University of Huddersfield Repository

Blyth, Eric

Davina and Goliath: the personal cost of seeking justice

Original Citation


This version is available at http://eprints.hud.ac.uk/9443/

The University Repository is a digital collection of the research output of the University, available on Open Access. Copyright and Moral Rights for the items on this site are retained by the individual author and/or other copyright owners. Users may access full items free of charge; copies of full text items generally can be reproduced, displayed or performed and given to third parties in any format or medium for personal research or study, educational or not-for-profit purposes without prior permission or charge, provided:

- The authors, title and full bibliographic details is credited in any copy;
- A hyperlink and/or URL is included for the original metadata page; and
- The content is not changed in any way.

For more information, including our policy and submission procedure, please contact the Repository Team at: E.mailbox@hud.ac.uk.

http://eprints.hud.ac.uk/
Davina and Goliath: the personal cost of seeking justice

29 October 2010

By Professor Eric Blyth
Professor of Social Work, University of Huddersfield and Visiting Professor, Department of Applied Social Sciences, Hong Kong Polytechnic University.

Appeared in BioNews 582

As reported in BioNews on 25 October 2010 (1), Olivia Pratten, a 28-year old Toronto journalist who was conceived as a result of anonymous donor conception provided by a Vancouver physician, Dr Gerald Korn, is challenging the protection of donor anonymity in the Supreme Court of British Columbia. The Court agreed to hear the case despite claims made in September by lawyers acting for the Government of British Columbia that the physician's records have been destroyed, and despite an injunction made by the Court that has been in force since December 2008 preventing the destruction of the records - at which time there were no countervailing claims that the records no longer existed.

The presiding judge, the Honourable Madam Justice Gropper, believed there is at least a case to answer. Ms Pratten can also claim a measure of support from the Canadian Senate's Standing Committee on Human Rights, which in 2007 recommended: 'Pursuant to articles 7 and 8 of the Convention on the Rights of the Child... Assisted Human Reproduction Canada (the Canadian federal regulatory body) review the legal and regulatory regime surrounding sperm donor identity and access to a donor's medical history to determine how the best interests of the child can better be served' (2).

To date, no such review has taken place, and the extent to which Canada's continued protection of donor anonymity can be said to be consistent with the country's Assisted Human Reproduction Act 2004 is at least debatable. Section 2(a) of the 2004 Act says: 'The health and well-being of children born through the application of assisted human reproductive technologies must be given priority in all decisions respecting their use'.

In taking on both the Government of British Columbia and the College of Physicians & Surgeons of British Columbia in her action, Ms Pratten has not chosen meek adversaries. In this modern Davina and Goliath story, one might perhaps have expected a measure of public sympathy for a solitary individual challenging the vested interests of the establishment. Judging by comments posted on the website of the Globe & Mail (3), a Canadian newspaper that has featured Ms Pratten's case, however, there is not much sympathy for the 'underdog' among its readers.

As of 12 noon (BST) on 27 October 2010, the Globe & Mail had racked up 601 comments relating to this story. Some of these have supported Ms Pratten, such as those below: 'I can understand this
woman wanting to meet her biological father - who may actually turn out quite interested to see how his donation turned out, all these years on' and 'I was a principal donor for Dr Korn for a decade, and it was never my intention to become a party to denying these children knowledge of their origins or genetic legacies. That he destroyed these records means he caused a lot more harm than good and disgraced himself as a doctor'.

However, many more have been critical, a considerable number of which are in flagrant breach of the Globe & Mail's code of conduct, which says: 'personal attacks, offensive language and unsubstantiated allegations are not allowed'. Ms Pratten is variously described as 'selfish', 'insecure', 'a spoiled brat', 'disgusting', 'reprehensible', and accused of having ulterior motives, such as wanting back payment of child support or - as a journalist - planning to write a book. If successful, her actions are seen as risking future family-building opportunities for other people - because of the anticipated adverse impact on donor recruitment.

Ms Pratten is seeking access to information to which donor-conceived people in Austria, Germany, Finland, the Netherlands, New South Wales, New Zealand, Norway, South Australia, Sweden, Switzerland, the United Kingdom, Victoria and Western Australia are already entitled. Whether one agrees with her claims or not (and for the sake of complete transparency I will declare that I do), she should be allowed to fight her corner without being subjected to personal vilification and character assassination.

**SOURCES & REFERENCES**

1) Blackburn-Starza, A. Canadian court allows woman to seek information on sperm-donor father
BioNews 581 | 25 October 2010

2) Stueck, W. Court case seeks to strip sperm donors' anonymity
Globe & Mail | 25 October 2010

3) Standing Senate Committee on Human Rights

**RELATED ARTICLES FROM THE BIONEWS ARCHIVE**

**Canadian court allows woman to seek information on sperm-donor father**
25 October 2010 - by Antony Blackburn-Starza
A Canadian woman conceived through donor insemination has been allowed to bring legal action against the province of British Columbia to obtain information about her biological heritage, which may include the identity of the sperm donor involved....[Read More]

**Woman in Canada begins lawsuit to find out her genetic identity**
10 November 2008 - by Sarah Guy
A 26 year old woman in Canada conceived using donor sperm has begun legal action to attempt to make available the identities of anonymous sperm donors, including that of her own father. Olivia Pratten is acting on behalf of all those in British Columbia (BC) conceived using...[Read More]

**HAVE YOUR SAY**

So far 2 comments have been added.