

IN THE
ARIZONA COURT OF APPEALS
DIVISION ONE

In re the Matter of:

ANGEL MUNGUIA, *Petitioner/Appellee*,

v.

AMANDA ORNELAS, *Respondent/Appellant*.

No. 1 CA-CV 21-0620 FC
FILED 7-26-2022

Appeal from the Superior Court in Maricopa County

No. FC2020-053094

The Honorable Lori Ash, Judge *Pro Tempore*

AFFIRMED AS MODIFIED

COUNSEL

Underwood Law Office, Phoenix
By Sonya E. Underwood
Counsel for Respondent/Appellant

The Ber Law Firm, Phoenix
By Hershel Ber
Counsel for Petitioner/Appellee

OPINION

Judge Samuel A. Thumma delivered the opinion of the Court, in which
Presiding Judge Maria Elena Cruz and Judge Michael J. Brown joined.

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T H U M M A, Judge:

¶1 Amanda Ornelas (Mother) challenges an order granting Angel Munguia’s (Father) request to change the first name of their son. Because Mother has shown no error, the order is affirmed.

FACTS AND PROCEDURAL HISTORY

¶2 Mother and Father, who never married, have two young children together. By the time of their son’s birth in April 2021, they were no longer in a relationship. Father initially disputed paternity and was not present for their son’s birth given the hospital’s COVID-19 protocols. Mother named him “Legend Messiah Ornelas.”

¶3 Father promptly petitioned to establish paternity and for a name change, asking to add Father’s first and last names to the child’s name. Father later testified that he wanted to continue his family’s tradition that the first-born son is given his father’s first name. Mother did not object to adding Father’s last name. She did, however, object to adding his first name, testifying that each child should have an individual identity and be named independently.

¶4 After testimony from Mother, Father and others, the court granted the petition, applying the factors specified in Arizona Revised Statute (A.R.S.) § 12-601(B) and *Pizziconi v. Yarbrough*, 177 Ariz. 422 (App. 1993). The resulting order changed the child’s name to “Angel Legend Meessiah [sic] Munguia Ornelas.” Mother filed a timely appeal, challenging the addition of “Angel” to the child’s name. This court has appellate jurisdiction under Article 6, Section 9, of the Arizona Constitution and A.R.S. §§ 12-120.21(A)(1) and -2101(A)(1).

DISCUSSION

¶5 Mother argues the court abused its discretion in changing the child’s first name from “Legend” to “Angel.” This court reviews the name-change order for an abuse of discretion. *Pizziconi*, 177 Ariz. at 426.

¶6 Along with considering information in a petition to change the name of a minor, the court “shall consider the best interests of the minor.” A.R.S. § 12-601(B); *see also Matter of Cortez*, 247 Ariz. 534, 536 ¶¶ 7–8 (App. 2019) (discussing information that A.R.S. § 12-601(C) requires be provided under penalty of perjury by any “person who files an application

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for change of name” and holding name change requests do not require a showing of good cause).¹ Best interests factors to consider include:

the child’s preference; the effect of the change on the preservation and development of the child's relationship with each parent; the length of time the child has borne a given name; the difficulties, harassment, or embarrassment that the child may experience from bearing the present or proposed name; the motive of the parents and the possibility that the use of a different name will cause insecurity or a lack of identity.

Pizziconi, 177 Ariz. at 425. *Pizziconi* addressed the change of the surname (last name) of a child, which historically has implicated issues that differ from the change of a child’s first name. *Id.* at 425–26 (citing cases addressing surname changes and noting “the tradition of children bearing the father’s name has eroded as women have, with increasing frequency, opted to retain their birth names after marriage or to select a surname other than their husband’s”). But the parties have provided, and the court has found, no good reason why the *Pizziconi* factors should not apply here. Thus, the court holds that the *Pizziconi* factors apply with equal force to a request to change a child’s first name.

¶7 Given the newborn son could express no preference, Mother has not shown that the superior court abused its discretion in applying the remaining *Pizziconi* factors. The court noted the child had his original name for only a few months; changing his name could help develop his relationship with Father; the child had a strong bond with Mother and the change would not affect that; no difficulties, harassment or embarrassment were identified for the child’s current or requested name; Father’s motive was to follow family tradition, while Mother’s was based on her belief that a child should have his own name; and the name change would not cause any insecurity or lack of identity.

¶8 Noting their daughter, born in May 2020, has her own unique name, Mother argues their “son should also have the right to have his own unique name. He should be afforded the same rights as the parties’ daughter, irrespective of his gender.” That argument, however, does not

¹ The standards to change a child’s name when terminating parental rights, A.R.S. § 8-202(D)(2), or in adoptions, A.R.S. § 8-116(A), do not apply here.

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account for the evidence the superior court considered, including Father's testimony about his family's tradition. Nor has Mother pressed or supported any equal protection or related argument.

¶9 Mother also argues the court failed to acknowledge her testimony about how the child having five names could cause harassment and embarrassment. Mother, however, did not object to the child having four names. On appeal, she has not shown that having a fifth name impermissibly constituted an abuse of discretion.

¶10 From the record, after properly considering and weighing the *Pizziconi* factors, the court granted Father's petition to change the child's name. Although there were other possible outcomes, reasonable evidence supports that decision. Because Mother has shown no abuse of discretion, the order is affirmed. *Pizziconi*, 177 Ariz. at 426.

¶11 Mother requests attorneys' fees on appeal under A.R.S. §§ 12-349 and 25-324(B), while Father requests attorneys' fees on appeal under A.R.S. §§ 25-324(A) & (B). Because neither party has shown sanctionable conduct, the requests under A.R.S. §§ 25-324(B) and 12-349 are denied. Having considered the financial resources of the parties and the reasonableness of their positions, Father's request under A.R.S. § 25-324(A) is denied. Father, however, is awarded his taxable costs on appeal contingent upon his compliance with ARCAP 21.

CONCLUSION

¶12 Mother has shown no error in the superior court's order granting Father's request to change the child's name. The order issued by that court, however, contains a typographical error, misspelling the child's middle name. The order is therefore modified so that the child's full name is "Angel Legend Messiah Munguia Ornelas." With that modification, the order is affirmed.



AMY M. WOOD • Clerk of the Court
FILED: JT