

NOTARIES PUBLIC: A Notary Public cannot legally notarize documents under any name other than his or her legal name.

February 15, 1949



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Honorable Walter H. Toberman
Secretary of State
Capitol Building
Jefferson City, Missouri

Attention: Mr. U. A. McBride

Dear Sir:

This office is in receipt of your request for an official opinion upon a question propounded to your office in a letter from Ben Nordberg, Clerk of the County Court of Jackson County, Missouri. Mr. Nordberg, in his letter, inquires:

"Katherine Quigley of this city holds a notary commission under the name of Katherine Sevier, for the reason that at the time she was thus commissioned she carried her married name of Sevier.

"Since that time she has secured a divorce and has taken back her maiden name and wishes to know if she can still legally notarize documents under the name of Sevier, rather than her now legal name of Quigley."

We would call your attention to Section 13363, R. S. Mo. 1939, which states:

"Every notary public shall provide a notarial seal, on which shall be inscribed his name, the words 'notary public,' the name of the county or city, if appointed for such city, in which he resides and has his office, and the name of the state; shall designate in writing, in any certificate signed by him, the date of the expiration of his commission.

No notary public shall change his seal during the term for which he is appointed and he shall authenticate therewith all his official acts, and the record and copies, certified by the proper custodian thereof, shall be received in evidence."

It will be noted that the above section specifically says that the notary public shall provide a notarial seal on which shall be inscribed his name.

Katherine Sevier, to whom the notary commission in this case was issued, now bears the name of Katherine Quigley, and for her to continue to notarize instruments with a notarial seal on which is inscribed the name of Katherine Sevier would obviously be in violation of Section 13363, since Katherine Sevier is not now her legal name. It is, therefore, our opinion that Katherine Quigley cannot legally notarize documents under the name of Katherine Sevier.

In regard to the issue as to the proper course of action to be taken to rectify the above situation we would call your attention to Volume 5, 1924-1925 Pa. District and County Reports, page 66, from which case found therein we quote:

"On May 15, 1923, Boleslaw John Bielski filed a petition in the Court of Common Pleas of Allegheny County for a change of his name. After publication and compliance in all other respects with the act of assembly governing this procedure, a decree was entered by the court changing the name of petitioner to that of Robert John Billings.

"At the time the petition was filed Bielski was an interne in a hospital at Pittsburg, and about to take his State examination for a license to practice medicine. He filed his credentials in the name he then bore, Boleslaw John Bielski, as at that time the decree had not been entered changing his name.

"After the decree was entered, and before his license was issued, he forwarded a certified copy to the Department of Public Instruction, with a request that his license be issued in the name of Robert John Billings. He was notified by your board that it would be impossible to issue him a license in any other name than that under which his credentials were filed.

"The question arises: Can a license be issued to him in the name of Robert John Billings, the name he now legally bears?

"In the case of a notary public who has had his name changed by decree of court, this department has held that the commission was issued to a person certain, and there was no reason why that person should not have a commission in the new name. The commission was issued to the person and not to the name. The same reasoning applies to a license issued to practice medicine. The person to whom a license was issued having changed his name by legal procedure, in a way recognized and approved by the law, he should not be deprived of any of his rights for doing so. He is entitled to all the rights which were his under his old name, and one of these rights was to practice medicine, and he ought not, as Robert John Billings, to be compelled to practice under a license issued in the name of Boleslaw John Bielski.

"A man's name is the mark by which he is distinguished from other men, and as Robert John Billings is now the legal name of him who formerly bore the name of Boleslaw John Bielski, he should be given a license in his legal name, for the only thing the law looks to is the identity of the individual.

"Probably the leading case on a change of name is *Petition of Snook*, 2 Pitts. Repr. 26, and in that case the court, speaking of a changed name, held: 'Any contract or obligation he may enter into, or which others may enter into with him by that name, or any grant or devise he may hereafter make by it would be valid and binding, for, as an acquired known designation, it has become as effectually his name as the one he previously bore.'

"In *Clouser v. Snyder*, 8 Berks Co. L.J

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71, it is laid down, 'that a man may adopt any name he chooses, and that his acts and contracts by such name will be legal.'

"You are, therefore, advised that if Robert John Billings returns the license issued to Boleslaw John Bielski, together with a certified copy of the decree of the court changing his name, if such decree is not already filed in the Department of Public Instruction, while it is not obligatory, it is legal and only fair that a new license should be issued to Robert John Billings to practice medicine in this Commonwealth under that name."

In the light of this decision, and in the absence of Missouri decisions upon this point, it would be our opinion that a new commission be issued to Katherine Quigley by the Governor, without charge to her.

CONCLUSION

It is the conclusion of this office that a notary cannot legally notarize documents under any other than his or her legal name.

Respectfully submitted,

HUGH P. WILLIAMSON
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General

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