

IN THE COURT OF APPEALS
TWELFTH APPELLATE DISTRICT OF OHIO
BROWN COUNTY

IN RE: :
L.M.P. : CASE NO. CA2010-05-008
: OPINION
: 11/22/2010
:
:

APPEAL FROM BROWN COUNTY COURT OF COMMON PLEAS
JUVENILE DIVISION
Case No. 20104135

Patrick L. Gregory, 717 West Plane Street, P.O. Box 378, Bethel, Ohio 45106, for appellant,
A.P.

S.B, 1491 Denny Drive, Amelia, Ohio 45102, appellee, pro se

RINGLAND, J.

{¶1} Plaintiff-appellant, A.P. (Mother), appeals from the decision of the Brown County Court of Common Pleas, Juvenile Division, overruling her objection to an administrative order changing the surname of her child, L.M.P., to that of the defendant-appellee, S.B. (Father), the child's father. We reverse.¹

{¶2} Mother gave birth to L.M.P. on December 2, 2009. Father is listed as the father

1. Pursuant to Loc.R. 6(A), we sua sponte remove this case from the accelerated calendar and place it on the regular calendar for purposes of issuing this opinion.

on the child's birth certificate. The parties were never married.

{¶13} On April 6, 2010, the Brown County Child Support Enforcement Agency (CSEA) held an administrative hearing to establish paternity and address the parties' child support obligations. At the hearing, the following exchange occurred:

{¶14} "[CSEA ADMINISTRATIVE OFFICER]: Okay. What I'm doing now is what called an administrative order to modify the birth record. [sic] What this does, we send this up to Columbus and they add your name as the father to the child.

{¶15} "And then also what I'm going to tell you, ma'am, you may not like. It may not matter to you, but a lot of times it does. Our probate court judge is – her authority on this matter is pretty universal. What happens is any time we do a paternity establishment, the judge requires the child to carry the surname of the father.

{¶16} "The only way that you can stop that is to file an objection with the judge. And then with the objection you have to write out why, and she'll consider it. Most of the time she doesn't. You know, if a child is 13 and 14 and people have known them by that name all their life she may not change that.

{¶17} " * * *

{¶18} "But when children are real young, to be honest with you she may change it. [sic] Now at this point in time you can choose to have it hyphenated if you wanted. You can choose, you know what I mean? But she's going to put the father's surname on the child.

{¶19} "It's up to you. You can file an objection, or you can have it hyphenated. It's up to you, but ultimately she'll make the decision. Do you see what I'm saying?

{¶10} "[MOTHER]: Yeah.

{¶11} "[CSEA ADMINISTRATIVE OFFICER]: What are your thoughts on that, ma'am?

{¶12} "[MOTHER]: I would like to file [an objection]."

{¶13} Following the administrative hearing, during which time both parties signed an acknowledgment of paternity affidavit, the CSEA issued an administrative order changing the child's surname to that of Father. Mother subsequently filed an objection to the administrative order, which the juvenile court summarily overruled in an entry dated April 27, 2010.

{¶14} Mother now appeals from the juvenile court's decision overruling her objection to the CSEA's administrative order changing the child's surname, raising one assignment of error for review.²

{¶15} "WHETHER IT WAS CONTRARY TO LAW AND AGAINST THE WEIGHT OF THE EVIDENCE FOR THE COURT TO CHANGE THE LAST NAME OF THE PARTIES' CHILD TO THAT OF THE FATHER."

{¶16} In her sole assignment of error, Mother argues that the juvenile court erred by overruling her objection to the CSEA's administrative order changing the child's surname.³ We agree.

{¶17} Pursuant to R.C. 3111.52, "[t]he child support enforcement agency, as part of an administrative order determining the existence of a parent child relationship, may order the surname of the child subject to the determination to be changed and order the change to be made on the child's birth record consistent with the order *if both parties agree to the change.*" (Emphasis added.)

{¶18} After a thorough review of the record, it is clear that Mother did not agree to have the child's surname changed. Therefore, based on the clear reading of R.C. 3111.52,

2. We note that Father did not file an appellate brief in this matter. Pursuant to App.R. 18(C), this court may accept Mother's statement of facts and issues as correct and reverse the judgment if her brief reasonably appears to sustain such action. See *Burton v. Caudill*, Brown App. No. 2009-12-047, 2010-Ohio-4946, ¶4, fn.1.

3. Although Mother's assignment of error challenges the juvenile court's decision overruling her objection as being against the manifest weight of the evidence, as this court has stated previously, the manifest weight of the

which authorizes the CSEA to order a child's surname changed *only if both parties agree to the change*, the juvenile court erred by overruling Mother's objection to the administrative order. Accordingly, the juvenile court's decision overruling Mother's objection is reversed and Mother's sole assignment of error is sustained.

{¶19} Judgment reversed.

YOUNG, P.J., and BRESSLER, J., concur.

evidence is inapplicable to decisions regarding the change of a child's surname. See *Boysel v. Perrill* (Sept. 10, 2001), Fayette App. No. CA2000-11-032, 4-5.

[Cite as *In re L.M.P.*, 2010-Ohio-5666.]