

IN THE COURT OF APPEALS OF OHIO
FOURTH APPELLATE DISTRICT
ROSS COUNTY

IN THE MATTER OF : CASE NO. 22CA7
THE NAME CHANGE OF :
CHARLES EDWARD BLEVINS, :
Appellant. : DECISION AND JUDGMENT ENTRY

APPEARANCES:

Charles Blevins, Chillicothe, Ohio, pro se.

CIVIL APPEAL FROM COMMON PLEAS COURT
DATE JOURNALIZED:12-28-22
ABELE, J.

{¶1} This is an appeal from a Ross County Common Pleas Court, Probate Division, judgment that denied an application for change of name filed by Charles Edward Blevins, appellant herein.

{¶2} Appellant assigns the following error for review:

“THE TRIAL COURT ABUSED [ITS] DISCRETION[.] THE TERM ‘ABUSE OF DISCRETION’ IS MORE THAN AN ERROR OF LAW OR JUDGMENT: IT IMPLIES THE COURTS [SIC] AT[T]ITUDE IS UNREASONABLE, ARBITRARY OR UNCONSCIONABLE.”

{¶3} On November 17, 2021, appellant filed an application to change his name. Later, a magistrate entered a decision to

deny appellant's application. The magistrate pointed out that, because appellant is a convicted felon, a name change would adversely affect: (1) the rights of the deceased victim's friends and family, and (2) the Adult Parole Authority's ability to monitor appellant upon his release from prison. The magistrate additionally found that to grant appellant's application "would be in direct contravention" of the state's public policy to promote victim's rights. On that same date, the trial court adopted the magistrate's decision and issued its judgment. This appeal followed.

{¶4} In his sole assignment of error, appellant asserts that the trial court's denial of his name change application constitutes an abuse of discretion.

{¶5} We first observe that appellant did not object to the magistrate's decision. Civ.R. 53(D)(3)(b)(iv) provides

a party shall not assign as error on appeal the court's adoption of any factual finding or legal conclusion, whether or not specifically designated as a finding of fact or conclusion of law under Civ.R. 53(D)(3)(a)(ii), unless the party has objected to that finding or conclusion as required by Civ.R. 53(D)(3)(b).

"In essence, the rule is based on the principle that a trial court should have a chance to correct or avoid a mistake before its decision is subject to scrutiny by a reviewing court."

Cunningham v. Cunningham, 4th Dist. Scioto No. 01CA2810, 2002-Ohio-4094, ¶ 8.

{¶6} If a party fails to comply with Civ.R. 53(D) (3) (b) (iv), then “[e]xcept for a claim of plain error, a party shall not assign as error on appeal the court’s adoption of any factual finding or legal conclusion, whether or not specifically designated as a finding of fact or conclusion of law.” *Barnett v. Barnett*, 4th Dist. Highland No. 04CA13, 2008-Ohio-3415, ¶ 17, quoting Civ.R. 53(D) (3) (b) (iv); see also *State ex rel. Target Auto Repair v. Morales*, 168 Ohio St.3d 88, 2022-Ohio-2062, 195 N.E.3d 1027, ¶ 10; *State ex rel. Booher v. Honda of Am. Mfg.*, 88 Ohio St.3d 52, 53-54, 723 N.E.2d 571 (2000).

{¶7} In the case sub judice, appellant did not object to the magistrate’s decision. However, the magistrate’s decision did not advise appellant that a party cannot assign as error the court’s adoption of any factual finding or legal conclusion unless the party timely and specifically objected to that finding or conclusion. See Civ.R. 53(D) (3) (a) (iii). The rule requires a magistrate’s decision to include conspicuous language

to inform parties of this process.¹ *Picciano v. Lowers*, 4th Dist. Washington No. 08CA38, 2009-Ohio-3780, ¶ 17; *Rockey v. Rockey*, 4th Dist. Highland No. 08CA4, 2008-Ohio-6525, ¶ 9. If a magistrate's decision does not comply with Civ.R. 53(D) (3) (a) (iii), then a party may assign as error the trial court's adoption of the magistrate's findings of fact and conclusions of law. *Rockey* at ¶ 12; see also *D.A.N. Joint Venture III, L.P. v. Armstrong*, 11th Dist. Lake No.2006-L-89, 2007-Ohio-898, at ¶ 22.

{¶8} Therefore, appellant's failure to object to the magistrate's decision in the case at bar does not preclude him from an appeal of the trial court's decision or raising the assigned error.

{¶9} In general, reviewing courts will not disturb a trial court's decision to deny or to grant a name change absent an abuse of discretion. *In re Hall*, 135 Ohio App.3d 1, 3, 732 N.E.2d 1004 (4th Dist.1999). "[A]buse of discretion' [means]

¹ Civ.R. 53(D) (3) (a) (iii) states:

Form; Filing, and Service of Magistrate's Decision. A magistrate's decision shall be in writing, identified as a magistrate's decision in the caption, signed by the magistrate, filed with the clerk, and served by the clerk on all parties or their attorneys no later than three days after the decision is filed. A magistrate's decision shall indicate conspicuously that a party shall not assign as error on appeal the court's adoption of any factual finding or legal conclusion, whether or not specifically designated as a finding of fact or conclusion of law under Civ.R. 53(D) (3) (a) (ii), unless the party timely and specifically objects to that factual finding or legal conclusion as required by Civ.R. 53(D) (3) (b).

an 'unreasonable, arbitrary, or unconscionable use of discretion, or * * * a view or action that no conscientious judge could honestly have taken.'" *State v. Kirkland*, 140 Ohio St.3d 73, 2014-Ohio-1966, 15 N.E.3d 818, ¶ 67, quoting *State v. Brady*, 119 Ohio St.3d 375, 2008-Ohio-4493, 894 N.E.2d 671, ¶ 23. "An abuse of discretion includes a situation in which a trial court did not engage in a "sound reasoning process."" *State v. Darmond*, 135 Ohio St.3d 343, 2013-Ohio-966, 986 N.E.2d 971, ¶ 34, quoting *State v. Morris*, 132 Ohio St.3d 337, 2012-Ohio-2407, 972 N.E.2d 528, ¶ 14, quoting *AAAA Ents., Inc. v. River Place Community Urban Redevelopment Corp.*, 50 Ohio St.3d 157, 161, 553 N.E.2d 597 (1990). The abuse of discretion standard is a deferential standard and does not permit an appellate court to simply substitute its judgment for that of the trial court. *Darmond* at ¶ 34.

{¶10} With respect to a change of name, a court may order the change "upon proof that the facts set forth in the application show reasonable and proper cause for changing the name of the applicant." R.C. 2717.09; *In re Willhite*, 85 Ohio St.3d 28, 30, 706 N.E.2d 778 (1999). As a general matter, changing an applicant's name is reasonable and proper "if the request is not intended to interfere with the rights of others, nor to confuse or mislead the public." *In re Name Change of*

Handley, 107 Ohio Misc.2d 24, 27, 736 N.E.2d 125 (P.C.2000), citing *Marshall v. Florida*, 301 So.2d 477, 477-478 (Fla.App.1974). "Furthermore, an application will be deemed reasonable and proper if the application does not violate any other overriding public policy considerations." *Id.*, citing *In re Application of Novogorodskaya*, 104 Misc.2d 1006, 1007, 429 N.Y.S.2d 387 (1980). Courts also should consider whether an applicant's name change will carry a "potential for fraud, particularly where it could lead to financial abuse or misrepresentation in society." *In re Change of Name of DeWeese*, 148 Ohio App.3d 201, 2002-Ohio-2867, 772 N.E.2d 692, ¶ 8 (3rd Dist.).

{¶11} In the case sub judice, after our review we do not believe that the trial court's judgment to overrule appellant's application to change his name constitutes an abuse of discretion. Here, the trial court reasonably could have determined that changing appellant's name, while he remains imprisoned with a possibility of parole in 2023, would adversely affect the rights of others. In particular, the court reasoned that the change of appellant's name would adversely affect the rights of the victim's family and friends and would adversely affect the Adult Parole Authority's ability to monitor appellant upon his release from prison. The court also believed that a

grant of appellant's application would contravene the state's public policy interest to protect and promote victim's rights. We find nothing in the trial court's decision to suggest that its decision is unreasonable, arbitrary or unconscionable. Rather, the court considered the pertinent facts and circumstances and determined that to allow appellant to change his name would be inconsistent with the state's public policy interests. See *In re Whitacre*, 11th Dist. Portage No. 2003-P-0051, 2004-Ohio-2926, ¶ 17 ("granting a name change to Whitacre could frustrate the purposes of the sexual oriented offender registration requirement" and "Whitacre's stated purpose intimates his intention to avoid being identified with his past criminal history").

{¶12} Accordingly, based upon the foregoing reasons, we overrule appellant's sole assignment of error and affirm the trial court's judgment.

JUDGMENT AFFIRMED.

JUDGMENT ENTRY

It is ordered that the judgment be affirmed and appellant pay the costs herein taxed.

The Court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this Court directing the Ross County Common Pleas Court, Probate Division, to carry this judgment into execution.

A certified copy of this entry shall constitute that mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

Hess, J. & Wilkin, J.: Concur in Judgment & Opinion

For the Court

BY: _____
Peter B. Abele, Judge

NOTICE TO COUNSEL

Pursuant to Local Rule No. 14, this document constitutes a final judgment entry and the time period for further appeal commences from the date of filing with the clerk.