

SUPERIOR COURT OF COLUMBIA COUNTY, GEORGIA

Civil Action File No. 2015D0607

IN RE: PETITION OF)
REBECCA ELIZABETH FELDHAUS)
FOR CHANGE OF NAME)

Filed with the Court


J. DAVID ROPER, JUDGE

FINAL JUDGMENT

Petitioner Rebecca Elizabeth Feldhaus filed this action requesting that her name be changed to Rowan Elijah Feldhaus. A hearing was held on February 17, 2016. Petitioner was present and represented by counsel. Feldhaus' petition is hereby DENIED.

Findings of Fact

Petitioner was born in 1991 and was named Rebecca Elizabeth Feldhaus. There is no evidence that Petitioner was anything other than a normal female child. Feldhaus desires to transition to a male. She claims that she has a condition referred to as "gender dysphoria." "Dysphoria" means sadness or unhappiness. Webster's Collegiate Thesaurus, 1976 ed. Gender dysphoria is recognized in the *Diagnostic and Statistical Manual of Mental Health Disorders*.

Gender dysphoria (formerly Gender Identity Disorder) is defined by strong, persistent feelings of identification with the opposite gender and discomfort with one's own assigned sex that results in significant distress or impairment. People with gender dysphoria desire to live as members of the opposite sex and often dress and use mannerisms associated with the other gender.

Psychologytoday.com (revised 12-27-15). Feldhaus is seeing a therapist in her effort to transgender from female to male. The therapist submitted an affidavit that was admitted. Feldhaus is taking hormone replacement therapy with testosterone injections. Feldhaus was dressed as a male in court, and by affidavit testified that she is known by peers, coworkers, family members and others as Rowan Elijah Feldhaus. Feldhaus has no criminal record and is not attempting to defraud creditors.



This Court's Policy

The court has, periodically, been presented with transgender - name change cases. The name change statute does not address the transgender issue, and there is no appellate decision on this matter. This court has taken a conservative approach. The court recognizes that a transgendered or transgendering person is not going to cease claiming to be a person of the opposite gender. This presents problems for the person and the general public. Feldhaus expressed this problem in her testimony. "[Her therapist] said that it is dangerous for me to have a female sounding [name] because it could be a potential hazard for people who look at my ID: potential employers and people – potential lessors, and anybody that looks at my ID." (T-9) The court agrees.

Name changes which allow a person to assume the role of a person of the opposite sex confuse and mislead the general public, emergency personnel, actuaries, insurance underwriters, and other businesses and relationships where the sex of an individual is relevant. Use of restrooms and facilities designed for one sex are of particular concern, especially where children use such facilities unsupervised. The court notes a trend in the military, civilian employers and other settings which recognize transgendered persons. The court cannot overlook that if we create another gender called "transgendered," we must create two such genders, male to female and female to male. While the military and others may recognize these other genders, the legislature has not yet done so, neither have the appellate courts of this state.

Consequently, this court has refused to change the name of a person who is an anatomically male to an obviously female name, and vice versa. Alternatively, as an accommodation to petitioners, the court has permitted petitioners to change their name to a "gender neutral" name. Most have agreed to the court's approach. It is the court's opinion that third parties should not have to contend with the quandary, predicament and dilemma of a person who presents as a male, but who has an obviously female name, and vice versa. Although not at issue here, similar issues exist when the court is asked to change a person's sex on his or her birth certificate.



In this case, Feldhaus made a compelling argument that, although predominately male, from statistical data, "Rowan" is a gender neutral name, and the court approved such name. The court rejected "Elijah" as a gender neutral name. Feldhaus presented no statistical data on the name of "Elijah."

Conclusions of Law

OCGA §19-12-1(a) provides: "Any person desirous of changing his name . . . may present a petition to the superior court of the county of his residence, setting forth fully and particularly the reasons why the change is asked, which petition shall be verified by the petitioner." "The action of the Superior Court in granting or refusing a proper application to change the name of a person is based solely on a *sound legal discretion*. . . ." (Emphasis supplied.) *Binford v. Reid*, 83 Ga. App. 280, 280, 63 S.E.2d 345, 346 (1951). Accord *In re Serpentfoot*, 285 Ga.App. 325, 326, 646 S.E.2d 267 (2007).

From the foregoing, it is obvious that the court has discretion "in granting or refusing a proper application to change the name of a person." The question presented is whether a female has the salutatory right to change her name to a traditionally and obviously male name. The court concludes that she does not have such right.

The court finds the opinion in *In re Bobrowich*, a New York trial court decision, instructive where Steven Michael Bobrowich sought to change his name from an obvious male name to Steffi Owned Slave. The court found "Steffi" to be a shortened version of the female name Stephanie. Addressing the court's duty in name-change cases, the court held:

[W]hen application is made to the court, an obligation arises on the part of the court to *analyze and scrutinize* the petition, since the order of the court changing a persons (sic) name gives the new name an "aura of propriety and official sanctions" and makes it a matter of public record. If the legislature did not intend to have the court apply some judicial discretion to name change applications, it would have eliminated judges from the process and required only that an applicant submit the petition to the clerk of the court for the ministerial act of changing the name. The legislature chose not to do so, leading to the conclusion that the change of a person's name is a *serious undertaking* with legal and other implications that involve not only the individual

submitting the application, but also the *public at large*. Among the criteria a court would apply to such an application would be whether the proposed name is of such a nature to confuse or mislead the general public; whether the name would be obscene, pornographic, or offensive; or would in some other way violate the public policy or morals of a state. Applying these standards, the court must conclude that petitioner cannot assume the name he has submitted for consideration.

(Bold emphasis supplied; quotation in original; citation omitted.) 2003 WL 230701 *1 (unreported N.Y. City Civ. Ct.), 2003 N.Y. Slip Op. 50025(U). Contra *Application of Guido*, 1 Misc.3d 825, 771 N.Y.S.2d 789, 2003 WL 22471153 (Civ. Ct., N.Y. County 2003) (male-to-female transsexual granted female name).

OCGA §19-12-4 provides: "Nothing contained in this chapter shall authorize any person to change his name with a view to deprive another *fraudulently* of any right under the law." (Emphasis supplied). Name changes which allow a person to assume the role of a person of the opposite sex are, in effect, a type of fraud on the general public. Such name changes also offend the sensibilities and mores of a substantial portion of the citizens of this state.

This court is aware that courts of other states and courts within this state (perhaps even other divisions of this court) have granted male-to-female name changes, and vice versa; however, this judge believes that this issue is a policy matter which should be addressed by the legislature. "[T]his court has no authority to fashion a new law on transsexuals or anything else. We cannot make law when no law exists: we can only interpret the written word of our sister branch of government, the legislature. . . ." *Littleton v. Prange*, 9 S.W.3rd 223, 230-231 (Tex.App. 1999).

The court rejects Feldhaus' assertions that First or Fourteenth Amendment issues are present in this case.

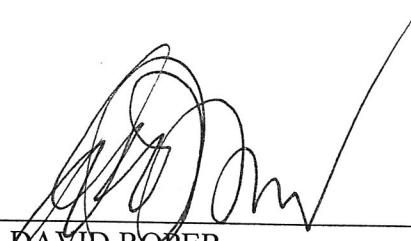
[Judgment on next page.]



Judgment

IT IS HEREBY ORDERED AND ADJUDGED that Petitioner's request to change her name to Rowan Elijah Feldhaus be and the same is hereby DENIED. Upon motion for reconsideration, the court remains open to consider a name change in accordance with the court's policy above stated.

This 22nd day of March, 2016.



J. DAVID ROPER
Superior Court Judge
Augusta Judicial Circuit

SUPERIOR COURT OF COLUMBIA COUNTY, GEORGIA

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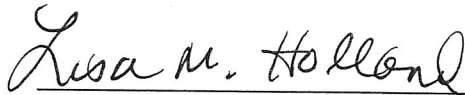
CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the attached **FINAL JUDGMENT** upon the following person(s) in the following manner:

Robert W. Hunter III
266 Greene Street
Augusta, GA 30901

U.S. Mail Facsimile Hand Delivery
 E-mail:

This 27th day of March, 2016.



Lisa M. Holland
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