does not preclude the existence of other criminal records which may be obtained in the repositories of other local, state, or federal criminal justice agencies.

If we may be of any further assistance to you concerning this matter, please contact us at the above address or telephone number.

Sincerely,

Director, Criminal Records
and Identification Division

EXHIBIT

2

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

SCOTT PORTER, a/k/a CHAUNTEY
MO'NIQUE PORTER; ADOLPHUS TALLEY,
JR., a/k/a ALONDA TALLEY; ROBERT LEE
NOAKER, JR., a/k/a PRISCYLLA RENEE
VON NOAKER,

Petitioners,

v.

COMMONWEALTH OF PENNSYLVANIA;
PENNSYLVANIA DEPARTMENT OF STATE;
and KATHY BOOCKVAR, in her capacity as
Acting Secretary of the Commonwealth,

Respondents.

_____ C.D. _____

AFFIDAVIT OF SCOTT PORTER

Before me, the undersigned authority, personally appeared Scott Porter, a/k/a
Chaunty Mo'Nique Porter, who being duly sworn and of sound mind, states as
follows:

1. My birth name is Scott Porter, although I am known as and identify as
Chaunty Mo'Nique Porter.

2. I submit this affidavit in support of the petition for declaratory and
injunctive relief.

3. I am over 18 years old and a resident of the Commonwealth of
Pennsylvania.

4. My birth name is not the name by which I am known in the community nor how I express my identity.

5. I am a 39-year-old transgender woman who prefers female pronouns.

6. I work at Central Outreach Wellness Center, a holistic multicultural, LGBTQIA, and HIV & Hepatitis C health organization in Allegheny County, Pennsylvania.

7. Over a decade ago, in 2008, I was convicted of aggravated assault.

8. I openly talk about my experience as an incarcerated woman of color with the LGBTQIA youth who I mentor at the Wellness Center.

9. I want to change my name under Pennsylvania law.

10. However, because of my aggravated assault conviction, I am barred from doing so by 54 Pa.C.S. § 702(c)(2).

11. Because of that bar, the name on my government-issued identification card does not match my gender expression or identity.

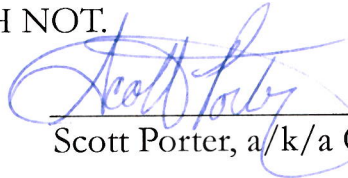
12. As a result, I have endured abuse, harassment, and humiliation from police, employers, co-workers, and other service providers, such as bank employees.

13. Recently, while attending a club with friends, a bouncer viewed my government-issued identification card and announced “That’s a dude!” to surrounding patrons.

14. In addition, as recently as 2017, I was told by doctors that I do not qualify for gender confirmation surgery because I am not “living as a woman” with my undesired, legally-imposed name.

I, Scott Porter, a/k/a Chaunty Mo’Nique Porter, being duly sworn according to law, depose and say that the facts above set forth are true and correct to the best of my knowledge, information and belief and I expect to be able to prove the same at any hearing hereof.

FURTHER AFFIANT SAYETH NOT.



Scott Porter, a/k/a Chaunty Mo’Nique Porter

Subscribed and sworn to me,
a Notary Public, this 15th day of May 2019.
My Commission Expires:



Commonwealth of Pennsylvania - Notary Seal
Catherine A. Ingold, Notary Public
Allegheny County
My commission expires August 8, 2022
Commission number 1077138
Member, Pennsylvania Association of Notaries

EXHIBIT

3

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

SCOTT PORTER, a/k/a CHAUNTEY
MO'NIQUE PORTER; ADOLPHUS TALLEY,
JR., a/k/a ALONDA TALLEY; ROBERT LEE
NOAKER, JR., a/k/a PRISCYLLA RENEE
VON NOAKER,

Petitioners,

v.

COMMONWEALTH OF PENNSYLVANIA;
PENNSYLVANIA DEPARTMENT OF STATE;
and KATHY BOOCKVAR, in her capacity as
Acting Secretary of the Commonwealth,

Respondents.

_____ C.D. _____

AFFIDAVIT OF ADOLPHUS
TALLEY, JR.

Before me, the undersigned authority, personally appeared Adolphus Talley, Jr., a/k/a Alonda Talley, who being duly sworn and of sound mind, states as follows:

1. My birth name is Adolphus Talley, Jr., although I am known as and identify as Alonda Talley.
2. I submit this affidavit in support of the petition for declaratory and injunctive relief.
3. I am over 18 years old and a resident of the Commonwealth of Pennsylvania.

4. My birth name is not the name by which I am known in the community nor how I express my identity.

5. I am a 32-year-old transgender woman who prefers female pronouns.

6. In 2009, I was convicted of aggravated assault.

7. I previously worked as an Outreach Intern at the Mazzoni Center, an organization dedicated to meeting the health and wellness of the LGBTQIA communities in Philadelphia.

8. I currently volunteer as a receptionist at The Philadelphia AIDS Consortium (TPAC), a community legal aid organization that works to ensure the availability and coordination of comprehensive and integrative health and social services. I am also involved in transgender outreach at TPAC.

9. I attend the Level Up church in Philadelphia.

10. I want to change my name under Pennsylvania law to reflect my true gender identity.

11. However, because of my aggravated assault conviction, I am barred from doing so under 54 Pa.C.S. § 702(c)(2).

12. Because of that bar, the name on my government-issued identification card does not match my gender expression or identity.

13. As a result, I have been harassed and insulted by police who have repeatedly insisted that Adolphus is not my “real name” and demanded I provide my “real name.” Police have threatened to arrest me for “misrepresentations” or “false

pretenses” after they demanded I provide my identification and then perceived a mismatch with my identity.

14. Because of this, I avoid travel that requires me to show identification. For example, I did not travel to the 2009 National Black Trans Advocacy Conference in Dallas, Texas, due to fear of harassment when traveling.

15. I would also like to travel outside of the country, but I am afraid to do so because Adolphus is a well-known male coded name in other countries. I have not traveled outside of the United States because of this fear.

16. I have been harassed and had my identity questioned when showing identification in order to vote, and my voting has been delayed longer than those whose identities match their identification.

17. I have experienced repeated difficulties paying bills by telephone because phone company employees do not believe that I am “Adolphus Talley.” As a result, I am forced to reveal that I am transgender or forced to come to an office in person to complete tasks that others can do quickly over the phone.

18. I have had difficulties making purchases when required to show my identification, for example when purchasing cigarettes when I was younger.

19. I have been subjected to harassment and scorn when socializing at restaurants or bars where I need to show identification. For example, I experienced difficulties entering a bar when there was a “women enter free” promotion.

20. These issues and concerns keep me from feeling like I am able to be a productive member of society because I cannot complete tasks and duties that others can. I do not feel like I can procure employment outside of organizations that work closely with the LGBTQIA community because I must explain why I have a male name. Even at an understanding employer within the LGBTQIA community, I have experienced tension when forced to show my identification to coworkers or vendors.

I, Adolphus Talley, Jr., a/k/a Alonda Talley, being duly sworn according to law, depose and say that the facts above set forth are true and correct to the best of my knowledge, information and belief and I expect to be able to prove the same at any hearing hereof.

FURTHER AFFIANT SAYETH NOT.

A. Talley
Adolphus Talley, Jr. a/k/a Alonda Talley

Subscribed and sworn to me,
a Notary Public, this 10th day of MAY 2019.

My Commission Expires: Feb. 11, 2020

Lianna Simmonds



EXHIBIT

4

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

SCOTT PORTER, a/k/a CHAUNTEY
MO'NIQUE PORTER; ADOLPHUS TALLEY,
JR., a/k/a ALONDA TALLEY; ROBERT LEE
NOAKER, JR., a/k/a PRISCYLLA RENEE
VON NOAKER,

Petitioners,

v.

COMMONWEALTH OF PENNSYLVANIA;
PENNSYLVANIA DEPARTMENT OF STATE;
and KATHY BOOCKVAR, in her capacity as
Acting Secretary of the Commonwealth,

Respondents.

_____ C.D. _____

AFFIDAVIT OF ROBERT LEE
NOAKER, JR.

Before me, the undersigned authority, personally appeared Robert Lee Noaker, Jr., a/k/a Priscylla Renee Von Noaker, who being duly sworn and of sound mind, states as follows:

1. My birth name is Robert Lee Noaker, Jr., although I am known as and identify as Priscylla Renee Von Noaker.

2. I submit this affidavit in support of the petition for declaratory and injunctive relief.

3. I am over 18 years old and a resident of the Commonwealth of Pennsylvania.

4. My birth name is not the name by which I am known in the community nor how I express my identity.

5. I am a 68-year-old transgender woman who prefers female pronouns.

6. I identify as American Indian Two Spirit and teach about Two Spirit and transgender issues.

7. Over 30 years ago, in 1987, I was convicted of rape and served 10 years in prison.

8. I want to change my name under Pennsylvania law.

9. However, because of my 1987 conviction, I am barred from doing so by 54 Pa.C.S. § 702(c)(2).

10. As a result, the name on my government-issued identification card does not match my gender expression or identity.

11. I have suffered two recent heart attacks, but when I go to the hospital for treatment, I cannot use my preferred name; instead, I must use a name that does not match my gender expression and with which I have never identified.

I, Robert Lee Noaker, Jr., a/k/a Priscylla Renee Von Noaker, being duly sworn according to law, depose and say that the facts above set forth are true and correct to the best of my knowledge, information and belief and I expect to be able to prove the same at any hearing hereof.

FURTHER AFFIANT SAYETH NOT.

Robert Lee Noaker, Jr. a/k/a Priscylla Renee Von Noaker
Robert Lee Noaker, Jr., a/k/a Priscylla Renee Von Noaker

Subscribed and sworn to me,
a Notary Public, this 22 day of May 2019.
My Commission Expires: Aug 14, 2019

COMMONWEALTH OF PENNSYLVANIA
NOTARIAL SEAL
Carmella Wehrle, Notary Public
Upper St. Clair Twp., Allegheny County
My Commission Expires Aug. 14, 2019
MEMBER PENNSYLVANIA ASSOCIATION OF NOTARIES