2015 IL App (2d) 140558-U
No. 2-14-0558
Order filed January 14, 2015

IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

In re PARENTAGE OF GAVIN O. H.	)	Appeal from the Circuit Court
	)	of Lake County.
	)	
	)	Nos. 11-F-105
	)	13-MR-411
	)	
	)	Honorable
	)	Jay W. Ukena and
(Rosalie N.-R., Petitioner- Appellee,	)	Patricia S. Fix,
v. Chad H., Respondent- Appellant).	)	Judges, Presiding.

JUSTICE HUDSON delivered the judgment of the court.
Justices McLaren and Spence concurred in the judgment.

ORDER

¶ 1 *Held*: (1) Respondent's appeal was timely: although the order appealed finally resolved one of two initial actions, those actions could have been brought in a single action and thus they lost their individual identities when they were consolidated; as a result, the order resolving one was not appealable while the other remained pending; (2) without an official account of the evidentiary hearing, we could not hold that the trial court erred in ruling that a name change was in the minor's best interests; that remedy was properly awarded in the context of a custody case, which was consolidated; and the change did not violate an acknowledgement of paternity, which provided only that the name could not be changed on the birth certificate.

¶ 2 Respondent, Chad H., appeals the trial court's order granting the petition of petitioner, Rosalie N.-R., to change the name of the parties' son, Gavin, to Gavin R.-H. Respondent's

contentions can be summarized as follows: (1) the court erred in finding that a name change was in the minor's best interests; (2) changing the minor's name pursuant to the name-change statute was the wrong remedy; and (3) changing the minor's name breached the parties' contract, embodied in the acknowledgement of paternity, that the minor's name would be Gavin H. We affirm.

¶ 3 The parties, who never married, had a son together. Respondent signed an acknowledgement of paternity, and the child was named Gavin H. Petitioner filed an action, docketed as case No. 11-F-105, to decide custody, visitation, and child-support issues. Approximately two years later, petitioner filed a petition, docketed as case No. 13-MR-411, to change the minor's name to Gavin R. The trial court entered an agreed order consolidating the cases.

¶ 4 Following protracted proceedings, on September 4, 2013, the court ordered the minor's name changed to Gavin R.-H. and continued the matter to resolve other issues. On May 8, 2014, the court disposed of the remaining issues. On May 30, 2014, respondent filed a notice of appeal.

¶ 5 Petitioner first contends that we lack jurisdiction of this appeal. She reasons as follows. The court's September 4, 2013, order effectively terminated the name-change proceeding. Thus, defendant's notice of appeal was due within 30 days of that order (see Ill. S. Ct. R. 303(a)(1) (eff. May 30, 2008)), and his notice of appeal filed on May 30, 2014, was untimely. Petitioner acknowledges the order consolidating the name-change case with the custody action and that the latter case was not resolved until May 2014. She contends, however, that no reason was given for the consolidation. There is no transcript of the proceedings leading up to the consolidation. She posits that the consolidation was "likely" merely for convenience and notes that, when cases

are consolidated solely for convenience, they retain their separate identities and do not merge into a single action. Thus, she concludes that the September 4, 2013, order terminated the name-change proceeding and that the continued custody proceeding did not extend respondent's time to appeal. We disagree.

¶ 6 Section 2-1106 of the Code of Civil Procedure provides, "[a]n action may be severed, and actions pending in the same court may be consolidated, as an aid to convenience, whenever it can be done without prejudice to a substantial right." 735 ILCS 5/2-1006 (West 2012). Illinois courts have recognized three distinct forms of consolidation: (1) where several actions are pending involving the same subject matter, the court may stay proceedings in all but one of the cases and determine whether the disposition of one action may settle the others; (2) where several actions involve an inquiry into the same event in its general aspects, the actions may be tied together, but with separate docket entries, verdicts, and judgments, the consolidation being limited to a joint trial; and (3) where several actions are pending that might have been brought as a single action, the cases may be merged into one action, thereby losing their individual identities, to be disposed of as one suit. *Busch v. Mison*, 385 Ill. App. 3d 620, 624 (2008); *Shannon v. Stookey*, 59 Ill. App. 3d 573, 577 (1978).

¶ 7 The consolidation here was clearly of the third type. The two actions raised subject matter that, while not identical, was interrelated so that they could have been brought as a single action. Thus, there was no final order from which respondent could appeal until the May 8, 2014, order disposing of all remaining issues related to custody, visitation, and support.

¶ 8 Turning to the merits, respondent, appearing *pro se*, first contends that the trial court erred by finding that the name change was in the minor's best interests. This argument is often confusing and appears to raise numerous unrelated contentions under this general heading.

However, respondent has failed to include in the record on appeal a transcript of the relevant proceedings. The appellant has the burden to present a sufficiently complete record of the proceedings at trial to support a claim of error, and in the absence of such a record, we presume that the trial court's order conformed with the law and had a sufficient factual basis. Any doubts arising from the incompleteness of the record will be resolved against the appellant. *Foutch v. O'Bryant*, 99 Ill. 2d 389, 391-92 (1984).

¶ 9 Here, to the extent that respondent challenges the substance of the order, we cannot consider his contentions without knowing what evidence the court considered. We note that one of respondent's contentions is that the court erred by failing to hold an evidentiary hearing. However, the court's order specifically states that "all parties [were] present in open court, and the court hear[d] testimony from the parties and [was] fully advised in the premises[.]" Thus, the existing record does not support respondent's contention.

¶ 10 Respondent also appears to raise various procedural challenges to the way the proceedings were conducted, including that the order was entered without his knowledge. Again, the record as it is does not support respondent's contentions; the order specifically states that all parties were present in open court.

¶ 11 Respondent next contends that, pursuant to *In re Wright*, 363 Ill. App. 3d 894 (2006), petitioner sought and received the "wrong remedy." *Wright* holds that, where contested custody issues are present, name-change issues should be decided in the context of the custody case, rather than in a separate proceeding pursuant to the name-change provisions of the Code of Civil Procedure (735 ILCS 5/21-101 *et seq.* (West 2004)). Respondent fails to recognize that, because the cases were consolidated, the name-change issue was decided in the course of the custody proceeding. Thus, we reject this contention.

¶ 12 Respondent's final contention is that the name change violates the parties' contract embodied in the acknowledgement of paternity. The acknowledgement of paternity is a preprinted form with blanks for the parties' information. Respondent does not specify what language in the document he is relying on. A preprinted statement at the top of the form provides that the child's name may be changed *on the birth certificate* within one year. The spaces for the child's name state that his name is Gavin H. However, we find nothing in either the preprinted part of the form or the filled-in information stating that the minor's name will never be changed. The form merely lists his name at the time. While the form implies that the birth certificate may not be changed after more than a year, it does not state that the child's name cannot be changed thereafter. Thus, we reject respondent's argument on this point.

¶ 13 The judgment of the circuit court of Lake County is affirmed.

¶ 14 Affirmed.