



which amount to either minor inconvenience or speculation. She has not, however, presented any convincing evidence that the change would be in Cody's best interest.

#### **A. Inconvenience**

Ms. Lyons complains that she has experienced two unfortunate incidents because Cody's surname name differs from her own: On a trip abroad, Ms. Lyons was questioned at customs as to why her son's name was different, and she encountered difficulty in obtaining a seat next to her son on the plane because the airline did not realize she and Cody were related.

While these types of hassles can certainly be irritating they are, in the scheme of things, rather trivial. Traveling seems to lend itself to unpleasant surprises of all sorts, and Ms. Lyons is not alone in experiencing frustration when dealing with customs officials or airlines. If this is the worst experience she ever has in an airport, she should consider herself lucky.

It is difficult to believe that Ms. Lyons' situation was very novel or perplexing to the airlines or customs officials, in light of the many parents who have different last names than their children. Surely these families travel, too. Moreover, with a little perseverance and foresight, many of these problems can be anticipated and prevented. In short, such obstacles are neither uncommon nor insurmountable. Ms. Lyons' reaction is surely an overreaction.

Another problem with Ms. Lyons' argument on convenience is that she is complaining about *her* inconvenience, when it is Cody's interest that we must consider. Her attorney has cleverly attempted to bootstrap Cody's interest onto her own by citing the recent case of Zoccole v. Zoccole, 751 A.2d 248 (Pa. Super. 2000), where the court states that the best interest of children cannot be severed from the interest of the custodial parent with whom they live and upon whose emotional and physical well-being they depend. However, Zoccole involved a Gruber parent relocation issue. In those cases, where a

parent is making a major lifestyle change, it certainly makes sense to consider how the custodial parent will be benefitted by the move, for any major change in lifestyle will certainly affect the child in a significant way. In cases such as the one before us, however, it is highly strained and somewhat ridiculous to argue that eliminating some minor and sporadic inconveniences from Ms. Lyons' life will have much of an effect on Cody.

### **B. Speculation**

Ms. Lyons also presented a laundry list of what terrible things *might* happen to Cody if his name is not changed. First, she is afraid that he might lose the health insurance coverage he enjoys on his maternal grandfather's policy, because Cody's different last name might cause someone to question his inclusion. It is difficult to take this fear seriously because Ms. Lyons gave the court no logical reason why Cody's coverage would be jeopardized simply because his surname is different from his grandfather's. If Cody is eligible to be on his grandfather's policy, surely his name will not make him ineligible. If Cody is not eligible, he should be removed, no matter what his name is. This court is not about to rule it is in Cody's best interest to be a participant in health care fraud. But in any case, Cody is not in danger of losing health coverage because Mr. Miller indicated he would be happy to carry Cody on his own health insurance policy, if necessary.

Ms. Lyons is also nervous that Uncle Sam might wonder why she includes a dependent on her tax return who has a name different from her own. Surely the U.S. government is aware that not all parents have the same name as their children, and although Ms. Lyons might have to fill out a form to explain why, the court can hardly view that effort as burdensome.

Ms. Lyons also fears that Cody's welfare could be jeopardized because his father and members of his father's family have had contact with the criminal justice system. This concern is laughable in light of

Mr. Miller's testimony that at best, such criminal conduct consists of a few DUIs many years ago. There is certainly no evidence that Cody's father is a member of a well-known and despised "Miller Clan." Moreover, even if Cody's relatives had committed heinous crimes, it is doubtful that Cody would be automatically associated with them. After all, Miller is a very common name, and this is a large community—not a Peyton Place where everyone knows everyone else's business.

Lastly, Ms. Lyons is afraid Cody will suffer embarrassment or humiliation when he enters school, because his name is different from his mother's name. While more plausible than her other fears, this too is difficult to take seriously. In this age of broken and blended families, any stigma attached to such a situation is quickly falling by the wayside. Moreover, the difference in names does not necessarily indicate an out-of-wedlock birth. Many women maintain their maiden names when they marry, and give their children the paternal surname. Moreover, many women who adopt their husband's name upon marriage return to their maiden name after divorce. But even if other children do tease Cody because of his last name, that negative experience could well turn into a positive one, spurring him to build the strength of character necessary to stand tall and shrug off such taunts.<sup>1</sup> Certainly Cody will not be the only child ever to be teased by his peers, and this court is confident he can take a little teasing.

In short, we find Ms. Lyons' fears somewhat exaggerated, to say the least. Moreover, none of these worst-case scenarios has occurred yet, nor is there any evidence to lead us to believe they will occur sometime in the future.

### **C. A Vital Link**

Being unpersuaded that Cody has been or will be harmed by keeping his father's surname, we must deny the petition because bearing Mr. Miller's name can only serve to protect and strengthen Cody's

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<sup>1</sup> See Johnny Cash's song, "A Boy Named Sue."

relationship with his father. Mr. Miller is a responsible and interested father, who wants to play a significant role in his son's life. That is hard enough for a non-custodial parent to accomplish, and we have no wish to make it more difficult by stripping Cody of his father's name without a good reason. Bearing the Miller surname will serve as a constant reminder to Cody that his father is an important figure in his life.

Moreover, we are concerned about the message that would be sent to Cody by changing his name at this point in his life. Although he is only four, he knows his name, and no doubt knows it is his father's name. Changing it now could certainly give Cody the impression that the link with his father is not very important, since his name can be suddenly changed for no apparent reason.

In short, the court finds that Ms. Lyons' concerns and fears pale in comparison to the importance of Cody's bond with his father. Cody's best interest lies in maintaining and strengthening the link with his father and anyone sincerely concerned for Cody's welfare should want to do whatever they can to ensure that link remains strong.

### **ORDER**

AND NOW, this 14<sup>th</sup> day of September, 2000, for the reasons stated in the foregoing opinion, the Petition for Change of Name filed by Elizabeth Lyons is dismissed.

BY THE COURT,

Clinton W. Smith, P.J.

cc: Dana Stuchell Jacques, Esq.  
Hon. Clinton W. Smith  
Ronald Travis, Esq.  
John Smay, Esq.