

**IN THE COURT OF APPEALS OF OHIO  
ELEVENTH APPELLATE DISTRICT  
LAKE COUNTY**

IN THE MATTER OF:

CHANGE OF NAME  
OF L.J.T. TO L.J.S.

**CASE NO. 2023-L-025**

Civil Appeal from the  
Court of Common Pleas,  
Probate Division

Trial Court No. 2018 NC 1065

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**OPINION**

Decided: August 21, 2023

Judgment: Affirmed

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*James W. Reardon*, Carrabine & Reardon, Co., LPA, 7445 Center Street, Mentor, OH 44060 (For Appellant, Marco L. Trivisonno).

*Thomas J. Sacerich*, 8302 Yellowbrick Road, Mentor, OH 44060 (For Appellee, Megan E. Sacerich)

ROBERT J. PATTON, J.

{¶1} Appellant father, Marco Trivisono, appeals the judgment entry of the Lake County Court of Common Pleas, Probate Division, granting the Application for Change of Name of Minor Child from L.J.T. to L.J.S. (D.O.B 6-21-2017), which appellee mother, Megan Sacerich, filed.

{¶2} Appellant has raised a single assignment of error, arguing that the trial court abused its discretion when it granted the name change from appellant's surname to appellee's surname.

{¶3} Having reviewed the record and the applicable caselaw, we find appellant's assignment of error to be without merit. The trial court did not abuse its discretion, appropriately applied the factors as set forth by *In re Willhite*, 85 Ohio St.3d 28, 706 N.E.2d 778 (1998), and rendered judgment in the best interest of the child.

{¶4} Therefore, we affirm the judgment of the Lake County Court of Common Pleas, Probate Division.

### **Substantive and Procedural History**

{¶5} On May 14, 2018, appellee filed an Application for Change of Name of Minor requesting to change the minor child's surname from appellant's to her own. The matter was continued several times as the parties litigated the allocation of parental rights and child support in juvenile court.

{¶6} The matter proceeded to a hearing on August 25, 2022. At the hearing, appellee testified to the following: She is the minor child's residential parent and that he identifies very closely with her side of the family. She said that she and appellant were never married. Further, the minor child's stepbrother, who also lives in the home, shares appellee's surname. Because of this difference, the minor child started asking questions about his last name. Appellant said the two children go to school together and their different surnames cause confusion and would continue to cause confusion at doctor's visits, sporting events, social activities, and within the community. She said that if she marries, she will not change her name.

{¶7} Appellee said that although appellant currently pays child support, he did not do so until his wages were garnished. She also said appellant did not maintain contact with the child or engage in visitation for several months after the two split up. However,

appellant has since established visitation through court order and maintained contact with the child.

{¶8} Appellant testified that a name change would not alienate or affect his relationship with the child. He acknowledged that the minor child's stepbrother has the same last name as appellee. When asked if it would be better for the minor child to share the same name as his residential parent and stepbrother, appellant said "no" because the child's given surname "is his father's name He's been baptized with that name, he's had that name his whole life. He knows it's his last name." When asked why he opposed the name change, appellant said "[b]ecause I'm his father. And that was the name he was born with." He further said, "I mean, that's how most kids grow up, with their father's last name." He agreed that children bearing their father's surname was a custom.

{¶9} On January 27, 2023, the trial court issued a judgment entry finding the proposed name change to be in the best interest of the child and granted the application.

{¶10} Appellant timely appealed and raises one assignment of error.

### **Assignments of Error and Analysis**

{¶11} Appellant's sole assignment of error states:

{¶12} "The trial court erred and abused its discretion when it granted a request by Appellee-Mother to change the minor child's name from the Appellant-Father's surname to Appellee-Mother's surname."

{¶13} R.C. 2717.01(B) authorizes a probate court to change a minor's name upon application by a parent or guardian. The applicant has the burden to affirmatively show that the name change is in the child's best interest. *D.W. v. T.L.*, 134 Ohio St.3d 515,

2012-Ohio-5743, 983 N.E.2d 1273, ¶17; *In re Change of Name of Halliday*, 11th Dist. Geauga No. 2005–G–2629, 2006-Ohio-2646, 3

{¶14} Upon considering a proposed name change, the trial court must consider the best interest of the child. *In re Willhite*, 85 Ohio St.3d 28, at paragraph one of the syllabus. In considering whether a proposed change in name is in a child’s best interest, a trial court should consider 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.

{¶15} We review the trial court’s decision in granting or denying a requested name change for an abuse of discretion. *In re Willoughby*, 11th Dist. Lake No. 2001-L-208, 2002-Ohio-6581, ¶ 8.

{¶16} “The term “abuse of discretion” is one of art, connoting judgment exercised by a court which neither comports with reason, nor the record.’ *State v. Underwood*, 11th Dist. Lake No. 2008-L-113, 2009-Ohio-208, ¶ 30, citing *State v. Ferranto*, 112 Ohio St. 667, 676-678, [148 N.E. 362] (1925).” *State v. Raia*, 11th Dist. Portage No. 2013-P-0020, 2014-Ohio-2707, ¶ 9. Stated differently, an abuse of discretion is “the trial court’s ‘failure to exercise sound, reasonable, and legal decision-making.’” *Id.*, quoting *State v. Beechler*, 2d Dist. Clark No. 09-CA-54, 2010-Ohio1900, ¶ 62, quoting Black’s Law Dictionary 11 (8th Ed.Rev.2004). “When an appellate court is reviewing a pure issue of law, ‘the mere

fact that the reviewing court would decide the issue differently is enough to find error[.] \* \* \* By contrast, where the issue on review has been confined to the discretion of the trial court, the mere fact that the reviewing court would have reached a different result is not enough, without more, to find error.” *Id.*, quoting *Beechler* at ¶ 67.

{¶17} Appellant argues that the court abused its discretion because it “largely seemed to rely on father’s testimony that keeping his last name was customary and could therefore be seen as discriminatory \* \* \*.” He therefore states the trial court lost its way by not appropriately considering the best interest of the child and relieved appellee of the burden to affirmatively show that the name change was in the best interest of the child.

{¶18} He further argues that appellee did not demonstrate the *Willhite* factors because the child is not of a sufficient age to express a meaningful preference, that appellant has not failed to maintain contact and support, exercises visitation, and has not missed child support payments after being ordered to pay. He also argues appellee has not presented sufficient evidence to show any lasting embarrassment to the child because he has a different name than his residential parent or residential stepbrother. Finally, he argues that the name change will worsen the child’s relationship with appellant.

{¶19} As to the *Willhite* factors, the trial court’s judgment entry thoroughly explained its reasoning based on the *Willhite* factors. The court determined that the minor child lives with appellee and a stepbrother who have a different surname than he does; that the child attends the same school as his stepbrother; that the child has begun to notice this difference and has asked questions about it; and that the child is not of sufficient maturity to express a meaningful preference on the issue. The court considered the length of time that the child has used appellant’s surname, but also noted that appellee

filed the application for change of name in 2018, and that the matter had been continued multiple times by the parties as they litigated other issues. The trial court recognized that appellant maintained regular contact and had been making regular child support payments, but only after court proceedings.

{¶20} Further, the evidence at the hearing indicated that appellant would not treat the minor child differently if the name change were granted and would not limit visitation, which would indicate there would be minimal or no change to the child's relationship with either parent. Appellee also said that she would not change her name if she were to remarry.

{¶21} Addressing the trial court's reliance on father's testimony about keeping his surname because it was customary, the trial court relied on this testimony because it represented the primary objection appellant had to the name change. At the hearing, appellant said the reason he was against the name change was "[b]ecause I'm his father. And that was the name he was born with. \* \* \* I mean, that's how most kids grow up, with their father's last name." He agreed that children bearing their father's surname was a custom.

{¶22} The trial court rejected appellant's objection and cited case law in support of its decision noting that "giving greater weight to the father's interest fails to consider that where the parents have never been married, the mother has at least an equal interest in having the child bear the maternal surname." *Bobo v. Jewell*, 38 Ohio St.3d 330, 334, 528 N.E.2d 180 (1988)."

{¶23} The trial court's judgment entry considered the appropriate legal standard and exercised sound, reasonable decision making in determining that the name change was in the child's best interest.

{¶24} Accordingly, appellant's sole assignment of error is without merit.

{¶25} For the foregoing reasons, the judgment of the Lake County Court of Common Pleas, Probate Division, is affirmed.

MARY JANE TRAPP, J.,

MATT LYNCH, J.,

concur.