

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

In Re: Name Change of Margaret F. Casale, : NO. 16 - 0196
a minor :
: CIVIL ACTION

OPINION AND ORDER

Petitioner Elizabeth Sauers filed this petition on November 22, 2016 to change the name of her minor daughter Margaret Faye Casale to Margaret Faye Sauers-Casale. The child was born on August 22, 2011, and she is now five years old.

The father of the child is Nicolas Casale. Father appeared at the name change hearing and objected to the proposed change of name.

The court thus proceeded to hold an evidentiary hearing. Both parties were represented by able counsel.

Ms. Sauers and Mr. Casale were married on October 16, 2010. Unfortunately the parties are now divorced. On August 2, 2016 Ms. Sauers filed a Notice of Intention to Retake her Maiden Name. This was before the parties were actually divorced. Mother admits she left Father which caused him to file for divorce in June.

The parties have been able to reach a custody agreement resulting in a court order which provides a 50-50 time arrangement rotating every other week. The parties share legal custody of their child. They have agreed to split all bills concerning the child and both appear to be exceptionally capable parents. The child is well bonded with each parent.

The child is now in nursery school and has been for several years and is now undergoing pre-screening for kindergarten.

The parents agree the child is too young to understand the significance of name change and they have not talked to her about it. The parties also agree that the court need not interview the child because of her young age.

Mother, Ms. Sauers, is age 34 and she is a school teacher. She is articulate and well-educated and she holds several advanced educational degrees. She testified that she believes changing the child's name to include her last name Sauers by hyphenating the name to Sauers-Casale would be in the child's best interest.

She believes it would be good for the child to be associated in name with both of her parents. She expressed concern that as the child will be soon starting school, not including her name in school will create some awkward social situations. She claimed that when interviewed by the kindergarten screener the child expressed some confusion whether her last name was Sauers or Casale. She thus thinks the child would benefit from having both names as part of her last name. She also believes it is best to do the name change before the child starts school.

Mother also testified that the child is having some emotional problems at this time and is undergoing counselling. Mother did not claim that these problems relate to the issue of name change. We believe it likely these problems relate to the breakup of the family structure.

On cross-examination, Ms. Sauers was asked by Father's attorney about the possibility of re-marriage at some time in the future which could cause her name to change once again, to be different from the child. Ms. Sauers noted she had been married twice so had no plans to remarry again. However, when pressed,

she acknowledged that she cannot predict the future, although she indicated if she remarried she would keep the Sauers name.

Mother acknowledged on cross-examination that as a teacher she sees children whose last names differ from those of their mothers and that this does not cause them problems.

Mother stressed that she was not trying to negatively affect Father in seeking the name change but rather she feels the name change will solidify the reality that the child is part of her as well as Father. She feels this would be consistent with the child being associated with both parents. She does not believe the proposed name change would harm Father's relationship with the child.

Father Nicolas Casale also testified as to his opposition to the name change. He noted that before the child's birth they talked about and agreed to the name as is. He testified that when he has talked with the child about what to do if she would get lost she would say her name of Maggie Faye Casale. He believes she clearly knows her name and identifies herself with her name.

Mr. Casale believes the child understands the mother's side of the family has the name Sauers.

Mr. Casale sees no benefit to the child with the proposed name change and believes Mother wants the change simply for her own benefit and self-satisfaction.

In considering a request to change the surname of a minor child, the court is to make a decision which provides for the best interest of the child. *See In re Grimes*, 530 Pa. 388, 609 A.2d 158 (Pa. 1992). In discussing guidelines for granting of a change of name, the Supreme Court notes the factors

should 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. at p. 394.

In a case with some similarity to this case the Pennsylvania Superior Court upheld an Allegheny County Court decision to deny Father's petition to change his three-year-old son's surname to match his own, or have his son's name hyphenated to include both parents' surnames. *See TW v. DA*, 127 A.3d 826 (Pa. Super. 2015). In TW, the parties shared legal and physical custody and like our own case were both actively involved with and were well-bonded to the child.

The Superior Court noted that the Father sought to change the child's name to further his interest in the survival of his surname. The Court noted Father's testimony to be replete with references to his own desires, beliefs and concerns. Father expressed a belief that his son may be embarrassed or bullied if he has a different surname than Father. The trial court noted that Father presented no evidence that changing the child's surname would strengthen his current admittedly strong bond with the child. Further, there was no evidence the child's name compromised the child's bond with him or his half-sister. Id. at p. 829. The Court thus concluded that Father had not met his burden of proof that the change of name would be in the child's best interest.

In consideration of the change of name request in this case we have looked at the Grimes factors in determining the best interest of the child. Both Mother and Father have a loving and stable bond with their child. Both parents are attentive and capable and fully involved in the child's development. Each particular name of both parents is well-respected in the community and presents

no adverse social stigma. Both parents agree that the child is currently too young to understand the significance of changing her name.

Based on the testimony, the Court does not believe the child has any real confusion about her name and we accept Father's testimony that when he has talked to the child about the possibility of getting lost she knows her name to be Maggie Faye Casale. While we believe Mother is well-intentioned in seeking the name change, we do not believe she has met her burden of proving the change would further the best interest of the child. In fact, we fear the proposed change may cause some confusion for the child.

It is obvious that Mother and her family are strongly bonded with the child and that this bond will not suffer in the least if the petition to change name is not granted. Likewise, the child will identify no less with Mother or her family if her name remains as it is.

Mother cites the Lycoming County case of In re Change of Name of Daniel Lee Reish, a minor child, Lycoming County Docket No. 14-03,024, a decision by the Honorable Richard A. Gray, as supportive of her position.

In Reish, the six-month-old child carried Mother's surname but did not include Father's surname of Sampson. As we read the submitted facts of the case, the parties agreed to include both the Reish and Sampson name in the child's name but disputed whether the final surname should be Reish or Sampson.

Judge Gray granted Father's petition and changed the child's name to Donald Lee Reish Sampson. Judge Gray noted the importance of the child holding the same name as a parent. Judge Gray was concerned that if Mother remarried, the child, without this change of name, would not carry the surname of either parent. This concern is obviously not present in this case.

We think this case is more akin to the recent Lycoming County Court decision of In re Change of name of Abigail Nicole Stuhldreher, No. 09-01,135, Anderson, J. In this case, Mother wanted to change the child's name to her own surname. Father, who resided in North Carolina, objected to the change of name although he had not seen the child for several years. Father paid child support and expressed a desire to take a greater role in the child's life. The court thus found he had not expressed a settled purpose of abandoning the child. Judge Anderson denied Mother's petition to change the child's name, finding Mother had not shown that the name change would serve the child's best interest.

In conclusion, in this case although we believe Mother sincerely would like to see the child's name include her surname, we cannot find her evidence proves that such change at this time furthers the best interest of the child.

Accordingly, the following is ordered:

ORDER

AND NOW, this 23rd day of January 2017, for the foregoing reasons, the Petition for Change of Name is hereby DENIED.

BY THE COURT,

Kenneth D. Brown, Senior Judge

cc: Christina Dinges, Esq.
Bradley Hillman, Esq.
Gary Weber, Esq. (Lycoming Reporter)
Hon. Kenneth D. Brown