

**IN THE COURT OF COMMON PLEAS OF THE STATE OF DELAWARE
IN AND FOR SUSSEX COUNTY**

IN THE MATTER OF:)	
)	
BRANDON SCOTT CEPHAS, JR.,)	C.A. No. CPU6-19-000823
)	
Petitioner,)	Petitioner's Date of Birth:
)	October 10, 2017
TO)	
)	
BRANDON SCOTT SHELTON)	

**Submitted: November 19, 2019
Decided: January 8, 2020**

*Alarica Shelton, Pro Se, Mother of Petitioner Brandon Scott Cephas, Jr.
Brandon Scott Cephas. Pro Se, Respondent-Father.*

DECISION ON APPEAL OF COMMISSIONER'S RECOMMENDATION
ON PETITION FOR NAME CHANGE

On July 9, 2019, the Commissioner of this Court held a contested hearing on a Petition to change the name of the minor child Brandon Scott Cephas, Jr. On September 5, 2019, the Commissioner issued his recommendation that the child's name be changed to Brandon Scott Shelton Cephas, Jr. Petitioner timely appealed that recommendation. For the reasons stated below, the Commissioner's Findings of Fact and Recommendation ("Recommendation") is REJECTED in part.

FACTS AND PROCEDURAL HISTORY

On June 14, 2019, Petitioner Brandon Scott Cephas Jr. filed this Petition through his natural mother, Alarica Shelton, seeking to change Brandon's surname to Shelton. Notice of the Petition was published in a local periodical and served upon Brandon's father in accordance with applicable statutes and Court Rules.

Brandon's natural father, Brandon Scott Shelton, appeared at the July 9, 2019 hearing before the Commissioner and opposed the Petition. After a colloquy with the Commissioner on the record, the Commissioner accepted Ms. Shelton's oral amendment of the Petition to request, in the alternative, that Brandon's name be changed to include

both the father and mother's surnames. On September 5, 2019 the Commissioner issued his recommendation that the child's name be changed to Brandon Scott Shelton Cephas, Jr.

Standard of Review

A Commissioner's recommendation to grant or deny minor child's change of name is case dispositive.¹ The Court reviews objections made to case dispositive determinations *de novo*.²

DISCUSSION

The Court has reviewed the transcript of the hearing before the Commissioner. At the hearing, the Commissioner asked the parties if they would consider giving the child both parents' last names. Father, who opposed the original petition to supplant his surname with Mother's, also opposed the child having both surnames. Mother stated on the record that, if the Court were not inclined to grant her original request, she would accept both surnames. The Commissioner accepted that statement as an amendment to the original petition.

Until relatively recently, the Court evaluated all petitions to change the name of minor children using ten factors.³ The factors are used to determine whether granting

¹ Ct. Com. Pl. Civ. R. 112(A)(4).

² Ct. Com. Pl. Civ. R. 112(A)(4)(iv).

³ *See, e.g., Lavoie v. Boone*, 2016 WL 5400298, at *3 (Del. Super. Sept. 15, 2016) ("In determining whether 'the best interests of the child' would be served by granting the proposed name change, the trial court considered 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; and
10. The identification of the child as a part of the family unit."

(citing *In re Boone*, 2015 WL 9463249, at *2 (Del. Com. Pl. Dec. 21, 2015)).

the petition would be in the best interests of the child.⁴ This ten factor determination has been superseded by statute—10 *Del. C. § 5904(b)*—in cases where a parent of a minor seeks to add that parent’s surname to the minor’s surname “either as an additional name or hyphenated with the minor’s previously-existing surname.”⁵ In such cases, there is a statutory presumption in favor of granting the petition.

A parent opposing such a petition can overcome the presumption by producing clear and convincing evidence that the totality of the factors enumerated in § 5904(b) demonstrate that granting the petition “would cause the minor more harm than benefit[.]”⁶ The factors enumerated in § 5904(b) are:

- (1) The length of time that a surname has been used for or by the minor.
- (2) The minor’s reasonable preference for a surname.
- (3) The effect of the change of the minor’s surname on the preservation and development of the minor’s relationship with each parent.
- (4) The identification of the minor as a part of the family unit or, if applicable, multiple family units.

The four factors enumerated in § 5904(b) are all but identical to four of the ten “best interests of the child” factors.⁷

Inasmuch as Delaware law provides that a petition to add both parents’ surnames to their child shall be presumptively granted absent the specific showing outlined above by clear and convincing evidence, which was not made in this case, the Commissioner rightly found that the amended petition should be granted, to add both names. However, the Commissioner erred, first, in then recommending that the child’s new name include

⁴ *Id.*

⁵ *House Bill 178, 149th General Assembly (Present)*, Delaware General Assembly, <http://legis.delaware.gov/BillDetail?legislationId=25787>; 81 Del. Laws ch. 141 (2017), <http://delcode.delaware.gov/sessionlaws/ga149/chp141.pdf>.

⁶ Clear and convincing evidence is evidence that “produces in the mind of the trier of fact an abiding conviction that the truth of [the] factual contentions [is] ‘highly probable.’” *Hudak v. Procek*, 806 A.2d 140, 147 (Del. 2002) (quoting *Cerberus Int’l, Ltd. v. Apollo Mgmt., L.P.*, 794 A.2d 1141, 1151 (Del. 2002) (quoting *Cerberus Int’l, Ltd. v. Apollo Mgmt., L.P.*, 794 A.2d 1141, 1151 (Del. 2002))).

⁷ *See House Amendment No. 1 to House Bill 178, 149th General Assembly (Present)*, Delaware General Assembly, <http://legis.delaware.gov/BillDetail?legislationId=25873> (adding the phrase “or, if applicable, multiple family units” after “The identification of the minor as a part of the family unit”).

“Jr.”, because the child would no longer have the identical name as his father. Second, when Mother amended her petition to alternatively request both surnames, the Commissioner did not ascertain mother’s preference regarding the order of the surnames. The Court will accept mother’s averment in this *de novo* appeal as clarification of her petition amendment that the child’s name be Cephias Shelton, rather than Shelton Cephias. Father opposed any change that involves both surnames. Father has not responded to the appeal of the Commissioner’s recommendation. Therefore, in accordance with the statutory presumption, the Court grants mother’s alternative request, as clarified in her appeal.

CONCLUSION

For the foregoing reasons, the Commissioner’s recommendation is **REJECTED** in part. The amended Petition to change Brandon Scott Cephias, Jr.’s name to **Brandon Scott Cephias Shelton** is **GRANTED**.

IT IS SO ORDERED.

Kenneth S. Clark, Jr., Judge