

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

IN RE:)	
)	
CHRISTOPHER WAYNE)	C.A. Number: CPU4-10-002788
MURPHY)	
TO)	Petitioner's D.O.B. 08/30/2000
)	
CHRISTOPHER WAYNE-)	CHANGE OF NAME
MURPHY MCCREA)	

James F. McCrea
312 Shipley Road, Apt. #116
Newark, DE 19809
Petitioner Pro-se

Angel M. Murphy
204 Single Avenue
New Castle, DE 19720
Respondent Pro-se

**MEMORANDUM OPINION AND ORDER ON PETITION FOR NAME
CHANGE OF CHRISTOPHER WAYNE MURPHY
TO CHRISTOPHER WAYNE-MURPHY MCCREA**

Submitted: June 21, 2010
Decided: June 30, 2010

DAVIS, J.

On June 21, 2010, an evidentiary hearing was held in the Court of Common Pleas on the Petition for Name Change of Christopher Wayne Murphy to Christopher Wayne-Murphy McCrea (the "Petition"). Following the hearing, the Court reserved decision. This is the Court's Memorandum Opinion and Order in connection with the Petition.

I. Background

Christopher Wayne Murphy ("Christopher") was born on August 30, 2000 in Wilmington, Delaware. Angel M. Murphy ("Angel") is the natural mother of Christopher. The natural father of the child is James F. McCrea ("James").

On or about April 21, 2010, James filed the Petition, seeking to change the name of Christopher from Christopher Wayne Murphy to Christopher Wayne-Murphy McCrea. Angel had notice of and appeared at the hearing to oppose the Petition. Angel did not submit any written objection to the Petition.

Notice of the Petition was published in the New Castle Weekly in New Castle County, once a week for three weeks prior to filing of the Petition – specifically on March 17, 24, and 31, 2010.

This is the second petition for name change submitted by James. On November 11, 2009, this Court denied a petition to change Christopher's name from Christopher Wayne Murphy to Christopher Wayne McCrea. Civil Action No. CPU-04-09-007382. A copy of the transcript from the November 11, 2009 hearing (the "November Hearing") is attached hereto as Exhibit A. In rendering its decision here, the Court considered that previous petition and has incorporated the findings of fact and conclusions of law from the November Hearing into this decision.

On June 21, 2010, the Court held an evidentiary hearing on the Petition. At the hearing, the Court considered the Petition and all attachments and notices. The Court also heard testimony from James, Katherine McCrea, Veronica McCrea and Angel. In addition to these four witnesses, Christopher appeared and answered questions from the Court. James and Angel were not represented by counsel at the hearing.

II. Applicable Law

This matter is governed by 10 *Del. C.* § 5901 *et seq.* and Court of Common Pleas Civil Rule 81(c). The applicable statute and rules require that the petition be signed by at least one of the minor child's parents and that notice of the petition be published at least once a week for 3 weeks before the petition is filed.¹ The Court may grant a petition for name change if all the statutory requirements are met and there are no apparent reasons for not granting the petition.²

The Court has adopted the "best interests of the child standard" when determining whether to grant a petition for a name change of a minor child.³ What constitutes the best interests of the child involves a factual analysis regarding the relationship and family structure of the minor.⁴ Under this standard, the Court considers the following factors:

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.⁵

III. Discussion

Based upon the evidence presented at the hearing, the Court finds that the factors in support of granting the Petition outweigh the factors against granting the Petition. Accordingly,

¹ 10 *Del. C.* § 5902 – 5903.

² 10 *Del. C.* § 5904.

³ *In Re: Change of Name of Walter to Coffin*, CCP, C.A. No. 1998-06-222, Fraczkowski, J. (Sept. 30, 1998); *In Re: Change of Name of Evans to Brown*, CCP, C.A. No. 1998-10-147, Welch, J. (Mar. 11, 1999).

⁴ *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).

⁵ *Id.*

the Court holds that it is in the best interest of Christopher to have his name changed from Christopher Wayne Murphy to Christopher Wayne-Murphy McCrea.

The following analysis of the factors was used in reaching the Court's decision:

A parent's failure to financially support the child. As with the November Hearing, the parties provided no material evidence that either James or Angel fails to provide financial support for Christopher. The Court considers this factor to be neutral in determining the best interests of the child.

A parent's failure to maintain contact with the child. Testimony at the hearing on the Petition revealed that James has sole custody of Christopher. The testimony further demonstrated that Angel maintains contact with Christopher pursuant to the terms of a permanent order entered in the Family Court of the State of Delaware. As such, the Court finds that Angel maintains appropriate contact with Christopher. Therefore, the Court considers this factor to be neutral in determining the best interests of the child.

The length of time that a surname has been used for or by the child. As testified to at the hearing and at the November Hearing, Christopher has used the name Murphy since he was born. Given the length of time (use of the surname Murphy for almost ten years), the Court finds that this fact supports denial of the Petition.

Misconduct by one of the child's parents. The parties did not present any evidence at the hearing or the November Hearing concerning misconduct by either James or Angel. There was some conflicting evidence as to why Angel has only supervised visitation rights of Christopher, but the record is not clear enough that the Court can infer that there was, or is, any misconduct on the part of Angel. Therefore, the Court considers this factor to be neutral in determining the best interests of the child.

Whether the surname is different from the surname of the child's custodial parent. As stated above, the evidence demonstrates that James has sole custody of Christopher and that Angel is entitled to supervised visitation. Because James has sole custody, this factor weighs in favor of granting the Petition.

The child's reasonable preference for a surname. Unlike at the November Hearing, Christopher appeared at the hearing and stated his preference for a surname. Christopher told the Court that he would prefer the name Christopher Wayne-Murphy McCrea. The Court understands that Christopher is only nine years old and considered his youth when talking to him on this point; however, the Court finds his presentation to be articulate, well-founded and sincere. The Court believes this factor weighs heavily in favor of granting the Petition.

The effect of the change of the child's surname on the preservation and development of the child's relationship with each parent. Similar to the November Hearing, the evidence adduced on June 21, 2010 demonstrates that the change of Christopher's name would have impact on the preservation and/or development of the child's relationship with each parent. However, there is no factual record that the sole use of Murphy or McCrea would benefit or, conversely, harm Christopher more emotionally, financially or otherwise. For those reasons this factor is considered neutral in determining the best interests of the child.

The degree of community respect associated with the child's present surname and proposed surname. No specific facts were presented that prove that the community provides more or less respect to the names of McCrea or Murphy. Therefore, the Court considers this neutral in determining the best interests of the child.

The difficulties, harassment, or embarrassment that the child may experience from bearing the present or proposed name. As with the previous factor, the parties did not provide

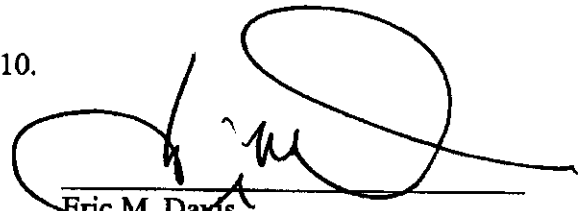
any facts that the use of Murphy or McCrea would cause Christopher any difficulties, harassment or embarrassment. Therefore, this factor is neutral in determining whether to grant the Petition.

The identification of the child as a part of the family unit. The testimony indicates that the most constant family unit in Christopher's present life is James and the McCrea family. While Angel has visitation rights, Christopher spends significantly more time as a member of James' family unit. The Court believes this factor weighs in favor of granting the Petition.

IV. Conclusion

Analysis of these factors leads the Court to find that the factors in support of granting the name change outweigh the factors against granting the name change and it is in the best interests of the child to change the name from Christopher Wayne Murphy to Christopher Wayne-Murphy McCrea.

IT IS SO ORDERED this 30th day of June, 2010.



Eric M. Davis
Judge