

Kevin Quantmeyer (“Petitioner”) has filed a Name Change Petition with the Civil Clerk of the Court. Petitioner is seeking to change the name of his son Joby Sebastian Pedersen, his minor child, who he shares custody with respondent to reflect the last name “Quantmeyer” in lieu of “Pedersen,” the respondent’s last name. Petitioner asserts in his Petition under paragraph 4 that the reasons for the proposed name change is the mother’s surname may change with marriage and desire for father and son to have the same surname. In accordance with the

requirements of Civil Rule 81(c) and 10 *Del.C.* §5901 Petitioner certifies he has no creditors, or other persons who would be defrauded or adversely affected by the proposed name change. The Petition was published under paragraph 6 in the News Journal for three (3) consecutive weeks. Petitioner also asserts that he has no pending criminal charges; is not on probation and parole; and finally under paragraph 9 that he is not currently required to register with the State Police or any law enforcement agency.

The issue to be decided by this Court is whether petitioner has proven by a preponderance of the evidence at trial that it would be in the best interest of his child Joby to have his last name changed to Quantmeyer.

For the reasons set forth below, the Court concludes that the best interest and welfare of the child would be to deny the petition and petitioner has not proven his case-in-chief by a preponderance of the evidence.

## **II. The Facts**

The Court received sworn testimony and evidence at the hearing. Before counsel and the *pro-se* petitioner testified, the Court detailed in the record the preponderance of evidence standard and the relevant ten (10) factors that may to be considered by the Court following sworn testimony and evidence as to whether the best interest standard has, or has not, been proven by a preponderance of the evidence.

Kevin Quantmeyer offered evidence to the Court. He is making child support payments as mandated by the Court. He lives in Maryland, not Pennsylvania and travels to Delaware to see his minor child Joby. Petitioner testified any time Ms. Pedersen needs medical help or appointments he “shows up” and believes that having his child’s last name as Quantmeyer should be granted because as a male they would share his last name. Petitioner believes that he

would be better bonded with the child Joby if the petition was granted and would even compromise to allow the Court to have the name bi-furcated. Petitioner testified he has made several email requests to respondent and that she has failed to respond to his request to have the last name changed. Petitioner testified he paid child support before the Order of the Court and began sending money for the child's diapers before any formal Court Order was made in Family Court for child support. His child is now two and a half years and he desires to have Joby bear his last name. Petitioner has visitations with his son, which include weekends and he regularly pays child support. Petitioner believes that no one within his family believes Joby is his son because Joby does not bear the last name of his father, but bears the last name of his mother.

On cross-examination four (4) different exhibits were offered into evidence by respondent.<sup>1</sup>

On further cross-examination petitioner admits that the photograph on Facebook was a picture of a Quantmeyer jersey on his son.

On cross-examination petitioner testified he refers to his son as Sebastian, not Joby, his actual name. On further cross-examination, Exhibit 3 was a scrapbook picture offered into evidence from Petitioner's Facebook page indicating Joby's name was Sebastian. Petitioner also

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<sup>1</sup> Respondent's Exhibit 1 was moved into evidence which showed a picture of Joby in a chair with the name Quantmeyer listed on the blanket in front of him; Respondent's Exhibit 2 was a photograph where petitioner certified in an email through a friend named Dawn that he will be most the handsome Quantmeyer yet; Respondent's Exhibit 3 was moved into evidence without objection and was an email wherein petitioner told respondent that he was restructuring his health insurance and would like to have the option to have his life insurance given to a beneficiary including Joby and have his social security number and desired to have Joby's social security number and requested that number from respondent. He also told respondent in that email that "given the possibility that your last name could change if you were to marry, that Joby have his last name legally changed to Quantmeyer. This would ultimately strengthen his bond to his paternal family. Could you please respond to this request too." Respondent's Exhibit 4 was a series of emails requesting petitioner pay more child support in a dialogue between petitioner and respondent essentially petitioner did not have further funds to pay additional child support; Respondent's Exhibit 5 was an email by petitioner to respondent asking to legally change Joby's last name to his last name. Respondent's Number 5 also provided *inter alia* "If you get married, all three will have different last names. My surname will never change, I think it would be less confusing for Joby later in life if he has the same name as his father. If you agree that would be wonderful, please let me know either way. Thank you for considering my suggestion."

conceded that he has a history of mental illness and was treated for severe depression previously. He has sought all necessary treatment and responded fully. Petitioner also conceded he has a history of speeding tickets.

The respondent presented her case-in-chief. Respondent resides at 417 Marconi Drive in Wilmington, 19803. Respondent works full time and has a bachelor's degree in Architecture and is not engaged or married, nor is she planning to change Joby's name, even if she is married or engaged, which she indicated she is not contemplating. Joby's last name has been Pedersen his entire life. Petitioner has custody every other weekend and Fridays in the summer. Petitioner did not pay child support the first year and she told him to recalculate his payments based upon the support calculation.<sup>2</sup> The \$200.00 petitioner pays the respondent is sometimes late. Respondent never knew "whether or not it was coming" and that the child support calculation by BSE should be much higher. Respondent testified she had a two and a half month relationship with the Petitioner and he had told her about his suicide attempts and allegedly followed her around on his bike allegedly crying, which she believes details his mental health issues. Respondent claims the child support order was entered years ago and at that time petitioner did not ask for Joby's name to be changed to Quantmeyer. Respondent also carries medical benefits for Joby and has signed him up for daycare. Respondent schedules all Joby's doctor appointments.

According to respondent, petitioner did not show up for multiple doctor appointments. Respondent disagrees that petitioner's granting of the name change to Quantmeyer would not prohibit petitioner from bonding with his son. Respondent further testified that she is unaware that anyone calls Joby by the name of Sebastian, as his name is Joby. Respondent is adamantly opposed the Name Change petition being granted by the Court.

### **III. The Law**

#### **Sec. 5901. Petition for change of name.**

- (a) Any person who desires to change his or her name, shall present a petition, duly verified, to the Court of Common Pleas sitting in the county in which the person resides. The petition shall set forth such person's name and the name he or she desires to assume.

#### **Sec. 5902. Requirements for minor's petitions.**

If the name sought to be changed under this chapter is that of a minor, the petition shall be signed by at least one of the minor's parents, if there is a parent living, or if both parents are dead, by the legal guardian of such minor. When the minor is over the age of 14, the petition shall also be signed by the minor.

#### **Sec. 5903. Publication of petition prior to filing.**

No petition for change of name under this chapter shall be granted unless it affirmatively appears that the petition has been published in a newspaper published in the county in which the proceedings is had, at least once a week for 3 weeks before the petition is filed.

#### **Sec. 5904. Determination by Court.**

Upon presentation of a petition for change of name under this chapter, and it appearing that the requirements of this chapter have been fully complied with, and there appearing no reason for not granting the petition, the prayer of the petition may be granted.

#### **Sec. 5905. Costs.**

The costs of any proceeding under this chapter shall be paid by the petitioner.

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#### **Rule 81. Petitions for change of name.**

- (a) A petition which seeks a change of name for a minor shall be signed by at least one of the minor's parents, if there is a parent living, or if both parents are dead, by the legal guardian of such minor. When the minor is over the age of fourteen, the petition shall also be signed by the minor.

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<sup>2</sup> The Court is assuming respondent was referring to the Melson calculation for child support.

(b) ...

(c) If the petition is signed by only one parent, it shall be served, before presentation, upon the parent who did not join in the petition. If personal service cannot be made, substituted service shall be made as the Court directs.

As set forth in Degerberg v. McCormick, et al., Del. Ch. 187 A .2d 436 (1963), the following law applies:

The right of one parent, against the objection of the other, to change the surname of a child has been the subject of frequent judicial consideration. The great majority of cases presenting the problem have arisen under change of name statutes, or as incidental to divorce proceedings. In a few cases the natural respondent has sought relief where the divorced mother has registered children in school under the surname of a step respondent. The decisions are annotated in 53 A.L.R.2d 914. As the annotator there observes, the courts have generally considered the welfare of the child as the controlling consideration regardless of the manner in which the problem may arise. So, in the present case, the question to be considered is the best of the child.

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In determining whether or not it is in the child's best interest to permit a change in his surname certain factors have been regarded by the courts as of prime importance. *First of all, recognition is accorded to the usual custom of succession to the paternal surname, and, it is said, this succession is a matter in which the respondent, as well as the child, has an interest which is entitled to protection. Re Epstein, 121 Misc. 151, 200 N.Y.S. 897; Re Larson, 81 Cal.App.2d 258, 183 P.2d 688; Kay v. Kay, Ohio Com. Pl., 51 Ohio Op. 434, 112 N.E.2d 562. Secondly, the interest manifested by the respondent in the welfare of the child as evidenced by support, visitation and promptness of complaint as to the attempted change of name. Kay v. Kay, supra. Thirdly, the effect of a change of surname on the relationship between the respondent and his child. Mark v. Kahn, 333 Mass. 517, 131 N.E.2d 758, 53 A.L.R.2d 908; Rounick's Petition, 47 Pa. Dist. & Co. 71; Kay v. Kay, supra.*

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Authority, both judicial and psychiatric, recognizes that a change of surname of a child of divorced parents may contribute to estrangement of the child from his respondent. So, in *Mark v. Kahn, supra*, the court said: "The bond between a respondent and his children in circumstances like the present is tenuous at best and if their name is changed that bond may be weakened if not destroyed." And, in *Re Epstein, supra*, it is said that the court should not "foster any unnatural barrier between the respondent and son." To the same effect, see *Application of Wittlin, City Ct., 61 N.Y.S.2d 726; Rounick's Petition, supra; Kay v. Kay, supra.*

The views expressed in these cases find support in the testimony of psychiatrists adduced in this case.

In a decision which has been followed consistently by this Court, the following factors were considered relevant as to a determination of whether the best interests of a petitioner was served by the granting of the proposed name change. *See, In re Change of Name of Evans to Brown*, Del. CCP, C.A. No.1998-10-147, Welch, J. (March 11, 1999). The factors the Court considered in determining as to whether “the best interests of the child” would be served by granting the proposed name change were as follows:

1. A parent's failure to financially support the child;
2. A parent's failure to maintain contact with the child;
3. The length of time that a surname has been used for or by the child;
4. Misconduct by one of the child's parents;
5. Whether the surname is different from the surname of the child's custodial parent;
6. The child's reasonable preference for a surname;
7. The effect of the change of the child's surname on the preservation and development of the child's relationship with each parent;
8. The degree of community respect associated with the child's present surname and proposed surname;
9. The difficulties, harassment, or embarrassment that the child may experience from bearing the present or proposed name;
10. The identification of the child as a part of the family unit.

The law as it applies in the instant case is set forth in Chapter 59, Title 10 of the Delaware Code as well as CCP Civ. R. 81. The legal standard is the “best interest of the child” standard in contested change of name petitions involving minors. *See, In re Change of Name of Walter to Coffin*, Del. CCP C.A. No.1998-06-222, Fraczkowski, J. (September 30, 1998), *In re*

*Change of Name of Evans to Brown*, Del. CCP C.A. No.1998-10-147, Welch, J. (March 11, 1999). Clearly what constitutes the “best interests of the child” involves a factual analysis involving the relationship and family structure of a minor. *See, In re Change of Name of James Roy Runyon, Jr., to James Roy McGarrity*, Del. CCP C.A. No.1999-06-185, Smalls, C.J. (August 13, 1999)

#### **IV. Discussion**

This Court has an adequate trial record in order to determine whether the granting of the petition would be in the best interest of Joby has been proven by a preponderance of the evidence. Based upon all the sworn testimony detailed above and exhibits and received into evidence and applying the ten (10) factors listed in case law before this Court, the Court finds it is not in the best interest to have the child’s last name changed to Quantmeyer. While Joby is very young and is approximately only two and a half years of age, applying these ten factors to the trial record would cause this Court to conclude that petitioner did not satisfy to the Court that it would be by a preponderance of evidence the best interest of Joby to grant the Name Change Petition.

The Court notes that it read into the record the ten (10) relevant factors pre-trial to be considered in determining whether the Name Change Petition should be granted by the Court and/or what is in the best interest of the minor child. The Court requested the parties to address their factors at trial. The following analysis applies from the evidence in this case;

1. A parent's failure to financially support the child. The evidence at trial indicates that petitioner and respondent have worked out child support, Visitation and Custody orders. While the child support is not pursuant to the *Melson Formula* calculation and falls below the minimum standard of the support that petitioner should pay. This factor weighs in favor of the respondent.
2. A parent's failure to maintain contact with the child. The parties have, again, entered into a valid visitation and custody order in Family Court which weighs equally between petitioner and respondent.



3. The length of time that a surname has been used for or by the child. At trial the evidence indicates and exhibits the child has borne the last name of respondent since his birth. While the petitioner had photographs bearing his name, this factor weighs in favor of respondent.
4. Misconduct by one of the child's parents. The evidence at trial indicates while there is no *per se* misconduct, while the petitioner has traffic violations and/or some mental health issues, as set forth in the trial record. Respondent, has no misconduct and the court concludes this factor weighs in favor of respondent.
5. Whether the surname is different from the surname of the child's custodial parent. The evidence at trial indicates that Joby has always used the surname of respondent and therefore this factor weighs in favor of respondent.
6. The child's reasonable preference for a surname. The evidence at trial indicates no evidence was presented on this factor and is therefore equally balanced.
7. The effect of the change of the child's surname on the preservation and development of the child's relationship with each parent. While the evidence at trial indicates petitioner argues it would be better bonding with Joby if the last name was changed to Quantmeyer, the evidence on cross-examination indicated this would not affect his bonding with his child during his visitation and custody period. In addition, the child's surname is the respondent's and she is the primary caretaker for the child who makes all the doctor's appointments and while joint custody allows petitioner to spend weekends and one day a week, she is the primary caretaker custody. Therefore this factor weighs in respondent's favor.
8. The degree of community respect associated with the child's present surname and proposed surname. No evidence was offered, therefore it is equally balanced at trial.
9. The difficulties, harassment, or embarrassment that the child may experience from bearing the present or proposed name. The evidence indicates the child has been brought up with respondent's last name and it would appear to cause difficulties and/or embarrassment to Joby as his daycare facility and the public at large refers to him as Joby if it was suddenly changed to petitioner's last name. The child bears the respondent's last surname and therefore this factor weighs in favor of respondent.
10. The identification of the child as a part of the family unit. This factor clearly weighs in respondent's favor as the child has been integrally a part of respondent's primary care and has been brought up with her last surname and he identifies with her as the family unit and therefore the evidence weighs in favor of respondent.

#### **V. Conclusions of Law**

It would not be in the best interest of Joby to change his last name to Quantmeyer.

## **VI. Opinion and Order**

The Court finds Petitioner has failed to prove the instant Name Change Petition would be in the best interest by a preponderance of the evidence based upon the factual and legal analysis and sworn testimony. The Court therefore DENIES the instant Name Change Petition. Each party shall bear their own costs.

**IT IS SO ORDERED** this 27<sup>th</sup> day of October, 2017.

  
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John K. Welch, Judge

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cc: Ms. Tamu White, Supervisor, Civil