

IN THE COURT OF APPEALS OF OHIO  
SIXTH APPELLATE DISTRICT  
LUCAS COUNTY

In re The Name Change of T.R.

Court of Appeals No. L-12-1264

Trial Court No. 2011 NCH 001700

**DECISION AND JUDGMENT**

Decided: July 5, 2013

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Clint M. McBee, for appellant.

David Woodbury, pro se.

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**YARBROUGH, J.**

I. Introduction

{¶ 1} Appellant, T.R. (“mother”) appeals the judgment of the Lucas County Court of Common Pleas, Probate Division, granting appellee’s, D.W. (“father”), request to change the name of his son from T.R. to T.W. We affirm.

### A. Facts and Procedural Background

{¶ 2} On October 6, 2000, mother bore T.R. At the time of birth, T.R. was given mother's surname, pursuant to R.C. 3705.09, due to father's absence. After the birth, mother began the process of placing T.R. up for adoption. Upon learning of T.R.'s birth however, father immediately registered on the putative father registry and successfully terminated all adoption proceedings. Mother and father co-parented until 2006, when the juvenile court appointed mother as the residential parent and legal guardian of the child. The court granted father parenting time and companionship privileges. In 2010, father filed a motion to modify parental rights and responsibilities, arguing that mother had failed to comply with the terms of the original court order. Following a hearing on the motion, the court found that mother had continually interfered with father's parenting responsibilities and visitation rights to the detriment of the child. Consequently, the court designated father as the residential parent and legal guardian of the child. On August 15, 2011, father filed a request to change T.R.'s name pursuant to R.C. 2717.01(B). On August 14, 2012, the trial court granted the request.

### B. Assignment of Error

1. The trial court abused its discretion by finding that it was in the best interest of T.R. to grant father's application to change his surname to that of his father, thereby committing error.

- 2.

## II. Analysis

{¶ 3} When reviewing a decision that a child's name should be changed, an appellate court must not substitute the trial court's judgment with that of its own.

*Charles B. v. Jennifer S.*, 6th Dist. No. E-08-012, 2008-Ohio-4276, ¶15, citing *In re Jane Doe 1*, 57 Ohio St.3d 135, 566 N.E.2d 1181 (1991). Instead, we review the trial court's decision for an abuse of discretion. *Id.* An abuse of discretion suggests that the trial court's attitude was unreasonable, arbitrary, or unconscionable. *Blakemore v. Blakemore*, 5 Ohio St.3d 217, 219, 450 N.E.2d 1140 (1983).

{¶ 4} In the case of *In re Willhite*, 85 Ohio St.3d 28, 706 N.E.2d 778 (1999), the Ohio Supreme Court held that in deciding whether or not a name change should be granted the court should contemplate the following factors:

\* \* \* the effect of the change on the preservation and development of the child's relationship with each parent; the identification of the child as part of a family unit; the length of time that the child has used a surname; the preference of the child if the child is of sufficient maturity to express a meaningful preference; whether the child's surname is different from the surname of the child's residential parent; the embarrassment, discomfort, or inconvenience that may result when a child bears a surname different from the residential parent's; parental failure to maintain contact with and

support of the child; and any other factor relevant to the child's best interest. *Id.* at paragraph two of the syllabus, citing *Bobo v. Jewell*, 38 Ohio St.3d 330, 528 N.E.2d 180 (1988).

“Courts should consider only those factors present in the particular circumstances of each case.” *Bobo* at paragraph two of the syllabus. Notably, this is not an exhaustive list, nor do all requirements have to be satisfied in order for the court to determine that a name change is in the best interest of the child. *In re Name Change of Armin Lawrence R.*, 6th Dist. No. L-06-1236, 2007-Ohio-1523, ¶ 12.

{¶ 5} Considering these factors, the trial court found that it is in the best interest of T.R. to grant the name change. First, the trial court found that T.R. has experienced an extremely turbulent childhood. During most of that time, he resided with his mother. The trial court found that both parents love the child. However, mother actively engaged in activity to alienate the child from his father, compromising their relationship. Father testified that there were times where mother refused to tell him where the child was when he came to pick him up for visitation. He also testified that on one occasion it took a warrant for mother's arrest in order for him to have visitation with the child. Thus, the trial court found that the preservation and development of the relationship with father will be strengthened by the name change. Furthermore, the court found that the name change would not be a detriment to T.R.'s relationship with mother.

{¶ 6} Second, now that T.R. resides with his father, he has expressed some confusion as to why his last name is different from his younger brother's last

name. In addition, father testified that he witnessed a conversation where T.R. was being teased by his friends when they found out he and his brother did not share the same last name. Further, M.L., father's girlfriend, testified that when T.R. had friends over and they asked him why his name was different, he appeared to be extremely embarrassed. Thus, the trial court found that changing T.R.'s surname would allow him to identify with his family unit.

{¶ 7} Third, the trial court found that, although T.R. has been known by his current surname for his whole life, attending a new school will make the name change less complicated. In so finding, the trial court noted that father agreed to fill out all the necessary forms to ensure T.R.'s transition goes smoothly.

{¶ 8} Finally, discounting mother's submission of T.R.'s handwritten note, which stated that he wished to have his last name remain R, the trial court found that T.R.'s preference was ambiguous at best. The trial court declined to give any weight to the note because it was written the day before the first name change hearing, while T.R. was in mother's custody, and at her request.

{¶ 9} Upon consideration of the *Willhite* factors, the trial court found that the name change was in the best interest of the child. Based on our review of the record, we cannot say that trial court's decision was unreasonable, arbitrary, or unconscionable.

{¶ 10} Accordingly, mother's assignment of error is not well-taken.

### III. Conclusion

{¶ 11} For the foregoing reasons, we affirm the judgment of the Lucas County Court of Common Pleas, Probate Division. Appellant is ordered to pay the costs of this appeal pursuant to App.R. 24.

Judgment affirmed.

A certified copy of this entry shall constitute the mandate pursuant to App.R. 27. *See also* 6th Dist.Loc.App.R. 4.

Mark L. Pietrykowski, J.

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JUDGE

Arlene Singer, P.J.

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JUDGE

Stephen A. Yarbrough, J.  
CONCUR.

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JUDGE

<p>This decision is subject to further editing by the Supreme Court of Ohio's Reporter of Decisions. Parties interested in viewing the final reported version are advised to visit the Ohio Supreme Court's web site at: <a href="http://www.sconet.state.oh.us/rod/newpdf/?source=6">http://www.sconet.state.oh.us/rod/newpdf/?source=6</a>.</p>
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