

**IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA**

**IN RE: CHANGE OF NAME OF** :  
**JADE DAVINA BLANKSBY,** : **No. 01-01943**  
 :  
**A Minor Child** :  
 : **Petition for Change of Name**

**OPINION AND ORDER**

Genevieve R. Miele, mother of Jade Davina Blanksby (hereinafter Child) born August 5, 1997, filed a petition for Change of Name seeking to change the child's name to Jade Davina Miele. The child's natural father, John David Blanksby, opposes the petition. The Court heard testimony on April 16, 2002 regarding this matter.

In the first year of the Child's life until December 1998, she resided with both the mother and the father.<sup>1</sup> The parents separated and the child has resided with her mother ever since. Pursuant to a Court Order of February 15, 2000, Mr. Blanksby had visitation for several hours on Tuesdays and Thursdays and he had overnight visitation on Fridays.

On September 26, 2000, Mother filed a Complaint to Modify Custody. Mr. Blanksby's contacts with the Child were less frequent.

On November 6, 2000, Mother obtained a child support Order for Mr. Blanksby to pay approximately \$200 a month for the Child. Mr. Blanksby failed to pay child support pursuant to the Order.

In January 2001, the Lycoming County Domestic Relations Office filed a

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<sup>1</sup> The parties' testimony on how long they resided together is unclear and inconsistent. In a Complaint to Modify Custody file in September 2000, the mother averred that the parties resided together until December 1998.

contempt petition against Mr. Blanksby for failure to pay child support. In early February 2001, Mother filed a contempt petition against Mr. Blanksby, alleging that he failed to return Jade to Mother on a number of occasions in violation of the current child custody Order. It appears the relationship between Mother and Mr. Blanksby had grown acrimonious by this time.

Ultimately, the contempt petitions filed against Mr. Blanksby led to a new child support and custody agreement dated February 27, 2001, which was made a Court Order by the Honorable Clinton W. Smith.<sup>2</sup> In the agreement of February 27, 2001, the parties agreed to modify the prior Court Orders. Mother maintained custody of the child, and Mr. Blanksby agreed to have no partial physical custody of the Child. Mother agreed to waive and forgive Mr. Blanksby's child support arrears and to vacate the current child support Order. This agreement further stated that if Mr. Blanksby attempted to resume visitation with the Child, Mother would file for child support through the Domestic Relations Office and the child support arrears would be reinstated and become due immediately.

In his testimony, Mr. Blanksby claimed that by May 2001 he tried to resume his relationship with the Child. He also claimed that Mother moved and he had trouble finding her.

In December 2001, Mr. Blanksby filed a petition to modify custody. In his petition, Mr. Blanksby sought to resume his relationship with the Child. The Family Court Master held a custody conference on March 6, 2002. Both parties and their

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<sup>2</sup> At this time, Attorney Jeffrey Yates represented Mr. Blanksby. Mother

attorneys were present. The Family Court Master referred the parties to the Lycoming County Mediation Program, which required the parties to meet with Dr. Larue Montayne, a trained psychiatrist. Pending mediation, the Order of March 6, 2002 phased in visitation for Mr. Blanksby with the Child. Initially, Mr. Blanksby had visitation on Saturdays from 10:00 a.m. until 2:00 p.m.<sup>3</sup> Beginning April 5, 2002, however, visitation was increased to every other weekend from 6:30 p.m. on Friday until 4:00 p.m. on Sunday.

At the time of the hearing before this Court, Mr. Blanksby had appeared for his scheduled visitation with the Child. However, he missed two counseling sessions with Dr. Montayne. Mr. Blanksby claimed he had a flat tire on one occasion and did not receive the notice of the exact time for the other missed session.

A new child support Order was entered on March 19, 2002. Mr. Blanksby testified that he had recently paid some child support money to the Domestic Relations Office and he would do the best he could to pay child support. Cross-examination, however, revealed the amount of money Mr. Blanksby sent was \$25.00, despite the Order for \$100.00 per month. Mr. Blanksby explained his failure to fully comply with the Order by alluding several district justice fines he is currently paying. Although Mr. Blanksby testified he offered child support to Mother in the past, it does not appear that he ever made a full child support payment to Domestic Relation as required by the previous Court Orders. Clearly, Mr. Blanksby has not complied with his child support obligation over the years.

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was represented her father, Attorney William Miele.

Mother offered several reasons why she is seeking to change the child's name in addition to Mr. Blanksby's failure to pay support. Mother testified that the Child would begin kindergarten in August 2002. While the Child knows her last name is Blanksby, she sometimes refers to herself as Miele. Therefore, Mother thinks the Child has some confusion about her name. Further, Mother believes that the Blanksby name has a somewhat bad reputation in the community. One of Mr. Blanksby's children to another woman is in the juvenile court system. In contrast, Mother believes the Miele name is respected in the community. Mother notes the Mieles have been medical doctors, lawyers and business people. Thus, Mother believes the name change will be in the best interest of the Child.

Ironically, in Mr. Blanksby's testimony he seemed to confirm Mother's fears concerning the reputation of the Blanksby name. While Mr. Blanksby testified that he has done significant charitable work in the community, he also acknowledged he has had the reputation as a troublemaker at times. He also noted he has tattoos and rides a motorcycle. The last time he was employed full-time was in October 2000. He has several convictions before local districts justices for harassment, disorderly conduct and speeding. He has a conviction for resisting arrest when he was age 18 or 19. His son, T., is under supervision of the Lycoming County Juvenile Probation Office.

During Mr. Blanksby's testimony he opposed the name change for the Child. He claims he agreed to give up visitation with the Child in February 2001, because he feared going to prison on contempt allegations. He feels he has a close relationship

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<sup>3</sup> Mother testified that Mr. Blanksby had only seen the Child once between

and bond with the Child, and he noted that the Child refers to him as daddy. He also is following the visitation schedule, including overnight visits, established in the March 6, 2002 Order. Mr. Blanksby feels the name change will confuse the Child, because she knows her last name is Blanksby. Mr. Blanksby acknowledged that the Child's middle name, Davina, is based on his middle name (David). Mr. Blanksby also claims there have been times when he has tried to pay child support directly to Mother through mutual friends, but she has refused the money. Mr. Blanksby feels the name change might diminish his chance to maintain his relationship with the Child.

Pennsylvania has a liberal policy regarding change of name requests. In re Zachary Thomas Andrew Grimes, 530 Pa. 388, 392, 609 A.2d 158, 160 (Pa. 1992).

In the case of a minor, the polestar for the exercise of the Court's discretion is the best interest of the child. Id. at 393-4, 609 A.2d at 161. The petitioner bears the burden of proof. Id. Factors the Court should consider include "the natural bonds between parent and child, the social stigma or respect afforded a particular name within the community and, where the child is of sufficient age, whether the child intellectually and rationally understands the significance of changing his or her name." Id.

The Court believes that changing the Child's last name to Miele would be in the best interest of this young child. The Child is about to begin school, and there is a clear benefit to her name being the same as her mother, who has been the custodial parent throughout her life. It also appears that the reputation of the Miele name will be beneficial to the Child, whereas the reputation of the Blanksby name could be

detrimental to the Child. Furthermore, the Court does not feel the name change will cause confusion to the child, since she lives in a household with the Miele name. The Court also does not believe this change of name will hinder or frustrate Mr. Blanksby's efforts to re-establish a relationship with the Child. Mr. Blanksby has visitation with the Child pursuant to the March 6, 2002 Order. If he is as dedicated as he says and continues to follow the visitation schedule, the name change will not hinder him. The Court also notes that the Child's middle name, Davina, is based on her father's middle name of David. Therefore, his name is still reflected in the Child's name. Based on all of the above, the Court finds it in the best interests of the Child to grant the petition for change of name.

Mr. Blanksby raised one final issue. He objected to the name change on the ground that the Petitioner did not publish the notice of the name change in a newspaper of general circulation and/or official paper for publication of legal notices in Lycoming County. Mr. Blanksby has not identified who other than himself might possibly want to oppose the name change of a five-year old child. Nevertheless, he claims the failure to publish should result in dismissal of the petition.

The publication requirement is not contained the body of 54 Pa. C.S.A. Section 701, but rather, is found in the historical and statutory notes following the statute. The statute, though, was amended in 1998 and in 2000 to set forth the procedural requirements in Section 702. Publication is not required by Section 702. Furthermore, the amendments make it clear that the requirements of the Act designed to protect the public, such as fingerprinting, generally do not apply to children less than

12 years of age. See 54 Pa.C.S. 702; 23 Pa.C.S. 5105. Therefore, one could argue that publication also is not necessary when the name change involves a young child. Moreover, the purpose of publication is to prohibit fraud and put individuals that might have an interest in opposing a name change on notice, so they may express their opposition. See Matter of McIntyre, 552 Pa. 324, 715 A.2d 400 (1998). Obviously, fraud is not a concern with the name change of a young child. It is also clear that the party who had an interest in opposing the name change received notice of the date and time of the hearing and he appeared in Court to express his position. In light of these circumstances, the Court will not deny the petition for lack of publication.

In conclusion, the Court finds the name change is in the best interests of the Child and will not lead to estrangement of Mr. Blanksby and the Child. While he may be disappointed with the Court's decision to permit the name change, Mr. Blanksby will not be hindered in establishing a relationship with the Child if he is sincere in his stated desire and continues to exercise visitation in accordance with the March 6, 2002 Order.

Accordingly, the following Order is entered:

AND NOW, this \_\_\_\_\_ day of June 2002, the Court GRANTS the Petition for Change of Name. It is hereby ORDERED and DECREED that the name of Jade Davina Blanksby is CHANGED to Jade Davina Miele.

By The Court,

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Kenneth D. Brown, J.

cc: William Miele, Esquire  
Christopher Williams, Esquire  
Work File  
Gary Weber, Esquire (Lycoming Reporter)