

Note: In the case title, an asterisk () indicates an appellant and a double asterisk (**) indicates a cross-appellant. Decisions of a three-justice panel are not to be considered as precedent before any tribunal.*

ENTRY ORDER

SUPREME COURT DOCKET NO. 2018-272

JANUARY TERM, 2019

In re Jamie Bonnar Bright*	}	APPEALED FROM:
	}	
	}	Superior Court, Chittenden Unit,
	}	Civil Division
	}	
	}	DOCKET NO. 435-5-18 Cncv
		Trial Judge: Robert A. Mello,
		Gregory J. Glennon

In the above-entitled cause, the Clerk will enter:

Petitioner appeals the civil division’s order affirming the probate division’s denial of his petition for a name change. We affirm.

In January 2018, petitioner filed a form with the probate division seeking to change his name to Jamie Bonnar Bright. On the petition, he printed his name as Jamie Bonnar Bright. His New York City birth certificate indicates that his name is “JAMIE BONNAR BRIGHT.”

On March 12, 2018, following a hearing, the probate division denied the petition, stating that Jamie Bonnar Bright was petitioner’s legal name, that he was asking the court to declare what his name was rather than change it, and that the court’s authority was limited to the procedure set out by statute and rule for changing a name. The court further stated that the form petitioner used did not conform to the form approved pursuant to Vermont Rule of Probate Procedure 84.

On May 29, 2018, following several additional unsuccessful filings with the probate division, petitioner appealed to the civil division, which upheld the probate division’s denial of the petition. The civil division noted that petitioner was arguing that the probate division erred by not granting him relief pursuant to Vermont Rule of Probate Procedure 60(b). After citing the bases available under the Rule for granting relief from judgment, the court concluded that petitioner failed to make any showing that any of those bases applied to the probate division’s determination that it lacked authority to grant the relief requested. The court also concluded that petitioner was not entitled to his requested relief on equitable grounds, stating that it was not aware of any special legal meaning behind the birth certificate’s use of all capital letters for the name and that the certificate did not bind petitioner to format his name in that manner when he wrote it. See V.R.P.P. 65 (“Requests for equitable relief within the jurisdiction of the probate court shall be made by

motion and shall be heard and decided in accordance with the Vermont Rules of Civil Procedure where applicable.”). The court further stated that it could not issue the declaration petitioner sought on equitable grounds insofar as petitioner had not shown how he was harmed by the formatting of his name in all capital letters on his birth certificate. In sum, the court concluded that the relief petitioner sought is not available in the probate division under the change-of-name statute and that equitable relief is not available under the circumstances reflected in the record.

From his briefing on appeal, we discern three arguments. First, he seems to contend that he does not have definitive proof stating his adult name. Second, he explains that his “adult name is a compound name and is not styled with a ‘Middle’ name.”¹ And third, he may be arguing that because his New York birth certificate states his name in all capital letters, he seeks an order establishing his name in a grammatically proper way.²

“A court of probate has a special and limited jurisdiction created, and restricted, by statute.” In re Proctor, 140 Vt. 6, 8 (1981); see 4 V.S.A. § 35 (indicating areas in which probate division may exercise authority, including changes of name). “A probate court may act only when clearly bestowed with the power to act; nothing is to be presumed in favor of its jurisdiction.” Proctor, 140 Vt. at 8. Pursuant to section 811 of Title 15, an adult person of sound mind may “change” that person’s name by signing a form before a judge of the probate division in the district where the person resides. In this case, we uphold the civil division’s order affirming the probate division’s dismissal of the petition because plaintiff did not seek a name change, as authorized by statute. Rather, he sought a declaration from the court that his name is Jamie Bonnar Bright—the same name on his birth certificate. The change-of-name statute does not authorize the probate court to issue a declaratory judgment that a person’s legal name is in fact that person’s name.

In this case, we reject petitioner’s explanation that the probate division should have granted his petition because his first name is a compound name and he has no middle name. We do not dispute petitioner’s characterization of his name, but observe that the birth certificate in the record that reflects his legal name assigned at birth does not purport to assign a “first” name and a “middle” name. It simply reflects that his name is “Jamie Bonnar Bright.”³ Likewise, we conclude

¹ In other words, he explains that “Jamie Bonnar” is a compound “first” name and he has no “middle” name. Petitioner did not and does not request that any of his names be hyphenated.

² Petitioner also argues that his petition should not have been denied on the basis that the form he filed did not conform to the form authorized by rule. In affirming the probate division’s denial of the petition, the civil division did not rely on this alternative ground for denying the petition, and neither do we.

³ At oral argument, petitioner represented that his “long form” birth certificate from New York specifically designates “Bonnar” as his middle name—a fact he seeks to change. Because this “long form” birth certificate was not in the record below, we cannot take it into account in deciding this appeal. Nothing in this decision is intended to preclude petitioner from initiating a new name-change proceeding to eliminate “Bonnar” as his middle name and add it to his “first” name if he presents proper evidence to the court that Bonnar is in fact designated as his middle name on his birth certificate. Petitioner indicated at argument that he has been barred from making further filings in the probate division. We understand the probate division’s order to prohibit future filings in this docket. It does not purport to limit petitioner’s ability to make other good-faith filings in the probate division.

that the New York birth certificate, which uses upper-case letters for all words, including month of birth and petitioner’s parents’ names, does not establish that Jamie Bonnar Bright’s legal name requires the use of all capital letters.⁴ For these reasons, we affirm the civil division’s order which, in turn, affirmed the probate division’s order.

Importantly, we note that the basis for denying petitioner’s request for a name change is that “Jamie Bonnar Bright” is already his legal name. Ironically, although the probate division denied petitioner’s petition, and we affirm, the reasoning underlying this denial necessarily provides petitioner exactly what he is after—a court order confirming that his legal name is “Jamie Bonnar Bright.”

Affirmed.

BY THE COURT:

Marilyn S. Skoglund, Associate Justice

Beth Robinson, Associate Justice

Karen R. Carroll, Associate Justice

⁴ At oral argument, petitioner sought an order establishing his name as written by his own hand—that is, in his handwriting. Neither the font in which it is written nor the means by which it is inscribed—in this case, handwriting—is intrinsic to one’s legal name. We accordingly reject petitioner’s request.