

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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RECLAIM THE RECORDS,

Petitioner,

Index No. _____

- against -

**AFFIDAVIT OF
KELLY BODAMI**

NEW YORK CITY DEPARTMENT OF HEALTH
AND MENTAL HYGIENE, NEW YORK CITY :
BUREAU OF VITAL STATISTICS, NEW YORK :
CITY BOARD OF HEALTH, OXIRIS BARBOT, :
in her official capacity as New York City
Commissioner of Health, GRETCHEN VAN WYE, :
in her official capacity as New York City Registrar,
and STEVEN P. SCHWARTZ, in his official :
capacity as former New York City Registrar,

Respondents.

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STATE OF NEW YORK)
) ss.
COUNTY OF NEW YORK)

Kelly Bodami, being duly sworn, deposes and says:

1. I am a non-profit arts administrator with an educational background in 20th century United States history, and I am also an amateur genealogist pursuing professional accreditation.

2. I submit this Affidavit in support of Reclaim the Record’s Verified Article 78 Petition. Unless otherwise stated, the statements made herein are based on my personal knowledge and experience.

3. I write to provide the Court with another aspect of the issue regarding access to New York City vital records. I am an amateur genealogist, specializing in New York City and Italian research, and as such, I assist others seeking dual Italian citizenship. I am a member of a

Facebook group with more than 11,000 members that is dedicated to assisting people who are seeking Italian citizenship, primarily through a “do it yourself” methodology. I frequently help others in locating the vital records of their ancestors, particularly records of those ancestors who immigrated to and lived in New York City.

4. Many of the people who I assist in acquiring Italian citizenship do so for the benefit of holding two passports. Because becoming an Italian citizen makes that person a citizen of the European Union, the passport provides expanded work opportunities throughout the entire EU not just for the citizen but also that person’s spouse, as well as beneficial tuition rates for some of the most renowned universities in Europe that are equivalent to the cost of a community college here.

5. In the course of my research, there is often a need to acquire records that are held by the New York City Bureau of Vital Statistics, a part of the New York City Department of Health and Mental Hygiene (“DOHMH”), but unfortunately, they often stand as a direct obstacle for individuals seeking to obtain dual citizenship.

6. The individuals I assist are seeking dual citizenship based on ancestry. Under Italian citizenship law, which is based on the principle of *jus sanguinis* (citizenship based on heritage and not place of birth), a descendant of an Italian born and raised in the United States can nonetheless apply for Italian citizenship if he or she meets certain requirements. Among other things, each person needs to provide the Italian government with specific documentation to show a direct line of ancestry dating back to that person’s ancestor who was born in Italy. This requires proof through birth and death records. And as virtually all of the people I help have ancestry in New York City, we often confront DOHMH and its policies, as it holds all death certificates since 1949 and all birth certificates since 1910.

7. Even for people who are direct descendants, individuals face the burden of proof of relationship, which has long been a struggle with DOHMH. A common difficulty in verifying Italian ancestry is that names often changed through Anglicization. For instance, the immigrant Giovanni Bruno could have changed his name to the English version of the same name, John Brown. But without proof of a name change (as is often the case), people often have difficulty establishing that a certain individual is actually their ancestor. Therefore, due to DOHMH's restrictions requiring proof of relationship, that certificate cannot be ordered.

8. An additional challenge is that the DOHMH has even applied this exact name requirement towards the names listed for the parents on a death certificate. Without being able to view certificates in advance of ordering, I often make an educated guess that Maria may have become Mary and Giuseppe became Joseph. However, orders like this are often rejected on the basis that the parents' names do not match what is listed. As a result, this creates an additional burden on the descendant to find further proof of relationship – many of which, such as baptismal certificates and Social Security records, based on my experience, have been rejected as acceptable proof.

9. Similarly, spelling becomes a challenge. I have spoken with numerous individuals who have had difficulty receiving records because their immigrant ancestors or relatives spelled names differently on different records. In fact, not only have I personally been denied records due to spelling, but I have also spoken with many other individuals who were denied access to vital records specifically because there were spelling discrepancies between records (even a missing hyphen!). Many of the records from the mid-20th century were handwritten, and often these spelling variations are due to a misinterpretation by the Bureau of Vital Statistics/DOHMH employee fulfilling the request and not actually a legitimate, distinct

spelling error. There are also verifiable spelling errors and mis-transcriptions in the New York City Death Index, but there is no way to determine if this was just a clerical error made at the time of indexing or if it is a true error on the actual vital record. In a city like New York, which was built on the labor of our immigrant ancestors, spelling differences should not be keeping people from receiving records that they request.

10. Additionally, a significant challenge is when multiple people died in New York City around the same time with a common name. Many people struggle to remember the precise date of death of a grandparent, and if that individual died before the grandchild's birth, the grandchild often does not know the date of death and has no one to ask. Based on DOHMH's rules, which permit access to a record only with proof of relation, it is impossible for a grandchild to sort out which of the John Browns who died within a few years (or days) of each other is the right entry, since that descendant cannot view all of the possible records—because DOHMH only permits a direct descendant to receive the death certificate of his or her specific relative (with supporting evidence), that person cannot simply request the records of *all* those John Browns that might be the correct match, even if that person died 65 years ago, something that is possible in countless other states like California. Meanwhile, for death records over 50 years old, this *is permissible* from the New York State Department of Health for the rest of New York.

11. I personally have dealt with this challenge, as my great-grandmother died in January of 1949, one month after the cut-off for the Municipal Archives. While I *believe* an individual I found in the New York Death Index is my great-grandmother, I do not know for sure, as there are a few others with the same exact name who died around the same period and who were of a similar age. Due to the penalties New York City threatens if a person

misrepresents a relationship, I have reservations placing an order without irrefutable proof, in case it is not actually the right person. Without the required proof of relationship, I now cannot order that record for another five years.

12. In addition to the obstacles of matching a name to a record, acquisition of the records are further complicated by the often months-long delays from DOHMH, with backlogs of orders in excess of six months. There is also frequently no response from DOHMH when follow-up contact is attempted, and there is often no way for anyone at DOHMH to find out the status of any order.

13. Further, the application of the DOHMH rules often seems to be on a case-by-case and even agent-to-agent basis. This creates an uncertainty for those of us requesting records – in many cases we simply do not know if the record will be released. In fact, I was specifically told by a dual citizenship service provider that at his most recent trip with a client to DOHMH, he was told by the agent at the office in Manhattan that the agent was “getting sick” of dealing with people that had discrepancies on records and was asked, “is this one of those Italian things? We used to do that, but not anymore.” This inconsistency with how the DOHMH rules are being applied in practice is remarkably frustrating. The burdens only continue, and I have a running list of more than 30 individuals who have had some type of difficulty with receiving records from DOHMH’s Bureau of Vital Statistics.

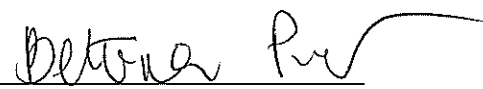
14. In sum, I have spoken with individuals who have actually abandoned the pursuit of Italian dual citizenship recognition because they were denied access to records from DOHMH. By increasing the challenges on individuals to acquire important document, DOHMH is routinely interfering with our legal right to become Italian citizens. This is an unacceptable

consequence of the DOHMH's burdensome rules, and the DOHMH's decision to restrict access even further—based on nothing—is creating a burden that is often insurmountable.

15. For these reasons, among countless others, I believe the DOHMH rules are unnecessarily burdensome and have real consequences on people's lives.


Kelly Bodami

Sworn before me this 16th day of April, 2019.


NOTARY PUBLIC

BETTINA PINTER
Notary Public, State of New York
No. 01PI6168195
Qualified in Queens County
Commission Expires June 11, 2019