FILED
April 19, 2024
OFFICE OF
APPELLATE COURTS

STATE OF MINNESOTA

IN COURT OF APPEALS

A23-1384

In the Matter of the Application of Jesus Adrian Soto for a Change of Name of Minor.

ORDER OPINION

Blue Earth County District Court
File No. 07-CV-23-1029

Considered and decided by Worke, Presiding Judge; Frisch, Judge; and Halbrooks, Judge.*

BASED ON THE FILE, RECORD, AND PROCEEDINGS, AND BECAUSE:

1. Appellant-mother Kourtney Kay Verdoorn challenges the district court's order granting respondent-father Jesus Adrian Soto's application to change the name of the parties' joint minor child, L.J.V. Because the district court abused its discretion by imposing an improper burden on Verdoorn as the parent opposing the application for name change of a minor child, we reverse and remand.

2. On March 22, 2023, Soto applied for a name change on behalf of L.J.V. and pursuant to Minn. Stat. § 259.10 (2022) requesting to change L.J.V.'s surname from mother's surname to "Soto-Verdoorn." Verdoorn objected. At a contested evidentiary hearing, Soto and three witnesses testified in favor of the name change and Verdoorn

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

testified in opposition to the name change. On July 19, the district court granted the application and changed the child's last name from Verdoorn to Soto-Verdoorn. Verdoorn now appeals.

3. On appeal, Verdoorn argues that the district court abused its discretion by misapplying the law by placing the burden of persuasion on her as the objecting parent and by determining the substantial welfare of the child necessitated the name change.

4. "We review a district court's grant of a request to change a child's name for [an] abuse of discretion." *Foster v. Foster*, 802 N.W.2d 755, 756 (Minn. App. 2011). "A district court abuses its discretion when evidence in the record does not support the factual findings, the court misapplied the law, or the court settles a dispute in a way that is against logic and the facts on the record." *Id*. at 757 (quotation omitted).

5. Minn. Stat. § 259.10, subd. 1, provides "that no minor child's name may be changed without both parents having notice of the pending of the application for change of name, whenever practicable, as determined by the court." If neither parent opposes a parent's request to change the child's name, the district court must grant the request unless a certain circumstance applies, including that the court finds that the name change is not in the child's best interests. Minn. Stat. § 259.11(a) (Supp. 2023);[1] *Foster*, 802 N.W.2d at 757. But when a parent opposes a name-change request, the district court must exercise

[1] Generally, we apply the version of a statute in effect when we decide an appeal but an exception applies "when rights affected by the amended law were vested before the change in the law." *Interstate Power Co. v. Nobles Cnty. Bd. of Comm'rs*, 617 N.W.2d 566, 575 (Minn. 2000). Because the 2023 amendments of Minn. Stat. § 259.11 did not alter any rights of the parties, we cite the current version of the statute. *See* 2023 Minn. Laws ch. 52, art. 19, § 11.

"great caution" granting the request, must only grant the request where the evidence is "clear and compelling that the substantial welfare of the child necessitates such change," and must "set forth clear and compelling reasons for its decision." *Foster*, 802 N.W.2d at 757 (quotations omitted); *see also Robinson v. Hansel*, 223 N.W.2d 138, 140 (Minn. 1974) (directing that "judicial discretion in ordering a change of a minor's surname against the objection of one parent should be exercised with great caution"); *In re Welfare of C.M.G.*, 516 N.W.2d 555, 561 (Minn. App. 1994) (remanding a district court's grant of a name-change application where "the [district] court did not provide any findings" in its best-interests determination).

6. To determine the child's best interests in a proposed name change, the district court may consider: (1) "the child's preference," (2) "the effect of the change of the child's surname on the preservation and the development of the child's relationship with each parent," (3) "the length of time the child has borne a given name," (4) "the degree of community respect associated with the present and the proposed surname," and (5) "the difficulties, harassment or embarrassment, that the child may experience from bearing the present or the proposed surname." *In re Saxton*, 309 N.W.2d 298, 301 (Minn. 1981). "In weighing these factors to reach a decision, the [district] court should set out its reasons for granting or denying the application to change the minor's surname." *Id*.

7. The district court applied and weighed the five *Saxton* factors to determine whether the name change was in L.J.V.'s best interests. In considering these factors to determine the child's best interests, the district court appears to have imposed a burden upon Verdoorn to establish that the evidence weighed against granting the name-change

request. Specifically, the district court found that the second, third, and fifth *Saxton* factors did not "weigh against the name-change requested."

8. Although the parties did not cite applicable authority to the district court, our caselaw provides for a two-step process when considering a contested name-change request. First, a district court must consider the non-exclusive *Saxton* factors to determine whether the requesting parent established that a name change is in a child's best interests. *Foster*, 802 N.W.2d at 757. Second, a district court must determine whether the parent opposing the name change established that the evidence supporting the name change is not clear and compelling that the child's substantial welfare necessitated such a change. *Id.* This process does not impose a burden on the objecting party to show that the name change is not in the child's best interests and instead requires the requesting party to first establish that the name change is in the child's best interests. Thus, the district court abused its discretion by requiring Verdoorn to show the name change was not in L.J.V.'s best interests where it should have required Soto to establish the name change was in L.J.V.'s best interests before shifting the burden to Verdoorn to show that the evidence was not clear and compelling that L.J.V.'s substantial welfare necessitated such a change.

9. Because we conclude that the district court misapplied the law in granting the name-change request, we reverse and remand to allow the district court to make such findings and "set forth clear and compelling reasons for its decision" consistent with this opinion. *Id.* In so doing, we express no opinion on the underlying merits of the name-change request. The district court may, in its discretion, reopen the record.

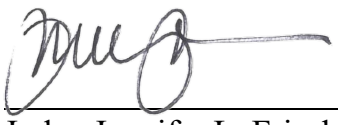
IT IS HEREBY ORDERED:

1. The district court's order is reversed and remanded.

2. Pursuant to Minn. R. Civ. App. P. 136.01, subd. 1(c), this order opinion is nonprecedential, except as law of the case, res judicata, or collateral estoppel.

Dated: 4/19/24

BY THE COURT



Judge Jennifer L. Frisch