

Rose Markley (hereinafter "Child") who was born on January 5, 2018. Mother and Father were married on April 12, 2018.² During the early stages of their relationship, Mother was aware that Father had issues with illegal substances. Also, prior to the Child's birth, Mother was aware of Father's engagement in criminal activity. Notwithstanding, upon the Child's birth on January 5, 2018, Mother and Father agreed to give their child the surname "Markley."

Sometime in May, 2019, Mother and Father separated. According to Mother, in addition to his engaging in criminal activity and illegal substance use, Father became abusive. Upon separation, Mother took the Child with her. In September, 2019 a custody agreement was reached between the parties³ and their divorce became final in December, 2019.

On February 27, 2020, Mother became married to her current husband, David Kenion (hereinafter "Husband" or "Stepfather"). They reside together with the subject child and Mother's older child whose surname is "Kirdendall."

According to Mother, her Husband was involved in the Child's life early on claiming that Father was absent so often.

² The record is devoid of any evidence as to when Mother and Father commenced their relationship. Based upon the birth of the Child, suffice it to say that the relationship commenced in early 2019 at the latest.

³ Prior to this time, Mother testified that Father's contact or interest in the child was minimal. Even after the initial custody order Mother contended that Father's contact was still minimal and at times, non-existent, when for example he was incarcerated for a period of time until April, 2020. To this date, Mother contends Father's contact is still limited, however, this may be as a result of limiting language in the orders themselves.

Mother testified that she does not encourage the Child to call her Husband "dad." Conversely, she admitted that she does not encourage the Child to call her biological Father "dad", however she claims that if the Child calls her Stepfather "dad", she corrects her and tells her that "Matt Markley" is your "dad."

Father testified that the Child calls him "Matt." When he questions Mother about this, she advises him that, "the Child called Dave, dad" and that "the Child does not know you as dad." Lastly, Father indicated that Mother does not correct anyone when they refer to the Stepfather as "dad."

LEGAL DISCUSSION

Pursuant to 54 Pa.C.S.A. §702, "the Court of Common Pleas of any county may by order change the name of any person resident in the county." "The statutory scheme sets forth no criteria for the Court to consider when exercising its discretion upon a petition for change of name." *In Re: Grimes*, 609 A.2d 158, 161 (1992). Specific guidelines are difficult to establish, for the circumstances in each case will be unique, as each child has individual, physical, intellectual, moral, social and spiritual needs. See generally *In re: Davis*, 502 Pa. 110, 465 A.2d 614 (1983). However, general considerations should include the natural bonds between parent and child, the social stigma or respect afforded a particular name within the community, and, where the child is of sufficient age, whether the child

intellectually and rationally understands the significance of changing his or her name. Id.

The decision to grant or deny a name change petition falls within the sound discretion of the Court. *Matter of Montenegro*, 528 A.2d 1381, 1383 (1987). The burden of proof to show that such a name change is in the best interests of the child falls with the petitioner. *In re: C.R.C.*, 819 A.2d 558, 560 (Pa. Super. 2003).

Mother proposes to simply add her current husband's name, the name she took upon marrying him, to the Child's current name of Markley such that she would then be known as "Ryver Rose Kenion-Markley." This Court finds several flaws in the rationale posited by her.

First, she alluded to the fact that Father's surname has a "bad reputation" in a rather small community and that the Child would be ridiculed and perhaps bullied as a result of maintaining his name. This Court cannot comprehend Mother's rationale for such a position in light of the fact that her proposed name still contains Father's surname. Secondly, at the time of the Child's birth, the Child was given this surname, her Father's surname, at a time when Mother was already fully cognizant of Father's substance use and involvement in the criminal justice system. Thus, any social stigma the Markley name may cause this Child was already known to Mother when the Child was named and would not be

remedied by maintaining the Markley surname as part of the proposed name.⁴

Mother next argued that by adding the Kenion surname to the Markely surname, it would give the Child a "sense of connection" to the Kenion family. We assume Mother contends here that the addition of Kenion to the child's surname would strengthen the bond with the Kenion family. We agree that one of the general considerations in addressing a name change is that of the bond between the parent and the child. We do not see however, this consideration extending to the step family or even a step parent. Further, there is already a strong bond between the Mother and the Child. This Court sees no discernable basis to believe, nor has Mother proffered any that this bond, the bond between her and the child, would be strengthened by the name change. [See *T.W. v. D.A.*, 127 A.3d 826 (Pa. Super. 2015)].

In support of this name change, Mother cites the case of *In re: Richie by Boehm*, 564 A.2d 239 (1989). In that case, the court granted the change of name of the child to that of Mother's married name despite the Father's opposition. However, the *Richie* case is easily distinguishable from the case at bar. In *Richie*, the child's original surname was her Mother's maiden name. Once married, Mother took the name of her husband, leaving the child

⁴ It should be noted that Mother also took the Markley name when she married the Father on April 12, 2018. (See Carbon County Dockets 19-2182).

with a surname of no one she can relate to by name.

Lastly, this Court notes that the Child is not quite four (4) years old. Needless to say, she could not understand the significance of this name change.

CONCLUSION

For the reasons stated herein, this Court enters the following:

IN THE COURT OF COMMON PLEAS OF CARBON COUNTY, PENNSYLVANIA
CIVIL DIVISION

IN RE: CHANGE OF NAME, :
RYVER ROSE MARKLEY : NO. 21-0597
 :

ORDER

AND NOW, this *22nd* day of November, 2021, upon consideration of the "Amended Petition for Name Change" filed by Tracey J. Kenion, and after hearing thereon, it is hereby **ORDERED and DECREED** that the Amended Petition to Change the Name of Ryver Rose Markley to Ryver Rose Kenion-Markley is **DENIED**.

BY THE COURT:



Joseph J. Matika, J.