

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A20-1616**

In re the Paternity of G. J. P., born March 2019, Evelio Sis Garcia,
Respondent,

vs.

Keodavanh Praxayamondkhouné,
Appellant.

**Filed July 26, 2021
Affirmed
Connolly, Judge**

Scott County District Court
File No. 70-FA-19-9427

Evelio Sis Garcia, Faribault, Minnesota (pro se respondent)

Richard L. Swanson, Chaska, Minnesota (for appellant)

Considered and decided by Bratvold, Presiding Judge; Connolly, Judge; and
Hooten, Judge.

NONPRECEDENTIAL OPINION

CONNOLLY, Judge

Appellant-mother challenges the district court's order granting respondent-father's
petition to change the last name of the parties' child, arguing that the district court abused

its discretion in concluding that the name change served the child's best interests. Because we see no abuse of discretion, we affirm.

FACTS

In March 2019, G.J. was born to his mother, appellant Keodavanh Praxayamondkhovne.¹ She denied that respondent Evelio Sis Garcia was G.J.'s father. In June 2019, respondent filed a paternity complaint stating that: (1) he was the presumed father of G.J., (2) he and appellant had never been married; (3) appellant was not married to anyone at the time she conceived G.J.; (4) respondent and appellant had sexual intercourse several times between February 2018 and February 2019; (5) respondent wanted genetic testing of G.J.; and (6) if the testing established respondent's paternity of G.J., respondent wanted to be adjudicated G.J.'s father, to establish a relationship with him, to have joint legal and joint physical custody and reasonable scheduled parenting time, and to amend the birth record to add Sis to G.J.'s name. In July 2019, appellant married and changed the last name of herself and G.J. to McIlvaine.

The genetic testing indicated a 99.9999998% probability that respondent was G.J.'s father, and respondent was adjudicated his father. The parties agreed that they would share joint legal custody; that respondent would have supervised parenting time until he completed an Early Childhood Family Education course, then transition to unsupervised parenting time; that they would work with and pay for a parenting consultant; that

¹ We note that appellant's birth surname is spelled both Praxayamondkhovne and Praxayamondkhovne in the record and have adopted the latter spelling.

respondent's child-support obligation would be \$611; and that the issue of G.J.'s last name would be reserved until briefs had been submitted.

In his brief, respondent asked that G.J.'s last name be changed to Garcia-McIlvaine to reflect his bi-racial, bi-cultural Latino-Asian heritage so that, although he is in appellant's Asian-Caucasian household, he can acquire and maintain a connection to respondent's race and culture. Appellant asked that G.J.'s last name remain McIlvaine because she is his primary custodial parent; her other child has the last name McIlvaine and G.J. will feel more part of the family unit if he had the same last name; G.J. might experience confusion or embarrassment at school or in social settings when he is asked why he has a different last name; and not having the same last name as respondent will not affect G.J.'s ability to bond with respondent. The district court granted respondent's petition and issued an order that G.J.'s last name be changed to Garcia-McIlvaine, and judgment was entered accordingly.

Appellant challenges the judgment.²

DECISION

The decision on a motion to change a child's surname is reviewed for an abuse of discretion. *See, e.g., In re Saxton*, 309 N.W.2d 298, 301 (Minn. 1981) ("[T]he trial court did not abuse its discretion by concluding the children's best interests were served by keeping their given surname.").

² Respondent's attorney has withdrawn, and respondent has taken no part in this appeal. This court issued an order directing that the matter be decided on the merits under Minn. R. Civ. App. P. 142.03.

In *Saxton*, a mother who had permanent custody of the parties' children following her divorce from their father dropped the father's surname, Dennis, and reverted to her birth surname, Saxton. *Id.* at 300. She moved to have the surname of their children, then nine and seven, changed to Saxton-Dennis. *Id.* Two expert witnesses testified that, while "the name change would be beneficial for the children as it would enhance their self-esteem," the children were "happy and socially well-adjusted, suffering no ill effects from bearing only their father's surname." *Id.* The district court determined that the children's best interests would be served by keeping their father's surname. *Id.* at 301.

Saxton sets out the factors to be considered in deciding a motion for a name change.

[A] change in the child's surname should be granted only when the change promotes the child's best interests. In determining the child's best interests, the trial court may consider, but its consideration is not limited to, the following factors: [1] the child's preference, [2] the effect of the change of the child's surname on the preservation and the development of the child's relationship with each parent, [3] the length of time the child has borne a given name, [4] the degree of community respect associated with the present and the proposed surname, and [5] the difficulties, harassment or embarrassment, that the child may experience from bearing the present or the proposed surname.

Id. (citation omitted). The district court here considered all five factors and concluded that none of them supported not giving G.J. respondent's last name as well as appellant's new last name.

The first factor is irrelevant: G.J. is only two and probably does not know what a last name is, much less have a preference. As to the second factor, the district court found

that the name change would have the positive effect of furthering the relationship between G.J. and respondent. The district court stated:

For a great length of time, [appellant] denied that [respondent] was the father of the child and prohibited any contact with the child. This continued for a period of time even after the genetic testing results had confirmed the great probability that [respondent] was the father of the child. [Appellant] now admits [that respondent] desires to have a relationship with the child but faults him for not providing a home for the child and for only hav[ing] limited, supervised visits. [It] is inappropriate to blame [respondent] for these circumstances because it has been [appellant] who has mandated [them]. It is this type of attitude that leads the Court to believe [appellant] will not go out of her way to foster, develop, or preserve any relationship between [respondent] and the child. Giving the child a hyphenated surname that includes both parents' surnames would give the child the symbolic knowledge that he is part of two families. The true relationship between [respondent] and the child will need to be developed between the two of them but with such a young child this is a continuing process.

As to the third factor, G.J. has already had his last name changed from appellant's birth name, Praxayamondkhovne, to her married name, McIlvaine, and neither last name has been used extensively on school records or legal documents. As to the fourth factor, community respect for the name, and the fifth factor, the difficulties, harassment, or embarrassment likely to result from the name change, the district court found that Garcia-McIlvaine is neither more nor less respectable than McIlvaine and that neither name is likely to "result in much harassment or embarrassment to the child," in part because "[m]any children now live in blended families and have different last names than their siblings."

We see no error in the district court's application of the *Saxton* factors. We therefore conclude that the district court did not abuse its discretion in deciding that G.J.'s best interests will be served by the hyphenated surname that will promote his relationship with his father and is unlikely to result in his harassment or embarrassment.

Affirmed.