

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

IN RE:)	
)	
JEFFREY PAUL KRAHN, JR.)	C.A. Number: CPU4-10-005578
)	
TO)	Petitioner's D.O.B. 12/16/2006
)	
ADAM JULIAN SAKOWSKI)	CHANGE OF NAME

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**MEMORANDUM OPINION AND ORDER ON PETITION FOR NAME CHANGE
OF JEFFREY PAUL KRAHN, JR. TO ADAM JULIAN SAKOWSKI**

Submitted: October 4, 2010
Decided: November 1, 2010

DAVIS, J.

On October 4, 2010, an evidentiary hearing was held in the Court of Common Pleas on the Petition for Name Change of Jeffrey Paul Krahn, Jr. to Adam Julian Sakowski (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

a. Introduction and Procedural History

Jeffrey Paul Krahn, Jr. (“Jeffrey Jr.”) was born on December 12, 2006 in Newark, Delaware. Amanda Sakowski is the natural mother of Jeffrey Jr. The natural father of the child is Jeffrey Krahn, Sr.

On or about September 15, 2010, Ms. Sakowski filed the Petition, seeking to change the name of Jeffrey Jr. from Jeffrey Paul Krahn, Jr. to Adam Julian Sakowski. Mr. Krahn had notice of and appeared at the hearing to oppose the Petition. Mr. Krahn did not submit any written objection to the Petition.

Notice of the Petition was published in the New Castle Weekly Newspaper in New Castle County, once a week for three weeks prior to filing of the Petition – specifically on August 25, September 1, and 8, 2010.

Ms. Sakowski had previously petitioned the Court to change Jeffrey Jr.’s name to Adam Julian Sakowski on June 19, 2008. On August 4, 2008, the Court denied that petition without prejudice, holding that Ms. Sakowski could refile a petition after she and Jason Sakowski became married.

b. Additional Relevant Facts

On October 4, 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 regarding the Petition. Ms. Sakowski and Jason Sakowski (Ms. Sakowski’s husband) testified in support of the Petition. Mr. Krahn testified in opposition to the Petition. Michelle Marie Turner (Mr. Krahn’s mother and Jeffrey Jr.’s

paternal grandmother) testified as a fact witness and provided additional relevant information to the Court.

In the Petition, Ms. Sakowski states that she was seeking to have Jeffrey Jr.'s name changed "for school and medical records to match mother's name who is the only biological care giver."¹ Ms. Sakowski certified in the Petition that there are no creditors or other persons who will be defrauded or adversely affected if the name change is granted. Jeffrey Jr. is a toddler and the Petition also set forth that Jeffrey Jr. has no pending criminal charges, is not on probation or parole and is not required to register with the Delaware State Police or any other governing authority in any jurisdiction.

Ms. Sakowski and Mr. Krahn both testified that Mr. Krahn was not present at the birth of Jeffrey Jr. because he was incarcerated at the time. For that reason, Jeffrey Jr.'s birth certificate does not include Mr. Krahn's name.²

Presently, Mr. Krahn is incarcerated. At trial, Mr. Krahn admitted that he does not provide any monetary child support or assistance for Jeffrey Jr.'s care. Moreover, no evidence was adduced at the hearing that Mr. Krahn would be able to provide regular child support for Jeffrey Jr.'s care in the immediate future. Ms. Sakowski testified that Mr. Krahn has never provided child support even at those times when he was not in prison. The evidentiary record clearly demonstrates that Mr. Krahn has never provided any child support due to his periods of incarceration and that Ms. Sakowski has never made a formal request for child support from Mr. Krahn.

Presently, Jeffrey Jr. lives with Mr. and Ms. Sakowski and Mr. Sakowski's two daughters. There is no evidence in the record demonstrating a regular pattern of

¹ Petition at ¶ 1.

² See Certification of Birth of Jeffrey Paul Krahn Jr. dated June 19, 2008, a copy of which is attached to the Petition.

visitation by Mr. Krahn. At the time of the hearing, no court in Delaware had issued an order controlling custody of Jeffrey Jr. Mr. Krahn testified that that he has filed custody and visitation petitions in the Family Court of the State of Delaware.³ The record indicates that the Family Court has not yet had an opportunity to fully address or otherwise adjudicate those petitions.

Ms. Sakowski stated that there is no question of paternity. Ms. Sakowski also testified that Mr. Krahn initially denied paternity.

Ms. Sakowski stated, in part, that she seeks the change of name from Jeffrey Paul Krahn Jr. to Adam Julian Sakowski in order to match her surname for academic and medical records. Further, Ms. Sakowski is the only biological parent involved in the care of Jeffrey Jr. Jeffrey Jr. resides in a household where all the other members bear the surname Sakowski. Amanda testified that Jeffrey Jr. has been using the name Adam Julian Sakowski since he was approximately five (5) months old. Moreover, Amanda stated that Jeffrey Jr. uses the name Adam Sakowski or A.J. Sakowski at his daycare provider and with his doctors. Ms. Sakowski also stated that Jeffrey Jr. likes both names of Adam or A.J.

Presently, Jeffrey Jr. uses the name Jeffrey Paul Krahn Jr. on paperwork at the daycare provider as well as with doctors; however, once Ms. Sakowski explains the situation to those persons, Jeffrey Jr. is addressed as Adam or A.J. Ms. Sakowski testified that physicians use the name Adam when treating Jeffrey Jr.; however, the physicians would not allow her to correct the name on their paperwork. Ms. Sakowski

³ Jeffrey Sr. filed a petition for visitation for Jeffrey Paul Krahn Jr. on June 17, 2009 in Family Court in which he had until December 18, 2009 to produce a certificate for parenting classes and a petition for a rule to show cause on April 26, 2010 in Family Court. The petitions are pending and the case is scheduled for mediation on October 25, 2010.

also testified that she did not believe that there would be any confusion with these parties or others as a result of granting the Petition.

Ms. Sakowski believes the name change is the best thing that she could do for her son in that it was a mistake to name him Jeffrey P. Krahn, Jr. Ms. Sakowski stated that Mr. Krahn was manipulative at a time when she was young and naïve and she now desires to do the right thing for her son.

Mr. Sakowski then testified in support of the Petition. Mr. Sakowski stated that he helps provide financial support for Jeffrey Jr. and that, to his knowledge, Mr. Krahn has never paid monetary child support.

Mr. Sakowski stated that Jeffrey Jr. only goes by the name Adam or A.J. and resides in the household with him, Ms. Sakowski and his two daughters. Mr. Sakowski testified that his daughters only know Jeffrey Jr. as Adam. Mr. Sakowski then testified that he and Ms. Sakowski “walk on eggshells” around the children to prevent them from knowing the difference in the name.

According to Mr. Sakowski, the daycare provider identifies Jeffrey Jr. as Adam or A.J. Mr. Sakowski does not believe that, at this time, Jeffrey Jr. would not even respond to the name Jeffrey or Jeff. Mr. Sakowski also confirmed Ms. Sakowski’s testimony regarding the difficulties experienced with her surname being different than that of Jeffrey Jr. and the need to explain the situation to caregivers and physicians.

Mr. Krahn testified at the hearing. Mr. Krahn stated that he resided with Ms. Sakowski until during the spring and summer of 2007. Mr. Krahn indicated that his relationship with Ms. Sakowski faltered and that Ms. Sakowski eventually began dating Mr. Sakowski.

Mr. Krahn confirmed that the last contact he had with Jeffrey Jr. was when Jeffrey Jr. was a few months old. Mr. Krahn testified that he has had no additional contact with Jeffrey Jr. because he was incarcerated in 2008.

Mr. Krahn testified that he has never denied paternity. Mr. Krahn stated that, for approximately one (1) year while not incarcerated, he tried to provide financial support and would attempt to do so in the future. However, Mr. Krahn did confirm that he has not provided any actual monetary child support for Jeffrey Jr. Mr. Krahn testified that if there is an issue with money or support then Ms. Sakowski should file a paternity suit and monetary child support would accumulate in arrears. Mr. Krahn stated that he has no problem helping Ms. Sakowski but that she has never asked him for anything because he has been incarcerated.

Mr. Krahn testified that he is currently incarcerated and will be until 2016 for assault. Upon his release, Mr. Krahn stated that he intends to resume his role as a father figure with Jeffrey Jr. Mr. Krahn also testified that the proceeding is an emotional situation for him. Mr. Krahn stated that he has done nothing but attempt to see Jeffrey Jr. since he became incarcerated and that he even completed parenting classes while in prison so that he could proceed with petitions for visitation in Family Court.

Mr. Krahn also provided a letter he received from Ms. Sakowski to the Court. Mr. Krahn stated that the letter, dated November 5, 2009, was an effort to bribe him into surrendering his parental rights. Ms. Sakowski, on rebuttal, disputed this claim. She testified that the purpose of the letter was to further the interests of Jeffrey Jr. A review of the letter supports Ms. Sakowski's testimony.

Mr. Krahn stated that for the past three (3) years, he has attempted to become a better person in order to be a better father for his children. He testified that he has asked Ms. Sakowski to bring Jeffrey Jr. to visit him but that she refuses because she believes that the prison is unsanitary. However, Mr. Krahn stated that Ms. Sakowski previously brought Jeffrey Jr. to the prison when Jeffrey Jr. was an infant. Mr. Krahn further testified that it was Ms. Sakowski's voluntary decision to name Jeffrey Jr. after him.

Mr. Krahn claimed he was opposing the Petition because (i) the name change will not be beneficial to him and Ms. Sakowski as parents of Jeffrey Jr. nor beneficial to his and Jeffrey Jr.'s father-son relationship; (ii) the name change will not be beneficial to Jeffrey Jr.; (iii) the name change may cause confusion if Ms. and Mr. Sakowski were to separate; (iv) Ms. Turner and he do not know Jeffrey Jr. as Adam; and (v) Mr. Krahn will be crushed if the name is changed and the relationship between him and Jeffrey Jr. will therefore be adversely affected.

Given his lack of involvement in Jeffrey Jr.'s life to date, the Court attempted to elicit a more detailed explanation from Mr. Krahn as to how visitation and his relationship with his son will be affected if the Court grants the Petition. In response, Mr. Krahn could not provide any additional specific facts.

Ms. Turner also testified at the hearing. Ms. Turner confirmed that Mr. Krahn does not provide financial support for Jeffrey Jr. Ms. Turner also confirmed that the last contact Mr. Krahn had with Jeffrey Jr. was when Jeffrey Jr. was approximately four (4) or five (5) months old. Ms. Turner stated that there was a period of time in which Mr. Krahn could have visited Jeffrey Jr. but failed to do so.

Ms. Turner stated that she has had the opportunity to observe the relationship between Jeffrey Jr. and Mr. and Ms. Sakowski. Ms. Turner stated, without equivocation, that she believes that Mr. and Ms. Sakowski are very good and loving parents to Jeffrey Jr.

Michele testified that Jeffrey Jr. has used his surname since birth; however, she calls him A.J. because she respects Ms. Sakowski. Ms. Turner admitted that she tries to refer to Jeffrey Jr. as “BooBoo” whenever possible. Ms. Turner stated that she does this because she does not want to get involved in the dispute between Ms. Sakowski and Mr. Krahn. Ms. Turner testified that she would probably call Jeffrey Jr. the name J.J. -- short for Jeffrey Jr. – in the future.

Ms. Turned did state that she is opposed to the Petition because Jeffrey Jr. is her grandson and that Jeffrey Jr. is named after her son, Mr. Krahn. Ms. Turner testified that she did not believe that Jeffrey Jr. would be exposed to any social stigma based upon his birth name. However, Ms. Turner confirmed the difficulties Ms. Sakowski faces with the daycare provider and the other children due to the different surname.

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.⁴ The Court may grant a petition for a name change if all the statutory requirements are met and there are no apparent reasons for not granting the petition.⁵

⁴ 10 *Del. C.* § 5902 – 5903.

⁵ 10 *Del. C.* § 5904.

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.⁶ What constitutes the best interests of the child involves a factual analysis involving the relationship and family structure of the minor.⁷ 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.⁸

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, the Court holds that it would be in the best interest of Jeffrey Jr. to have his name changed from Jeffrey Paul Krahn Jr. to Adam Julian Sakowski. The following analysis of the factors was used in reaching the Court’s decision:

A parent’s failure to financially support the child. Mr. Krahn admittedly does not pay any child support for Jeffrey Jr. and does not have any immediate prospect for being

⁶ *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).

⁷ *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).

⁸ *Id.*

able to properly provide child support. Mr. Krahn did testify that he intends to and is willing to provide child support in the future. The evidence does demonstrate that Mr. and Ms. Sakowski presently provide financial support for Jeffrey Jr., and that Mr. Sakowski does so even though he is not legally obligated to provide such support. This factor supports granting of the Petition.

A parent's failure to maintain contact with the child. Testimony at the hearing on the Petition revealed that Mr. Krahn has not maintained contact with Jeffrey Jr. since the child was approximately 4½ months old and even before then the contact was sporadic. Mr. Krahn is incarcerated and is expected to be released from custody in 2016. The Court notes that Mr. Krahn is making attempts to arrange and maintain contact with Jeffrey Jr. in the future; however, there is no disposition at this time. In making its determination on this factor, the Court also considered the credible testimony of Ms. Turner that Mr. Krahn did not attempt to visit Jeffrey Jr. during those times when Mr. Krahn was not incarcerated. From the evidence before the Court, it is clear that Mr. Krahn has, to date, failed to maintain contact with Jeffrey Jr. Therefore, the Court considers this factor as supporting the Petition.

The length of time that a surname has been used for or by the child. While Jeffrey Jr. has had the surname of Jeffrey Paul Krahn, Jr. since birth, Jeffrey Jr. has been known by the name Adam or A.J. Sakowski since he was approximately five (5) months old. The testimony elicited at the hearing clearly reveals that Jeffrey Jr. is almost four (4) years old and that he, his family, peers at his daycare provider and physicians all know and identify him as Adam or A.J. Due to the length of time that the name has been used by the child, this factor supports granting of the Petition.

Misconduct by one of the child's parents. Mr. Krahn is currently incarcerated until 2016, serving a sentence for assault. However, there is no evidence that demonstrates any misconduct by Mr. Krahn – or Ms. Sakowski – with respect to Jeffrey Jr. Moreover, Mr. Krahn's criminal conduct is unrelated to his relationship with Jeffrey Jr. or Ms. Sakowski, or that his conduct is of such infamy that the Krahn surname carries any type of stigma. Therefore, this factor is neutral in determining whether to grant the Petition.

Whether the surname is different from the surname of the child's custodial parents. Ms. Sakowski has full custody of Jeffrey Jr. Jeffrey Jr. lives with Mr. and Ms. Sakowski and Mr. Sakowski's daughters. Jeffrey Jr.'s surname is presently different than the name of his custodial parent. This factor supports granting of the Petition.

The child's reasonable preference for a surname. Jeffrey Jr. is almost four (4) years old. This factor is irrelevant under these facts.

The effect of the change of the child's surname on the preservation and development of the child's relationship with each parent. Given the relationship between Jeffrey Jr.'s biological parents, the Court examined whether a name change would affect the relationship between Jeffrey Jr. and Mr. Krahn.⁹ Mr. Krahn testified that he believed that the change of his son's name would affect the relationship between them but that he would love his child regardless of his name. Mr. Krahn could not provide specific facts that would support his belief that the name change would adversely effect the preservation and development of his relationship with Jeffrey Jr. Presently, there is no relationship between Jeffrey Jr. and Mr. Krahn. Indeed, the evidence at trial demonstrates that there has never been a paternal relationship between Jeffrey Jr. and Mr.

⁹ *Degerberg v. McCormick*, 187 A.2d 436, 439 (Del. C. 1963).

Krahn. Instead, the evidence shows that Jeffrey Jr. has a strong familial relationship with Mr. and Ms. Sakowski. For these reasons, this factor supports granting of the Petition.

The degree of community respect associated with the child's present surname and proposed surname. Ms. Turner testified that Jeffrey Jr. would not suffer adverse consequences if he continues to use his present surname. Further, Ms. Turner stated that she does not believe there is any communal stigma based upon the Jeffrey Jr.'s present surname. Neither Mr. Krahn nor Ms. Sakowski presented evidence regarding this factor. Ms. Sakowski does not contend that the Petition should be granted based on community respect associated with the proposed name – Adam Julian Sakowski. Thus, this factor is considered 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. Ms. Sakowski, who has custody of Jeffrey Jr., testified that she not believe that there would be any confusion created by a name change. Ms. Sakowski specifically stated that she did not believe third parties such as Jeffrey Jr.'s daycare provider and physicians would have any difficulties if Jeffrey Jr.s' name were changed from Jeffrey Paul Krahn Jr. to Adam Julian Sakowski. Further, Ms. Sakowski testified that it would be more accommodating to such third parties as they already address Jeffrey Jr. as Adam or A.J. and the name Jeffrey Paul Krahn Jr. is the name listed solely on the paperwork. In opposition, Mr. Krahn contends, without specifics, that a name change would have no beneficial effect for his son.

The Court finds no credible evidence that a change in Jeffrey Jr.'s name would create any difficulty or confusion for him or the community. Therefore, this factor supports the granting of the Petition.

The identification of the child as a part of the family unit. The testimony indicates that the most constant family unit in Jeffrey Jr.'s life is Mr. and Ms. Sakowski and Mr. Sakowski's two daughters. Ms. Turner testified that Jeffrey Jr. is a loving member of the family maintained by Mr. and Ms. Sakowski. The Court believes this factor weighs in favor of granting the Petition.

IV. Conclusion

The evidence at the hearing supports the merits of the Petition. The Court finds that the factors supporting the granting of the name change outweigh the factors against granting the name change. Therefore, Court holds that it is in the best interests of the child to change the name from Jeffrey Paul Krahn Jr. to Adam Julian Sakowski.

IT IS SO ORDERED this 1st day of November, 2010.

Eric M. Davis
Judge