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DISTRICT IV

June 10, 2021

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You are hereby notified that the Court has entered the following opinion and order:

2020AP596

Elizabeth Anne Osborn v. Kimberly Andrus (L.C. # 2020CV19)

Before Blanchard, Kloppenburg, and Graham, JJ.

Summary disposition orders may not be cited in any court of this state as precedent or authority, except for the limited purposes specified in WIS. STAT. RULE 809.23(3).

Kimberly Andrus appeals an order granting Elizabeth Osborn's petition to change the name of Osborn's daughter. Based upon our review of the briefs and record, we conclude at conference that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21 (2019-20).¹ We affirm.

¹ All references to the Wisconsin Statutes are to the 2019-20 version unless otherwise noted.

Osborn's petition sought to change her daughter's last name to "hav[e] the same last name as [the] sole parent." A name change petition should be granted "if no sufficient cause is shown to the contrary." WIS. STAT. § 786.36(1).

Andrus submitted a response and affidavit. She asserted that she is the "surviving mother" of the child's deceased father and that she recently obtained "quasi stepparent rights." She further asserted that changing the child's name "may be an attempt to erase the memory of the father," "to subvert the rights obtained" in a circuit court family case, or to "confuse law enforcement of the order obtained in the existing child's name." Andrus asserted that there were "no good reasonable items in the best interest of the child" that could support a name change.

The circuit court held a hearing and granted the petition. At the hearing, Osborn stated that her reasons for seeking the change were that she was now the sole parent, and that the child "and I are a team and if we had the same last name I do fully believe it will fulfill a sense of security in herself." She also noted that it would make school-related functions and responsibilities easier if no one had to explain the difference between her last name and her child's last name.

The circuit court concluded that it was "convinced by Ms. Osborn's decision-making process here that it is not some type of slight to the Andrus name or to the father's name here, but really it's more dealing with going forward from here and having the child be able to have the same last name as her mother." The court also accepted Osborn's assertion that the name change would not change the relationship with the grandparents.

The circuit court also questioned Andrus's standing to object to the petition, and Osborn argues in response to the appeal that Andrus lacked standing. We assume, without deciding, that

Andrus may participate in these proceedings to show cause why the petition should not be granted.

On appeal, Andrus asserts that the child's name is being changed for revenge, to cause strife and confusion, and to use the child for spite. Neither Andrus's original filing or the record from the hearing provides factual support for these assertions. There is no factual basis to conclude that the circuit court erred in determining that Osborn's motivation is as she described to the circuit court.

Andrus argues that the name change harms her, her family, and her deceased son's interest in the child. However, she does not identify any specific harm that the change will cause to them.

Andrus argues that at the hearing the circuit court denied her the ability to explain why the name change would cause harm. However, Andrus stated those reasons in her written filing and, as we described above, the court addressed them.

We also observe that any visitation rights Andrus may have obtained do not give her the same rights as a parent or stepparent. Consent by Andrus was not required for the circuit court to grant a petition to change the child's name. Andrus has not established that Osborn's reasons were improper reasons for a name change, or shown in any other way that the circuit court was presented with sufficient cause to deny the petition.

Osborn moves for a finding that this appeal is frivolous under WIS. STAT. RULE 809.25(3) because it is not based on an argument for extension of existing law. We deny the motion.

IT IS ORDERED that the order appealed is summarily affirmed under WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that the motion for a finding of frivolousness is denied.

IT IS FURTHER ORDERED that this summary disposition order will not be published.

Sheila T. Reiff
Clerk of Court of Appeals