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Clerk of the
Appellate Courts

IN THE COURT OF APPEALS OF TENNESSEE
AT NASHVILLE
September 5, 2017 Session

IN RE LEYNA A.

**Appeal from the Circuit Court for Williamson County
No. 2016-249 Deanna B. Johnson, Judge**

No. M2016-02548-COA-R3-JV

The parents of a minor child filed a petition to change the first and middle names of their child but not the surname. The trial court denied the petition without a hearing on the ground: “The Petition fails to state a valid reason for the name change, especially in light of the fact that Petitioners seek to change someone else’s name.” The parents filed a motion to alter or amend the judgment. They supported their motion with letters written by the sixteen-year-old child, the child’s doctor, the child’s therapist, and one of the child’s teachers, each explaining why the name change was in the child’s best interest. Without ruling on the motion, the trial court set the matter for an evidentiary hearing during which the mother, father, and child testified, and the letters from the doctor, therapist, and teacher were admitted into evidence. Thereafter, the trial court denied the motion to alter or amend because “the controlling law has not changed,” no “previously unavailable evidence became available,” and “Petitioners have not shown that there was a clear error of law or that an injustice occurred.” The trial court also ruled on the merits of the petition and denied and dismissed the petition. This appeal followed. We have determined that the trial court erred by denying the motion to alter or amend the initial order because the petition stated a claim for which relief could be granted. As for the court’s ruling on the merits of the petition following the evidentiary hearing, we have determined that the evidence preponderates against the trial court’s finding that Petitioners failed to show that it was in the child’s best interest to change his first and middle names. We have also determined that the court’s legal conclusions were based on an erroneous assessment of the law. Having determined that (1) Petitioners complied with and satisfied all procedural and legal requirements for a name change, (2) the preponderance of the evidence established that changing the child’s first and middle names was in the child’s best interest, and (3) there is no legal basis upon which to deny the petition, we reverse the judgment of the trial court and remand with instructions to enter judgment approving the petition to change the child’s name as requested in the petition.

**Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Circuit Court
Reversed and Remanded**

FRANK G. CLEMENT JR., P.J., M.S., delivered the opinion of the Court, in which D. MICHAEL SWINEY, C.J. and W. NEAL MCBRAYER, JJ., joined.

Elizabeth Noel Sitgreaves and Thomas H. Castelli, Nashville, Tennessee, for the appellants, Mark and Lynda A.

OPINION

This action was initiated on May 16, 2016, with the filing of a Petition for Name Change by both parents of the minor child. The parents (“Petitioners”) did not seek to change their child’s surname, only the child’s first and middle names.¹

The petition, which was signed by both parents, provided all of the information required by the controlling statute, Tenn. Code Ann. § 29-8-102. The petition also affirmatively stated that the person whose name was to be changed had not been convicted of any of the criminal offenses that prohibit name changes, that there was no desire or intention to mislead any present or potential creditors, and that they had no fraudulent purpose for the requested name change. Three days later, the court denied the petition without a hearing pursuant to a Memorandum and Order entered on May 19, 2016. The order stated:

This matter is before the Court on the Petition for Name Change filed by Petitioners, Lynda and Mark [A.] (“Petitioners”) on behalf of their daughter, Leyna Jayne [A.] (“Daughter”). The Petition fails to state a valid reason for the name change, especially in light of the fact that Petitioners seek to change someone else’s name. When Daughter is of the age of majority, she can Petition the Court on her own. Accordingly, the Petition for Name Change is hereby denied.

Immediately thereafter, the parents filed a motion to alter or amend and an amended motion to alter or amend that was supported by written statements from both parents, the child, and the child’s treating physician, therapist, and teacher.² The supporting statements and letters set forth the following relevant facts:

¹ A person’s “surname,” also known as “last name,” is a hereditary name common to all members of a family, *see* <https://www.merriam-webster.com/dictionary/surname>, as distinguished from a given name, which is the first or middle name.

² The child’s mother initially filed a letter asking the court to reconsider its decision to deny the name change. We are treating the letter as a motion to alter or amend.

1. The minor child, who was sixteen years old, had been using the name “Charlie James [A.]” socially for over a year.
2. The child is transgender and is currently undergoing medical transition via hormone therapy from gender female to gender male.
3. Gender identity refers to one’s innate sense of oneself as male or female.
4. Gender Dysphoria (“GD”) is a medical diagnosis that refers to the emotional distress of having a gender identity that is different from the gender assigned at birth.
5. According to the Diagnostic and Statistical Manual of Mental Health Disorders (“DSM-V”), GD is the clinical problem and not simply having a transgender identity.
6. GD may consist of a person adopting the behavior, clothing, and mannerisms of the experienced gender. Treatment for GD includes addressing psychological distress through social transition and medical treatment for the body.
7. Part of the social transition may be changing one’s name to reflect the person’s experienced gender.
8. The continued use of the feminine name, “Leyna Jayne [A.]” causes the minor child anxiety and embarrassment.
9. Although the child is able to use “Charlie James [A.]” in some settings, the name change is needed in order to change the school records and other legal documents.
10. Both of the child’s parents support the name change because of the child’s gender identity.
11. In Petitioners’ initial motion to alter or amend, they detailed an instance where the child had a severe panic attack during a standardized test upon seeing the feminine name and had to go to the emergency room.
12. The child submitted a statement in support of the petition. In the statement, the child detailed the emotional pain he endured by being “tethered” to his current name.
13. The child’s therapist, Adam C. Marshall, stated that the child’s birth name caused the child emotional harm. Mr. Marshall stated: “I am recommending this legal change in name because I believe it will aid in improving Charlie’s anxiety and depression. Not only do I expect this to have a direct impact on Charlie’s emotional well-being, but I expect it to help improve struggles at school, work, and in relationships across the board.”
14. The child’s doctor, Kristin M. Rager, MD, MPH, FAAP, FSAHM and one of the child’s teachers submitted statements in support of the name change.
15. All of the statements and letters demonstrated that the requested name change was in the child’s best interest.

In response to the motion, the trial court entered an order setting the Petition for Name Change for a hearing on September 1, 2016. When the petition came on for an evidentiary hearing, counsel for Petitioners presented three witnesses, both parents and the child, each of whom stated unequivocally that the requested name change was in the child's best interest. Additionally, the written statements from the child's treating physician, therapist, and teacher were admitted into evidence. Following the hearing, the trial court entered an order denying the motion to alter or amend the judgment and denying the petition for a name change, finding Petitioners failed to establish that the requested name change was in the child's best interest. This appeal followed.

ISSUES

Petitioners raise the following issues for our consideration:

1. Whether the trial court abused its discretion in denying the motion to alter or amend as it made a clear error of law, new evidence was made available, and the motion should have been granted to prevent an injustice.
2. Whether the trial court erred by applying an incorrect legal standard.
3. Whether the trial court erred in holding that Petitioners failed to demonstrate the name change was in the child's best interest.
4. Whether the trial court's denial of the petition violates the child's First Amendment rights because it compels his speech.
5. Whether the trial court's denial of the petition violates a fundamental right of Petitioners to select a name for their child under the Fourteenth Amendment of the U.S. Constitution.

We have determined that the first three issues are dispositive of this appeal.

ANALYSIS

I. MOTION TO ALTER OR AMEND THE INITIAL ORDER

In its initial order, the trial court denied the petition for a name change without specifying the procedural basis for its decision and without affording Petitioners an evidentiary hearing. When the trial court entered its initial order, the only filing in the trial court was the two-page Petition for Name Change. Because the trial court had no evidence, affidavits, or exhibits to additionally consider, it is readily apparent that the court denied the petition pursuant to Tenn. R. Civ. P. 12.02(6) for "failure to state a claim upon which relief can be granted."

A Tenn. R. Civ. P. 12.02(6) motion to dismiss for failure to state a claim upon which relief can be granted tests only the legal sufficiency of the petition. *Bell ex rel. Snyder v. Icard, Merrill, Cullis, Timm, Furen & Ginsburg, P.A.*, 986 S.W.2d 550, 554 (Tenn. 1999). When reviewing the sufficiency of a petition or complaint, the court must construe the pleading liberally in favor of the plaintiffs, taking all allegations of fact as true, and the petition should not be dismissed unless the relevant and material averments contained in the petition fail to state a claim upon which relief may be granted. *Id.* Moreover, the petition should not be dismissed unless it appears that the plaintiffs can prove no set of facts that would entitle them to relief. *Id.*

In considering this issue on appeal, we take all allegations of fact in the plaintiff's petition as true, and review the trial court's legal conclusions de novo with no presumption of correctness. *Id.* (citing Tenn. R. App. P. 13(d); *Stein v. Davidson Hotel Co.*, 945 S.W.2d 714, 716 (Tenn. 1997); *Pursell v. First American Nat'l Bank*, 937 S.W.2d 838, 840 (Tenn. 1996); *Cook v. Spinnaker's of Rivergate, Inc.*, 878 S.W.2d 934, 938 (Tenn. 1994)).

In the initial order, the trial court succinctly explained its reasons for denying the petition:

The Petition fails to state a valid reason for the name change, especially in light of the fact that Petitioners seek to change someone else's name. When Daughter is of the age of majority, she can Petition the Court on her own. Accordingly, the Petition for Name Change is hereby denied.

Having considered the court's reasoning, we conclude that the trial court's decision to deny the petition was based on a misapprehension of the applicable law. The trial court misapprehended not only "what" constitutes "a valid reason" for a name change, but "who" may file a petition seeking a name change. Because the decision was based on an error of law, the trial court should have granted Petitioners' Tenn. R. Civ. P. 59.04 motion to alter or amend.

"All persons have the right to change their name *at will*, as long as the change does not interfere with another's rights and is not being made for fraudulent purposes." *In re Lackey*, No. 01-A-01-9010PB00358, 1991 WL 45394, at *1 (Tenn. Ct. App. Apr. 5, 1991) (citing *Dunn v. Palermo*, 522 S.W.2d 679, 682 (Tenn.1975)) (emphasis added). And as our Supreme Court stated in a case involving a female lawyer who wanted to keep her maiden name following marriage, a person's legal name is that given at birth, or as changed as provided by law. *Palermo*, 522 S.W.2d at 688-89. "[U]nless and until changed in the prescribed manner, and *absent any fraudulent or legally impermissible intent, the State has no legitimate concern.*" *Id.* at 689 (emphasis added).

Like many states, Tennessee has enacted statutory name change procedures. *See* Tenn. Code Ann. §§ 29-8-101 to -105. “These statutes provide an optional procedure that is intended not to diminish an individual’s right to change his or her name, but rather to provide a speedy and authoritative way to exercise it.” *In re Lackey*, 1991 WL 45394, at *1 (citing 57 Am.Jur.2d *Name* § 17 (1988)). However, Tennessee statutes do not provide a separate procedure for changing a minor’s name. *Id.* Instead, our courts have held that Tenn. Code Ann. §§ 29-8-101 to -105 “are worded broadly enough to include both minors and adults. Thus, minors may use the general name change statutes if they desire judicial assistance in changing their name.” *Id.*

When the minor lacks the capacity to bring suit on his or her own, the minor’s parents, custodian, or legal guardian may do so on the minor’s behalf. *Id.* (citing Tenn. R. Civ. P. 17.03). The minor at issue here has yet to reach the age of majority; thus, the petitioners as his parents are authorized to file the petition for name change on behalf of their child. *See id.*

The only restrictions contained in the name change statutes are set forth in Tenn. Code Ann. § 29-8-101, and none of these restrictions apply in this case.³ Tenn. Code Ann. § 29-8-102 lists the requirements for name change applications. It states that applications “shall be by petition, in writing, signed by the applicant and verified by affidavit, stating that the applicant is a resident of the county, and giving the applicant’s reasons for desiring the change or correction.” Tenn. Code. Ann. § 29-8-102. Petitioners complied with every requirement in the statute.

The determinative factor in a petition to change the name of a minor child is whether the change is in “the child’s best interests.” *In re Lackey*, 1991 WL 45394, at *2 (citing *Halloran v. Kostka*, 778 S.W.2d at 454, 456 (Tenn. Ct. App. 1989)). As the *Lackey* court explained:

Decisions regarding changing a minor’s name should be guided by the child’s best interests. While courts have generally declined to change a minor’s name solely to avoid insubstantial inconvenience or embarrassment to the child or the custodial parent, ***they have approved name changes when doing so furthers the child’s substantial interests.***

³ Tenn. Code Ann. § 29-8-101(b)(1) states that persons who have been convicted of first or second degree murder; or any offense, “the commission of which requires a sexual offender to register pursuant to the Tennessee Sexual Offender and Violent Sexual Offender Registration, Verification and Tracking Act of 2004, compiled in title 40, chapter 39, part 2” shall not have the right to legally change their names. Subsection (2) additionally provides: “If the court has reason to believe that the petition is being made to defraud or mislead, is not being made in good faith, will cause injury to an individual or to compromise public safety, then the petition shall be denied.” Tenn. Code Ann. § 29-8-101(b)(2).

Id. at *2 (internal citations omitted) (emphasis added).

For the foregoing reasons, we have determined that the trial court erred as a matter of law by holding that the petition “fails to state a valid reason for the name change.” *See Id.* at *1; *see also Halloran*, 778 S.W.2d at 456.

A trial court’s ruling on a Tenn. R. Civ. P. 59.04 motion to alter or amend is reviewed pursuant to the abuse of discretion standard. *Discover Bank v. Morgan*, 363 S.W.3d 479, 487 (Tenn. 2012). Pursuant to this standard, we review a trial court’s discretionary decision to determine: 1) whether the factual basis for the decision is properly supported by evidence in the record; 2) whether the trial court correctly identified and applied the appropriate legal principles; and 3) whether the trial court’s decision fell within the range of acceptable alternative dispositions. *Lee Medical, Inc. v. Beecher*, 312 S.W.3d 515, 524 (Tenn. 2010).

As noted earlier, the purpose of a Tenn. R. Civ. P. 59.04 motion to alter or amend a judgment is to provide the trial court with an opportunity to correct errors before the judgment becomes final. *Burris v. Burris*, 512 S.W.3d 239, 245-46 (Tenn. Ct. App. 2016). Moreover, as we explained in *In re M.L.D.*, 182 S.W.3d 890, 895 (Tenn. Ct. App. 2005), a Rule 59.04 motion to alter or amend a judgment should be granted when necessary to correct “a clear error of law or to prevent injustice.” Petitioners established that the initial order was based on errors of law. Therefore, the trial court erred by denying the motion to alter or amend.

II. THE TRIAL ON THE MERITS

“In all actions tried upon the facts without a jury, the court shall find the facts specially and shall state separately its conclusions of law and direct the entry of the appropriate judgment.” Tenn. R. Civ. P. 52.01. If the trial court makes the required findings of fact, appellate courts review the trial court’s factual findings *de novo* upon the record, accompanied by a presumption of the correctness of the findings, unless the preponderance of the evidence is otherwise. *Kelly v. Kelly*, 445 S.W.3d 685, 692 (Tenn. 2014) (citing Tenn. R. App. P. 13(d)). “For the evidence to preponderate against a trial court’s finding of fact, it must support another finding of fact with greater convincing effect.” *State ex rel. Flowers v. Tennessee Trucking Ass’n Self Ins. Grp. Trust*, 209 S.W.3d 595, 598-99 (Tenn. Ct. App. 2006).

Requiring trial courts to make findings of fact and conclusions of law is generally viewed by courts as serving three purposes. First, findings and conclusions facilitate appellate review by affording a reviewing court a clear understanding of the basis of a trial court’s decision. Second, findings and conclusions also serve “to make definite precisely what is being decided by the case in order to apply the doctrines of estoppel and res

judicata in future cases and promote confidence in the trial judge's decision-making." A third function served by the requirement is "to evoke care on the part of the trial judge in ascertaining and applying the facts." Indeed, by clearly expressing the reasons for its decision, the trial court may well decrease the likelihood of an appeal.

Lovlace v. Copley, 418 S.W.3d 1, 34-35 (Tenn. 2013) (internal citations and footnotes omitted).

The trial court should consider the following factors when determining whether a change in the child's surname is in his or her best interest: (1) the child's preference, (2) the change's potential effect on the child's relationship with each parent, (3) the length of time the child has had his or her present surname, (4) the degree of community respect associated with the present and proposed surname, and (5) the difficulty, harassment, or embarrassment that the child may experience from bearing either the child's present or the child's proposed surname. *Barabas v. Rogers*, 868 S.W.2d 283, 287 (Tenn. Ct. App. 1993). Although the case law provides guidance concerning the change of a child's surname, there appear to be no cases in Tennessee that address the change of a child's first or middle name.

Three witnesses testified in court, and all of them stated unequivocally that the requested name change was in the child's best interest. Additionally, the statements and letters from three professionals were admitted into evidence, and all of them stated unequivocally that the requested name change was in the child's best interest. No evidence was introduced indicating any basis for concluding that the requested name change was not in the child's best interest.

The first witness to testify at the hearing was the child's mother. After stating that she signed the petition to change her child's first and middle names, she testified as follows:

Q. And can you tell me why you filed this petition?

A. Because after a year of therapy and my child using the name socially of Charlie, we wanted to make it legal.

Q. Okay. And can you tell me a little bit more about why your child -- minor child is using the name Charlie James [A.] socially?

A. . . . In May of 2015, my child came out to me as transgender and informed me that for a couple of months, he'd already been using the name Charlie with his friends, and at this point, he is Charlie. . . . And so when it started becoming a problem at school, he started getting anxiety when the name Leyna would pop up on things --

Q. When what would pop up?

A. *When his birth name of Leyna would pop up on, like, tests and things like that, it was placing a psychological burden on him.*

Q. *And in your opinion as his parent, does using the name - - continuing to use the name Leyna Jayne [A.], does that cause harm to Charlie?*

A. *It causes psychological harm to my child.*

Q. *Have you received advice from any of Charlie's treating doctors that the name change is in his best interest?*

A. *Yes. Yes, they all agree.*

Q. Okay. And what doctors are those?

A. Dr. Kristin Rager is the medical doctor.

Q. Okay. And what does Charlie see Dr. Kristin Rager for?

A. The medical transition. And she's the one that diagnosed the gender dysphoria.

....

Q. And, actually, at this time -- I have the letter. (Hands document to witness.)

A. Yes. This is the letter I obtained from Dr. Rager.

Q. Okay. And you filed that with the Court?

A. Yes, I did.

Q. Okay. And you obtained that from [Dr.] Rager?

A. Yes.

Q. Okay. And that letter states that the name change is in the child's -- would benefit the child?

A. Yes.

....

Q. Have you received advice from any other treating individual for Charlie that this is in the best interest of the minor?

A. Yes, his therapist.

Q. And what's his therapist's name?

A. Adam Marshall.

Q. Do you recognize this document?

A. Yes. This is the letter I obtained from Mr. Marshall.

Q. And did you file that with the Court?

A. Yes.

Q. And what is -- who is Mr. Marshall, again? What is his background to you?

A. He is the therapist that Charlie has been seeing since, I think, June of 2013.

Q. And is he seeing Charlie related to the gender dysphoria?

A. Yes. That, and anxiety issues, yes.

Q. Okay. And did those anxiety issues arise because of anything to do with the name – the current legal name of the minor child, as well?

A. That's a part of it, yes.

....

Q. Do you recognize this document?

A. Yes. This is a teacher -- this is a letter from a teacher that has known Charlie since 6th grade. He spent three years taking her classes, and I thought that -- I got a letter from her because she can demonstrate that he's responsible and a serious person. This is not -- you know, this name change is not going to be, next week, he's going to change it to something else. He has been consistent. And so I wanted a letter from someone outside who knew his character.

Q. . . . And you filed this one with the Court, as well?

A. Yes, I did.

....

Q. So Lynda, just to summarize, ***do you believe that this name change is something that your minor child would like?***

A. ***100 percent.***

Q. ***And do you believe that it's in his best interest?***

A. ***Yes, very much so.***

(Emphasis added).

Next, the child's father testified in support of the petition:

Q. And it's your understanding that your minor child would like his name to be changed from Leyna Jayne [A.] to Charlie James [A.]?

A. Absolutely.

Q. Okay. And you believe that this is in the minor child's best interest?

A. Sure. Absolutely.

Q. Okay.

A. I feel that if Charlie is able to meet all of his educational and social responsibilities, that having the name changed is fine. I'm behind that.

The final witness to testify at the hearing was the child, who testified in support of the petition as follows:

Q. Can you state your current legal name?
A. Leyna Jayne [A.].
Q. Okay. And is that the name that you currently go by socially?
A. No.
Q. *What name do you use socially?*
A. *I use Charlie.*
Q. *And what -- do you have a full name you would like to use?*
A. *Charlie James [A.].*
Q. *And is that what your friends call you?*
A. *Yes.*
Q. *Is that what your parents are now calling you?*
A. *Yes.*
Q. So people currently know you by Charlie?
A. Yes.
Q. Okay. And can you tell me, did you approach your parents and ask them to help you obtain this name change?
A. Yes.
Q. Okay. And they've supported you in this?
A. Yes, they have.
Q. Okay. Great. And *do you believe this name change is in your own best interest?*
A. *Of course.*
Q. *Can you tell me why you would like this?*
A. *At a point, I thought that, like, going socially by it would be enough, but there's the moment where it's always me wondering what name I give official people when they ask me my name, like when you -- like if you talk to a cop or, like, a guidance counselor. Like, and then there's times where at, like, school it's become a problem because I'll tell people my name is Charlie [A.], and they can't find me on the roster or they can't find me on the sheet. And then I'm, like, okay, it's actually under this name, sorry, I forgot. And it's just -- it's so engrained in me as who I am that I get -- I just want that to be what I can do.*
Q. And when you say you want that to be what you can do, do you mean --
A. Charlie.
Q. -- use Charlie?
A. Yes.

Q. Okay. And *does it cause you any distress when you see your current legal name on documents?*

A. *Yeah, very much so, just because it's kind of like a – it's just like you don't get everything you want, and it's really kind of saddening to me because it just doesn't feel right.*

(Emphasis added).

The letters that were admitted into evidence also stated that the name change was in the child's best interest. The child's doctor, Kristin M. Ranger, M.D., stated in pertinent part that:

Leyna [A.] is a 16 year old transgender male seeking legal name change to Charlie [A.]. He has been under my care for more than a year now and is in the process of medical transition from gender female to gender male. *A significant step in this transition is the changing of one's name from the birth name to the name of one's identified gender, in this case male. Please allow this young man to legally change his name from his birth name (Leyna) to his preferred name Charlie.*

(Emphasis added).

The letter from Adam C. Marshall, M.A., the child's therapist, states:

I am writing in order to recommend that my client Leyna [A.] be allowed to change legal names. My client deals with anxiety and depression that is directly linked to issues surrounding identity. After much discussion in session, my client has felt most connected with the name Charlie and has been going by this chosen name whenever possible. *I am recommending this legal change in name because I believe it will aid in improving Charlie's anxiety and depression. Not only do I expect this to have a direct impact on Charlie's emotional wellbeing, but I expect it to help improve struggles at school, work, and in relationships across the board.* I would be happy to answer any questions you may have regarding this letter.

(Emphasis added).

In the letter from the child's middle school teacher, the teacher writes:

I have known Charlie [A.] for several years. For three years, I had the privilege of teaching him [in middle school]. During those years, I have seen Charlie mature and grow into a responsible, understanding and caring

individual. *Charlie is the most level-headed, organized and dependable student that I have had the honor of teaching.*

As a student in my advanced eighth grade class, I was able to see Charlie in a leadership role. He was the producer for our annual awards show and I watched as he guided the team with confidence and compassion. *It is very rare to encounter a student who you can trust with such a huge responsibility and have no doubt that everything will be accomplished beyond expectations and in a timely manner. Charlie was not only able to complete this task, but he was also able to maintain his classwork and his academic standing in all other classes.*

I have found that Charlie is a very focused, friendly and helpful person who has made a lasting impact on my life and I know that his outstanding personality and determination will allow him to accomplish many great things in the years to come.

(Emphasis added).

All of the evidence unequivocally reveals that it is in the child's best interest to change the child's name, and the record contains no evidence that is inconsistent with or contradictory to the above. Thus, the evidence preponderates against the trial court's finding that the petitioners failed to show that changing the child's name was in his best interest. Having determined that the evidence preponderates in favor of the finding that it is in the child's best interest to change his name, we now consider the facts in the context of the law that applies to petitions for name changes.

As previously stated, the procedure in Tennessee for obtaining a name change is set forth in Tenn. Code Ann. § 29-8-102. The statute merely requires the applicant to file a "petition, in writing, signed by the applicant and verified by affidavit, stating that the applicant is a resident of the county, and giving the applicant's reasons for desiring the change or correction." Tenn. Code Ann. § 29-8-102.

The only statute that restricts a name change is Tenn. Code Ann. § 29-8-101, and none of the statutory restrictions are applicable in this case. The restrictions are based on a certain category of criminal offenses, principally sexual offenses, and where the court finds "the petition is being made to defraud or mislead, is not being made in good faith, will cause injury to an individual or to compromise public safety." Tenn. Code Ann. § 29-8-101(2)(b)(1)-(2). Therefore, none of the restrictions in Tenn. Code Ann. § 29-8-101(2)(b)(1)-(2) apply.

As noted earlier, the right to change one's name applies to minors in the same way it applies to adults, and our courts have held that Tennessee Code Annotated § 29-8-101

to -102 include minors and adults. *See In re Lackey*, 1991 WL 45394, at *1. Thus, minors, acting by and through their parents, can seek a name change in the same manner as adults under the general name change statutes. *Id.* “Decisions regarding changing a minor’s name should be guided by the child’s best interests.” *Id.* at *2 (citing *Halloran*, 778 S.W.2d at 456; 57 Am. Jur. 2d *Name* § 45 (1988)). Moreover, “absent any fraudulent or legally impermissible intent, the State has no legitimate concern,” in a petition to change a person’s name. *Palermo*, 522 S.W.2d at 689.

Petitioners filed the requisite petition, and they provided the facts required by Tenn. Code Ann. § 29-8-102. Petitioners presented three witnesses and the statements of three professionals, all of which stated unequivocally that the requested name change is in the child’s best interest. The child has committed no crimes, and there is no evidence of intent to defraud or mislead, of not acting in good faith, or of the possibility of injury to an individual, or of a compromise to the public’s safety if the petition is granted. Therefore, Petitioners have established a factual basis for granting the petition, and no legal basis exists upon which to deny the petition.

For the foregoing reasons, the judgment of the trial court is reversed and this matter is remanded with instructions to enter judgment granting the petition to change the child’s name as requested and for such other proceedings as may be necessary to grant the relief requested.

IN CONCLUSION

The judgment of the circuit court is reversed, and this case is remanded with instructions to enter judgment granting the petition to change the child’s name and for such other proceedings as may be necessary to grant the relief requested. Costs of appeal are reluctantly assessed against Petitioners.

FRANK G. CLEMENT JR., P.J., M.S.