

IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT, STATE OF FLORIDA

OLIVIA CALLOWAY,
MOTHER,

Appellant,

v.

BENJAMIN SHIRLEY,
FATHER,

Appellee.

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED

CASE NO. 1D10-6174

Opinion filed May 23, 2011.

An appeal from the Circuit Court for Escambia County.
T. Michael Jones, Judge.

Bradley G. Johnson of Johnson & Green, P.A., Milton, for Appellant.

Michael Gibson of Gibson & Jarvis, P.A., Pace, for Appellee.

PER CURIAM.

The sole issue in this appeal concerns whether, after ruling that Appellee is the biological father of the child born out of wedlock on March 31, 2004, to Appellant, the trial court erred in changing the child's legal surname at Appellee's request. We conclude the record lacks competent, substantial evidence establishing the name change is in the child's best interests. *See Hutcherson v.*

Taylor, 43 So. 3d 921, 922-23 (Fla. 1st DCA 2010); *Bardin v. State, Dep't of Revenue*, 720 So. 2d 609, 612-13 (Fla. 1st DCA 1998), and cases cited therein; *Collinsworth v. O'Connell*, 508 So. 2d 744, 746-47 (Fla. 1st DCA 1987). Accordingly, we vacate that portion of the Final Judgment on Father's Amended Complaint for Paternity rendered October 19, 2010, changing the child's last name, and remand with directions to enter an order returning the child's name to that listed on her birth certificate.

VACATED in part and REMANDED with directions.

BENTON, C.J., CLARK, and MARSTILLER, JJ., CONCUR.