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Davina and Goliath: the personal cost of seeking justice

29 October 2010

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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](#)

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