

RENDERED: JUNE 26, 2020; 10:00 A.M.  
NOT TO BE PUBLISHED

**Commonwealth of Kentucky**  
**Court of Appeals**

NO. 2019-CA-000897-MR

JONATHIN AARON MORGAN

APPELLANT

v. APPEAL FROM ALLEN FAMILY COURT  
HONORABLE G. SIDNOR BRODERSON  
ACTION NO. 17-CI-00341

LESLIE ELAINE MORGAN

APPELLEE

OPINION  
AFFIRMING

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BEFORE: ACREE, CALDWELL, AND K. THOMPSON, JUDGES.

CALDWELL, JUDGE: Jonathin Aaron Morgan appeals the Allen Family Court's order granting his ex-wife's petition to change the surnames of the children of the couple following their divorce. For the following reasons, we affirm.

## FACTS

Jonathin Morgan and Leslie Morgan had three children together, born in 2002, 2005, and 2011, before marrying in October of 2013 in Christian County, Kentucky.<sup>1</sup> The couple resided in Georgia with all of the children at a home they owned until Christmas Day of 2015, when an event occurred which led to the Appellant's conviction and incarceration.<sup>2</sup> Ms. Morgan filed a petition for dissolution of marriage in Allen Family Court in 2017, having returned to Kentucky after the breakup of the marriage. At all times during the pendency of the petition the Appellant was incarcerated in Georgia.

After the Allen Family Court entered the decree of dissolution of marriage which included a change of the Appellee's surname, she requested the names of the Morgan children be likewise changed to her maiden name of Sanspree.<sup>3</sup> The family court granted the request and issued an order changing the

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<sup>1</sup> The Appellee also had a child born of another man in 2009. That child always carried his biological father's surname.

<sup>2</sup> A permanent protective order was issued in Georgia in 2016 granting custody of all four children to the Appellee and granting no visitation to the Appellant. A review of the record reveals disturbing allegations against the Appellant ranging from rape, cruelty to children, aggravated sodomy, child molestation, fleeing or attempting to elude a police officer, and false imprisonment, with the Appellee or the children having been the victims of such crimes.

<sup>3</sup> The Appellee first requested that her name be changed to her prior married name of Holder and then later to her maiden name of Sanspree and the family court granted that request. The Appellee later requested that the three children of the Appellant have their surname changed to Sanspree.

three children's last name from Morgan to Sanspree. It is only from this order that the Appellant seeks relief.

### **STANDARD OF REVIEW**

The standard of review of a decision of a lower court to grant a name change of a child is whether the granting judge abused his or her discretion in determining the best interests of the child would be upheld either by granting or denying a motion for the change. *Krug v. Krug*, 647 S.W.2d 790, 793 (Ky. 1983). “We require a parent seeking to attenuate the relationship between her former spouse and his child to present objective and substantial evidence of just cause and significant detriment to the child before the child’s name is changed where the petition for change of name is contested.” *Likins v. Logsdon*, 793 S.W.2d 118, 122 (Ky. 1990).

### **ANALYSIS**

Having acknowledged the standard of review that must guide our decision, there is but one question for us: was there a preponderance of the evidence presented below which tips the scale towards the trial court’s action? We find that there was such a preponderance, if not a cavalcade of evidence. The Appellant was accused, tried, and convicted by the courts of a sister state of the most egregious harm a parent can do a child and all three children were victims of the violence suffered by their mother at their father’s hands as eyewitnesses to it.

The Appellant had stipulated to the Appellee receiving full custody and himself receiving no order of visitation because of the fact of his incarceration for the crimes perpetrated on his ex-wife and child. Though the Appellant attempts to argue that there was insufficient evidence presented to meet the standard announced in the *Likins* decision, there can be no doubt given the Appellant's conviction of the crimes against his family, and it is preposterous to argue that those actions of their father did not harm the relationship between father and child.

The Appellee testified that on Christmas Day of 2015 she walked into a room to see her husband molesting their daughter. She was raped and sodomized by her husband and he pointed guns at both her and their daughter for the next several hours. The other children were witnesses and present in the home during the violence. The Appellee told the court that the children were all in therapy for post-traumatic stress disorder, and she asked the court to change the children's names to Sanspree, her maiden name, which she believed was in their best interests. We find the mother's testimony to be sufficient to meet the burden of preponderance of the evidence and "objective and substantial evidence of just cause." *Id.*

### **CONCLUSION**

The Court in *Likins* acknowledged "a divorced father's right to have his children continue to bear his name *unless such right has been forfeited by his*

*own misconduct or other extraordinary circumstances.” Id.* at 121 (emphasis added). We can think of no more cogent manner in which such right could be forfeited than the crimes with which the Appellant was charged and find these to be truly extraordinary circumstances meriting the relief the Appellee sought and the trial court granted. We affirm.

ALL CONCUR.

BRIEF FOR APPELLANT:

Casey A. Hixson  
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