

IN THE COURT OF COMMON PLEAS FOR THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

IN RE:)	
)	
SHAMBA AWURAESI BRYANT)	C.A. Number: CPU4-11-002453
)	
TO)	Petitioner's D.O.B. 11/28/1999
)	
JOY-ELISE ESI NYHIRA BRYANT)	CHANGE OF NAME

Anita F.O. Ribeiro
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Newark, DE 19702
Petitioner Pro-se

Dr. Paul A. Bryant
513 Jamy Lane
Ruston, LA 71270
Respondent Pro-se

**MEMORANDUM OPINION AND ORDER ON REQUEST TO RECONSIDER
DECISION IN PETITION FOR NAME CHANGE FROM
SHAMBA AWURAESI BRYANT TO JOY-ELISE ESI NYHIRA BRYANT**

Decided: January 3, 2012

DAVIS, J.

On August 1, 2011, the Court of Common Pleas held an evidentiary hearing on the Petition for Name Change of Shamba Awuraesi Bryant to Joy-Elise Esi Nhyira Bryant (the "Petition"). Following the hearing, the Court reserved decision. On August 30, 2011, the Court issued its Memorandum Opinion and Order (the "Order") in connection with the Petition. Through the Order, the Court denied the relief request for in the Petition. On September 29, 2011, Anita F.O. Ribeiro filed a Request to Reconsider Decision in Re: Petition for Name

Change from Shamba Awuraesi Bryant to Joy-Elise Esi Nhyira Bryant (the “Reconsideration Request”). For the reasons set forth herein, the Reconsideration Request is denied.

I. Applicable Law

Rule 59 of the Court of Common Rules of Civil Procedure applies to a party’s request for the Court of Common Pleas to reconsider a prior decision. Rule 59(a) provides as follows:

(e) *Rearguments*. A motion for reargument shall be served and filed within 5 days after the filing of the Court’s opinion or decision. The motion shall briefly and distinctly state the grounds therefor. Within 5 days after service of such motion, the opposing party may serve and file a brief answer to each ground asserted in the motion. The Court will determine from the motion and answer whether reargument will be granted. A copy of the motion and answer shall be furnished forthwith by the respective parties serving them to the Judge involved.¹

A motion for reargument is the proper device for seeking the trial court’s reconsideration of its findings of fact, conclusions of law, or judgment.² The “manifest purpose” of a motion under Rule 59, including a motion for reargument, is to give the trial court an opportunity to correct errors prior to appeal.³ It is not a device for raising new arguments or stringing out the length of time for making an argument, nor is it intended to allow parties to rehash arguments already decided by the trial court.⁴ A party must serve and file the motion for reargument within 5 days after the entry of the trial court’s opinion or decision.⁵

A motion for reargument will be denied unless the trial court has overlooked a controlling precedent or legal principles, or the Court has misapprehended the law or facts such as would have changed the outcome of the underlying decision.⁶ A party seeking to have the trial court reconsider the earlier ruling must demonstrate newly discovered evidence, a change in the law or

¹ Ct. Com. Pl. Civ. R. 59(e).

² *Hessler, Inc. v. Farrell*, 260 A.2d 701, 702 (Del. 1969).

³ *Id.* at 702.

⁴ *Bd. of Managers of the Del. Crim. Justice Info. Sys. v. Gannett Co.*, C.A. No. 01C-01-039WLW, 2003 WL 1579170, at *1 (Del. Super. Jan. 17, 2003).

⁵ Ct. Com. Pl. Civ. R. 59(e). *See also, Hessler, Inc.* at 701-02.

⁶ *Simonton v. Orlov*, C.A. No. 2008-02-179, 2008 WL 2962015, at *2 (Del. Com. Pl. July 31, 2008)(quoting *Kennedy v. Invacare Corp.*, C.A. No. 04C-06-028, 2006 WL 488590, at *1 (Del. Super. Jan. 31, 2006))

manifest injustice.⁷ The trial court will generally deny a motion for reargument unless the underlying decision involved an abuse of discretion.⁸

II. Discussion

Based upon the controlling rule of procedure and the case law, the Court denies the Reconsideration Request. First, Ms. Ribeiro filed the Reconsideration Request outside the time allotted for filing and serving motions under Rule 59(e). This Court's decision on the Petition -- i.e., the Order -- was released on August 30, 2011. Ms. Ribeiro did not file the Reconsideration Request until September 29, 2011. Ms. Ribeiro, therefore, filed the Reconsideration Request more than five days after the filing of the Order. Moreover, there is no indication in the Reconsideration Request or by Ms. Ribeiro that she served the Reconsideration Request on Dr. Bryant. Under these facts, the Reconsideration Request is denied as untimely.

Even if the Court were to consider the Reconsideration Request to be timely, the Court would deny the relief requested by Ms. Ribeiro. The reasons for relief set forth in the Reconsideration Request do not demonstrate newly discovered evidence, a change in the law or manifest injustice. Moreover, the Reconsideration Request does not set forth a credible argument that the Court abused its discretion. Instead, Ms. Ribeiro argues that the Order should be set aside because (i) she did not know that the Petition would be heard in an adversarial format, (ii) that Dr. Bryant's opposition was *ex parte* and (iii) she did not present certain evidence -- evidence already in Ms. Ribeiro's possession and not newly discovered evidence -- because, in part, Shamba Awuraesi Bryant, a minor, was in the courtroom during the hearing. Under the facts and circumstances present here, these arguments lack enough merit for relief under Rule 59(e).

⁷ *Gannett Co.*, 2003 WL 1579170, at *1.

⁸ *Id.*

First, the Court specifically continued the hearing on the Petition in order to accommodate a request by Dr. Bryant to be able to appear and oppose the Petition. On May 12, 2011, Dr. Bryant filed a letter with the Clerk of this Court requesting a continuance of any hearing on the Petition. In this same letter, Dr. Bryant made it clear that he was opposing the Petition. Ms. Ribeiro, if she had taken the time to review the docket and the papers filed with the Court, had to know that the Petition was being contested – i.e., presented in an adversarial context. This is especially true given that Ms. Ribeiro, by her own admission, is a lawyer licensed to practice in New York and in Ghana.⁹

Second, the Court has not considered any *ex parte* communications from Dr. Bryant or any other party. Any letters received by the Court (either from Ms. Ribeiro or Dr. Bryant) have been publically filed, were docketed by the Clerk of the Court and were thereafter forwarded to chambers. A review of the docket confirms this. As such, the opposition of Dr. Bryant was available to Ms. Ribeiro (a lawyer who should know of the ability to review the docket and request docketed pleadings) and not an *ex parte* communication.

Finally, the Court made Ms. Ribeiro aware of the standards to be considered prior to the evidentiary hearing on the Petition. If Ms. Ribeiro wanted the Court to hear the evidence without Shamba Awuraesi Bryant in the courtroom then Ms. Ribeiro should have made such a request to the Court. Moreover, if Ms. Ribeiro wanted more time in order to more properly present her case on the Petition, Ms. Ribeiro could have moved for a continuance. She did not make any such requests prior to or at the hearing.

⁹ Reconsideration Request at 1.

III. Conclusion

The Court's analysis of the Reconsideration Request leads to the conclusion that Ms. Ribeiro has not met the standards necessary to obtain relief under Rule 59(e). Accordingly, the Court **DENIES** the Reconsideration Request.

The Court will note that, unlike some other civil matters before this Court where *res judicata* and/or collateral estoppel may apply, denial of the Petition and entry of the Order does not mean that Ms. Ribeiro and/or Shamba Awuraesi Bryant are foreclosed (precluded or estopped) from filing another petition for name change. There may be new circumstances, evidence that should have been submitted or other changes of event that would warrant a renewed petition that the Court could consider.

IT IS SO ORDERED this 3rd day of January, 2012.

Eric M. Davis

Eric M. Davis
Judge