

PETITION TO OBTAIN ADOPTION RECORDS

**IN THE _____ COURT
FOR _____ COUNTY, STATE OF _____**

In the Matter of: _____,) Case No.
)
DOB: _____,)
)
A Person Under Eighteen Years of Age.)
)
_____)

**PETITION PURSUANT TO 25 U.S.C. § 1917
TO OBTAIN CERTAIN BIRTH RECORD INFORMATION
FROM COURT AND AGENCY ADOPTION RECORDS**

COMES NOW the Petitioner, _____, and respectfully petitions the Court for an order, pursuant to 25 U.S.C. § 1917, permitting him/her to have access to certain identifying information pertaining to him/herself, his/her natural mother/father, and natural maternal/paternal grandparents, and contained in the records of his/her adoption maintained in the above-captioned matter by this Court and by _____ an agency that maintains the adoption records of the now defunct _____. In support of his/her petition, Petitioner states:

1. I presently reside at _____.
2. I was born on _____ in _____. On information and belief, my natural mother/father named me _____ at birth.
3. On _____ the _____ Court, a predecessor to this Court, entered a decree of adoption approving my adoption by _____ and changing my name to _____.

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4. The _____ an agency that is now defunct was involved in my adoption and kept records pertaining to the adoption. _____ currently maintains the adoption records of this defunct agency.

5. According to this Court's records of my adoption, my natural mother/father was American Indian/Alaskan Native. I do not know his/her tribal affiliation. On information and belief, his/her name is _____.

6. Members of American Indian tribes/Alaskan Native villages are provided with legal rights under federal law that are not available to others. These rights include, for example, scholarships and other education programs, health care, employment rights, business grants and loans, a variety of social services, property rights including the right to share tribal lands and the income therefrom, the right to be exempt from certain taxes, and other similar rights.

7. Members of American Indian tribes/Alaskan Native villages associate with one another in a socio-political community, commonly known as the tribal relationship, sharing a common heritage and culture and promoting the economic well-being of the entire tribal community.

8. I am not a member of any Indian tribe/Alaskan Native village and, at present, I am unable to establish eligibility for such membership.

9. I have been deprived of my Indian culture, heritage and tribal relationship and all the rights under federal law that would flow from membership in a tribe/Alaskan Native village. I have also been deprived of the political, social, economic, and

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psychological advantages and benefits which would flow from membership in a tribe/Alaskan Native vilalge.

10. The Indian Child Welfare Act, 25 U.S.C. 1901 *et seq.*, provides in pertinent part:

Upon application by an Indian individual who has reached the age of eighteen and who was the subject of an adoptive placement, the court which entered the final decree shall inform such individual of the tribal affiliation, if any, of the individual's biological parents and provide such other information as may be necessary to protect any rights flowing from the individual's tribal relationship.

25 U.S.C. § 1917.

11. United States Senate Report No. 95-597, 95th Cong. 1st Sess. (November 3, 1977), explains § 1917.

An Indian child who has been placed in adoptive, foster care, or other setting is authorized upon obtaining the age of eighteen to obtain information regarding his or her placement as may be needed to qualify for enrollment in his or her tribe of origin and for other benefits and property rights to which he or she may be entitled because of Indian status.

Senate Report No. 95-597 at page 11.

It is the intent of this section [sec. 1917] as amended to authorize the release of only such information as is necessary to establish the child's rights as an Indian person. Upon a proper showing to a court that knowledge of the names and addresses of his or her natural parent or parents is needed, only then shall the child be entitled to the information under the provision of this section.

Senate Report No. 95-597 at page 18.

12. The Indian Child Welfare Act was enacted after extensive Congressional testimony and study revealed that an inordinate number of Indian children had been separated from their tribal communities through adoption and other placements frequently detrimental to the children, their families and their tribes.

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. . . the Congress finds –
. . . (4) that an alarmingly high percentage of Indian families are broken up by the removal, often unwarranted, of their children from them by nontribal public and private agencies and that an alarmingly high percentage of such children are placed in non-Indian foster and adoptive homes and institutions; and (5) that the States, exercising their recognized jurisdiction over Indian child custody proceedings through administrative and judicial bodies, have often failed to recognize the essential tribal relations of Indian people and the social and cultural standards prevailing in Indian communities and families.

25 U.S.C. §§ 1901(4) and 1901(5).

13. The Congress in the Indian Child Welfare Act stressed the national policy of protecting and preserving the relationship between Indian tribes and their children. 25 U.S.C. §§ 1901(2), 1901(3) and 1902. The policy derived in part from findings by the American Indian Policy Review Commission that "[r]emoval of Indian children from their cultural setting [by placement in non-Indian adoptive homes] seriously impacts a long-term tribal survival and has damaging social and psychological impact on many individual Indian children." *Miss. Band of Choctaw Indians v. Holyfield*, 490 U.S. 30, 48 (1989). *See also, Matter of Adoption of a Child of Indian Heritage*, 111 N.J. 155, 543 A.2d 925, 930-931 (1988) (The Indian Child Welfare Act is based on findings " . . . that an Indian child . . . separated from all aspects of Indian culture . . . not only posed a threat to the stability and security of Indian tribes, but also carried with it the potential for psychological harm to the Indian child . . . [including] ethnic confusion and a sense of abandonment").

14. Petitioner was adopted by non-Indians.

15. The rights available to Indians because of their status as Indians can only be obtained by members of Indian tribes.

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16. Virtually every Indian tribe/Alaskan Native village requires an applicant for membership to identify by name the biological parent(s) of the applicant to determine if such parent(s) is a member of the tribe/village and to present documentation, usually an original certificate of birth, the final decree of adoption, and other related documents, evidencing the fact that the person adopted is actually the biological child of the tribal member(s) identified as the parent(s) of the applicant for membership. Only in this way can tribes/villages determine if the applicant for membership possesses the requirements necessary for membership.

17. In order for me to identify the Indian tribe/Alaskan Native village with which I am related and secure membership as a member of such tribe/village, it is necessary for me to identify my natural mother/father and, perhaps his/her parents by name.

18. In addition to the personal importance to me of establishing my Indian identity and securing membership in the tribe/village with which I have a relationship, it is also of great importance that my children and my grandchildren also be able to establish an Indian identity and to secure all of the legal and other rights associated with tribal membership. If I am able to become a member of a tribe/village, my children and grandchildren may also be able to become tribal members.

19. On _____, I informed my attorney, _____, that (adoptive parents' names) _____ has no objection to the granting of this petition and that such position could be represented to the Court as part of this petition.

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20. My adoptive parents, _____, fully support my efforts to secure the information requested through this petition. See Exhibit A and B annexed hereto, affidavits of adoptive mother and father.

WHEREFORE, movant respectfully requests that this Court enter an order:

1. Granting movant the right to inspect and copy the records of his/her adoption maintained by this Court, and the records of _____ now maintained by _____ for the purpose of identifying his/her tribal affiliation or the tribal affiliation of her natural father/mother and, if necessary, his/her natural maternal/paternal grandparents.

2. Granting movant the right to inspect and copy all information contained in the records of his/her adoption maintained by this Court, and the records of _____ now maintained by _____ as may be necessary to enable him/her to become a member of an Indian tribe/Alaskan Native village and to protect his/her rights flowing from the tribal relationship and his/her status as an Indian/Alaskan Native, such information to include the original certificate of his/her birth, the final decree of adoption, the names and last known addresses of his/her biological father/mother, and if necessary, his/her biological maternal/paternal grandparents.

Signed