[Cite as *In re Willoughby*, 2004-Ohio-2079.]

THE COURT OF APPEALS

ELEVENTH APPELLATE DISTRICT

LAKE COUNTY, OHIO

IN RE: RAEANN MICHELLE WILLOUGHBY, STEPHANIE FRANCES WILLOUGHBY AND LILIAN JOSEPHINE WILLOUGHBY	: : : : :	**O P I N I O N** **CASE NO. 2003-L-050**

Civil Appeal from the Court of Common Pleas, Probate Division, Case No. 20 CV 0128.

Judgment: Affirmed.

Paul H. Hentemann, Northmark Office Building, 35000 Kaiser Court, #305, Willoughby, OH 44094 (For Appellants, Raeann Michelle Willoughby, Stephanie Frances Willoughby and Lillian Josephine Willoughby).

Raymond Willoughby, pro se, 195 Buckeye Road, Painesville, OH 44077 (Appellee).

CYNTHIA WESTCOTT RICE, J.

{¶1} Appellants, RaeAnn Michelle Willoughby, Stephanie Frances Willoughby, and Lillian Josephine Willoughby, appeal from the judgment of the Lake County Common Pleas Court, Probate Division, denying their application to change their surname from Willoughby to their mother's maiden name, Zalar. We affirm.

{¶2} Raymond Willoughby and Anne Zalar were divorced in 1993. They had three children: RaeAnn, born June 1, 1984; Stephanie, born November 22, 1988; and Lillian, born October 1, 1990.

{¶3} Appellants, through their mother, filed an application for name change on September 5, 2001. RaeAnn paid the filing fee. Raymond Willoughby opposed the application and the trial court held a hearing. The trial court found that the name change was not in the children's best interest and denied the application.

{¶4} Appellants appealed to this court. We reversed the trial court's judgment and remanded the matter so that the trial court could apply the factors set forth in *In re Willhite* (1999), 85 Ohio St.3d 28. *In re Willoughby*, 11th Dist. No. 2001-L-208, 2002-Ohio-6581.

{¶5} On remand, the trial court gave the parties the opportunity to submit additional evidence or argument. The parties declined to do so. The trial court then applied the factors set forth in *Willhite*, and again entered judgment denying the application for name change. Appellants appeal raising one assignment of error: "The trial court committed error in not granting the petitioners-appellants: (a) RaeAnn Michelle Willoughby (now emancipated[1]); (b) Stephanie Frances Willoughby; and (c) Lillian Josephine Willoughby, request for a name change."

{¶6} R.C. 2717.01 provides:

{¶7} "(A) A person desiring a change of name may file an application in the probate court of the county in which the person resides. The application shall set forth ***, the cause for which the change of name is sought, and the requested new name.

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1. By entry filed June 12, 2002, the trial court granted RaeAnn's application for name change. RaeAnn had reached the age of 18 at that time.

{¶8} "Notice of the application shall be given once by publication in a newspaper of general circulation in the county at least thirty days before the hearing on the application. The notice shall set forth the court in which the application was filed, the case number, and the date and time of the hearing.

{¶9} "Upon proof that proper notice was given and that the facts set forth in the application show reasonable and proper cause for changing the name of the applicant, the court may order the change of name.

{¶10} "(B) An application for change of name may be made on behalf of a minor by either of the minor's parents, a legal guardian, or a guardian ad litem. When application is made on behalf of a minor, in addition to the notice and proof required pursuant to division (A) of this section, the consent of both living, legal parents of the minor shall be filed, or notice of the hearing shall be given to the parent or parents not consenting by certified mail, return receipt requested. ***."

{¶11} When deciding whether to grant a name change for a minor the trial court must consider the child's best interest in determining whether the petitioner has established reasonable and proper cause. *Willhite*, supra, at paragraph one of the syllabus. The trial court should consider the following factors in determining the child's best interest:

{¶12} "*** the effect of the change on the preservation and development of the child's relationship with each parent; the identification of the child as part of a family unit; the length of time that the child has used a surname; the preference of the child if the child is of sufficient maturity to express a meaningful preference; whether the child's surname is different from the surname of the child's residential parent; the

embarrassment, discomfort, or inconvenience that may result when a child bears a surname different from the residential parent's; parental failure to maintain contact with and support of the child; and any other factor relevant to the child's best interest." Id., at paragraph two of the syllabus.

{¶13} We review a trial court's decision granting or denying a name change only for an abuse of discretion. *In re Juntunen* (July 27, 2001), 11th Dist. No. 2000-T-0102, 2001 Ohio App. LEXIS 3353, at 5, citing *In re Hall* (1999), 135 Ohio App.3d 1, 3. A trial court abuses its discretion when its decision is unreasonable, arbitrary, or unconscionable. Id., citing *Blakemore v. Blakemore* (1983), 5 Ohio St.3d 217, 219.

{¶14} In the instant case, we cannot say that the trial court abused its discretion in denying the application for name change. The record shows that a name change would destroy an already strained relationship between the children and their father; further, the name change only became an issue after the father attempted to deal with disrespectful behavior on the part of the children. The children have not used their mother's maiden name for a significant length of time but they did testify that they desired the name change and all were sufficiently mature to do so. The children's surname is different from that of their residential parent but this only occurred because the mother reverted to her maiden name several years after the divorce. While the children testified they were teased because of their last name they could point to no specific instances of such teasing and there was no evidence that the children suffered embarrassment, discomfort, or inconvenience because they have a different surname than their residential parent. Finally, the record shows that the father desires a relationship with his children but that the mother has attempted to poison the

relationship. Based on our review of the record, the trial court did not abuse its discretion in denying the application for name change. While we hold that appellants' assignment of error is without merit, we note that nothing in our judgment precludes appellants from filing an application for name change when they are emancipated. The judgment of the Lake County Court of Common Pleas Court, Probate Division is affirmed.

Judgment affirmed.

WILLIAM M. O'NEILL and DIANE V. GRENDELL, JJ., concur.