STATE OF MINNESOTA
IN COURT OF APPEALS
A24-1314

In the Matter of the Application of Jesus Adrian Soto
for a Change of Name of Minor.

Filed April 28, 2025
Reversed
Wheelock, Judge

Blue Earth County District Court
File No. 07-CV-23-1029

William J. Wetering, Daniel R. Wetering, Hedeen, Hughes & Wetering, Worthington, Minnesota (for appellant Kourtney Kaye Verdoorn)

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Considered and decided by Worke, Presiding Judge; Connolly, Judge; and Wheelock, Judge.

NONPRECEDENTIAL OPINION

WHEELOCK, Judge

Appellant challenges the district court's order granting respondent's application to change the name of the parties' joint minor child, arguing that the district court abused its discretion by misapplying the law. We reverse.

FACTS

Appellant Kourtney Kaye Verdoorn (mother) and respondent Jesus Adrian Soto (father) are the parents of a minor child. The parents were in a relationship and lived

together until mother was five or six months pregnant with the child and she left the shared residence to move in with her mother in Iowa. In May 2018, mother gave birth to the child and gave him her surname. Mother and father reunited for a brief period after the child's birth but ultimately ended their relationship when the child was about five months old. Mother retained sole legal and physical custody of the child and lived with her mother for approximately three years, after which she moved to Minnesota. With mother's permission, the child has regularly visited father at father's parents' home apart from a couple of periods of time that include when mother filed a petition for an order for protection (OFP) in favor of the child and against father in 2019.[1]

Several years after the child's birth, father filed a name-change application, seeking to hyphenate the child's surname to include both mother's and father's surnames. Mother objected. During a hearing on contested issues that included father's name-change application, the district court heard testimony from father, father's mother, father's brother, father's girlfriend, and mother.[2]

In support of the petition, father and his witnesses testified that the child has used father's surname to refer to himself and father's family pets and that the community knows father's family by their surname because they own and operate a Hispanic grocery store in

[1] After mother filed the petition for an OFP, father requested a contested hearing on it, but it was dismissed before the hearing.

[2] During this hearing, the district court also received evidence regarding a dispute over a dependent-exemption tax allocation that is unrelated to the name-change application.

Minnesota. They also testified about the Mexican-American heritage of father's family and the importance their culture places on a child having both of their parents' surnames.

During father's direct examination, father's attorney asked him why mother did not want to change the child's name. Father speculated that mother "didn't want [to cause the child] confusion." During father's cross-examination, he stated that the fact that the child does not bear his surname does not affect father. Rather, father was worried about how the absence of his surname in the child's name could affect the child and the child's relationship to father's family in the future. At another point during father's presentation of evidence, father's girlfriend stated that mother had pursued an OFP against father. Father's girlfriend explained that this happened because she and father had a dispute at midnight with the child present that resulted in father's arrest.

During mother's testimony, she explained that she objected to the child's surname being hyphenated. When asked during cross-examination whether it "would be negative for [the child] to have an identifier last name with each parent," mother said, "I don't see anything bad about it." However, when asked whether there was anything about father's surname that would cause her to feel embarrassment if it were added to the child's name, mother responded, "Yes." And when asked about whether there was a public perception that bearing father's surname would be negative for the child, mother testified that "people in the community are very aware of this stuff that [father] has done, so I would say yes, [his name would] negatively" affect the child. Specifically, mother testified that members of father's community informed her that father had been arrested for domestic violence.

The district court granted father's name-change application, and mother appealed. This court reversed and remanded the district court's decision because the district court had improperly shifted the burden to mother to show that father's requested name change was not in the child's best interests rather than requiring father to establish that the name change was in the child's best interests before shifting the burden to mother to "show that the evidence was not clear and compelling that [the child's] substantial welfare necessitated such a change." *In re Soto*, No. A23-1384, 2024 WL 1848183, at *2 (Minn. App. Apr. 19, 2024) (order op.). In our order opinion remanding this matter, we "express[ed] no opinion on the underlying merits of the name-change request" and provided that the "district court may, in its discretion, reopen the record." *Id.* The district court did not reopen the record on remand, but it filed a new order in which it again granted father's name-change application.

Mother appeals.

DECISION

Mother raises two issues on appeal. First, mother argues that the district court erred by misstating the law, contending that the district court stated that there is a presumption in favor of the request for a name change and that the district court applied that erroneous presumption on remand. Second, mother argues that the district court abused its discretion by granting father's name-change application. We review each of mother's arguments in turn.

I. The district court did not err by misstating the law.

"We review a district court's application of the law de novo." *Harlow v. State*, *Dep't of Hum. Servs.*, 883 N.W.2d 561, 568 (Minn. 2016). Inadequately briefed issues are not properly before this court and are forfeited unless prejudicial error is obvious on mere inspection. *Schoepke v. Alexander Smith & Sons Carpet Co.*, 187 N.W.2d 133, 135 (Minn. 1971); *accord State, Dep't of Lab. & Indus. v. Wintz Parcel Drivers, Inc.*, 558 N.W.2d 480, 480 (Minn. 1997) (declining to address inadequately briefed issue); *Brodsky v. Brodsky*, 733 N.W.2d 471, 479 (Minn. App. 2007) (applying *Wintz* in family-law appeal).

Minnesota law sets forth the procedure for an individual to change his or her legal name. Minn. Stat. §§ 259.10, subd. 1 (general filing requirements), .11(a) (establishing circumstances under which a court may grant or deny a name-change application) (2024).[3]

Minnesota Statutes section 259.11(a) provides that, "[u]pon meeting the requirements of section 259.10, the court shall grant the application unless . . . in the case of the change of a minor child's name, the court finds that such name change is not in the best interests of the child." Here, the district court began its memorandum of law supporting its order granting father's name-change application by stating, "The court must grant the request for change of name for a child unless the court finds, among other considerations not relevant here, that the name change is not in the best interests of the

[3] We cite the most recent version of the statutes because they have not been amended in relevant part. *See Interstate Power Co. v. Nobles Cnty. Bd. of Comm'rs*, 617 N.W.2d 566, 575 (Minn. 2000) (stating that, generally, "appellate courts apply the law as it exists at the time they rule on a case"). Although Minnesota Statutes section 259.11(b) was amended by the legislature in 2023, the amendment is not relevant to our analysis. *See* 2023 Minn. Laws ch. 52, art. 19, § 11, at 1131-32.

child." Mother is correct that, in describing the standard in section 259.11(a), the district court did not set forth the reference to section 259.10 that appears in the first clause. Mother seems to suggest that this omission is a misstatement of law because mother reads section 259.10, subdivision 1, to require that both parents agree to the name change before the court can consider the language of section 259.11(a). In other words, mother contends that father failed to meet the prerequisite of section 259.10, subdivision 1, in the first clause of section 259.11(a), and thus that the district court erred by applying section 259.11(a). But mother cites no authority for her reading of the statutes and makes no argument to support it. Moreover, mother misreads section 259.10, subdivision 1, which requires notice to, but not the agreement of, both parents as to the name change of a minor child: "no minor child's name may be changed without both parents having notice of the pending of the application for change of name, whenever practicable, as determined by the court." Minn. Stat. § 259.10, subd. 1. Beyond pointing out that the district court paraphrased section 259.11(a) in its memorandum of law, mother has not made clear how the district court's paraphrasing was an error of law. Our review of the district court's memorandum of law reveals that it is consistent with section 259.11(a), and although the district court did not include the reference to section 259.10, it did not misstate the law.

Because we discern no obvious prejudicial error and this issue is not adequately briefed, this argument is forfeited.

II. The district court abused its discretion by ordering a change of the child's name over mother's objection.

"We review a district court's grant of a request to change a child's name for [an] abuse of discretion." *Foster v. Foster*, 802 N.W.2d 755, 756 (Minn. App. 2011). A district court abuses its discretion if its findings of fact are unsupported by the record, if it misapplies the law, or if its decision is contrary to logic and the facts in the record. *Woolsey v. Woolsey*, 975 N.W.2d 502, 506 (Minn. 2022). We cannot reweigh evidence; rather, we limit our review of the district court's findings of fact to an evaluation of whether the record supports them. *In re Civ. Commitment of Kenney*, 963 N.W.2d 214, 221-22 (Minn. 2021).

In deciding a name-change application, district courts must determine if changing the child's name is in the child's best interests. *Foster*, 802 N.W.2d at 757. The supreme court provided five nonexclusive factors for district courts to consider when determining if a name change is in a child's best interests in *In re Saxton*:[4]

> (1) The length of time the child has borne a given name;
> (2) The difficulties, harassment, or embarrassment, that the child may experience from bearing the present or the proposed surname;
> (3) The child's preference;
> (4) The effect of the change of the child's surname on the preservation and the development of the child's relationship with each parent; and

[4] In *LaChapelle v. Mitten*, this court changed the order in which it listed the *Saxton* factors. 607 N.W.2d 151, 166 (Minn. App. 2000), *rev. denied* (Minn. May 16, 2000). Here, the district court and both parties numbered the *Saxton* factors in the order in which they appear in the *LaChapelle* opinion. We also list the factors in the order in which they appear in the *LaChappelle* opinion.

(5) The degree of community respect associated with the present and the proposed surname.

In re Saxton, 309 N.W.2d 298, 301 (Minn. 1981).

Minnesota Statutes section 259.10, subdivision 1, provides "that no minor child's name may be changed without both parents having notice of the pending application for change of name, whenever practicable, as determined by the court." If the parent who did not file the name-change application does not oppose the request, the district court must grant the application unless it finds that the name change is not in the child's best interests. *Foster*, 802 N.W.2d at 757 (citing a former version of Minn. Stat. § 259.11(a)).

But when a parent opposes a name-change application, "the district court must examine the evidence and arguments of the parent opposing the request." *Id.* (citing *Robinson v. Hansel*, 223 N.W.2d 138, 140 (Minn. 1974)). "To prevent the district court from granting the request, the opposing parent must establish that evidence in support of the name change is not 'clear and compelling that the substantial welfare of the child necessitates such change.'" *Id.* (quoting *Robinson*, 223 N.W.2d at 140). District courts must exercise "great caution" when granting a name-change application over a parent's objection. *Id.*

Mother argues that the district court abused its discretion in two ways when it applied the analytical framework that is required based on her objection: first, she argues that the district court clearly erred in its findings of fact as to three of the *Saxton* factors; and second, she argues that the district court erred in its determination that father presented

clear and compelling evidence that the substantial welfare of the child necessitated the requested name change. We consider each argument in turn.

A. The district court did not abuse its discretion in applying the *Saxton* factors.

The district court determined that the first three *Saxton* factors were neutral and did not weigh in favor of or against a determination that changing the child's name is in his best interests and that the last two *Saxton* factors weighed in favor of determining that granting the application was in the child's best interests. Mother disputes the district court's determinations on factors one, four, and five, as well as its conclusion that, considering the *Saxton* factors as a whole, the name change is in the child's best interests. We first address mother's challenges to the individual factors; then we address the best-interests determination.

First Factor: Length of Time the Child Has Borne His Given Name

Mother argues that the district court abused its discretion because caselaw demonstrates that six years is a sufficient length of time for the child to bond to his name and, therefore, the first factor weighs against a determination that a name change is in the child's best interests.

The district court determined that the first factor was neutral. In doing so, it balanced the fact that the child has had mother's surname for six years—"his entire life"—with father's and his witnesses' testimony that, while spending time with them, the child has referred to himself and the pets at father's home using father's surname. In weighing the testimony, the district court observed that, although the child was learning how to write

his last name as "Verdoorn," the addition of the father's surname to create a hyphenated last name "should not cause any confusion to the child" because the child is familiar with father's surname. The district court's determination of the weight and import of this factor appears to be based in part on its finding that "father only seeks to add 'Soto' to the child's last name. Father does not seek to drop the 'Verdoorn' name."

In the first case mother cites, *Saxton*, the parents had two children who were aged nine and seven when one parent applied for a name change for both children. 309 N.W.2d at 300. The supreme court affirmed the district court's denial of the name change, reasoning in part that the children had "borne a given surname for an extended period of time." *Id.* at 302. Although *Saxton* allows the bearing of a name for less than ten years to weigh against a name change, it does not establish that six years is sufficient to require that determination because *Saxton* involved name changes for two children over the age of six. *Id.* at 299-300. Thus, it is unclear whether the elder child's age dominated a determination of this factor.

Mother cites *Robinson*, another case in which the parents disagreed about changing the children's last name. 223 N.W.2d at 139. In *Robinson*, the parents had four children between the ages of 6 and 17 when the supreme court heard the case. *Id.* at 140. Again, it is unclear how the fact that the petition affected multiple siblings older than six years affected the determination of this factor with respect to the six-year-old child in that case. *See id.* at 141. Because of these factual differences, mother's comparisons do not persuade us to conclude that it was contrary to logic and the facts in the record for the district court

not to determine that the six years the child has borne his current name weighs against determining that the name change is in the child's best interests.

In addition, our careful review of the record shows that the district court's findings of fact are based on evidence that was before the district court. Because we are not persuaded by mother's caselaw comparisons and evidence in the record supports the district court's factual findings, we conclude that the district court did not abuse its discretion when it determined that this factor is neutral.

Fourth Factor: The Effect of the Change on the Child's Relationship with Each Parent

Mother argues that the district court abused its discretion in its determination of the fourth factor because father's testimony regarding the child's relationship with father was equivocal and father agreed that the child could change his name of his own volition when he is older. Therefore, she argues, this factor weighs against a determination that a name change is in the child's best interests. Mother does not challenge the district court's finding that the fourth factor is neutral with regard to the child's relationship with her.

The district court determined that granting father's name-change application would have a positive effect on the child's relationship with father and a neutral effect on the child's relationship with mother. Father and father's witnesses testified that the family surname is important because it represents their ethnic heritage and that hyphenating the child's last name with father's surname listed first is a cultural practice. Although father also testified that he has a good relationship with the child regardless of the child's name, he expressed his wishes for the child's name to include his surname "so that his child could feel he was a part of both families." Here again, the district court highlighted that it was

relevant to the district court's analysis that father's petition requested to add father's surname and not remove mother's surname, as opposed to a request to remove or replace mother's surname. Mother's argument is premised on father's admission that the child's name had no effect on the parent-child relationship with him, and it ignores the district court's factual findings about the value of the cultural practices of father's family, including naming conventions. Mother's challenge to the district court's determination of this factor asks us to reweigh evidence on appeal, which we cannot do. *See Kenney*, 963 N.W.2d at 221-22.

Because the district court's findings of fact are based on evidence in the record, and because the district court's treatment of this factor was not contrary to logic or the facts found by the district court, we conclude that the district court did not abuse its discretion in deciding that this factor weighed in favor of determining that it is in the child's best interests to grant the name-change application.

Fifth Factor: The Degree of Community Respect Associated with the Present and Proposed Surname

Mother argues that the district court abused its discretion in its determination of the fifth factor because the evidence relevant to the fifth factor was inconsistent—some testimony asserted that father's surname had a positive reputation in the community, while other testimony asserted that the reputation was negative—and, therefore, the fifth factor weighs against a determination that a name change is in the child's best interests.

The district court determined that the degree of community respect associated with the child's present name and proposed name weighed in favor of granting the application

because "it is possible that the addition of 'Soto' to the child's last name would allow the child to be more widely accepted into the Hispanic community and culture, which could result in a benefit to the child." The district court found that including father's surname to create a hyphenated last name "would provide the child with a sense of belonging to both families." Throughout its discussion of the *Saxton* factors, the district court credited father's and his witnesses' testimony that their family and businesses are well-respected and associated with their Mexican-American culture while finding that there was no evidence showing that "father's [criminal] charges are widely known in the . . . community beyond the one individual who advised mother of the charges." Mother's challenge to the district court's determination of this factor is a challenge to how the district court credited and weighed that evidence.

Because we cannot reweigh evidence on appeal, *see Kenney*, 963 N.W.2d at 221-22, and there is evidence in the record to support the district court's determination, we conclude that the district court did not abuse its discretion in its determination of this factor.

Best-Interests Analysis

When considering a name-change application, district courts are presented with a threshold question—whether changing the child's name is in the child's best interests. Minn. Stat. § 259.11(a); *accord Foster*, 802 N.W.2d at 757. The five nonexclusive *Saxton* factors guide district courts in answering that question. Here, mother argues that the district court abused its discretion by determining that father met his burden to present clear and compelling evidence that the name change is in the child's best interests.

After the district court set forth its analysis as to each of the five *Saxton* factors, it concluded that father had established that the requested name change was in the child's best interests. Although it found that three of the five factors were neutral, it found that the fourth and fifth factors weighed in favor of a determination that the name change was in the child's best interests and, ultimately, that this was sufficient for it to conclude that father met his burden as the parent requesting the name change. Given that we do not discern an abuse of discretion in the district court's determination of the individual *Saxton* factors, we conclude that the district court did not abuse its discretion in concluding that father made a minimal showing that the requested name change was in the child's best interests.

B. The district court abused its discretion by misapplying the law to mother's burden.

Because mother opposed the name-change application, she had to show that the evidence father provided was not "clear and compelling that the substantial welfare of the child necessitates such change." *Foster*, 802 N.W.2d at 757 (citing *Robinson*, 223 N.W.2d at 140). And, in light of her objection, the district court was required to consider mother's arguments while evaluating the strength of the evidence to determine whether it met the "clear and compelling" standard and to exercise "great caution" in doing so. *Id.* (quotation omitted). Mother argues that the district court abused its discretion because it was presented only with evidence that established father's preference that the child bear both parents' surnames, not that the child's substantial welfare necessitated this change. Mother

further contends that the district court did not follow caselaw in making its determination at this step of the analysis.

In its order on remand, the district court correctly stated that, upon determining that father established that the name change was in the child's best interests, it was next required to examine "whether the evidence is not clear and compelling that the child's substantial welfare necessitates such a change." The district court then set forth mother's "reasons for objecting" as the following: mother and father were not in a relationship when the child was born, the child had begun to learn how to write his last name as "Verdoorn," and father is known in the community for having been charged with domestic assault. The district court addressed each of these objections, stating that father has consistently been involved with the child and has exercised parenting time; that if the child has learned how to write, it will be easy to add "Soto" to his last name; and that the extent of the knowledge of father's criminal record in the community is unknown. The district court then concluded that "none of the reasons put forth by mother can overcome the clear and compelling evidence presented showing that the substantial welfare of the child necessitates the change in name." The district court arrived at this conclusion, however, without applying the heightened clear and compelling standard to the evidence, and its findings do not support its determination that the substantial welfare of the child necessitates the requested name change.

In particular, the district court concluded that only two of the five *Saxton* factors weighed in favor of determining that it was in the child's best interests to grant the name change. Furthermore, the basis that the district court set forth to support its determination

of the fifth factor was based in part on speculation that adding father's surname to the child's name would allow the child to be more widely accepted in the Hispanic community and culture—which it described as a "possibility." Given that only two of five factors weighed in favor of the name change being in the child's best interests, one of which was partially based on a possibility that a name change would have a positive impact on the child, we conclude that the district court applied a standard akin to a preponderance-of-the-evidence standard rather than a clear-and-compelling standard and that it did not exercise great caution in this case. Because the objecting parent may "prevent the district court from granting the request" by establishing that the "evidence in support of the name change is *not* 'clear and compelling that the substantial welfare of the child *necessitates* such change,'" *Foster*, 802 N.W.2d at 757 (emphasis added) (quoting *Robinson*, 223 N.W.2d at 140), the district court misapplied the opposing parent's low evidentiary burden to mother's detriment rather than to her benefit as the law requires. To successfully oppose father's name-change application, mother needed to show only that father did not establish that granting the application was *necessary* to the child's substantial welfare. *Id.*

Based on the district court's factual findings, mother met her low evidentiary bar to show that father did not establish that changing the child's name is necessary to his substantial welfare. Contrary to the district court's name-change decision, it found that father "has a good relationship with his child despite his child not having his last name."

Because the district court misapplied the standard for the second step of this analysis, we conclude that it abused its discretion by misapplying the law.

Reversed.