

Affirmed and Opinion filed August 16, 2001.



In The

## Fourteenth Court of Appeals

NO. 14-99-01379-CV

IN THE INTEREST OF A. C. B.

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On Appeal from the County Court at Law No. 1  
Galveston County, Texas  
Trial Court Cause No. 97FD1449

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### MEMORANDUM OPINION

Appellant, Gary Goldman (“Goldman”), brought suit under section 45 of the Texas Family Code to change the surname of his daughter from her mother’s maiden name to his surname. The trial court denied the requested name change. Goldman, in one point of error, asserts that the trial court abused its discretion by denying his request that the child be given his surname. We affirm.

### BACKGROUND

After Goldman and appellee (“Diane”) had a child out of wedlock, Goldman was established as A.C.B.’s father by a paternity suit. A.C.B. lives with Diane, and Diane is named the primary joint managing conservator with superior sole rights to (1) determine

the domicile of the child; (2) make educational decisions; and (3) make invasive non-emergency medical decisions. Goldman has standard visitation rights. However, after a mediated settlement, the child's surname remained in dispute. Subsequently, a trial was held on the issue, and the trial court decided the child's name should remain unchanged.

## DISCUSSION AND HOLDING

We review the trial court's findings of fact, as supported by the evidence in the record, to determine whether the trial court abused its discretion in refusing to change the child's surname. *G.K. v. K.A.*, 936 S.W.2d 70, 72 (Tex. App.—Austin 1996, writ denied). A trial court is given wide discretion to determine the best interest of the child in family law matters. *Gillespie v. Gillespie*, 644 S.W.2d 449, 451 (Tex. 1982). A trial court abuses its discretion only when it acts in an unreasonable and arbitrary manner or without reference to any guiding principles. *Worford v. Stamper*, 801 S.W.2d 108, 109 (Tex. 1990); *G.K.*, 936 S.W.2d at 72. We will reverse the judgment of the trial court only if it appears from the record as a whole that the trial court abused its discretion. *Gillespie*, 644 S.W.2d at 451.

Goldman argues that the trial court abused its discretion in denying his petition to change the child's name. A court may order the name change of a minor if it is in the best interest of the child. *Bennett v. Northcutt*, 544 S.W.2d 703, 706 (Tex. Civ. App.—Dallas 1976, no writ). The party requesting the name change bears the burden of showing a good reason for the change, and must show that the retention of the child's present name is, or could be, detrimental to the child. *In Re M.L.P.*, 621 S.W.2d 430, 431 (Tex. Civ. App.—San Antonio 1981, writ dismissed). A trial court's order changing the name of a child is discretionary and should be reversed only when the court abuses its discretion by acting arbitrarily or unreasonably. *Landry v. Traveler's Insurance Co.*, 458 S.W.2d 649, 651 (Tex. 1970). While a father has a protected interest in having his children bear his surname, this interest must be balanced against the best interest of the child. See *Brown v. Carroll*, 683 S.W.2d 61, 63 (Tex. App.—Tyler 1984, no writ).

Moreover, in determining whether to grant an application to change a child's name the trial court may evaluate the child's preference, like any other opinion, in light of the child's age, personality and general situation. *Bennett*, 544 S.W.2d at 706. In fact, a parent's interest and desire is only a secondary consideration. *In the Interest of J.K.*, 922 S.W.2d 220, 222 (Tex. App.—San Antonio 1996, no writ). In the instant case, Goldman presented insufficient evidence that the child's present name was detrimental to her in that it was humiliating, embarrassing, confusing, disruptive of her home life or family associations, and etc. *Newman v. King*, 433 S.W.2d 420, 423 (Tex. 1968). In fact, the intelligent and articulate eight-year-old expressed a desire not to change her name. We find no abuse of discretion and overrule Goldman's sole point of error.

Accordingly, we affirm the judgment of the trial court.

/s/      John S. Anderson  
                 Justice

Judgment rendered and Opinion filed August 16, 2001.

Panel consists of Justices Anderson, Fowler, and Edelman.

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