

No. 23-3407

**In the
United States Court of Appeals
for the Seventh Circuit**

ASLI BAZ,

Petitioner-Appellee,

v.

ANTHONY PATTERSON,

Respondent-Appellant.

Appeal from the United States District Court
for the Northern District of Illinois, Eastern Division, No. 1:23-cv-05017.
The Honorable Jorge L. Alonso, Judge Presiding.

**BRIEF AND APPENDIX OF RESPONDENT-APPELLANT
ANTHONY PATTERSON**

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TABLE OF CONTENTS

JURISDICTIONAL STATEMENT	1
INTRODUCTION	1
STATEMENT OF THE ISSUES	3
STATEMENT OF THE CASE.....	4
A. Legal Background	4
B. Factual Background.....	6
C. Procedural History	13
SUMMARY OF ARGUMENT	14
STANDARD OF REVIEW	17
ARGUMENT.....	17
I. There is no Role for the Hague Convention Where the Parties Submitted Custody Disputes to the Exclusive Jurisdiction of Courts in the Country Where the Petition is Brought	17
II. The District Court’s Habitual-Residence Ruling Was Legally Erroneous	21
A. Dr. Baz’s Stipulation as to “Habitual Residence” Is Controlling.....	21
B. The District Court Erred in its Determination that A.P.’s Habitual Residence was Germany.....	25
1. The District Court Erred as a Matter of Law By Failing To Consider The Facts of Dr. Baz’s Removal and By Considering A.P.’s Purported Acclimatization in Germany	26
2. The District Court Further Erred in its Application of the Totality of the Circumstances Test.....	30
III. The District Court Erred in Determining that Mr. Patterson Wrongfully Retained A.P.	33
CONCLUSION.....	38

TABLE OF AUTHORITIES**Cases**

<i>Abbott v. Abbott</i> , 560 U.S. 1 (2010)	18, 34
<i>Animal Sci. Prod., Inc. v. Hebei Welcome Pharm. Co.</i> , 138 S. Ct. 1865 (2018)	34
<i>Balkan Energy Ltd. v. Republic of Ghana</i> , 302 F.Supp.3d 144 (D.D.C. 2018).....	35
<i>Barzilay v. Barzilay</i> , 600 F.3d 912 (8th Cir. 2010)	18
<i>Bre v. Aguirre</i> , No. 23-CV-23928, 2023 WL 8371981 (S.D. Fla. Dec. 4, 2023)	31
<i>Bugliotti v. Republic of Argentina</i> , 952 F.3d 410 (2d Cir. 2020)	36
<i>Castang v. Kim</i> , 2023 WL 3317983 (11th Cir. May 9, 2023).....	18
<i>Christian Legal Soc. Chapter of the Univ. of California, Hastings Coll. of the Law v. Martinez</i> , 561 U.S. 661 (2010).....	15, 22, 25
<i>da Silva v. de Aredes</i> , 953 F.3d 67 (1st Cir. 2020)	4
<i>Diorinou v. Mezitis</i> , 132 F. Supp. 2d 139 (S.D.N.Y. 2000), <i>order aff'd and remanded</i> , 237 F.3d 133 (2d Cir. 2001)	27
<i>Est. of Botvin ex rel. Ellis v. Islamic Republic of Iran</i> , 772 F. Supp. 2d 218 (D.D.C. 2011).....	35
<i>Friedrich v. Friedrich</i> , 983 F.2d 1396 (6th Cir. 1993)	27
<i>Garcia v. Pinelo</i> , 808 F.3d 1158 (7th Cir. 2015)	4, 17

Graefenhain v. Pabst Brewing Co.,
870 F.2d 1198 (7th Cir. 1989) 23

H. Hackfeld & Co. v. United States,
197 U.S. 442 (1905)..... 25

Holder v. Holder,
392 F.3d 1009 (9th Cir. 2004) 31

Karkkainen v. Kovalchuk,
445 F.3d 280 (3d Cir. 2006) 5, 18, 31

Kijowska v. Haines,
463 F.3d 583 (7th Cir. 2006) passim

Martinez v. Cahue,
826 F.3d 983 (7th Cir. 2016) 4, 21

Miller v. Miller,
240 F.3d 392 (4th Cir. 2001) 27

Monasky v. Taglieri,
140 S. Ct. 719 (2020) passim

Moreno v. Zank,
895 F.3d 917 (6th Cir. 2018) 29

Mozes v. Mozes,
239 F.3d 1067 (9th Cir. 2001) 25, 28

Ovalle v. Perez,
681 F. App'x 777 (11th Cir. 2017) 29

Pennacchia v. Hayes,
666 F. App'x 677 (9th Cir. 2016) 32

Redmond v. Redmond,
724 F.3d 729 (7th Cir. 2013) passim

Rodrigues Dos Santos Argueta v. Argueta-Ugalde,
No. 23-1107 WL 4635901 (6th Cir. July 20, 2023) 17

Vattier v. Hinde,
32 U.S. (7 Pet.) 252 8 L.Ed. 675 (1833)..... 23

Von Kennel Gaudin v. Remis,
282 F.3d 1178 (9th Cir. 2002) 14, 19, 20

Waldorf v. Shuta,
142 F.3d 601 (3d. Cir., 1998)..... 23

Walker v. Walker,
701 F.3d 1110 (7th Cir.2012) 4

Whiting v. Krassner,
391 F.3d 540 (3d Cir. 2004) 32

Statutes

22 U.S.C. § 9001..... 4, 5, 21

22 U.S.C. § 9003..... *passim*

28 U.S.C. § 1291..... 1

28 U.S.C. § 1331..... 1

Foreign Statutes

Chapter 3 of the Act on Proceedings in Family Matters and in Matters of Non-
contentious Jurisdiction of 17 December 2008 (Federal Law Gazette I) 36, 37

Section 49 of Act on Proceedings in Family Matters and in Matters of Non-
contentious Jurisdiction Interlocutory Orders 37

Other Authorities

Elisa Perez–Vera, Explanatory Report, in 3 Hague Conference on Private
International Law, Acts and Documents of the Fourteenth Session, Child
Abduction (1982)..... 28

Hague Convention on the Civil Aspects of International Child Abduction *passim*

Linda Silberman, *Interpreting the Hague Convention: In Search of a Global Jurisprudence*, 38 U.C.D. L. REV. 1049 (2005) 4

Völker/Clausius, *Custody and Visitation Law, §11 Cross-Border Custody, Visitation, and Child Abduction Cases*, beck-online 37

Rules

Fed. R. Civ. P. 44 17, 35

JURISDICTIONAL STATEMENT

The United States District Court for the Northern District of Illinois had jurisdiction over Petitioner-Appellee's claims pursuant to 22 U.S.C. § 9003 and 28 U.S.C. § 1331. Jurisdiction existed because Petitioner-Appellee brought a petition for return of the minor child A.P. under the Hague Convention on the Civil Aspects of International Child Abduction.

This appeal is taken from the Opinion (Dkt. 91), Order (Dkt. 97) and Judgment (Dkt. 99) of the Honorable Judge Jorge L. Alonso, entered on December 13, 14 and 21, 2023 respectively. The United States Court of Appeals for the Seventh Circuit has jurisdiction to decide this case pursuant to 28 U.S.C. § 1291. Respondent-Appellant timely filed his Notice of Appeal on December 21, 2023 (Dkt. 101). This Court has jurisdiction pursuant to 28 U.S.C. § 1291.

INTRODUCTION

After years of litigating custody over their son, A.P., Respondent-Appellant Anthony Patterson ("Mr. Patterson") and Petitioner-Appellee Asli Baz ("Dr. Baz") carefully negotiated, with the advice of counsel, during adversarial contested proceedings, an agreement that was memorialized into an order by the Circuit Court of Cook County, Illinois (the "Illinois State Court") in May 2022 (the "Allocation Judgment"). The Allocation Judgment established, by agreement of the parents, that (1) pursuant to the Hague Convention, the "habitual residence" of A.P. was stipulated to be the United States, a clear and unequivocal concession by Dr. Baz of the key element in this case, and (2) the Illinois State Court, where the parties had litigated

custody and other issues related to A.P. for approximately five years (since he was one month old), would retain “exclusive” and continuing jurisdiction over any future disputes between the parties over the custody of A.P.

Despite knowingly agreeing to these terms, Dr. Baz has reneged on both. After co-raising A.P. with Mr. Patterson in the United States for the first five years of his life and representing to the Illinois State Court that her relocation to Germany with A.P. would only be temporary, Dr. Baz recanted, and commenced custody proceedings in Germany. Not only was that itself a wrongful retention of A.P., but it was also blatant and calculated forum shopping in defiance of the Allocation Judgment. Then, after entering into another agreement with Mr. Patterson – memorialized into another court order, this time the German court (the “German Consent Order”), which reaffirmed those portions of the Allocation Judgment establishing the United States as A.P.’s habitual residence and vesting exclusive and continuing jurisdiction in the Illinois State Court – Dr. Baz again wrongfully retained A.P. in Germany by refusing to send A.P. to the United States for Mr. Patterson’s parenting time as the German Consent Order and Allocation Judgment required. After Mr. Patterson obtained an order from the Illinois State Court permitting him to pick up his son in Germany, and after he did so, Dr. Baz brought this petition under the Hague Convention seeking A.P.’s “return” to Germany.

By granting Dr. Baz’s application, the district court blessed her violations of the parties’ agreements and multiple court orders, and in effect, authorized her own wrongful retention of A.P. in Germany. The court contravened a core purpose of the

Hague Convention, to deter international forum shopping in child custody cases, by permitting Dr. Baz to do just that. It undermined also certain fundamental and common-sense principles: that court orders should be followed and that agreements between parents sparring over custody should be encouraged. This Court should hold Dr. Baz to her end of the bargain and reverse the district court's order.

STATEMENT OF THE ISSUES

1. Does the Hague Convention permit a parent to bring a petition seeking the “return” of their child to a foreign forum to determine the parents’ custody rights, when the parent had agreed that all custody disputes would exclusively be resolved in the country where the Hague petition is brought?
2. Where parents stipulate to one of the elements relevant to the disposition of a Hague Convention petition, is the stipulation given dispositive weight – as it is in all other civil proceedings – or is there a special rule for Hague Convention cases making such a stipulation just one factor for a court to consider?
3. Where the petitioner in a Hague Convention case is alleged to have abducted the child, may the district court consider post-abduction facts in identifying the child’s habitual residence (which this Court has said is improper in the case of abduction by the respondent), and, if so, should the court at least consider the circumstances of the respondent’s abduction of the child?
4. Does the act of filing an application regarding custody with the court that had exclusive jurisdiction over such matters (pursuant to a stipulation of the parents) count as the “wrongfully retention” of a child under the Hague Convention, as the court below found?

STATEMENT OF THE CASE

A. Legal Background

The Hague Convention “represents an international effort to deal with the vexing problem of child custody when more than one country is involved. It is fundamentally an anti-abduction treaty.” *See Martinez v. Cahue*, 826 F.3d 983, 988-989 (7th Cir. 2016) (internal quotation marks and citations omitted). It “aims ‘to deter parents from absconding with their children and crossing international borders in the hopes of obtaining a favorable custody determination in a friendlier jurisdiction.’” *Redmond v. Redmond*, 724 F.3d 729, 737 (7th Cir. 2013) (quoting *Walker v. Walker*, 701 F.3d 1110, 1116 (7th Cir.2012)). The Convention’s remedy is one of “return,” which “entitles a person whose child has wrongfully been [retained in] the United States in violation of the Convention to petition for return of the child to the child’s country of ‘habitual residence.’” *Garcia v. Pinelo*, 808 F.3d 1158, 1162 (7th Cir. 2015) (citation omitted).

Importantly, the district court’s role in a Hague Convention petition is *not* to determine “the merits of any underlying child custody claims.” 22 U.S.C. § 9001(b)(4). *See da Silva v. de Aredes*, 953 F.3d 67, 76–77 (1st Cir. 2020). Instead, the Hague Convention provides a “‘provisional remedy’ that fixes the forum for custody proceedings. . . . Upon the child’s return, the custody adjudication will proceed in that forum.” *See Monasky v. Taglieri*, 140 S. Ct. 719, 723 (2020) (quoting Linda Silberman, *Interpreting the Hague Convention: In Search of a Global Jurisprudence*, 38 U.C.D. L. REV. 1049, 1054 (2005)). Indeed, as this Court has explained, “[t]he Convention’s procedures are not designed to settle international custody disputes, but rather to

restore the status quo prior to any wrongful removal or retention, and to deter parents from engaging in international forum shopping in custody cases.” *Redmond*, 724 F.3d at 739 (quoting *Karkkainen v. Kovalchuk*, 445 F.3d 280, 287 (3d Cir. 2006)); see also *Kijowska v. Haines*, 463 F.3d 583, 586 (7th Cir. 2006) (describing when “parties to custody battles . . . remove the child from the child’s domicile to a country whose courts the removing parent thinks more likely to side with that parent” as an “unsavory form of forum shopping”).

Given its purpose and scope, this Court has stated that “every Hague Convention petition turns on the threshold determination of the child’s habitual residence.” *Redmond*, 724 F.3d at 742. In *Monasky v. Taglieri*, the Supreme Court determined that “a child’s habitual residence [under the Hague Convention] depends on the totality of the circumstances specific to the case.” 140 S. Ct. at 723. The court further held that an agreement or shared intent between parents as to where to raise a child is not *necessary* to establish a child’s habitual residence. *Id.* . But importantly, as further discussed below, it did not consider or address facts such as these, where, in adversarial proceedings, the eventual Hague Convention petitioner stipulates to the key element of any petition: habitual residence.

Another “central question in any petition seeking the return of a child under the Hague Convention and ICARA is whether the child who is the subject of the petition has been ‘wrongfully’ removed or retained within the meaning of the Convention.” *Id.* at 737. “Article 3 of the Convention defines the concept of ‘wrongful’ removal or retention:

The removal or the retention of a child is to be considered wrongful where—
a) it is in breach of rights of custody attributed to a person, an institution[,] or any other body, either jointly or alone, under the law of the State in which the child was habitually resident immediately before the removal or retention; and
b) at the time of removal or retention[,] those rights were actually exercised, either jointly or alone, or would have been so exercised but for the removal or retention.”

Id. (citing Hague Convention art. 3, *supra*, T.I.A.S. No. 11670).

Combining these principles, it is settled that a “parent cannot create a new ‘habitual residence’ by the wrongful removal and sequestering of a child.” *Redmond*, 724 F.3d at 743 (quoting *Kijowska*, 463 F.3d at 587). “That would invite abduction.”

Id.

B. Factual Background

Dr. Baz met Mr. Patterson while she was visiting Florida, where Mr. Patterson was living at the time, from the United Kingdom. App. 1. They began a relationship in approximately 2013, and started living together in 2015 after Dr. Baz moved to Chicago on a student visa. *Id.* They never married. *Id.* Two years later, in 2017, their son A.P. was born in Chicago. *Id.*

Shortly after A.P.’s birth, Dr. Baz and Mr. Patterson separated. *Id.* The parties started litigating custody over A.P. and other issues related to their son in the Circuit Court of Cook County, Illinois (the “Illinois State Court”) in 2017, one month after his birth. *Id.* Pursuant to an order by the Illinois State Court, they split their parenting time with A.P. while living on different floors of their home. *Id.* Mr. Patterson was later charged and convicted of committing a domestic battery against Dr. Baz in November 2017, for which he served an eighteen-month conditional

discharge fully. *Id.*

In August 2019, the Illinois State Court permitted Dr. Baz to move with A.P. to Wisconsin for her pre-doctoral internship. App. 1 - 2; Resp. Ex. 5. During this time, A.P. spent three weekends a month in Chicago with his father. In September 2020, the Illinois State Court permitted Dr. Baz to move with A.P. to Minnesota for her post-doctoral fellowship. App. 2; Resp. Ex. 8. In the meantime, Mr. Patterson remained in Chicago and A.P. spent half his time with him there. Resp. Ex. 8.

For these first five years of A.P.'s life, A.P. only left the United States once, for a short holiday in Germany. As the district court noted, "A.P. had attended school in Chicago during his parenting time with [Mr.] Patterson and participated in extracurricular activities including soccer, swimming, art classes, and gymnastics. A.P. also has siblings who live in Chicago and extended family elsewhere in the United States." App. 3.

Dr. Baz's student visa was set to expire in May 2022 and she "fail[ed] to obtain employment or another basis to lawfully remain in the United States." App. 2. In June 2021, she brought a petition in the Illinois State Court seeking leave to relocate to Germany with A.P. on the ground that "[i]f [she] is unable to obtain work authorization in the United States, she will be forced to relocate to Dusseldorf, Germany by November 2021." Resp. Ex. 9. Dr. Baz took further steps to ensure that A.P. would move with her to Germany by representing to the Illinois State Court that the move would be temporary. Dr. Baz's counsel specifically stated that "it was almost inevitable that she would return". See Resp. Ex. 31 (Report of Guardian *ad litem*); Tr.

220:11 – 223:21 (Testimony of Guardian *ad litem*: “It [(the relocation)] was temporary. It was specifically temporary.”).

In her subsequent affidavit to the German Court, Dr. Baz admitted that this was a ruse, stating that “[t]he court-appointed representative [(the Guardian *ad litem* in the Illinois State Court)] suggested that my son should stay with his father [in the United States] and I should live alone in Germany until my Green Card applications are decided. Since I had already read his report, and the prospect of losing my child was so distressing for me, my lawyer said we should tell the court that I would return if I got a Green Card. Otherwise, we might lose.” App. 54.

Dr. Baz did just that, and, without informing Mr. Patterson or the Illinois State Court, on May 16, 2022, Dr. Baz obtained a German Passport for A.P. *See* Tr. 97:20, 295:24 – 296:9. She did this just two days after she arrived in Germany and before the Allocation Judgment had been signed or entered. *See* Resp. Ex. 4; Tr. 109:23 – 110:3.

Based upon Dr. Baz’s representations at trial that the relocation to Germany would be temporary, on May 23, 2022, the Illinois State Court entered the parties’ proposed consent order as the Allocation Judgment (titled “Allocation Judgment: Allocation of Parental Responsibilities and Parenting Plan”). App. 20-46. The proposed consent order that became the Allocation Judgment was negotiated by the parties over several months and with the advice of counsel.

The Allocation Judgment set forth numerous terms each parent would be required to follow regarding custodial rights, including, *inter alia*, that:

- Mr. Patterson would have parenting time with A.P. during summer and other school breaks and could visit A.P. in Germany. App. 27-28.
- Mr. Patterson was allowed daily video calls with A.P. App. 30.
- A.P. would attend school in Dusseldorf, Germany. App. 22.
- Each parent would maintain physical possession of A.P.'s United States passport during their respective parenting time. App. 31.
- The parties would exchange A.P.'s US passport during pick-up and drop-off. *Id.*¹
- “[Dr. Baz] shall continue to make efforts towards applying for temporary or permanent Visas that enable her to travel to and from the United States. [Dr. Baz] shall provide updates to [Mr. Patterson] every six months regarding her progress.” App. 29.

Critically for this Hague Convention case, the Allocation Judgment also expressly reflected Dr. Baz’s stipulation that A.P.’s “habitual residence” under the Hague Convention was the United States, and that the sole forum for resolution of custody disputes would be the Illinois State Court:

- “Pursuant to Article III of the Hague Convention of 25 October 1980 on the Civil Aspects of International Children Abduction (hereinafter ‘Hague Convention’): The ‘Habitual Residence’ of the minor child is the United States of America, specifically the County of Cook, State of Illinois, United States of America.” App. 38-39.
- “Nothing in the order shall aver or imply that either party has consented, or acquiesced to the permanent removal of the child to or retention in any country other than the United States of America.” App. 39.

¹ This provision only covered A.P.’s U.S. passport, as Dr. Baz had hidden the existence of A.P.’s German passport from Mr. Patterson and the Illinois State Court.

- “So long as at least one parent resides in the State of Illinois, the Circuit Court of the State of Illinois shall retain exclusive and continuing jurisdiction over this cause to enforce or modify the terms and provisions of this Allocation Judgment.” App. 42.

A.P. initially joined Dr. Baz in Germany for about two weeks in May 2022, and then (pursuant to the Allocation Judgment) spent June 1 through August 10, 2022 with Mr. Patterson in Chicago before starting school in Germany in August 2022.² App. 27.

Shortly after her relocation to Germany, and consistent with her previous clandestine acquisition of a German passport for A.P., Dr. Baz made clear that her undisclosed intention was to permanently retain A.P. in Germany. In December 2022, just four months after A.P. started school in Germany, and before any custody dispute between the parties had arisen, Dr. Baz hired German counsel. *See* Tr. 50:24-25, 54:6-12, 74:6-12.

In January 2023, a disagreement arose as to the custody of A.P.’s U.S. Passport at the end of Mr. Patterson’s parenting time. Immediately upon his return to the United States from Germany, Mr. Patterson brought an emergency motion on January 11, 2023 in the Illinois State Court. Tr. 144:23 - 145:15. On January 23, Mr. Patterson filed a further application in the Illinois State Court. Dr. Baz’s then-U.S. counsel attended the hearing in the Illinois State Court on Mr. Patterson’s

² As the district court stated, A.P. is “fluent in English, German, and Turkish and has extended family and friends in Germany” and “has participated in swim classes and has a German pediatrician, dentist, and therapist.” App. 4.

motion of January 11, 2023. Tr. 144:23 – 145:15. At the hearing, however, Dr. Baz’s counsel made no complaint about the alleged retention of A.P.’s passport. Tr. 147:5-10. Instead, Dr. Baz sought relief from the German court in February 2023, seeking an order preventing A.P. from being removed from Germany and an order for sole custody. App. 47-74; Tr. 144:23 – 145:15.

In March 2023, while the German court proceedings were ongoing, Mr. Patterson brought an “Emergency Motion to Modify Parenting Time and Allocation of Parental Responsibilities and Parenting Plan” in the Illinois State Court. Resp. Ex. 12. Although the Illinois State Court determined it was not an emergency, it continued proceedings. Resp. Ex. 35. In April 2023, the Illinois State Court permitted Dr. Baz’s attorney to withdraw and ordered Dr. Baz to file a supplemental appearance. Resp. Ex. 35. As the district court acknowledged, “[t]o date, she has not done so.” App. 4. *See also* Resp. Ex. 35. Nor did Dr. Baz comply with the Illinois State Court’s April 26, 2023 order to provide it with contact information for the German judge hearing the parties’ custody dispute to allow a Uniform Child Custody Jurisdiction and Enforcement Act (“UCCJEA”) Conference – a key step in resolving the parallel proceedings. Indeed, Dr. Baz admitted in her testimony to the district court that she has not complied with this order or entered an appearance because she wanted to keep matters in Germany. Tr. 170:22 – 171:12 (Dr. Baz testified that “we already entered into German Court proceedings, and I didn’t want to do parallel proceedings in two different countries”).

On May 31, 2023, the parties, with the advice of counsel, negotiated an

agreement in the German proceedings that was memorialized into a “Consent Order” by the German court that same day. App. 75 – 83. The German Consent Order stated that A.P. “is currently living in Germany with the Child’s Mother” and recognized Mr. Patterson’s right to parenting time with A.P. from June 19, 2023 to July 31, 2023, among other contact time with A.P. App. 4, 77 – 78. The German Consent Order reaffirmed, in material respects, the Allocation Judgment, reciting that the Allocation Judgment “shall remain in place.” App. 78. Accordingly, the German Consent Order reaffirmed that A.P.’s “habitual residence” under the Hague Convention is the United States, and that the Illinois State Court retained continuing and exclusive jurisdiction over all custody disputes concerning A.P.

Shortly after the parties reached the agreement in the German Court, Mr. Patterson’s parenting time pursuant to the Allocation Judgment and German Consent Order was set to begin on June 19, 2023. App. 78. Dr. Baz, however, refused to make arrangements for Mr. Patterson to pick up A.P. on that date. Dkt. 1 ¶ 56. As a result, having obtained an order from the Illinois State Court on June 27, 2023, of which Dr. Baz had notice (Resp. Ex. 35), Mr. Patterson arrived in Germany on July 3, 2023 and took A.P. for the parenting time to which he is entitled under the German Consent Order. App. 6; *see also* Resp. Ex. 35 & Tr. 182:2 – 183:19.

Thereafter, on July 10, 2023, and July 25, 2023, the Illinois State Court, exercising its initial, continuing, and exclusive jurisdiction, granted Mr. Patterson exclusive parenting time and decision-making rights for A.P., first on an *ex parte* basis and then with notice to Dr. Baz. App. 7, 84 – 88. In its decision, the Illinois

State Court determined that Dr. Baz was “exhibit[ing] extremely concerning behavior as to direct violations of the [Allocation Judgment] and contradictions to her testimony in open court. [Dr. Baz] has shown utter disregard to the orders entered in this Court.” Resp. Ex. 35.

C. Procedural History

On July 18, 2023, Dr. Baz filed her request for return of A.P. with the U.S. Central Authority, the governmental agency designated to receive notifications under the Hague Convention. Resp. Ex. 22. Thereafter, on August 1, 2023, Dr. Baz brought the underlying petition under the Hague Convention in the district court for A.P. to “return” to Germany on the ground that Germany was his habitual residence and that Mr. Patterson wrongfully retained A.P. in the U.S. Dkt. 1.

On December 13, 2023, the district court granted Dr. Baz’s petition. App. 1 – 15; Dkt.91. The court determined first that that Mr. Patterson wrongfully retained A.P. in the United States by seeking sole custody of A.P. in the Illinois State Court on July 7, 2023, “indicating his refusal to abide by the parties’ [c]onsent [o]rder and that he would not be returning A.P. to Germany at the end of the month.” App. 9. Although it recognized that the parties had stipulated that A.P.’s habitual residence was in the United States, it thought that this was just “one factor” that should be considered and, placing greater emphasis on the fact that A.P. had resided in Germany since Dr. Baz moved him there, it “conclude[d] that based on the totality of the circumstances and the evidence presented, A.P.’s habitual residence as of the date of retention was Germany.” App. 12. Lastly, it determined that Dr. Baz was

exercising her custody rights at the time of Mr. Patterson’s alleged wrongful retention, , because it decided to apply German law, Dr. Baz’s German lawyer argued to the court that German law favored Dr. Baz, and Mr. Patterson had nor provided contravening expert testimony. App. 13 – 14.

Following the district court’s entry of judgment on December 21, 2023, App. 19; Dkt. 99, and its denial of Dr. Baz’s emergency motion to return A.P. on December 15, 2023 (before he had completed the school term in Illinois, and his end of year school show), Dkt. 96, the district court granted a temporary stay of the return order to permit Mr. Patterson to seek a stay pending appeal in the Seventh Circuit. Dkt. 112. On January 4, 2024, this Court granted Mr. Patterson’s stay pending appeal and expedited the appeal. Cir. Ct. Dkt. 10.

SUMMARY OF ARGUMENT

The district court erred in granting Dr. Baz’s petition for five reasons.

First, as discussed in § I, *infra*, the Hague Convention does not apply when the parties have submitted their custody dispute to the exclusive jurisdiction of courts in the country where the Hague Convention petition is brought. The forum in which the parties’ custody disputes would be decided having already been fixed, there is no role left for the Hague Convention other than for it to be abused, as Dr. Baz did here, for the impermissible purpose of international forum shopping. See *Von Kennel Gaudin v. Remis*, 282 F.3d 1178 (9th Cir. 2002) (holding that the Convention does not apply where, through their conduct, the parents have, through the act of relocation, “decide[d]” that the country where the application was filed should be the one to “make the custody determination”).

Second, as discussed in § II.A., *infra*, the parties entered into stipulations endorsed as court orders stating that the United States is A.P.’s “habitual residence” under the Hague Convention. As with other stipulations, this one should have been given controlling effect as to the element of “habitual residence.” See *Christian Legal Soc. Chapter of the Univ. of California, Hastings Coll. of the Law v. Martinez*, 561 U.S. 661, 677–78 (2010). Disregarding standard rules of procedure and evidence, and principles of party autonomy and presentation, the district court considered this stipulation to be just one factor in the totality-of-the-circumstances test set forth in *Monasky v. Taglieri*, 140 S. Ct. 719, 723 (2020). *Monasky*, however, held only as a matter of substantive law that an agreement regarding where to raise the child was one factor in the totality of circumstances. It did not concern the rules of evidence or the weight to be given to a stipulation of the parties regarding an element of a Hague Convention petition. Indeed, in *Monasky* there was no agreement at all between the parents. Ordinary rules of procedure should apply, and the district court’s departure from those rules was legal error.

Third, as discussed in § II.B.1, *infra*, even if the parent’s stipulation is only one factor in the totality of the circumstances, the district court nonetheless erred by failing to consider the respondent’s prior abduction of A.P. and its implications. Unlike a typical Hague Convention case where the parent who is left behind applies for his or her child to return because the other parent “abducted” the child to another country, here, the parent who has applied for return under the Hague Convention is also alleged to have abducted the child. This Court’s law is clear, however, that a

parent cannot create a new habitual residence by means of wrongful removal and sequestration. The undisputed facts demonstrate that Dr. Baz lied about her move to Germany with A.P. being temporary and then took repeated steps to retain him in Germany. Facts regarding A.P.'s acclimatization in Germany therefore should not have been considered in its habitual-residence analysis. Its failure to take this principle into account constituted legal error requiring reversal or remand.

Fourth, as discussed in § II.B.2, *infra*, even if the district court did not err in applying the totality-of-the-circumstances test and considering facts regarding A.P.'s acclimatization in Germany, it erred by giving controlling weight to those facts. The district court privileged the facts purporting to demonstrate that A.P. acclimated to Germany as a preschooler who had lived there for less than a year over the Allocation Judgment and the Germany Consent Order, without providing any rational basis or reasoned analysis for doing so, and entirely failed to consider at all Dr. Baz's wrongful removal and retention of A.P. This amounted to clear error.

Lastly, as discussed in § III, *infra*, the district court erred in its "wrongfully retention" analysis. When Mr. Patterson sought the assistance of the Illinois State Court on July 7, 2023, he did not wrongfully retain A.P. but rather was doing exactly what he was supposed to. Indeed, by agreement of the parties, this was the court with sole jurisdiction over the custody rights, and it resulted in an order legally permitting him to retain A.P. – one that would be recognized and valid under German law. The district court further erred by failing to correctly assess German law on this issue, and then applying its misinterpretation of German law to conclude that Mr.

Patterson wrongfully retained A.P. when he did not.

STANDARD OF REVIEW

This Court reviews legal questions *de novo*, including whether “the trial court [has] correctly identifie[d] the governing totality-of-the-circumstances standard.” *Monasky*, 140 S. Ct. at 730 . If it has, the district court’s factual findings and its habitual-residence determination are subject to review for clear error. *Id*; *see also* *Rodrigues Dos Santos Argueta v. Argueta-Ugalde*, No. 23-1107, 2023 WL 4635901, at *3 (6th Cir. July 20, 2023) (“*Monasky* also clarified that after determining *de novo* that a district court has properly identified the ‘governing totality-of-the-circumstances standard,’ the district court's determination regarding a child's habitual residence is subject to clear error review as a question of fact.”). In addition, this Court reviews any conclusions of law by the district court, “whether American, foreign, or international,” *de novo*. *Garcia*, 808 F.3d at 1162; *see also* Fed. R. Civ. P. 44.1 (“In determining foreign law . . . [t]he court’s determination must be treated as a ruling on a question of law.”).

ARGUMENT

I. There is No Role for the Hague Convention Where the Parties Submitted Custody Disputes to the Exclusive Jurisdiction of Courts in the Country Where the Petition is Brought

The Hague Convention fundamentally concerns determining the appropriate forum for resolution of child-custody disputes and operates by returning the child to that forum. As a result, when the parties have, by binding agreement, agreed to submit their child-custody disputes to be resolved *exclusively* in the particular forum where the petition is filed, the Convention has no role to play, and the petition should

be denied.

As discussed above, a petition under the Hague Convention is not meant to resolve child-custody battles, but instead to “fix[] the forum for custody proceedings,” which it does by requiring the return of the child to “presumptively the most appropriate forum” for custody proceedings. *Monasky*, 140 S.Ct. 273, 277. *See also Barzilay v. Barzilay*, 600 F.3d 912, 916 (8th Cir. 2010) (the Convention acts “as a forum selection mechanism”); *Castang v. Kim*, 2023 WL 3317983, at *3 (11th Cir. May 9, 2023) (“[T]he question under the Hague Convention is a fact question about which country’s courts should adjudicate the parents’ custody dispute.”).

This procedure serves the Hague Convention’s ultimate objectives, which are to combat forum-shopping and “deter[] child abductions by parents who attempt to find a friendlier forum for deciding custodial disputes.” *Abbott v. Abbott*, 560 U.S. 1, 20 (2010). *See also Redmond*, 724 F.3d at 739 (“The Convention’s procedures are [...] designed to [...] deter parents from engaging in international forum shopping in custody cases.”) (quoting *Karkkainen*, 445 F.3d at 287); *Kijowska*, 463 F.3d at 585–86 (same).

In view of its scope and function, there is simply no role for the Convention to play where, as here, the parties have agreed, and have submitted, all child-custody disputes to the exclusive jurisdiction of courts located in the country where the petition was brought. That is because the parties to the proceeding in question have already decided that child-custody disputes would be resolved in the country where the petition was filed, so there is no basis to “return” the child to another country.

That is plainly the situation here. In the Allocation Judgment, later reaffirmed in the German Consent Order, the parties agreed that the Illinois State Court would have “exclusive jurisdiction” over all custody disputes.³ This was a key protection for Mr. Patterson, to which Dr. Baz (represented by counsel) agreed as a condition to taking their child to Germany while asserting that the move was temporary. The purpose of that agreement (along with the stipulation as to A.P.’s “habitual residence,” further discussed below) was clear: To ensure that the Illinois Court, which had dealt with the custody dispute for almost all of A.P.’s life, would continue to do so, and that there could be no question that under the Hague Convention A.P.’s habitual residence was the United States. The court order was designed to protect A.P. and Mr. Patterson against the risk of international forum shopping by Dr. Baz. By making this agreement, Dr. Baz affirmed, as a condition of her temporary relocation to Germany, that she would continue to submit to the exclusive jurisdiction of the Illinois State Court, as she and Mr. Patterson had for all prior custody disputes.

This agreement by the parties, entered as multiple court orders, rendered the Hague Convention without any application. The Ninth’s Circuit’s decision in *Gaudin* is illustrative, and *a fortiori*. 282 F.3d 1178 (9th Cir. 2002). There, the “petitioner relocate[d] permanently to the same country in which the abductor and the children

³ “Both ASLI and ANTHONY agree that the appropriate jurisdiction and venue for the litigation and resolution of any issues related to the allocation of parental responsibilities and parenting time (formerly known as custody, care and control of the child) is the Circuit Court of Cook County, State of Illinois, United States of America” and “so long as at least one parent resides in the State of Illinois, the Circuit Court of the State of Illinois shall retain exclusive and continuing jurisdiction over this cause to enforce or modify the terms and provisions of this Allocation Judgment.” App. 39, 42.

are found.” *Id.* at 1183. The Ninth Circuit held that this rendered the Convention inapposite. Consistent with settled law, the court reasoned that “[t]he Convention does not extend to custody determinations, i.e., which parent should care for the child” but instead “decide[s] which country should make the custody determination.” *Id.* (emphasis omitted). So, the court explained, the Convention is operative only if “multiple countries could potentially make a custody determination.” *Id.* When that is not the case – when the parties both “cast[] [their] lot with the judicial system of the country” where the Hague Convention petition was filed – there is no role for the Hague Convention to play, rendering the petition “moot.” *Id.* That occurred in *Gaudin*, the court reasoned, by the petitioner permanently relocating to Hawaii, where the respondent and the child resided, “ma[king] Hawaii the proper forum to determine custody matters.” *Id.*⁴

The same principle applies here: Dr. Baz and Mr. Patterson both “cast [] [their] lot with [the Illinois State Court]” by agreeing that the sole and exclusive forum to resolve child-custody disputes was the Illinois State Court. The Convention simply anticipates no role for a federal court in that circumstance – and it was legal error to order that A.P. be sent to the German court, particularly as those courts indicated that they intend to defer to the Illinois State Court on matters of custody. App. 14.⁵ The

⁴ The Circuit remanded to determine as a matter of fact whether the relocation was permanent.

⁵ The district court noted that the German court has indicated that it intends to dismiss the Petitioner’s action there and defer to the Illinois State Court. App. 14. This is the correct course of action for the German court, and an operation of the domestic German

district court should be reversed and the petition dismissed because the appropriate jurisdiction for the custody dispute was stipulated to be Illinois.

II. The District Court’s Habitual-Residence Ruling Was Legally Erroneous

“The central question in any petition seeking the return of a child under the Hague Convention and ICARA is whether the child who is the subject of the petition has been ‘wrongfully’ removed or retained within the meaning of the Convention.” *Redmond*, 724 F.3d at 737. Congress allocated the burden of proof on those questions to the petitioner to establish by a preponderance of the evidence. 22 U.S.C. § 9003(e)(1). The answers will turn on the child’s “habitual residence,” which means that ultimately, as noted above, “every Hague Convention petition turns on the threshold determination of the child’s habitual residence.” *Redmond*, 724 F.3d at 742; *see also Cahue*, 826 F.3d at 989 . If the petitioner cannot establish that the child’s “habitual residence” was in another country, then the petition “must be denied.” *Redmond*, 724 F.3d at 742. The district court’s determination on this central question was legally erroneous, and should be reversed.

A. Dr. Baz’s Stipulation as to “Habitual Residence” is Controlling

To begin, the district court’s judgment should be reversed because it failed to

principle of *lis pendens* – the rule that German court will defer to first-filed pre-existing parallel proceedings in another jurisdiction. But this is not the same as concluding (as this Court should) that German court does not have jurisdiction and that Illinois does, instead it is concluding that the German court should choose whether or not to exercise its jurisdiction according to its own legal doctrines, while noting that it probably won’t. This is cold comfort to Mr. Patterson, whose case belongs in Illinois, but who the district court instructs to throw his case at the mercy of a court in Germany that should not and should never have been hearing this matter in the first place.

give controlling weight to the agreement of the parties, memorialized into an order of the court, stipulating that A.P.’s “habitual residence” is the United States.

As noted, Dr. Baz, as the petitioner, bore the burden of proof to establish the key element that A.P.’s “habitual residence” was outside of the United States – without which her petition would have to have been denied. *Redmond*, 724 F.3d at 742; 22 U.S.C. § 9003(e)(1). But she had already agreed and submitted to a court order stipulating to that key element: Dr. Baz agreed in the Allocation Judgment that “[p]ursuant to Article II of the Hague Convention of 25 October 1980 on Civil Aspects of International Children Abduction (hereinafter ‘Hague Convention’): The ‘Habitual Residence’ of the minor child is the United States of America, specifically the County of Cook, State of Illinois, United States of America.” App. 38-39.

This stipulation should have been enforced and given controlling weight. The Supreme Court has held that “[l]itigants ... are entitled to have their case tried upon the assumption that facts, stipulated into the record, were established,” and it has “refused to consider a party’s argument that contradicted a joint stipulation.” *Christian Legal Soc. Chapter of the Univ. of California, Hastings Coll. of the Law v. Martinez*, 561 U.S. 661, 677–78 (2010) (cleaned up). That is because “factual stipulations are ‘formal concessions that have the effect of withdrawing a fact from issue and dispensing wholly with the need for proof of the fact.’” *Id.*

And the rule in this Circuit is equally settled: “[O]nce made, a stipulation is binding unless relief from the stipulation is necessary to prevent a ‘manifest injustice’ or the stipulation was entered into through inadvertence or based on an erroneous

view of the facts or law.” *Graefenhain v. Pabst Brewing Co.*, 870 F.2d 1198, 1206 (7th Cir. 1989).⁶ Moreover, this stipulation was no ordinary stipulation: It was entered as an order of the Illinois State Court, and it was well understood by both parents, represented by counsel, to be an important condition upon which Mr. Patterson relied in order to agree that Dr. Baz could temporarily move with A.P. to Germany. It cannot be so readily disregarded. *See* Tr. 221:4-8 (Testimony of the Guardian *ad litem*: “The judge was very specific in that it was temporary and that she had to continue to try to come back. That was the – it was the number one precondition to being able to leave with the child.”).

Nevertheless, rather than treating this as a case-ending stipulation by the petitioner on the core factual issue she had to prove in the case from which “all other Hague determinations flow,” *Redmond*, 724 F.3d at 742, the district court considered this agreement to be “but one factor” in the “totality of the circumstances.” App. 11. For legal support, it relied exclusively on *Monasky*. That was legal error.

In relevant part, *Monasky* resolved a split among the Circuits as to whether “an actual agreement between the parents on where to raise their child [is] categorically necessary to establish an infant’s habitual residence.” 140 S.Ct. at 726. In *Monasky* itself, the petitioner and the respondent did *not* have “an actual

⁶ It is irrelevant that this stipulation was made prior to these proceedings. *See Waldorf v. Shuta*, 142 F.3d 601, 616–17 (3d. Cir., 1998) (“Generally, a stipulation entered into prior to a trial remains binding during subsequent proceedings between the parties”); *see also Vattier v. Hinde*, 32 U.S. (7 Pet.) 252, 266, 8 L.Ed. 675 (1833) (binding the parties upon remand of the case to an agreement consenting to the admission of certain testimony made prior to the reversal of the initial verdict, because the consent was not limited expressly).

agreement by her parents to raise her” in Italy, and the question was whether this necessarily meant Italy was not the child’s “habitual residence.” *Id.* at 723. “The bottom line: There are no categorical requirements for establishing a child’s habitual residence—least of all an actual-agreement requirement for infants.” *Id.* at 728. Instead, the Supreme Court reasoned, “a wide range of facts other than an actual agreement, including facts indicating that the parents have made their home in a particular place, can enable a trier to determine whether an infant's residence in that place has the quality of being ‘habitual.’” *Id.* at 729.

The district court thought that this ruling by the Supreme Court – which addressed the substantive standard for establishing “habitual residence” – meant that it had to treat as “but one factor” a case-dispositive stipulation as to a core fact on which the petitioner bore the burden of proof. But as just recounted, *Monasky* ruled only as a substantive matter that an agreement by the parents as to “where to raise the[] child” was not necessary, *id.* at 726. *Monasky* did not rewrite the rules of evidence that obtain when the petitioner in a Hague Convention case tries to meet her burden of proof having previously stipulated to a key element of her case, and it certainly did not hold that district courts should disregard and decline to enforce a stipulation by the parties on a key factual issue in the case.

The parents’ “shared intentions” regarding “where to raise [a] child” may be one factor under the relevant substantive standard, *Monasky*, 140 S.Ct. at 726, but a Hague Convention proceeding still remains an adversarial proceeding where the parents are the parties, with burdens of proof on the elements of their case and

defenses, 22 U.S.C. § 9003, and where the parents as litigants may stipulate as to elements of the case, whether during litigation or before it. *See H. Hackfeld & Co. v. United States*, 197 U.S. 442, 447 (1905) (“We think the parties were entitled to have this case tried upon the assumption that these ultimate facts, stipulated into the record, were established, no less than the specific facts recited.”). *Monasky* itself did not suggest otherwise, and neither did any of the cases that generated the circuit split that *Monasky* addressed.⁷

In sum, *Monasky*’s totality-of-the-circumstances test does not control or apply to Dr. Baz’s stipulation regarding “habitual residence.” Dr. Baz stipulated that A.P.’s “habitual residence” within the meaning of the Hague Convention was the United States, both in resolving adversarial proceedings in the Illinois State Court in 2022 and then again in the German court in 2023. Absent a basis for relieving Dr. Baz from this freely-made stipulation – and none was found – that stipulation should have been “conclusive” and deemed to have “removed” the element of habitual residence from the case, “dispensing wholly with the need for proof of the fact.” *Christian Legal Soc.*, 561 U.S. at 677–78 (cleaned up). The district court’s failure to give that treatment to the parties’ stipulation – and to deny the petition on this basis – amounted to legal error.

B. The District Court Erred in its Determination that A.P.’s Habitual Residence was Germany

⁷ The Supreme Court cited, beyond the case on which it granted review, *Mozes v. Mozes*, 239 F.3d 1067 (9th Cir. 2001) and this Court’s decision in *Redmond*, 724 F.3d 746, *see Monasky*, 140 S.Ct. at 725-36, none of which concerned a stipulation regarding a factual element as to which the Hague Convention petitioner bore the burden of proof.

Alternatively, if the district court were correct to have treated the stipulation of the parties as “but one factor,” the district court still committed legal error in its habitual-residence determination by failing to consider Dr. Baz’s wrongful removal of A.P. and its implications, and by treating A.P.’s acclimatization in Germany as controlling.

1. The District Court Erred as a Matter of Law By Failing To Consider The Facts Of Dr. Baz’s Removal and By Considering A.P.’s Purported Acclimatization in Germany

In a typical Hague Convention case, the parent who is left behind petitions for the child to return to his or her habitual residence, where the child was before the other parent “abducted” the child, and the petitioner must therefore prove that the child was wrongfully taken or retained from her habitual residence. Here, unusually, the respondent asserted in district court that the *petitioner* first wrongfully took the child away from the United States – which the petitioner did by assuring the respondent that the move was temporary, agreeing that any custody dispute would be resolved in the United States, and stipulating that the United States was the child’s habitual residence, when she had no intention of returning. The district court’s treatment of this circumstance in the totality-of-circumstance analysis was legally erroneous.

This Court and others have expressly and repeatedly rejected efforts by respondents resisting a return application to argue that the child established a habitual residence in the place where the respondent improperly brought the child. The reason is simple: a “parent cannot create a new ‘habitual residence’ by the wrongful removal and sequestering of a child.” *Redmond*, 724 F.3d at 743 (quoting

Kijowska, 463 F.3d at 587). “That would invite abduction.” *Kijowska*, 463 F.3d at 587. Accordingly, facts regarding a child’s potential acclimatization *after* a wrongful removal and/or retention “would be a[n] inappropriate... basis for locating habitual residence.” *Id.* Indeed, permitting a parent to create a new habitual residence for a child by retaining him or her there permanently despite promising to return “would render the Convention meaningless” by serving as “an open invitation for all parents who abduct their children to characterize their wrongful removals as alterations of habitual residence.” *Friedrich v. Friedrich*, 983 F.2d 1396, 1402 (6th Cir. 1993).⁸

The foregoing principles apply with as much force if the respondent claims that the petitioner first abducted the child. Indeed, the logic for disregarding post-abduction circumstances in making a habitual-residence determination is not tied to the identity of the parent as petitioner or respondent, but rather on the requirements, purposes, and operation of the Hague Convention. The rule requiring a court to disregard post-abduction acclimatization is predicated on the idea that it is necessary to achieve the Hague Convention’s objectives.

The court below did not adhere to these principles. There was substantial evidence of Dr. Baz having wrongly taken A.P. to, or retained A.P. in, Germany. As the district court recognized, “[Dr.] Baz’s move to Germany was intended to be

⁸ See also *Miller v. Miller*, 240 F.3d 392, 400 (4th Cir. 2001) (“Moreover, of potential import in this action, a parent cannot create a new habitual residence by wrongfully removing and sequestering a child.”); *Diorinou v. Mezitis*, 132 F. Supp. 2d 139, 143 (S.D.N.Y. 2000), *order aff’d and remanded*, 237 F.3d 133 (2d Cir. 2001) (“Greece may not be their habitual residence if their original removal to Greece was wrongful, because a parent cannot create a new ‘habitual residence’ by the wrongful removal and sequestering of a child.”).

temporary while she sought to return to the United States.” App. 3. *See also* Tr. 294:11-17 (Resp. Closing Argument) (“She [(Dr. Baz)] testified under oath how she was continuously trying to get back into the country. . . . She never once told [the Illinois State Court] anything that our son would be in Germany permanently.”).

However, just two days after Dr. Baz moved to Germany with A.P. – while she was negotiating the stipulations that the United States was the location of his “habitual residence” and the place where all custody disputes would be heard, and that the parents would jointly hold A.P.’s U.S. passport – she applied for a German passport for him without telling the father. Approximately four months after A.P. started attending school in Germany, she obtained German counsel, before any dispute between her and Mr. Patterson had arisen. And in February 2023, as the district court noted, Dr. Baz “filed a legal case in Germany seeking an order preventing A.P. from being removed from Germany and a custody order.” App. 4. Dr. Baz’s actions amount to a clear and deliberate attempt to wrongfully retain A.P. in Germany, beginning with her lies to Mr. Patterson and U.S. courts, and continuing as she commenced custody proceedings in Germany in breach of her agreements.⁹

The district court, however, did not consider any of the circumstances of Dr. Baz’s removal and subsequent retention, and certainly did not adhere to the proper principle that a “parent cannot create a new ‘habitual residence’ by the wrongful

⁹ *See Mozes*, 239 F.3d at 1084 (“By seeking sole custody over the children outside their state of habitual residence then, Michal “disregarded the rights of the other parent which are also protected by law, and ... interfered with their normal exercise.”) (quoting Elisa Perez–Vera, Explanatory Report, in 3 Hague Conference on Private International Law, Acts and Documents of the Fourteenth Session, Child Abduction 426 (1982)).

removal and sequestering of a child.” *Redmond*, 724 F.3d at 743. Instead, the court completely ignored the circumstances of A.P.’s initial removal and later retention from the United States in its totality-of-the-circumstances evaluation. Then, the court went on to not only consider the facts regarding A.P.’s purported acclimatization post-abduction in Germany, but prioritized those facts above all else, including the parties’ stipulations and agreements.

To be sure, this Court in *Kijowska* suggested in dicta that a child can establish a new “habitual residence” despite having been taken there wrongly by the petitioner, 463 F.3d at 588–89, and two other courts of appeals have followed suit.¹⁰ This approach is contrary to the well-established principle that an abductor cannot create a habitual residence by abduction, *Redmond*, 724 F.3d at 743, and the stated rationale for considering post-abduction facts there is inapt. The Court in *Kijowska* faulted the respondent for “fail[ing] to pursue” “a perfectly good legal remedy in lieu of abduction” – *i.e.*, a Hague Convention petition – stating that it would be improper to “give a legal advantage to [the second] abductor” in that light.” 463 F.3d at 588–89. That principle bears no application here, given that Mr. Patterson *did* invoke “a perfectly good legal remedy,” *id.* – recourse to the court designated by the parties to have “exclusive” jurisdiction over A.P.’s custody. Congress expressly stated that the Convention is “not exclusive,” and “[t]he remedies established by the Convention and

¹⁰ *Moreno v. Zank*, 895 F.3d 917 (6th Cir. 2018) (father took child from Ecuador six years after allegedly wrongful removal); *Ovalle v. Perez*, 681 F. App’x 777 (11th Cir. 2017) (father removed seven-month old infant from mother by driving off when the mother exited a car).

[the implementing legislation] shall be in addition to remedies available under other laws or international agreements.” 22 U.S.C. 9003(h). Mr. Patterson should not be faulted for resorting to the Illinois State Court rather than filing a Hague Convention petition in Germany, and Dr. Baz should not be rewarded for having abducted A.P. and for disregarding her stipulations and agreements about which court would resolve custody disputes.

The district court’s decision should be reversed because it was error for it to consider post-abduction acclimatization in Germany. Moreover, although this Court can remand for the district court to apply the totality-of-circumstances test under the correct governing standard (by disregarding post-abduction facts), the Court should simply reverse, and direct dismissal of the petition. The facts demonstrating Dr. Baz’s wrongful removal and retention of A.P. are not disputed, and if post-abduction facts are not considered, there was no record evidence at all to permit a finding that A.P.’s habitual residence was anywhere but the United States. A.P. had spent all his life in the United States and has substantial ties here, and there was no evidence that A.P. had such ties anywhere else before Dr. Baz wrongfully took A.P. from Illinois to Germany in 2022.

2. The District Court Further Erred In its Application of the Totality of the Circumstances Test

Finally, even if the district court did not err in applying the totality-of-the-circumstances test and considering facts regarding A.P.’s acclimatization in Germany, the district court’s application of the totality-of-the-circumstances test was still erroneous, because it gave controlling weight to the fact that A.P.’s mother

brought him to Germany and failed to give *any* consideration to the circumstances of A.P.'s initial removal from the United States.

In the circumstances of this case, that was clear error. Under the relevant standard, a child's habitual residence "depends on the specific circumstances of each case," and courts must be "sensitive to the unique circumstances of the case and informed by common sense." *Monasky*, 140 S. Ct. at 723, 727. In *Redmond*, this Court instructed that "shared parental intent may be a proper starting point in many cases because [p]arental intent acts as a surrogate in cases involving very young children for whom the concept of acclimatization has little meaning." *Redmond* at 746, citing *Holder v. Holder*, 392 F.3d 1009 (9th Cir. 2004).¹¹ *Redmond*, therefore, in the context of its flexible inquiry, instructs courts that "the parents' last shared intent is one fact among others, and indeed may be a very important fact in some cases." *Redmond*, 724 F.3d at 744; see also *Bre v. Aguirre*, No. 23-CV-23928, 2023 WL 8371981, at *3 (S.D. Fla. Dec. 4, 2023) ("[T]he Court weighs heavily the parties' agreement that the United States should remain the child's habitual residence despite the intervening time spent in Argentina.").

The strength and seriousness of the agreement, even if not accorded dispositive weight (*contra* Section II.A., *see supra*), is still important to recognize: the Court is faced not with an "understanding" (*see Karkkainen*, 445 F.3d at 286 (holding that an "understanding" between the parents that the child would choose whether or not to

¹¹ In *Holder*, the Ninth Circuit had found that eight months in Germany was not sufficient acclimatization for a six-year-old. *See* 392 F.3d at 1020.

remain, controlled when the child chose to remain)) or an “intention” (*see Pennacchia v. Hayes*, 666 F. App'x 677, 679 (9th Cir. 2016) (“the settled intention was for SAPH’s habitual residence to be the United States.”)) or even an agreement (*see Whiting v. Krassner*, 391 F.3d 540, 542 (3d Cir. 2004) (a written agreement for a temporary move to Canada)) between parents as to where the child would live or be raised. Instead, there is a written agreement, that was made with the advice of counsel, while a dispute was live, reduced to a court order, and reaffirmed with advice of counsel, while a dispute was live and *again* reduced to a court order, stipulating to *the* key element of a Hague Convention petition and stating that only the Illinois State Court would have jurisdiction.

Practically disregarding these two parental agreements, the district court cited only the fact that A.P. had spent less than a year with his mother in Germany – a short time bookended by the two parental agreements as to A.P.’s “habitual residence.” The court gave no reasons at all for privileging the acclimatization of a preschooler over and above the subsequent May 2023 agreement, simply stating that the agreements were “outweighed by the evidence of A.P.’s acclimation in Germany and other factors that establish Germany as A.P.’s habitual residence”.¹² App. 12. That is because there are no reasons. There is no rational basis to conclude when the parties have agreed “just over one month” before a wrongful retention, that a child’s habitual residence is the United States (the only place the child had lived until a year prior), that antecedent facts in the ten months *prior* to that agreement nevertheless

¹² The Court gave no other factors.

control.

Moreover, while the court place controlling weight on A.P.'s acclimatization in Germany, it altogether ignored the wrongful circumstances of A.P.'s initial removal to Germany. This too was error. Assuming it is proper to consider facts following an abduction by the petitioner (contra Section II.B., above), the circumstances surrounding the removal to Germany must be considered in the *totality* of circumstances. The district court misapplied the law, and this Court should reverse or remand.

III. The District Court Erred in Determining that Mr. Patterson Wrongfully Retained A.P.

As the petitioner, it was Dr. Baz who had the burden to establish that Mr. Patterson “wrongfully’ removed or retained [A.P.] within the meaning of the Convention.” *Redmond*, 724 F.3d at 737; 22 U.S.C. 9003(e)(1)(A). The district court determined that Mr. Patterson first wrongly retained A.P. on July 7, 2023 when he “purportedly requested sole custody of A.P. in Illinois state court.” *See* App. 9. It apparently also found – although it did not say so expressly – that the retention continued to be wrongful despite the fact that “the Illinois state court”, the sole court with jurisdiction over custody disputes, “award[ed] Patterson exclusive parenting time on July 10, 2023.” App. 6 n. 6. The district court’s sole basis for the wrongful retention determination was its decision to rely on the say-so of Dr. Baz’s lawyer as to the content of German law. In this analysis, the court committed error upon error.

First, as noted above, the purpose of the Hague Convention is to return the child to the country whose courts would resolve a custody dispute. Here, Mr.

Patterson did what he should have done: He sought the direction and assistance of the court that the parties agreed would have continuing and exclusive jurisdiction over custody disputes – and to which the German courts have provisionally said they would defer. That court gave Mr. Patterson sole custody three days later, and there has been no further order from the sole court with jurisdiction over custody matters that could help Dr. Baz meet her burden of proof. Put differently – how could it be *wrongful* to seek guidance from and then abide by an order of the court that the parties stipulated would have exclusive jurisdiction over custody disputes?

The district court here accurately stated the applicable rule of law: “[a] retention is wrongful under the Hague Convention only if it violates the petitioner’s ‘rights of custody,’ which ‘include rights relating to the care of the person of the child and, in particular, the right to determine the child’s place of residence.’” App. 13 (quoting *Abbott*, 560 U.S at 9). It plainly follows that where a parent seeks relief in the court with exclusive jurisdiction over custody disputes, and that court enters an order awarding the respondent sole custody, – whether temporarily or permanently, – there is no “wrongful” retention.

To be sure, under Article 17 of the Hague Convention, “[t]he sole fact that a decision relating to custody has been given in or is entitled to recognition in the requested State shall not be a ground for refusing to return a child under this Convention.” But the custody decision here was not just entered in the “requested State”; it was entered by the court with sole jurisdiction to enter these sorts of orders. In view of that jurisdictional agreement by the parties, the district court should itself

have deferred to the Illinois State Court's custody determinations in ruling on the question of wrongful retention.

Second, the district court's conclusions were legally erroneous on their own terms. The court concluded that German law applied because that was the place of A.P.'s habitual residence (which, as noted above, was erroneous). But its assessment of German law was itself also erroneous, requiring reversal or a remand.

To begin, as the Supreme Court recently reaffirmed, a district court should conduct its own independent assessment of foreign law, as it does for all questions of law. *See Animal Sci. Prod., Inc. v. Hebei Welcome Pharm. Co.*, 138 S. Ct. 1865, 1868 (2018) (“[I]n ascertaining foreign law, courts are not limited to materials submitted by the parties, but may consider any relevant material or source.”) (quoting Fed. R. Civ. P. 44.1) (cleaned up). The need for independent evaluation is particularly significant when material is presented in a partisan manner. *See Balkan Energy Ltd. v. Republic of Ghana*, 302 F.Supp.3d 144, 153 n.5 (D.D.C. 2018). A court always “retains the authority to conduct an independent inquiry and reject even uncontradicted testimony.” *Est. of Botvin ex rel. Ellis v. Islamic Republic of Iran*, 772 F. Supp. 2d 218, 228 (D.D.C. 2011) (quotations omitted). Here, however, the district court relied entirely on the testimony of Dr. Baz's German lawyer (App. 13) and on the fact that Mr. Patterson, a *pro se* litigant, had “presented no opposing expert or argument disputing this interpretation of German law.”¹³ This warrants a remand,

¹³ In fact, the district court denied him permission to have his own German lawyer respond. *See* Dkt. 77.

at minimum. *Bugliotti v. Republic of Argentina*, 952 F.3d 410, 414 (2d Cir. 2020) (noting that although the court of appeals may review foreign law *de novo*, it may also “remand rather than review a foreign legal question with which the district court did not, or did not fully, engage”).

And it is plain that the district court’s conclusion of German law was wrong, because German law would permit Mr. Patterson to seek relief in the Illinois State Court as he did and would respect the orders of the Illinois State Court of July 10 & 25, 2023 awarding Mr. Patterson sole custody.

First, with respect to Mr. Patterson seeking relief in the Illinois State Court in the first place, the German court has expressed doubt about its jurisdiction over Dr. Baz’s subsequent motion, writing on June 19, 2023 that pursuant to the German “lis pendens” doctrine, it “intends to dismiss the application of [Dr. Baz] as inadmissible.” Resp. Ex. 19 at 1 – 3 (German), 17 – 19 (English); Second, Chapter 3 of the Act on Proceedings in Family Matters and in Matters of Non-contentious Jurisdiction of 17 December 2008 (Federal Law Gazette I, p. 2586, 2587), a German statute, governs the recognition and enforceability of foreign judgments. Section 108, which applies to foreign judgments not in marital matters, instructs that “foreign judgments shall be recognized without the requirement of a particular proceeding.” Section 109 sets forth the conditions for refusing recognition of a foreign judgment in a family matter.

There is no basis under Section 109 for refusing to recognize the ruling of the Illinois State Court. There is no dispute that the Illinois State Court has jurisdiction as a matter of German law. The German court has been actively considering the

Illinois proceedings to determine whether they were filed before the German proceedings (creating a *lis pendens* which would lead to the German court to dismiss Dr. Baz's German claim). *See* Resp. Ex. 19. Dr. Baz has never asserted, and has no grounds to assert, that the Illinois proceedings were not commenced properly under Section 109(1)(2), given the parties' agreement that the Illinois State Court has exclusive jurisdiction. There is no earlier German decision which the Illinois Orders of July 10 and July 25, 2023 would be incompatible with. Section (109(1)(3)). And there is no public policy objection under Section 109(1)(4): German law also allows for the transfer of sole custody by way of an interim injunction. *See* Section 49 of Act on Proceedings in Family Matters and in Matters of Non-contentious Jurisdiction Interlocutory Orders. And there would be no concern about reciprocity under Section 109(4), given that the Illinois State Court recognized the German Consent Agreement.

Once recognized, the Illinois State Court orders would be subject to enforcement under Section 110. As one leading German Law treatise explains: "A foreign decision should have the same effect domestically as it does in the state where the decision was made. It is irrelevant whether these decisions are final arrangements or interim decisions." *See* Völker/Clausius, Custody and Visitation Law, §11 Cross-Border Custody, Visitation, and Child Abduction Cases, beck-online (reproduced at App. 89 – 90).

CONCLUSION

The district court's judgment should be reversed and the Court should direct the district court to deny the petition. In the alternative, it should remand with guidance, for a new evidentiary hearing.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

This document complies with the type-volume limitations of Fed. R. App. P. 32(a)(7)(B) and Circuit Rule 32, because this document contains 10,549 words, excluding the parts of the document exempted by Fed. R. App. P. 32(f).

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Dated: January 26, 2024

/s/ Jonathan Schaffer-Goddard

Jonathan Schaffer Goddard

Attorney for Appellant

CIRCUIT RULE 30(d) STATEMENT

Pursuant to Circuit Rule 30(d), counsel certifies that all materials required by Circuit Rule 30(a) and (b) are included in the Appendix.

/s/ Jonathan Schaffer-Goddard

Jonathan Schaffer Goddard

CERTIFICATE OF SERVICE

I hereby certify that on January 26, 2024, the Brief of Appellant was filed with the Clerk of the Court for the United States Court of Appeals for the Seventh Circuit by using the appellate CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

/s/ Jonathan Schaffer-Goddard

Jonathan Schaffer Goddard

APPENDIX

TABLE OF CONTENTS TO APPENDIX

Memorandum Opinion and Order entered on December 13, 2023 (Doc. 91) A-1

Return Order entered December 14, 2023 (Doc. 97)..... A-16

Judgment entered on December 21, 2023 (Doc. 99) A-19

Circuit Court Allocation Judgment entered May 23, 2023 (R. Ex. 4)..... A-20

Petitioner’s German Affidavit (R. Ex. 14)..... A-47

German Consent Order entered on May 31, 2023 (redacted)..... A-75

July 10 & 25, 2023 Orders of the Circuit Court A-84

Völker/Clausius, Custody and Visitation Law, §11 Cross-Border Custody, Visitation,
and Child Abduction Cases, beck-online (excerpt)..... A-89

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

Asli Baz,

Petitioner,

Case No. 23 C 5017

v.

Judge Jorge L. Alonso

Anthony Patterson,

Respondent.

Memorandum Opinion and Order

Before the Court is Petitioner Asli Baz’s petition for return of the parties’ child, A.P., to Germany. For the below reasons, the Court grants the petition and orders Respondent Anthony Patterson to return A.P. to Germany forthwith.

Findings of Fact

The Court makes the following findings of fact following a two-day evidentiary hearing, which included witness testimony, documentary evidence, and the parties’ arguments.

While visiting Florida from the United Kingdom, Baz met Patterson, who at that time lived in Miami, and they then began a relationship in approximately 2013. In 2015, Baz moved to Chicago on a student visa to pursue a doctoral degree in clinical psychology, and the parties moved in together. They did not marry, and had a son, A.P., who was born in 2017. Shortly after, the parties separated, and lived on different floors of their home with A.P. pursuant to an Illinois state court custody order. On November 24, 2017, Patterson committed a domestic battery against Baz, for which he was later charged and convicted. (*See* Pet. Ex. 8.)

For several years, the parties litigated custody and other issues related to A.P. in the Circuit Court of Cook County, Illinois (the “Illinois state court”). On August 5, 2019, that court

allowed Baz to relocate with A.P. to Wisconsin for her pre-doctoral internship. On September 2, 2020, the court allowed her to relocate with A.P. to Minnesota for her post-doctoral fellowship. Patterson remained in Chicago, and A.P. would split his time between the parties.

Baz completed her post-doctoral fellowship in 2021, and her student visa was set to expire in May 2022. After failing to obtain employment or another basis to lawfully remain in the United States, Baz sought permission from the Illinois state court to relocate with A.P. to Germany. The court granted Baz's request over Patterson's objection and the recommendation of the guardian ad litem, Michael Bender.

On May 23, 2022, the Illinois state court entered the parties' proposed consent order related to the relocation, titled "Allocation Judgment: Allocation of Parental Responsibilities and Parenting Plan" (the "Allocation Judgment"). (Pet. Ex. 7.) Among other things, the Allocation Judgment provided that Patterson would have parenting time with A.P. during summer and other school breaks, and could visit A.P. in Germany, but otherwise A.P. would spend his time with Baz. (*Id.* art. 3.01.) The parties could modify this arrangement by written agreement. (*Id.* art. 3.01(G).¹) Patterson also was allowed daily video calls with A.P., and Baz was to "continue to make efforts towards applying for temporary or permanent Visas that enable her to travel to and from the United States." (*Id.* arts. 3.01(G), 3.03.) Under the Allocation Judgment, A.P. would attend school in Dusseldorf, Germany, with each parent paying half the tuition fee. (*Id.* arts. 1.04, 4.3(a).) Each parent was to maintain physical possession of A.P.'s United States passport during their respective parenting time, and the parents were to exchange the passport during pick-up/drop-off periods. (*Id.* art. 3.05(D).) The parents also agreed that, specifically with respect to

¹ The Allocation Judgment erroneously contains two successive articles 3.01(G)—this citation refers to the second such article of the Allocation Judgment, titled "Modification."

the Hague Convention, “[t]he ‘Habitual Residence’ of the minor child is the United States of America, specifically the County of Cook, State of Illinois, United States of America,” and that they had not “consented, or acquiesced to the permanent removal of the child to or retention in any country other than the United States of America.” (*Id.* arts. VI, VI(D).) The Allocation Judgment also stated, “So long as at least one parent resides in the State of Illinois, the Circuit Court of the State of Illinois shall retain exclusive and continuing jurisdiction over this cause to enforce or modify the terms and provisions of this Allocation Judgment.” (*Id.* art. 7.05.) Baz’s move to Germany was intended to be temporary while she sought to return to the United States, though the Allocation Judgment did not provide a termination date. (*See* Pet. Ex. 7, art. 3.01(B) (detailing parenting time for 2022–23 and indefinite future years).)

Based on the Allocation Judgment, and after getting rid of most of her belongings in the United States, Baz and A.P. relocated to Germany on approximately May 13, 2022. Baz currently lives in Erkrath, Germany. Prior to this, A.P. had attended school in Chicago during his parenting time with Patterson and participated in extracurricular activities including soccer, swimming, art classes, and gymnastics. A.P. also has siblings who live in Chicago and extended family elsewhere in the United States.

A.P. attended kindergarten at the International School on the Rhine in Dusseldorf from August 2022 until December 2022, then attended Johanniter Kindergarten in Erkrath, Germany from January 2023 until July 2023. A.P. was then enrolled and scheduled to begin first grade on August 8, 2023, at Regenbogen Grundschule Primary School in Erkrath, Germany. Patterson has visited A.P. while A.P. is in Germany and has exercised parenting time in the United States.

A.P. is fluent in English, German, and Turkish and has extended family and friends in Germany. In addition to his German schooling, A.P. has participated in swim classes and has a German pediatrician, dentist, and therapist—all of which are conducted in German.

At the conclusion of his parenting time with A.P. on January 5, 2023, Patterson did not return A.P.'s United States passport to Baz. In response, Baz first sought the help of German police to obtain A.P.'s passport, then filed a legal case in Germany seeking an order preventing A.P. from being removed from Germany and a custody order. The German court entered interim orders prohibiting A.P.'s removal from Germany. Patterson retained German counsel, who represented him during those proceedings.

In March 2023, Patterson filed with the Illinois state court an “Emergency Motion to Modify Parenting Time and Allocation of Parental Responsibilities and Parenting Time,” which the Court deemed not an emergency and continued. (Resp. Exs. 7, 26.) In April 2023, the Illinois state court granted Baz’s attorney leave to withdraw in that state case and ordered Baz to file a supplemental appearance. (Resp. Ex. 7.) To date, she has not done so.

On May 31, 2023, the parties and their counsels negotiated a settlement in the German proceedings and reached an agreement, memorialized in a “Consent Order” signed that day. (Pet. Ex. 4.) Pursuant to the Consent Order, and among other things, the parties agreed that A.P. “is currently living in Germany with the Child’s Mother,” but Patterson “is authorized and required to have parenting time or contact with [A.P.] during the period from 06/19/2023 through 07/31/2023” and “commits himself to return [A.P.] to Germany after the end of his parenting time.” (*Id.* at AB000411–12.) They agreed that Patterson was allowed other discrete contact time with A.P. in Germany in August 2023, and that Patterson would keep A.P.’s American passport and Baz would keep A.P.’s German passport. (*Id.* at AB000412.) The parties also were “in

agreement that the custody related matters pertaining to [A.P.] . . . in the USA and in Germany will not currently be pursued further in view of the interim settlement.” (*Id.*) Patterson also committed himself “to submit the settlement . . . to the court in Chicago,” and “to request that the American court suspend the proceedings in view of the fact that the German attorneys want to come up with an out-of-court solution.” (*Id.* at AB000413.) The parties otherwise agreed “that the court settlement from the Circuit Court of Cook County, Illinois, from 05/23/2022 should continue to apply,” referring to the Allocation Judgment. (*Id.* at AB000411; *see also id.* at AB000412 (“As long as no further specifications have been adopted, the rules in the settlement from 05/23/2022 shall remain in place.”).) On June 1, 2023, Patterson notified the Illinois state court of the parties’ agreement.

However, Patterson then immediately claimed to the guardian ad litem in the Illinois state case, Michael Bender, that he had agreed to the Consent Order under duress.² At some point, Patterson filed an “Emergency Motion to Modify Parenting Time and Allocation of Parental Responsibilities and Parenting Plan and Petition for Rule to Show Cause and for a Finding of Indirect Civil Contempt”³ before the state court, and appears to have pursued that motion notwithstanding his commitment to request that the proceedings be suspended under the Consent Order.⁴ (*See* Resp. Exs. 18, 26.⁵) In light of Patterson’s actions, Baz believed that Patterson

² The Court does not find that Mr. Patterson was under duress at that time—he was represented by retained counsel, voluntarily participated in the May 31, 2023, settlement proceedings, and presented no evidence that he signed the Consent Order under duress.

³ This motion likely was the same as or related to Patterson’s “Emergency Motion to Modify Parenting Time and Allocation of Parental Responsibilities and Parenting Time,” filed in March 2023. (*See* Exs. 7, 26.)

⁴ The Court was not provided with a copy of the motion itself.

⁵ There was some confusion at the evidentiary hearing regarding the proper numbering for Patterson’s exhibits. For clarity and consistency, the Court applies the exhibit numbering of the tabbed binder of Patterson’s exhibits that was submitted to the Court and reflects the exhibits in the order they were exchanged by Patterson to Baz’s counsel on October 31, 2023. This may not

would not return A.P. following his summer 2023 parenting time. Accordingly, she did not send A.P. to the United States on June 19, 2023, as required by the Consent Order and Allocation Judgment.

On June 27, 2023, the state court considered Patterson’s “Emergency Motion to Enforce the May 23, 2022 Court Order and to Modify Parental Responsibilities and Parenting Plan.” (Resp. Ex. 20.) It found that Baz had not turned A.P. over to Patterson on June 1, 2023—though the Consent Order had revised the exchange date to June 19, 2023, which likewise had passed—ordered Baz to turn over A.P. to Patterson immediately, and authorized Patterson to travel to Germany to retrieve A.P. (*Id.*)

Patterson travelled to Germany, and on July 3, 2023, he arrived at A.P.’s kindergarten and took A.P. with him. The kindergarten staff called the German police, who stopped Patterson at the Dusseldorf airport but ultimately allowed him to leave with A.P. because the Consent Order confirmed that Patterson was within his summer parenting time.

Sometime around July 7, 2023, Patterson appears to have filed an “Emergency Ex Parte Petition for Temporary Restraining Order and Preliminary Injunction,” requesting that Baz be ordered to return A.P. to Chicago and requesting sole custody.⁶

On July 18, 2023, Baz filed a Hague Convention Application for Return to the Central Authorities for the United States and Germany, seeking the return of A.P. to Germany. On August

always correspond with the numbers used for Respondent’s exhibits during the evidentiary hearing.

⁶ The Court has not been provided with a copy of this petition, and Patterson disputes that he requested sole custody. However, the Illinois state court did grant the petition and awarded Patterson exclusive parenting time on July 10, 2023.

1, 2023, she filed her pending Verified Petition for Return of Child to Germany in this Court.⁷
(ECF No. 1.)

On July 25, 2023, the Illinois state court converted its temporary restraining order against Baz into a preliminary injunction. Despite Baz’s request, the Illinois state court has not stayed its custody case and has kept its preliminary injunction in effect. (Resp. Ex. 41.) Since then, Patterson has not allowed A.P. to return to Germany.

On November 20 and 27, 2023, the Court held an evidentiary hearing, during which the parties presented witness testimony, documentary evidence, and arguments to support their respective positions. Following the hearing, each side submitted proposed findings of fact and conclusions of law, which the Court has considered.⁸

Conclusions of Law

The Hague Convention, to which both the United States and Germany are signatories,⁹ is designed “to address the problem of international child abductions during domestic disputes.” *Monasky v. Taglieri*, 140 S. Ct. 719, 723 (2020) (internal quotation marks and citation omitted). The Convention “ordinarily requires the prompt return of a child wrongfully removed or retained away from the country in which she habitually resides,” with certain exceptions. *Id.* “The Convention’s return requirement is a ‘provisional’ remedy that fixes the forum for custody

⁷ The Court is aware that the Hague Convention envisions a six-week timeline to adjudicate Hague cases. Hague Convention art. 11. Unfortunately, that timeline was not feasible in this case due to the parties’ schedules.

⁸ This includes Patterson’s submission, a physical copy of which was filed with the Court on December 8, 2023.

⁹ *See* Hague Conference on Private Int’l Law, Convention of 25 Oct. 1980 on the Civil Aspects of Int’l Child Abduction, Status Table, <https://www.hcch.net/en/instruments/conventions/status-table/?cid=24>.

proceedings.” *Id.* (citation omitted). In the United States, the Hague Convention is implemented by the International Child Abduction Remedies Act (“ICARA”), 22 U.S.C. § 9001 *et seq.*

“The central question in any petition seeking the return of a child under the Hague Convention and ICARA is whether the child who is the subject of the petition has been ‘wrongfully’ removed or retained within the meaning of the Convention.” *Redmond v. Redmond*, 724 F.3d 729, 737 (7th Cir. 2013). “[A] removal or retention is wrongful where (a) ‘it is in breach of rights of custody attributed to a person . . . either jointly or alone, under the law of the State (b) in which the child was habitually resident immediately before the removal or retention’; and (c) ‘at the time of removal or retention[,] those rights were actually exercised . . . or would have been so exercised but for the removal or retention.’” *Torres v. Tovar*, No. 22-cv-3806, 2023 WL 5431352, at *5 (N.D. Ill. Aug. 23, 2023) (quoting Hague Conv. art. 3). The petitioner must prove these elements by a preponderance of the evidence. 22 U.S.C. § 9003(e)(1). If she does so, the burden shifts to the respondent to show that an exception applies, including an affirmative defense of grave risk of harm under Article 13(b) by clear and convincing evidence. 22 U.S.C. § 9003(e)(2).

A court thus asks four questions to determine whether a removal or retention was wrongful: “(1) When did the removal or retention of the child occur? (2) In what State was the child habitually resident immediately prior to the removal or retention? (3) Was the removal or retention in breach of the custody rights of the petitioning parent under the law of the State of the child’s habitual residence? and (4) Was the petitioning parent exercising those rights at the time of the unlawful removal or retention?” *Redmond*, 724 F.3d at 737. The Court now turns to those questions.

1. Date of Retention

Baz argues that Patterson retained A.P. on three possible dates:

- 1) June 2, 2023, when Patterson told the guardian ad litem in the Illinois state case that he had agreed to the German Consent Order under duress;
- 2) July 7, 2023, when Patterson purportedly requested sole custody of A.P. in Illinois state court; or
- 3) July 18, 2023, when Baz filed her Hague Convention Application seeking A.P.’s return.

Patterson counters that no retention occurred on any date.

The Court concludes that July 7, 2023 is the proper date of Patterson’s retention of A.P. for purposes of its Hague Convention analysis. “Wrongful retentions typically occur when a parent takes a child abroad promising to return with the child and then reneges on that promise[.]” *Redmond*, 724 F.3d at 738 n.5. As other circuits have found, this is “‘the date consent was revoked’ or ‘when the petitioning parent learned the true nature of the situation.’” *Abou-Haidar v. Sanin Vazquez*, 945 F.3d 1208, 1216 (D.C. Cir. 2019) (quoting *Palencia v. Perez*, 921 F.3d 1333, 1342 (11th Cir. 2019)). On July 3, 2023, Patterson took A.P. to the United States after invoking his parenting time and getting permission from the Illinois state court to do so. But on or around July 7, 2023, Patterson appears to have sought sole custody of A.P. in Illinois state court, thus indicating his refusal to abide by the parties’ Consent Order and that he would not be returning A.P. to Germany at the end of the month (as indeed he did not). The Court thus considers July 7, 2023, as the date of Patterson’s retention of A.P. to ground its analysis—though its conclusions below as to Baz’s Hague Convention petition would be the same for any of the other proposed retention dates in June–July 2023, including when Patterson refused to return A.P.

after July 31, 2023 (the last date of Patterson’s parenting time under the Consent Order). *See Abou-Haidar*, 945 F.3d at 1217 (“Given the temporal concentration of these events and the lack of any material effect on the analysis of choosing one date over another, we need not isolate one definitive act of retention. . . . [O]ne or more of these actions suffices to identify a retention.”).

2. Habitual Residence

“The place where a child is at home, at the time of removal or retention, ranks as the child’s habitual residence.” *Monasky*, 140 S. Ct. at 726. This requires a “fact-driven inquiry,” and courts “must be ‘sensitive to the unique circumstances of the case and informed common sense.’” *Id.* at 727 (quoting *Redmond*, 724 F.3d at 744). “For older children capable of acclimating to their surroundings, courts have long recognized, facts indicating acclimatization will be highly relevant.” *Id.*; *see also id.* at 727 n.3 (listing factors, including a change in geography combined with the passage of an appreciable period of time, age of the child, academic activities, participation in sports programs and excursions, meaningful connections with the people and places in the child’s new country, and language proficiency). The parents’ intentions are “relevant considerations” too. *Id.* at 727. “No single fact, however, is dispositive across all cases.” *Id.*

Here, certain facts weigh against Baz. Most notably, the parties explicitly agreed in the May 23, 2022, Allocation Judgment that A.P.’s habitual residence of the minor child was the United States of America. (Pet. Ex. 7, art. VI.) As this Court already recognized, the Allocation Judgment purported to determine A.P.’s habitual residence as of May 23, 2022—not as of the date of retention, July 7, 2023. (ECF No. 24 at 5.) But the parties then appeared to reaffirm A.P.’s United States residence when they reiterated in their May 31, 2023, Consent Order that the provisions of the Allocation Judgment largely remained in place except for certain carveouts—

evidently agreeing that the United States remained A.P.’s habitual residence at that time too. (*See* Pet. Ex. 4 at AB000411–12.) The parties’ shared intentions are relevant to determining habitual residence, and the parties’ arguably mutual agreement that A.P.’s habitual residence was the United States as of May 31, 2023, weighs in favor of concluding that the United States remained A.P.’s habitual residence on July 7, 2023, just over one month later. *See Hulsh v. Hulsh*, No. 19 C 7298, 2020 WL 11401634, at *7 (N.D. Ill. July 21, 2020) (“Parents’ intentions and circumstances pertaining to the parents . . . are relevant considerations[.]”)

Still, in *Monasky*, the Supreme Court rejected the view that the parties’ shared intentions control the habitual-residence inquiry, and pointed to foreign decisions finding that “the purposes and intentions of the parents [are] merely one of the relevant factors.” *Monasky*, 140 S. Ct. at 728–29. It therefore concluded “that the determination of habitual residence does not turn on the existence of an actual agreement.” *Id.* at 726. Thus, even if the parents agreed in May 2022 and again in May 2023 that the United States was A.P.’s habitual residence as of those dates, that is but one factor. The Court considers the totality of the circumstances to determine whether A.P. was at home in Germany when Patterson retained him in July 2023.

Any agreement reflected in the Allocation Judgment and Consent Order as to A.P.’s habitual residence is outweighed by the evidence of A.P.’s acclimation in Germany and other factors that establish Germany as A.P.’s habitual residence. *See Martinez v. Cahue*, 826 F.3d 983, 992 (7th Cir. 2016) (concluding that Mexico was a child’s habitual residence where, among other things, “[w]hile A.M. had spent most of his life in Illinois, that fact is not dispositive. . . . By the end of his first year in Mexico, he displayed all of the indicia of habitual residence, including friends, extended family, success in school, and participating in community and religious activities.”). As Baz testified at the hearing, and Patterson did not meaningfully challenge, A.P.

had been attending kindergarten and was enrolled in school in Germany, participated in extracurricular activities in Germany, and was fluent in German—which was the language in which his schooling, extracurriculars, and medical services were conducted. The Allocation Judgment also does not set a deadline for A.P.’s presence in Germany, even to the extent that Baz committed to continue seeking immigration authorization to return to the United States. It is little surprise, then, that after A.P. spent many months in Germany with Baz, attended school and other activities there, and did not return to the United States except during school breaks, and the parties had no definitive plans for A.P. to return permanently to the United States, Germany would have become A.P.’s habitual residence under the Hague Convention notwithstanding A.P.’s prior United States residence. *See Monasky*, 140 S. Ct. at 727 (“locating a child’s home is a fact-driven inquiry”); *see also Koch v. Koch*, 450 F.3d 703, 715 (7th Cir. 2006) (“The establishment of a habitual residence requires an actual change in geography, as well as the passage of an appreciable amount of time. . . . [S]hared intent to someday return to a prior place of residence does not answer the primary question of whether the residence was effectively abandoned and a new residence established[.]”); *Garcia v. Pinelo*, 122 F. Supp. 3d 765, 776 (N.D. Ill. 2015) (“Even a temporary move can effectuate a change of a child’s habitual residence.”); *Capalungan v. Lee*, No. 2:18-cv-1276, 2019 WL 3072139, *4 (S.D. Ohio July 15, 2019) (“Ten months is a considerable amount of time to form bonds with family and friends considering [the child] was only five years old.”). Indeed, the parties acknowledged in the Consent Order that, as of May 2023, A.P. was “currently living in Germany” with Baz. (Pet. Ex. 4 at AB000411.) The Court therefore concludes that based on the totality of the circumstances and the evidence presented, A.P.’s habitual residence as of the date of retention was Germany.

3. Custody Rights

A retention is wrongful under the Hague Convention only if it violates the petitioner’s “rights of custody,” which “include rights relating to the care of the person of the child and, in particular, the right to determine the child’s place of residence.” *Abbot v. Abbott*, 560 U.S. 1, 9 (2010). Because Germany is A.P.’s habitual residence, the Court considers that issue under German law. *See Norinder v. Fuentes*, 657 F.3d 526, 533 (7th Cir. 2011). Here, Baz had custody rights under German law. The parties’ Consent Order stated “that joint parental care and custody shall currently remain in place,” and Dr. Hanke, Baz’s German lawyer and expert, testified before and during that Baz had joint custody rights under German law. (Pet. Ex. 4 at AB000411; *see also* Pet. Exs. 1, 2.) Patterson presented no opposing expert or argument disputing this interpretation of German law or indicating that because Patterson was authorized under the parties’ Consent Order and the Illinois state court’s later orders to keep A.P. in the United States, Baz lacked custody rights for purposes of the Hague Convention.

Next, the Court considers whether Baz was exercising her custody rights at the time of Patterson’s retention of A.P. “The standard for finding that a parent was exercising his custody rights is a liberal one, and courts will generally find exercise whenever a parent with *de jure* custody rights keeps, or seeks to keep, any sort of regular contact with his or her child,” and “a person cannot fail to exercise his custody rights under the Hague Convention short of acts that constitute clear and unequivocal abandonment of the child.” *Walker v. Walker*, 701 F.3d 1110, 1121 (7th Cir. 2012) (internal quotation marks and citations omitted). Here, Baz plainly was exercising her custody rights at the time of Patterson’s retention—she was able to stay in regular contact with A.P., and there is no evidence that Baz failed to do so or abandoned A.P. (*See* Pet. Ex. 7, art. 3.03.)

Baz thus has shown a *prima facie* case of wrongful retention under the Hague Convention. The Court now turns to Respondent’s affirmative defense.

4. Affirmative Defenses

In his answer, Patterson pled an affirmative defense under Article 13(b) of the Hague Convention, claiming that returning A.P. to Germany would create a grave risk of harm to A.P. or place A.P. in an intolerable situation. (*See* ECF No. 33 at 26–27.) Patterson presented no evidence or argument of grave risk during or after the evidentiary hearing and certainly has not supported this affirmative defense by clear and convincing evidence. *See* 22 U.S.C. § 9003(e)(2)(A). The Court accordingly finds that Baz has shown a *prima facie* case under the Hague Convention, Patterson has not established an affirmative defense, and thus A.P. must be returned to Germany.

To be clear, the Court’s decision in this case is not a custody determination, and A.P. might ultimately return to the United States based on the parties’ custody proceedings.¹⁰ But this Court’s task has been to decide only whether Patterson wrongfully retained A.P. outside of A.P.’s habitual residence on July 7, 2023, under the Hague Convention—and it concludes that he did. The Court thus must order the return of A.P. to Germany forthwith. *See* Hague Conv. art. 12.

Conclusion

The Court grants Baz’s petition for return of A.P. to Germany (ECF No. 1) and orders Patterson to return A.P. to Germany. The Court directs the parties to confer and cooperate

¹⁰ The Allocation Judgment specifically provides that the Illinois state court, which has been the parties’ agreed chief forum for their custody disputes, and to which the German courts have deferred, shall have “exclusive and continuing jurisdiction” over the parties’ custody proceedings. (Pet. Ex. 7, art. 7.05.) That court found in July 2023 that Baz “has exhibited extremely concerning behavior as to direct violations of the [Allocation Judgment]” and “has shown utter disregard to the orders entered in this Court,” and has granted Patterson sole custody of A.P. (Resp. Ex. 17.)

regarding reasonable arrangements for promptly returning A.P. to Germany.¹¹ The Clerk of the Court shall release A.P.'s German passport to Baz and A.P.'s United States passport to Patterson. Civil case terminated.

SO ORDERED.

ENTERED: December 13, 2023

A handwritten signature in black ink, consisting of a large, stylized 'J' and 'A' followed by a period, enclosed within a horizontal oval shape.

HON. JORGE ALONSO
United States District Judge

¹¹ The Court is aware that Baz will be leaving the United States for Germany on December 15, 2023. The parties shall make reasonable efforts to allow A.P. to accompany Baz on that trip.

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
(Chicago Division)

ASLI BAZ

*

Petitioner,

*

Civil No.: 1:23-cv-05017

v.

*

ANTHONY PATTERSON

*

Respondent.

*

* * * * *

RETURN ORDER

The Convention on the Civil Aspects of International Child Abduction, done at The Hague on October 25, 1980; International Child Abduction Remedies Act, 22 U.S.C. 9001 *et seq.*

This Return Order is made pursuant to the 1980 Convention on the Civil Aspects of International Child Abduction (the “Hague Convention”) and the International Child Abduction Remedies Act (“ICARA”), 22 U.S.C. 9001 *et seq.* In accordance with this Court’s Memorandum Opinion and Order (Doc. No. 91), it is hereby:

1. **ORDERED**, that in accordance with this Court’s Memorandum Opinion and Order (Doc. No. 91), the minor child A.P. (born in 2017) (the “child”) shall be returned to Germany with the Petitioner, Asli Baz (the “Mother”), departing on December 23, 2023 from Illinois; and it is further

2. **ORDERED**, that the child shall travel to Germany with the Mother on December 23, 2023 from Chicago O’Hare International Airport to Frankfurt Airport in Germany; and it is further

3. **ORDERED**, that the Mother shall provide the Father with a copy of the child’s travel itinerary, including the flight numbers and times, promptly upon obtaining airline tickets for

the child's December 23, 2023 travel to Germany and shall file a status report providing the same to this Court promptly upon obtaining the tickets; and it is further

4. **ORDERED**, that the Father shall deliver the child to the Mother on December 23, 2023 at Chicago O'Hare International Airport four (4) hours before the child's departure time at the check in area for the airline on which the child shall be travelling with the Mother; and it is further

5. **ORDERED**, that in accordance with 22 U.S.C. 9004, the parties are hereby prohibited from removing A.P. or causing A.P. to be removed from the Northern District of Illinois before A.P.'s departure from Illinois for Germany; and it is further

6. **ORDERED**, that the Mother shall file a notice in this Court promptly upon A.P.'s return to Germany to confirm to this Court that A.P. has been returned to Germany; and it is further

7. **ORDERED**, that if the Father does not deliver the child to the Mother on December 23, 2023 in accordance with Paragraph 4 of this Return Order, or if he interferes or causes or allows others to interfere with or otherwise prevent the Mother from returning the child to Germany in accordance with this Return Order, any peace officer in the State of Illinois, or any federal officer, is hereby commanded to assist the Mother to pick up the child in the United States, and to allow the Mother to return the child to Germany, giving the Mother the right without interference to have A.P. in her lawful custody for the purposes described herein; and it is further

8. **ORDERED**, that if the Father does not deliver the child to the Mother on December 23, 2023 in accordance with Paragraph 4 of this Return Order, or if he interferes or causes or allows others to interfere with or otherwise prevent the Mother from returning the child to Germany in accordance with this Return Order, the Court may issue a warrant for the arrest of the Father and appearance for a contempt hearing; and it is further

9. **ORDERED**, does not deliver the child to the Mother on December 23, 2023 in accordance with Paragraph 4 of this Return Order, or if he interferes or causes or allows others to interfere with or otherwise prevent the Mother from returning the child to Germany in accordance with this Return Order, the United States Marshal shall enter the name of A.P., born in 2017, into the national police computer system (N.C.I.C.) missing children's section forthwith upon request of the Mother through her counsel of record in this matter; and it is further

10. **ORDERED**, that the child's United States passport shall continue to be held by the Clerk of this Court until January 2, 2024; thereafter, the child's United States passport may be released to the Father; and it is further

11. **ORDERED**, that this Return Order is not a determination of the merits of any custody issues within the meaning of Article 19 of the Hague Convention; and it is further

12. **ORDERED**, that this Return Order is made under the authority of 22 U.S.C. 9003(a), conferring original jurisdiction upon this Court, and under the authority of Article 12 of the 1980 Hague Convention.

Dated this 14th day of December, 2023.



Jorge L. Alonso
District Judge
United States District Court for the
Northern District of Illinois

**IN THE UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF ILLINOIS**

Asli Baz
Plaintiff(s),

v.

Anthony Patterson
Defendant(s).

Case No. 23 C 5017
Judge Jorge L. Alonso

JUDGMENT IN A CIVIL CASE

Judgment is hereby entered (check appropriate box):

in favor of plaintiff(s)
and against defendant(s)
in the amount of \$

which includes pre-judgment interest.
 does not include pre-judgment interest.

Post-judgment interest accrues on that amount at the rate provided by law from the date of this judgment.

Plaintiff(s) shall recover costs from defendant(s).

in favor of defendant(s)
and against plaintiff(s)

Defendant(s) shall recover costs from plaintiff(s).

other: The Court grants Petitioner Asli Baz's petition for return of A.P. to Germany.

This action was (*check one*):

tried by a jury with Judge
 tried by Judge
 decided by Judge Jorge L. Alonso

presiding, and the jury has rendered a verdict.
without a jury and the above decision was reached.
on a petition [1].

Date: 12/21/2023

Thomas G. Bruton, Clerk of Court

Lesley Fairley, Deputy Clerk

Case: 1:23-cv-05017 Document #: 21-1 Filed: 08/23/23 Page 1 of 27 PageID #:146

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, DOMESTIC RELATIONS DIVISION**

ASLI BAZ,

Petitioner,

v.

ANTHONY PATTERSON,

Respondent.

ENTERED
Judge Lori Rosen, 2219
MAY 23 2022
IRIS Y. MARTINEZ
CLERK OF THE CIRCUIT COURT
OF COOK COUNTY, IL

Case No.: 17 D 79814

**ALLOCATION JUDGMENT:
ALLOCATION OF PARENTAL RESPONSIBILITIES AND PARENTING PLAN**

This cause coming on to be heard on Petitioner's Petition for Allocation of Parental Responsibilities of the parties pursuant to State of Illinois Public Act 099-0090 ("Act"), effective January 20, 2021, specifically Part VI of the Act entitled ALLOCATION OF PARENTAL RESPONSIBILITIES (750 ILCS 5/600 et seq); the Court having jurisdiction over the subject matter and the parties and being fully advised in the premises:

BASED UPON THE STIPULATION OF THE PARTIES, THE COURT FINDS:

- 1.01. The Court has jurisdiction over the parties and the subject matter hereof.
- 1.02. ASLI BAZ ("ASLI") and ANTHONY PATTERSON ("ANTHONY") have never been married. One child was born to ASLI, namely, [REDACTED], born [REDACTED], 2017 (the "child" or "minor child").
- 1.03. ANTHONY is the natural father of the minor child and his name is listed on [REDACTED]'s birth certificate.
- 1.04. The parties have reached an agreement regarding the child-related issues in this cause and desire that said agreement be reduced to writing in this Allocation Judgment.

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EXHIBIT 1

**RESPONDENT'S
EXHIBIT**
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A-20

IT IS, THEREFORE, HEREBY ORDERED, ADJUDGED AND DECREED:

ARTICLE I

ALLOCATION OF SIGNIFICANT DECISION-MAKING RESPONSIBILITIES

1.01. **Parenting Responsibilities.** ASLI and ANTHONY shall share parenting responsibilities for the minor child, subject to the specific terms, conditions, interpretations and definitions set forth in this Allocation Judgment and Parenting Plan. The parties agree that significant decisions, including but not limited to education, health care, religious training, and extracurricular activity participation (as defined by Section 602.5[b] of the Act), shall be allocated to both of them. Except as to the issues of education, health care, religious training, and extracurricular participation, however, neither party shall be required to consult with the other party as to decision-making on a day-to-day basis that are routine in nature and the party who has physical possession of the child at the time in question shall have sole decision-making authority except as to the issues aforesaid.

1.02. **Responsibility for Routine Daily Decisions.** The parties agree that each parent shall have principal authority and responsibility for daily and ordinary supervision and care when the child is with that parent.

1.03. **Responsibility for Significant Decision-Making Responsibilities.** The parties agree that Significant Decisions (as defined by 750 ILCS 5/602.5) include those related to the minor child's (a) education through high school, including choice of school and tutors; (b) health, including all decisions related to the medical, dental and psychological needs of the child and to the treatments


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d. Each of the parents shall have the equal right to confer with teachers and counselors concerning the child's education and other activities, however, each parent may separately schedule such conferences, subject to the administrative procedures and policies of the school.

C. **Social Functions:** When the minor child is invited to a social function (ex: the birthday of a classmate, etc.) the parent having parenting time on the day of the function shall be responsible for taking the steps necessary to have the child attend the function (ex: buying a birthday gift, arranging transportation, etc.). Each party shall notify the other of upcoming social functions shortly after receiving notification so that both parties know in advance and are not surprised on the morning of said function.

D. **Homework and School Performance:** The parties agree that is in the best interests of the minor child that they be on time to school, maintain good attendance, and complete homework assignments. During their respective parenting times as set forth below, the parties agree to oversee the child's timely completion of school projects, homework, and to ensure attendance at school each day possible. If there is a dispute, ASLJ shall have final decision as to whether the minor child requires a tutor.

1.05. **Religion:** When the child is in the possession of the respective parent that parent may raise the child in the religious faith he or she chooses.

1.06. **Extracurricular Activities and Lessons:**

A. **Costs:** The parent incurring the expense shall be solely responsible for payment of said expense.

B. **Scheduling:** Each parent shall obtain approval from the other parent prior to scheduling any individual lesson or activity for the minor child which – that parent has reason to


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believe – might occur during the other party’s parenting time. Each parent will notify the other, or arrange for the parent to be notified, of all information on scheduling, coaches, instructors, etc. for any extracurricular activities provided that such information is not available to the other parent on a school or activity website or email. The parent who has parenting time during any extracurricular activities shall be responsible for getting the minor child ready for the extracurricular activities and transporting the child to and from the activities. Both parents may attend any and all activities, practices, games, plays, etc., however, at all such activities, ASLI and ANTHONY shall exercise their best efforts to maximize the child’s comfort.

C. **Other Provisions:** ASLI and ANTHONY shall be listed on each activity’s “Emergency List,” if any, and shall be notified in the event of an emergency involving the minor child. Additionally, the address, telephone, and email address of ASLI and ANTHONY shall be listed on each activity’s telephone directory, if any.

1.08. **Medical and Health Related Issues:** ASLI and ANTHONY shall share responsibilities for major decisions relating to the minor child’s health care, subject to the following terms and conditions:

A. **Information and Records:** ASLI and ANTHONY shall be listed on all health care professionals’ records and shall be entitled to access to the minor child’s health care (including but not limited to medical, dental, and psychological) records. Both parents will notify each other if the child is not feeling well within three (3) hours of the child becoming ill. The notification will be via Talking Parents. Text messages or phone calls will only be used in the case of an emergency.


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B. Current Providers: To the extent possible, the child shall continue under the care of his current primary healthcare providers. To the extent possible, ASLI and ANTHONY shall select in-network providers for medical, dental, optical, and psychological care when selecting health care providers for the child. If there is a dispute, ASLI shall have final decision as to healthcare providers for the minor child.

C. Consultations with Providers: Either party may initiate consultations with any of the existing health care providers for the minor child or with any agreed-upon specialist.

D. Routine Health Care: ASLI shall be responsible for scheduling the child's routine wellness and dental check-ups and all other appointments. ANTHONY has access to medical records and appointments. He understands that ASLI cannot be required to schedule appointments around ANTHONY's schedule, as he does not reside in Germany. The parties agree to abide by medical regimens that are prescribed by the doctor.

E. Emergency/Major Care: If an emergency or health concern arises that requires immediate attention, the parties shall first call the other parent and notify him or her. In the event that the parent does not answer his or her phone, the parent shall leave a voicemail and also send a text message alerting the other as to the emergency and/or health concern that requires immediate attention. Parents shall continue to call each other until contact is made. If neither parent is available in an emergency, the family member or friend who is with the child will immediately text and call both parents and communicate about the child's condition and whereabouts. It will be both parents' responsibility to notify and ensure that family members and/or friends follow this. Emergency medical procedures deemed necessary for the preservation of life or for the prevention of a further serious injury or illness may be authorized by the parent who is in physical possession of the child


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Case: 1:23-cv-05017 Document #: 21-1 Filed: 08/23/23 Page 7 of 27 PageID #:152

at the time, provided that all reasonable efforts shall be made to inform the other parent as soon as reasonably possible. Elective major medical procedures shall only be performed with the written consent of both parties in accordance with the advice and recommendation(s) of the child's physician(s)/pediatrician(s)/medical provider(s).

F. Prescriptions: Each parent shall provide the other with any medically prescribed instructions for care and medications that the child is taking at the time of the transfer of physical possession and with sufficient information to allow the other parent to continue any such instructions for care and to obtain refills of that medication. Each parent shall return the remainder of any medications to the other parent at the end of his or her respective parenting time. During his or her parenting time with the child, each parent shall follow the advice and direction of the child's pediatrician(s), physician(s) and medical providers, including without limitation, ensuring that the child takes all prescribed medications with adherence to recommended times and dosages.

1.09. Communications between the parties: Except as otherwise provided herein or in the case of an emergency, all communication between the parents shall be via Talking Parents. All notifications, tender of documents, written agreements, and the like as required by this Allocation Judgment shall be made via Talking Parents to the extent possible. Each parent shall be solely responsible for the costs of his or her respective accounts and any other costs and fees. Each parent shall install the app on his or her cell phone and shall enable "push notifications" or like service so that messages and information submitted by the other parent are promptly received. Both parents shall timely respond to communications from the other parent. All communications from the other parent shall be cordial in nature and limited to that which is directly related to the minor child. Each parent shall advise the


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Case: 1:23-cv-05017 Document #: 21-1 Filed: 08/23/23 Page 8 of 27 PageID #:153

other immediately by Talking Parents App and text or call of any illness or injury suffered by the child and shall direct any physicians, hospitals, etc., to give the other parent all relevant information regarding any such illness or injury if he/she so requests.

ARTICLE III

ALLOCATION OF PARENTING TIME

3.00 The parties agree that the allocation of parenting time detailed herein is deemed to be in the best interests of the minor child, pursuant to the Illinois Marriage and Dissolution of Marriage Act.

3.01. **Parenting Time**

A. **ASLI's Parenting Time**: ASLI shall have parenting time on all weekdays, weekends, and time that the minor child is not with ANTHONY.

B. **ANTHONY's Parenting Time**: ANTHONY shall have parenting time as follows:

1. This upcoming summer, from June 1-August 10, 2022, and every summer thereafter ^{3 A BG} ~~X~~ days after school lets out until 5 days before school starts;

2. During Autumn Break in Germany (Oct. 10-14, 2022), and every Autumn Break thereafter (Ms. Baz to pay for half of lodging);

3. During Holiday Break in the United States (Dec. 23 – Jan. 5, 2022), and every Holiday Break thereafter (Ms. Baz to pay for transportation);

4. During Winter Break in Germany (Feb. 20-24, 2023), and every Winter Break thereafter (Ms. Baz to pay for half of lodging);

5. During Spring Break (April 1-13, 2023), and every Spring Break thereafter (Ms. Baz to pay for transportation);


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6. The dates for Summer Break, Autumn Break, Holiday Break, Winter Break and Spring break are subject to change in future years based on the minor child's schedule at the International School on the Rhine. For all of these parenting time breaks, the minor child must arrive back in Germany no less than 48 hours prior to when school commences.

7. Mr. Patterson may travel to Germany prior to the beginning of his parenting time if he chooses. If he intends on arriving to Germany prior to his scheduled parenting time, he must notify Ms. Baz no less than 50 days prior to the scheduled parenting plan of his proposed arrival date in Germany. Ms. Baz will not be responsible for additional lodging costs incurred by Mr. Patterson for his early arrival.

8. Mr. Patterson, upon 30 days-notice to Ms. Baz, may exercise additional parenting time with the minor child in Germany. These shall be overnight visits on the weekends (5 p.m. Friday to 5 p.m. Sunday) and after school until 6:30 p.m. on the weekdays. Mr. Patterson will be responsible for all additional transportation and lodging costs associated with this additional parenting time.

C. Pick up/drop offs shall all take place at the Dusseldorf International Airport (DUS), Frankfurt International Airport (FRA) and Cologne Bonn Airport (CGN) (selection of airport shall be based on cost of airfare and travel time for the parties and minor child). Ms. Baz, or one of Ms. Baz's family members, may drop off/pick up the minor child. Mr. Patterson is responsible for flying the minor child to and from the airport. Costs for transportation (flights and lodging) shall be allocated per Paragraph 1.

D. For the Summer Break, Holiday Break, and Spring Break flights, Ms. Baz shall send three

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Case: 1:23-cv-05017 Document #: 21-1 Filed: 08/23/23 Page 10 of 27 PageID #:155

proposed flight itineraries to Mr. Patterson no less than 45 days prior to the scheduled visit. Mr. Patterson shall select one of the three proposed itineraries within 72 hours of receiving the proposal.

E. For the Autumn Break and Winter Break, Mr. Patterson shall send his flight itinerary to Ms. Baz no less than 30 days prior to his scheduled visit. Ms. Baz shall then send three proposed lodging itineraries to Mr. Patterson no less than 25 days prior to his scheduled visit. Mr. Patterson shall select one of the three proposed itineraries within 72 hours of receiving the proposals.

F. If ANTHONY fails to select one of the three proposed itineraries within 72 hours, as required by Section D or E above, he shall be responsible for any additional cost in airfare caused by his delay.

G. ASLI shall continue to make efforts towards applying for temporary or permanent Visas that enable her to travel to and from the United States. ASLI shall provide updates to ANTHONY every six months regarding her progress.

G. **Modification:** The parties may modify the aforementioned parenting time schedule by written agreement (Communication via Talking Parents App).

3.02. **Communications Between Parties and Requirements for Change of Address:** The parties acknowledge the importance of communicating regarding the minor child and therefore, will maintain regular communication regarding the minor child via Talking Parents App. The parties agree and acknowledge that given the age of the minor child, it is vital that certain information regarding his schedule and diet are shared between the parents. Each parent has an


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Case: 1:23-cv-05017 Document #: 21-1 Filed: 08/23/23 Page 11 of 27 PageID #:156

obligation to keep the other informed of any changes in his/her e-mail address, phone number, and residential address within seven (7) days of said change. Further, if a parent wishes to change his or her residential address, the parent changing addresses shall provide the other parent with sixty (60) days written notice of his or her intent to do so, unless such notice is impracticable or otherwise ordered by the Court. If such notice is impracticable, notice shall be given at the earliest date practicable. Notice of intent to change personal residence shall contain the intended date of the change and the new residence address.

3.03. **Communication Between Child and Parent:** During ASLI's parenting time, ANTHONY shall have daily video calls with the minor child at 11:00 a.m. Central Time (6:00 p.m. German Time). ANTHONY's family shall have video calls with the minor child at 9:00 a.m. Central Time (4:00 p.m. German Time). During ANTHONY's parenting time, ASLI shall have daily video calls with the minor child at 11:00 a.m. Central Time (6:00 p.m. German Time). If the minor child is unavailable at this time, the daily video call shall take place at 7:30 a.m. Central Time (2:30 p.m. in Germany). Each party may have additional video/call time with the minor child as the parties' and the minor child's schedule permits.

3.04. **Late for Parenting Time:** If one party is running late to drop off and/or pick up the minor child, the party picking up the minor shall provide proper notice and reasonable estimate as to the expected time of pick up of the minor child.

3.05. **Travel:**

A. ANTHONY shall have the right to temporarily remove the child from the State of Illinois for visits, trips or vacations during his scheduled parenting time. ANTHONY shall be allowed to travel internationally with the minor child without ASLI's written consent.


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B. ASLI shall be allowed to travel within Germany and internationally with the minor child without ANTHONY's written consent.

C. Both parents shall cooperate to obtain any necessary documentation or medical treatment required for such international travel.

D. ASLI shall maintain physical possession of the minor child's passport during her parenting time. ANTHONY shall maintain physical possession of the minor child's passport during his parenting time. The parties shall exchange the minor child's passport at the pick ups/drop offs specified in Paragraph 3.01(B)(1), 3.01(B)(3) and 3.01(B)(5) of this Agreement. If the parties fail to exchange the minor child's passport as required, airport police can enforce this order to ensure the passport's return. The parties shall cooperate and supply any necessary documentation to one another to facilitate the minor child's passport renewal.

E. The party intending to temporarily travel internationally or within the continental United States shall give the other party reasonable advance notice (no less than 48 hours) and provide a travel itinerary prior to travelling with the minor child. The travel itinerary includes travel arrangements, flight schedules, hotel or other out of town accommodations, phone numbers where the child will be staying, and any other relevant contact or travel information. All other travelers traveling with the parent and child shall be identified. The other travelers shall be provided the non-traveling parent's contact information, in the event of an emergency.

3.06. **Make-Up Time:** The parties' agreement to change scheduled parenting time will not trigger make-up time unless specifically agreed to by the parties in writing (agreement by Talking Parents is sufficient).


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4.4. **Reimbursement Procedure.** To the extent there are instances where one party advances payment for an expense set forth in this Article III that would otherwise be the other party's responsibility, or a portion of an expense, for which the other party is responsible under this Article, then the non-paying party shall reimburse the other upon receiving evidence of payment (consisting of a receipt, invoice, credit card statement, or cancelled check) consistent with the timing procedure outlined herein. To effectuate this practice, the party who is owed money shall provide their request for reimbursement via Talking Parents in writing identifying all of the reimbursements, together with the underlying source documents verifying cost and establishing proof of payment. All reimbursements shall occur within thirty (30) days of the request for reimbursement being submitted and supporting documents being tendered. If a party who advances payment fails to request reimbursement from the non-paying parent for a period in excess of two (2) months following the date of the advance payment, the advancing party's right to reimbursement with respect to that payment advanced shall be deemed forever waived.

4.5. **Day-to-Day Expenses.** With the exception of those expenses explicitly set forth above, or as otherwise provided for in this Agreement, ASLI and ANTHONY shall pay for all day-to-day expenses each of them incurs on behalf of their child during his or her respective parenting time, including but not limited to, all vacation, travel and related expenses, entertainment, housing, food, clothing, grooming, and supplies.

4.6. **Dependency Exemption.**


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Case: 1:23-cv-05017 Document #: 21-1 Filed: 08/23/23 Page 16 of 27 PageID #:161

In calendar year 2022 and each alternating year after, ASLI shall have the right to claim the dependency exemption and child tax credits for the minor child in the computation of her Federal and State income tax returns so long as permitted by the Country of Germany. ANTHONY shall execute any required documents necessary for the release of exemptions for the minor child upon request by ASLI.

In calendar year 2023 and each alternating year after, ANTHONY shall have the right to claim the dependency exemption and child tax credits for the minor child in the computation of her Federal and State income tax returns so long as permitted by the Country of Germany. ASLI shall execute any required documents necessary for the release of exemptions for the minor child upon request by ANTHONY.

4.7. **Emancipation Defined**. A child shall be deemed to be emancipated upon the occurrence of the first of the following events:

- a. The child's death.
- b. The child's marriage.
- c. The child's attaining the age of eighteen (18) years, or until the child's graduation from high school, whichever later occurs, but in no event beyond the child's nineteenth (19th) birthday.
- d. The child's maintaining a full-time residence away from the home of the primary residential parent provided that agreed upon residency at a boarding school, camp or similar facility shall not be deemed to constitute a residence away from the primary residential parent's home.

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- e. The child's cohabiting with another person on a resident, continuing conjugal basis.
- f. The child's obtaining full-time employment exclusive of employment during school vacation periods.

ARTICLE IV

POST-SECONDARY EDUCATIONAL EXPENSES

A parent's obligation, if any, to provide for the post-secondary educational expenses of the child are hereby reserved pursuant to the provisions of Section 513 of the Illinois Marriage and Dissolution of Marriage Act, or by any similar or comparable provision in force at the time of question.

ARTICLE V

RELOCATION

5.01. **Intention of Parties:** In the event ASLI seeks to permanently relocate the minor child from Dusseldorf, Germany, the parties acknowledge the statutory definition of "Relocation" set forth in Section 600(g) of the Act (750 ILCS 5/600(g)) and the applicability of Section 5/609.2 of Act (750 ILCS 5/609.2).

5.02. **Statutory Definition of "Relocation" (750 ILCS 5/600(g)):**

A. A change of residence from the child's primary residence located in the county of Cook, DuPage, Kane, Lake, McHenry, or Will to a new residence within this State that is more than twenty-five (25) miles from the child's current residence;

B. A change of residence from the child's current primary residence located in a county not listed in paragraph (A) to a new residence within this State that is more than fifty (50)

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miles from the child's current primary residence; or

C. A change of residence from the child's current primary residence to a residence outside the borders of this State that is more than twenty-five (25) miles from the current primary residence.

5.03. **Compliance with Procedural Requirements:** ASLI and ANTHONY understand and shall comply with the following terms and provisions of Section 609.2 (750 ILCS 5/609.2), specifically (and with emphasis added):

A. A parent intending a "relocation" as defined above **must provide Written Notice** ("Written Notice") of the relocation to the other parent under the parenting plan or allocation judgment. A copy of the notice required under this Section shall be filed with the clerk of the circuit court.

At a minimum, the Written Notice must set forth the following:

1. the intended date of the parent's relocation;
2. the address of the parent's intended new residence, if known; and
3. the length of time the relocation will last, if the relocation is not for an indefinite or permanent period. The court may consider a parent's failure to comply with the notice requirements of this Section without good cause () as a factor in determining whether the parent's relocation is in good faith; and (ii) as a basis for awarding reasonable attorney's fees and costs resulting from the parent's failure to comply with these provisions.

C. If the non-relocating parent signs the Written Notice and the relocating parent filed the Written Notice with the court, relocation shall be allowed without any further court action. The court shall modify the parenting plan or allocation judgment to accommodate a parent's relocation as agreed by the parents, as long as the agreed modification is in the child's best interests.


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Case: 1:23-cv-05017 Document #: 21-1 Filed: 08/23/23 Page 19 of 27 PageID #:164

D. If the non-relocating parent objects to the relocation, fails to sign the Written Notice, or the parents cannot agree on modification of the parenting plan or allocation judgment, the parent seeking relocation must file a petition seeking permission to relocate.

5.04. **Effect of Relocation 25 Miles or Less to a New Primary Residence OUTSIDE OF**

ILLINOIS: ASLI and ANTHONY understand and acknowledge that if ASLI moves with the child twenty-five (25) miles or less from the child's current residence to a new primary residence outside of Illinois, specifically and with emphasis added:

"If a parent moved with a child 25 miles or less from the child's current primary residence to a new primary residence outside Illinois, **ILLINOIS CONTINUES TO BE THE HOME STATE OF THE CHILD UNDER SUBSECTION (c) OF SECTION 202 of the Uniform Child-Custody Jurisdiction and Enforcement Act**. Any subsequent move from the new primary residence outside Illinois greater than 25 miles from the child's original primary residence in Illinois must be in compliance with the provisions of this Section."

5.05. **Parental Agreement**: So informed as to all the above referenced terms and provisions regarding relocation, both within and outside the borders of the State of Illinois, ASLI and ANTHONY hereby retain their right to jointly agree, if they are willing and able, to terms of relocation which may vary, in whole or in part, from the specific boundaries set forth in this Section, so long as the terms to which they agree serve the best interests of their child and each other.

ARTICLE VI

SPECIAL PROVISIONS REGARDING TRAVEL OUTSIDE THE UNITED STATES

Pursuant to Article III of the Hague Convention of 25 October 1980 on the Civil Aspects of International Children Abduction (hereinafter "Hague Convention"):

The "Habitual Residence" of the minor child is the United States of America, specifically the

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County of Cook, State of Illinois, United States of America.

A. Allocation of Parental Responsibilities including Allocation of Parenting Time (formerly known as Custody) between the parties having been resolved by the terms of this Allocation Judgment (formerly known as Custody Judgment), for purposes of the Hague Convention both parties do have the right to seek a return order regarding the minor child.

B. Both ASLI and ANTHONY agree that the appropriate jurisdiction and venue for the litigation and resolution of any issues related to the allocation of parental responsibilities and parenting time (formerly known as custody, care and control of the child) is the Circuit Court of Cook County, State of Illinois, United States of America. Furthermore, said court system and public and private agencies within the jurisdiction and venue provide substantial protection for the physical, psychological, and financial safety of the parties and their child.

C. The parties agree that he/she will not raise as a defense to a return order, if one has been sought, that the minor child has resided in a foreign state in excess of one year either prior to the commencement of a proceeding under the Hague Convention or that during a proceeding under the Hague Convention, the year anniversary of the party's presence in the foreign state had passed.

D. Nothing in the order shall aver or imply that either party has consented, or acquiesced to the permanent removal of the child to or retention in any country other than the United States of America.

E. The Child's Home State for purposes of the Uniform Children Custody Jurisdiction and Enforcement Act, 750 ILCS 36/101 et seq., is the State of Illinois, the United States of America.

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F. In the event either party fails to comply with the terms of this Order and fails to return the minor child to the State of Illinois (subject to unavoidable delay(s) resulting from act(s) of God or other circumstances beyond that party's control, including but not limited to weather, flight cancellations, or other verifiable, verified and emergent circumstances), then for the purposes of any proceedings or litigation under the Hague Convention, the IMDMA, PKPA or UCCJEA resulting from either party's failure to timely return the minor child pursuant to the terms and conditions of this Order: the offending party shall pay and be solely responsible for all reasonable attorneys' fees, expert fees and other related costs incurred by the other party in connection with the filing and prosecution of any proceedings commenced as a result of the other party's failure to return the minor child to the State of Illinois pursuant to the terms and conditions of this Order.

ARTICLE VII

GENERAL PROVISIONS

7.01. The parties agree to observe the following rules and principles for the best interests of their child:

A. Each parent shall cooperate fully to maintain a positive relationship between the child and the other parent. Neither party shall question the child about the other parent or speak of the other parent in a demeaning manner to or in front of the child, nor shall they allow any third party to do so. Neither party will tell the child to hide things or keep secrets, nor shall they allow any third party to do so. Neither party shall disparage the other's family.

B. Each parent will maintain consistent routines for the child's homework, meals, bedtime, and shall first and foremost consider the child's needs and age when making decisions for them. Information regarding the minor's schedule and diet are to be shared between

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parents.

C. Neither party shall use the child to carry messages or child support to the other parent.

D. Neither party shall discuss any financial issues related to support, maintenance or reimbursement of expenses with or in the presence of the child, nor shall they allow third parties to do so.

E. Neither parent shall use corporal punishment as a means of discipline

F. Neither party shall use illegal drugs or drink to excess during their parenting time. The parties shall not allow third parties to use illegal drugs or drink to excess in the presence of the child. Neither parent shall smoke cigarettes or cigars around the minor child. Neither party shall permit the minor child to be in the presence of a person who is smoking a cigarette or cigar to the extent reasonably possible.

G. Neither party shall encourage the child to call another person "mom" or "dad" or any other version of such names; in the event either of the parties remarries he/she shall require the new spouse to adhere to the terms of this agreement. The child shall retain the last name Patterson.

7.02. The parties hereby agree that they shall review the terms of this Allocation Judgment periodically, but no less than once every two years, to determine whether all of the terms continue to be in the child's best interests. For purposes of this provision, discussions of some of the terms periodically shall be sufficient to constitute a review.

7.03. By the terms of this Allocation Judgment, it is the parties' intentions to resolve all issues of allocation of decision-making and parenting time concerning the child which have arisen in these proceedings. The parties have been advised and understand that when this Agreement is accepted by the Court as an Allocation Judgment, it will become a final and appealable order. They

22


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vacation) for which disputes the parties may seek resolution and adjudication by a court of competent jurisdiction.

C. Because successful mediation requires the cooperation of both parents, ASLI and ANTHONY agree to comport themselves in a considerate and restrained manner. Both parties specifically agree not to intimidate or attempt to intimidate the other.

D. Participation in mediation shall not prejudice the right of either party to seek resolution and adjudication of the dispute by a court of competent jurisdiction after complying with the requirement that mediation be utilized to resolve the dispute in all non-emergency situations.

E. The mediation shall be conducted by a mediator in the State of Illinois upon whom the parties agree. The costs of mediation shall be (50/50) by ASLI and ANTHONY.

F. The Court having considered the Agreement of the parties finds that the Agreement is in the best interests of the minor child and is therefore approved by the Court.

Asli Baz
Asli Baz

Anthony Patterson
Anthony Patterson
ENTERED:

Brian J. Gilbert
Chicago Advocate Legal, NFP
Attorney for Petitioner
53 W. Jackson Blvd., Ste. 752
Chicago, Illinois 60604
Tel: (312) 801-5918
Attorney No.: 60295

Lois [Signature] #2219
JUDGE
May 23, 2022

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Case: 1:23-cv-05017 Document #: 21-1 Filed: 08/23/23 Page 25 of 27 PageID #:170



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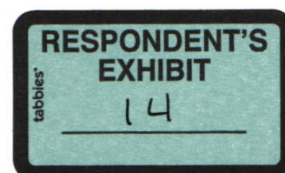
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Lawyer & Notary,
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Specialist Lawyer for Tenancy and Condominium Law

DR. ANDREAS HANKE:
Lawyer, Specialist Lawyer for Family Law

File number: 9008/23 HA02 SK
Date: 20.02.2023

Baz, Asli vs. Anthony Patterson
Custody and Visitation Rights

Application for transfer of sole parental custody for the minor child [REDACTED] (born 10.05.2017).

Participants:
- Asli Baz (born 20.04.1983),
-residence: Trills 85, 40699 Erkrath

-Applicant/Child's Mother-

Authorized procedure representatives:
Notaries, Lawyers, Specialist Lawyers
Joachimsthaler Str. 24, 10719 Berlin
Represented by Lawyer Dr. Andreas Hanke.



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and

- Anthony Patterson (born 02/12/1982), resident: 1902 S Sawyer Ave, USA-60623 Chicago, Illinois

-respondent/father of the child-

Contact:

Notaries: Phone +49 (0)30 889275-75, Fax +49 (0)30 889275-66, notarial@sawal.berlin

Lawyers: Phone +49 (0)30 889275-55, Fax +49 (0)30 889275-66, kanzlei@sawal.berlin

Website: www.sawal.berlin

Page 2 of 6

On behalf and with power of attorney of the applicant it is requested:

The parental custody of the minor child [REDACTED] born [REDACTED].2017, shall be transferred to the applicant for sole exercise.

Justification:

The parties involved are the joint parents of [REDACTED] born on [REDACTED].2017.

The applicant and mother has already initiated an interim injunction proceeding under file number 47 F 24/23 with the court appealed to or a decision was issued in this proceeding on 20.10.2023 which regulates the surrender of the passport to the mother as well as a border block for father and child.

In the procedure, the mother's sworn affidavit was also attached, in which she describes her career and her disputes with the father.

This shows in particular that the mother was exposed to violent and abusive behavior by her ex-partner, the child's father and respondent, for years and that she only managed to return to Germany at all with the help of a complex and very costly court proceeding.

The proceedings conducted in the USA, State of Illinois, have been completed and in this respect, with regard to § 99 para. 1 no. 1 and no. 2 FamFG (thus both with regard to the nationality and the habitual residence of [REDACTED] there is international jurisdiction of German courts in the -

Page 3 of 6.

matters concerning parental responsibility, here custody.



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According to § 1671 para. 1 BGB, custody is to be transferred to one parent upon application if the exercise of custody by one parent best serves the child's welfare (§ 1671 para. 1 no. 2 BGB).

Here, the transfer of custody to the applicant and mother is therefore in [REDACTED] best interests, as there is no cooperation or communication between the parents and thus joint decisions regarding custody are greatly impeded or impossible. In addition, there is obviously a disagreement between the parents regarding the future center of life. The father wants [REDACTED] to have his center of life in the USA in the future, while the mother wants [REDACTED] to continue living with her in Germany and that there will be no change regarding the center of life.

As already became clear from the parallel proceedings, the father abuses his position towards the mother, for example by retaining the child's passport; by threatening the mother to keep the child in the USA and by constantly putting pressure on the mother, both financially and emotionally.

As so often in family law matters, in parent-child matters, the court proceedings are the result of a years-long attrition process. This is also the case here.

As the applicant herself reports in her attached affidavit, there were already during the cohabitation, also in the years 2017, 2018 and 2019,
Page 4 of 6

Significant verbal and physical assaults were carried out against the applicant, creating an atmosphere of fear.

Given the serious incidents and also considering that the US court has previously recognized the mother as [REDACTED] primary caregiver, it was allowed for the mother to permanently move back to Germany.

This has happened and both the mother and child have settled well in Germany, found their footing, and are firmly rooted.

[REDACTED] goes to a daycare center, and the mother works as a psychological expert.

The mother can only explain why the father is now once again vehemently acting against her by assuming that he intends to force her return to the USA, as is also clear from his messages to her.

It must be assumed that the father would try everything to challenge [REDACTED] center of life in Germany.



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This would affect the exercise of the right to determine residence, even in other matters, such as the choice of daycare. But there were also strongly diverging views in the past concerning medical care. To create peace and a safe retreat for [REDACTED] the mother should have sole custody.

This does not change the fact that there is a duty to provide information between the parents and that the father can, of course, exercise his right to visitation.

Page 5 of 6

This matter stems from a years-long legal dispute in the USA, which not only eroded the mother's emotional and physical resources but also significantly drained her financial resources.

The father seems to be indifferent to this. Therefore, we will also need to discuss modifying the cost-bearing obligation that the US court has imposed on the mother with regard to visitation. This is also true in view of the vacations that the father is currently claiming for himself entirely. It is in [REDACTED] best interest to also have vacation time with his mother.

The mother is economically unable to accommodate this and is thus taken 'hostage' financially. The undersigned is not usually given to overly emotional expressions, but considering that the father has consistently demanded and continues to demand that the mother pays for visitation costs, including hotel stays, flights and the like, but he himself does not even regularly pay the child support of 150 dollars, as ordered by the US court, there is a clear imbalance between the father's claims about himself and his demands on the mother.

In the past, the father deemed his own rights as immensely important and did not hesitate to demand them loudly without considering the child's well-being. He forgets or disregards that it is not beneficial for the child if years of legal disputes are led and repeated arguments with the mother over trivial matters are ignited, sometimes also during their Skype or video call visitations.

After all, the custody proceedings are just a "symptom" of the family conflict.

Page 6 of

Sole custody for the mother would "disconnect" the mother from the father's toxic behavior. This would reduce the burden on the mother and certainly also for the child.

Dr. Hanke
Solicitor
Certified
Clerk at the registrar's office



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Mettmann District Court

Affidavit

I, Asli Baz, born on April 20, 1983, in Bruchsal, residing at Trills 85, 40699 Erkrath, swear under oath by my signature the following and have been advised that making a false sworn declaration is a criminal offense:

1) My name is Asli Baz and I was born and raised in Germany.

2) Since May 13, 2022, I have permanently lived with my son [REDACTED] born on [REDACTED], 2017, in Germany. The father has consented to a permanent move to Germany via court approval. -

3) I work as a psychological expert in a family law psychological practice in Düsseldorf and as a traffic psychological expert at TÜV Nord.

4) In 2012, I completed my master's degree in forensic psychology in England and decided to also complete my doctorate. After initial applications in England, I also applied to various universities in the USA. In 2013, I traveled through the USA for 3 months, where I met the father of my son, Mr. Anthony Patterson. We initially had a long-distance relationship, and in 2015 I received a scholarship to do my doctorate in clinical psychology in the USA. I moved to Chicago in the summer of 2015 on a student visa to start my studies, and my ex-partner commuted between Chicago and Miami (his hometown).

5) The relationship was often characterized by verbal aggression on his part, which I attributed to the stress of the long-distance relationship and communication problems.

6) I was not married to the child's father, so I never had a Green Card.

7) In 2016, I became pregnant and my ex-partner, Mr. Patterson became increasingly moody. He often put me down, insulted me and my family, and told me I was a "burden" because I couldn't co-sign a loan for him. Afterwards, he often apologized and said he didn't mean it that way and blamed it on his stress.

8) Things escalated when our son [REDACTED] was born and was about 9 days old. My girlfriend was visiting and my ex-partner tried to throw her out of the house and threatened me, saying I know what would happen if we were alone. My girlfriend was so afraid for me and my baby that she refused to leave. We had ordered food and he joined us, aggressively staring for 45 minutes, and then ultimately stood up and took our food away. I had our baby on my lap and he reached for our son to take him away from me, which I refused. I didn't trust him with our son in that state. He yelled at my girlfriend again, telling her to leave, that it was his house and his rules. She had her backpack on her lap and he stood in front of her (she was sitting) and reached for her backpack, at which point she also stood up. He yelled at her to leave and I thought he was



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going to hit her next so I called the police. He then left.

9) That day, I decided to hire a lawyer and apply for sole custody of our son. ---

10) When he found out about it, he terrorized me for the next 3 weeks: He contacted my university and said that I was working illegally (which would have violated my visa regulations and would have led to my deportation). He locked me and my child in the house and forbade us to leave. I had to call the police every time because he was so aggressive. He would insult me for hours on end and threatened that I would leave the country without my son and that my child would never know me, and he would make sure of that. He said he would never sign a passport for our child and that I would have to leave alone (indeed, in 2019 I had to ask the US court to approve a passport for a visit to Germany, as he refused). He threatened to punch me in the face and said that I had no idea how expensive court was in America. He threatened that if I didn't drop the case, he would file motion after motion to ruin me financially (which he did). He said I would have no more money to finish my studies and I would never become a psychologist, which he would ensure. He locked me out of our joint bank account, leaving me without money and I had to ask my family for help. I had a newborn child and had trouble buying food for myself in order to produce milk and breastfeed him.

11) I applied for a restraining order, which the court also approved, and expelled him from the house for 3 weeks. After that, the court allowed him to live in the basement and me on the 1st and 2nd floor of our shared house. He was only allowed into the kitchen at certain times, according to the order. He paid no alimony and was not encouraged to do so.

12) On November 24, 2017, I heard a noise downstairs and went down to check. It looked as if my ex-partner was removing the balcony doors. He did not respond when I addressed him and approached me, which frightened me. Because of the events of the previous months, I was so scared in my own home that I had pepper spray for self-defense and I sprayed it. I immediately afterwards called the police, who duly came and warned him to stay away from me. As the officer went to his car to write a report, my ex-partner threatened me saying, "you should prepare yourself, it's about to begin."

13) After I had filed a report and the police had left, I went upstairs to check on our baby and call my mother. Our child was in its bed and I was tidying the closet and talking to my mother when I heard a noise and saw my ex-partner standing over the sleeping child. I thought he was going to hurt him or take him away, so I got up, at which point he tried to punch me in the face. I managed to dodge just in time, and he threw me to the floor and tried to knock my cell phone out of my hand. I screamed and he choked me with one arm around my neck and repeatedly punched me in the head with his other fist. As I continued to refuse to let go of the phone (my mother had to listen to all of this), he let go and ran out of the room and back into the basement. I immediately called the police and he was arrested. On 3/12/2018, he was sentenced by the criminal court to an 18-month probation (domestic battery) and I was once again given a restraining order, this time for 2 years. 1 - 1



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14) Mr. Patterson was ordered by the US court to pay a monthly alimony of \$150 in December 2017, which he refused to do until July 2019 and only complied with the threat of an electronic ankle monitor. In December 2017, he was also sentenced to 6 days in jail for continually filing petition after petition (at least every 2 weeks) (most often to demand money from me for the Airbnb we had or to demand more visitation rights) and ignored the court's order to stop these petitions. Also in that month, I moved into a one-room apartment with my son and we sold our house. Mr. Patterson received 75% of the sales price and I immediately spent my share on attorney fees, living expenses, and tuition fees. 1

15) I also had to release my lawyer from his mandate because at that time the legal fees had already exceeded \$10,000 due to Mr. Patterson's numerous petitions.. It became so financially difficult that my mother had to take out a loan for me. The entire proceeding took a total of 5 years since the birth of our son, and it only ended with our move to Germany and cost over \$50,000.

16) Visitation times between Mr. Patterson and our child took place 4 times a week for 4 hours each and we had to do the changeovers at the police station. During the first two years of our son's life, his father missed 50-80% of the visitation times because he often flew to Miami to attend to his own affairs. He was forbidden nighttime visits until he underwent therapy. Since the birth of our son, I have been his primary caregiver, looking after him day and night, all while I was doing my doctorate and the custody proceedings were ongoing. The burden was immense both mentally and physically and my mother had to fly to the USA every few months to help me. I had no other family there and was completely on my own.

17) The court also imposed on us to only communicate in writing about the child via a specific website (Talking Parents). Mr. Patterson uses this opportunity to write pages and pages of aggressive and threatening messages, insult me and my family, and continue to harass me. Above all, his threat to take me to court repeatedly hovers. He also has a Facetime call with our son every evening at 6 o'clock, which he often uses to incite our child against me and my mother, or to get information about our home life (who we have visiting, what skin color our guests have, what their names are, etc).

18) In August 2020, I completed my doctoral studies and was accepted into a postdoctoral fellowship to specialize as a forensic evaluator. After the year, I was retained as a criminal evaluator. However, since I still didn't have a Green Card, and my student visa was nearing its end, my lawyer there advised me to hire an immigration attorney to apply for a Green Card. The fear of perhaps having to leave the country without my son drove me to do this, which of course also cost thousands. The process to establish custody and visitation of our son took place in March 2022. The court-appointed representative suggested that my son should stay with his father and I should live alone in Germany until my Green Card applications are decided. Since I had already read his report, and the prospect of losing my child was so distressing for me, my lawyer said we should tell the court that I would return if I got a Green Card. Otherwise, we might lose. I suggested enrolling him in an international, private kindergarten in Düsseldorf



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ID: 652a89f61bd4454d6d0079d4

(even though we live in Erkrath) because my ex said [REDACTED] only understands German, but doesn't speak it. I also had to agree to give all school holidays to my ex and pay for 3 out of 5 flights per year for him and our child. In addition, I must also bear half the hotel costs for the two week visits he spends in Germany with our child. In return, our judgement determines that he pays for half of the international kindergarten (which costs nearly 14000 euro per year).

19) Due to the history of domestic violence and my ex-partner's refusal to financially support the child, the judge gave me permission to leave with [REDACTED] and we arrived together on May 13, 2022. [REDACTED] only allowed to spend 2 weeks with my family and me and had to spend June, July, and half of August again in Chicago. Until his return on August 10, 2022, I bought a car, found an additional job at TÜV Nord, found an apartment on the same street as my mother, and rebuilt my existence in Germany. My mother has been working at the University Hospital in Düsseldorf for 40 years and my brother is studying in Trier. I have a large and loving family in Southern Germany who often visit us and love [REDACTED] very much. We are hardworking, honest people who only want the best for [REDACTED]

21) Mr. Patterson is someone who has not complied with a single court order in the last 5 years and uses our son to maintain control over me. Since he now no longer has physical control over me, he uses financial and psychological pressure as a weapon against me.

22) The constant back and forth flying affects [REDACTED] behavior and his chance of integrating in Germany. For several months, he has been acting out in kindergarten and at my house, is often aggressive, defiant, and does not follow adults' instructions. When I tell his father what the kindergarten teachers say and report, he blames me and my family and suggests that I should have him do boxing or karate to control the aggression. [REDACTED] was also acting out in the USA and therapy was really helpful last year until he spent 3 weeks with his father over Thanksgiving in November 2021. Upon his return, he told his therapist at the time that his father's girlfriend was hitting his father and Mr. Patterson, in turn, was hitting the children ([REDACTED] has a little half-sister).

23) Although [REDACTED] is a very lovely and alert boy, he often imitates his father, makes fun of others, hits easily, is quickly frustrated and insults others, which is often demonstrated to him through the daily, often multiple, video calls with his father and his family. Due to his daily commute to Düsseldorf to kindergarten, he is chronically exhausted and constantly falls asleep on the bus or train. I'll be taking him for a diagnostic assessment at a child psychology practice soon and I've already approached the Diakonie in Erkrath to get support.

24) After the visitation in January 2023 Mr. Patterson did not return [REDACTED] American passport to me.

25) On 11.01.2023, the father announced that he will not be bringing the son back to Germany



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after the April visitation.

26) The father irregularly pays 150 USD in child support per month but did not participate in the costs for the international kindergarten in Düsseldorf. I cannot afford these costs alone and had to withdraw [REDACTED] from the kindergarten. He now attends the Kita of the Johanniter in Erkrath. He likes it very much there.

27) I need to pay for the flights for [REDACTED] and the father according to the ruling, and this amounts annually to between 7000 - 8000 EUR. I work part-time and earn between 2500 and 3000 EUR per month. I'm financially at my limit.

28) My son suffers from the constant back and forth and seems burdened by the demands placed on him. The multiple daily FaceTime calls also add a significant strain on him.

29) I fear that his father might take [REDACTED] to the USA and then keep him there. [REDACTED] has settled in Germany, he has friends here and enjoys his everyday life. [REDACTED] needs peace in order to grow up healthy.

Erkrath, 01/13/2023

Signature Asli Baz dia i -

SAWAL.SCHÜLLER.HANKE
Notare Rechtsanwälte Fachanwälte

SAWAL SCHÜLLER HANKE Joachimsthaler Str. 24 10719 Berlin

Amtsgericht Mellmann
Familiengericht
Gartenstraße 7
40822 Mellmann

per beA

Baz, Asli J. Patterson
Sorge- und Umgangsrecht

Antrag auf Übertragung des alleinigen elterlichen Sorgerechts
betreffend das minderjährige Kind [REDACTED] geb. am 10.05.2017

Beteiligte:

Asli Baz, geb. am 20.04.1983,
wohnhaft Trills 85, 40699 Erkrath

- Antragstellerin/Kindesmutter -

Verfahrensbevollmächtigte:
SAWAL SCHÜLLER HANKE
Notare, Rechtsanwälte, Fachanwälte
Joachimsthaler Str. 24, 10719 Berlin
vertr. d. Rechtsanwältin Dr. Andreas Hanke

und

Anthony Patterson, geb. am 12.02.1982,
wohnhaft 1902 S Sawyer Ave, USA-60623 Chicago - Illinois

- Antragsgegner/Kindesvater -

SAWAL SCHÜLLER HANKE, Notare, Rechtsanwälte, Fachanwälte Joachimsthaler Str. 24 10719 Berlin, Waldesdorf
Notare Telefon +49 (0) 30 699275-75 Fax +49 (0) 30 699275-65 notariat@swahp.de
Rechtsanwälte Telefon +49 (0) 30 699275-55 Fax +49 (0) 30 699275-65 anwalt@swahp.de www.swahp.de

Erbrecht
Familienrecht
Immobilienrecht

AXEL SAWAL
Rechtsanwalt & Notar
Fachanwalt für Erbrecht

DOMINIK SCHÜLLER
Rechtsanwalt & Notar
Fachanwalt für Erbrecht
Fachanwalt für Familien- und WEG-Recht
Zertifizierter Stufungsberater (ZSA)
Lehrbeauftragter an der HWI

DR. ANDREAS HANKE
Rechtsanwalt
Fachanwalt für Familienrecht
Lehrbeauftragter an der HWI

Aktuelle Webseiten (siehe unten angegeben)
09/2023 MA 925 Stk.
10.02.2023
07/25-23

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Seite 2 von 8

Namens und in Vollmacht der Antragstellerin wird beantragt.

Der Antragstellerin wird die elterliche Sorge für das minderjährige Kind [REDACTED] geb. 10.05.2017, zur alleinigen Ausübung übertragen.

Beurteilung:

Die Beteiligten sind die gemeinsamen Eltern von [REDACTED] geb. am 10.05.2017.

Die Antragstellerin und Mutter hat zum Geschäftszeichen 47 F 24/23 beim angerufenen Gericht bereits ein Einstweiliges Anordnungsverfahren anhängig gemacht bzw. in diesem Verfahren ist am 20.10.2023 ein Beschluss ergangen, der die Herausgabe des Passes an die Mutter sowie eine Grenzsperrung für Vater und Kind regelt.

In dem Verfahren wurde auch die Eidesstattliche Versicherung der Mutter beigelegt, in der diese ihren Werdegang bzw. auch ihre Auseinandersetzungen mit dem Vater schildert.

Daraus ergibt sich insbesondere, dass die Mutter über Jahre gewalttätigen und übergriffigen Verhalten ihres Ex-Partners, des Kindesvaters und Antragsgegners, ausgesetzt war und dass es ihr nur gelang, mit Hilfe eines aufwendigen und sehr kostenintensiven Gerichtsverfahrens überhaupt nach Deutschland zurückzukehren.

Das in den USA, Bundesstaat Illinois, geführte Verfahren ist abgeschlossen und insoweit besteht mit Blick auf § 99 Abs. 1 Nr. 1 und Nr. 2 FamFG (mithin sowohl mit Blick auf die Staatsangehörigkeit als auch den gewöhnlichen Aufenthalt von [REDACTED] die internationale Zuständigkeit deutscher Gerichte in den

14

Seite 3 von 6

Fragen betreffend die elterliche Verantwortung, hier der elterlichen Sorge.

Die elterliche Sorge ist auf Antrag gemäß § 1671 Abs. 1 BGB dann auf einen Elternteil zu übertragen, wenn die Ausübung der elterlichen Sorge durch einen Elternteil dem Wohl des Kindes am besten entspricht (§ 1671 Abs. 1 Nr. 2 BGB).

Hier entspricht die Übertragung der elterlichen Sorge auf die Antragstellerin und Mutter deshalb dem Wohl von [REDACTED] am besten, da ein Zusammenwirken bzw. eine Kommunikation zwischen den Eltern nicht besteht und damit gemeinsame Entscheidungen betreffend die elterliche Sorge ganz erheblich erschwert bzw. unmöglich sind. Darüber hinaus besteht offensichtlich mit Blick auf den zukünftigen Lebensmittelpunkt ein Dissens zwischen den Eltern. Der Vater möchte, dass [REDACTED] zukünftig seinen Lebensmittelpunkt in den USA hat, die Mutter möchte, dass [REDACTED] mit ihr in Deutschland leben bleibt und das hinsichtlich des Lebensmittelpunktes keine Veränderung eintritt.

Wie bereits aus dem parallel geführten Verfahren deutlich wurde, nutzt der Vater seine Position gegenüber der Mutter aus, in dem er beispielsweise den Pass des Kindes zurückbehält; in dem er der Mutter androht, das Kind in den USA zu behalten und in dem er die Mutter permanent unter Druck setzt, sowohl finanziell als auch emotional.

Wie so oft ist in familienrechtlichen Angelegenheiten, in Kindschaftssachen, das gerichtliche Verfahren das Ergebnis eines langjährigen Zermürbungsprozesses. So ist es auch hier.

Wie die Antragstellerin selbst in ihrer als Anlage beigefügten Eidesstattlichen Versicherung berichtet, gab es bereits während des Zusammenlebens, auch in den Jahren 2017, 2018 und 2019

14

Seite 4 von 6

ganz erhebliche verbale und körperliche Übergriffe auf die Antragstellerin, wodurch ein Klima der Angst geschaffen wurde.

Aufgrund der schwerwiegenden Vorfälle und auch mit Blick darauf, dass auch das US-Gericht die Mutter schon als primäre Bindungsperson von ■■■ gesehen hat, wurde es der Mutter erlaubt, dauerhaft nach Deutschland zurückzuziehen.

Dies ist auch geschehen und sowohl Mutter, als auch Kind haben sich in Deutschland gut eingelebt, hier Fuß gefasst und sind fest verwurzelt.

■■■ besucht eine Kita, die Mutter arbeitet als psychologische Sachverständige.

Warum der Vater nunmehr auch neuerdings wieder vehement gegen die Mutter agiert, kann sich die Mutter nur so erklären, dass er beabsichtigt, einen Rückzug der Mutter in die USA zu erzwingen, dies wird auch aus seinen Nachrichten an die Mutter deutlich.

Es muss davon ausgegangen werden, dass der Vater alles daransetzen wird, den Lebensmittelpunkt von ■■■ in Deutschland in Frage zu stellen.

Die würde die Ausübung des Aufenthaltsbestimmungsrechts betreffen, auch bei anderen Belangen, beispielsweise bei der Frage der Kita Wahl. Aber auch bei der ärztlichen Versorgung gab es in der Vergangenheit bereits stark divergierende Auffassungen. Um Ruhe zu schaffen und ■■■ ein sicheren Rückzugsort möglich zu machen, sollte die Mutter die elterliche Sorge alleine ausüben.

Dies ändert nichts daran, dass es Informationspflichten zwischen den Eltern gibt und dass der Vater natürlich sein Umgangsrecht wahrnehmen kann.

Seite 5 von 6

Der hiesigen Angelegenheit geht ein jahrelanger Rechtsstreit in den USA hervor, der nicht nur die emotionalen und körperlichen Ressourcen der Mutter verschlissen hat, sondern auch stark die finanziellen Ressourcen

Dem Vater scheint dies egal zu sein, insoweit wird auch darüber zu sprechen sein, dass die Kostentragungspflicht, die das US-Gericht der Mutter mit Blick auf den Umgang auferlegt hat, abgeändert werden muss. Dies gilt auch mit Blick auf die Ferien, die der Vater aktuell insgesamt für sich beansprucht. Es entspricht dem Wohl von [REDACTED] wenn er auch Ferienzeiten mit der Mutter hat.

Die Mutter ist wirtschaftlich dazu nicht imstande und wird hier in eine finanzielle 'Geiselfhaft' genommen. Der Unterzeichner neigt eigentlich nicht zu besonders pathetischen Begrifflichkeiten, aber mit Blick darauf, dass der Vater immer wieder eingefordert hat und laufend einfordert, dass die Mutter Umgangskosten bezahlt, Hotelübernachtungen, Flüge und Ähnliches, er selbst aber nicht einmal den Kindesunterhalt in Höhe von 150,00 Dollar, den das US-Gericht angeordnet hat, regelmäßig zahlt, liegt hier ein ganz grobes Missverhältnis zwischen den Ansprüchen an sich selbst als Vater und den 'Forderungen' an die Mutter vor.

Dem Vater waren in der Vergangenheit seine eigenen Rechte immens wichtig und er hat nicht gezögert, diese auch lautstark einzufordern ohne dabei aber das Wohl des Kindes zu berücksichtigen. Er hat vergessen bzw. missachtet, dass es dem Kind nicht guttut, wenn jahrelange Rechtsstreitigkeiten geführt werden und immer wieder Diskussionen mit der Mutter über Kleinigkeiten vom Zaun gebrochen werden, teilweise auch im Rahmen der geführten Skype- bzw Videotelefonie-Umgänge.

Sicherlich ist das Sorgerechtsverfahren nur ein „Symptom“ des familiären Konflikts.

14

6 von 8

Die Alleinsorge für die Mutter wurde die Mutter von dem toxischen Verhalten des Vaters „abkoppeln“. Damit wurde die Belastung bei der Mutter geringer werden und sicher auch die Belastung für das Kind.

Dr. Hanke
Rechtsanwalt

Beglaubigt
Urkundsbearbeiterin der Geschäftsstelle
Amtsgericht Mettmann



14

5

Eidesstattliche Versicherung

Ich, Asli Baz, geboren am 20.04.1983, in Bruchsal, wohnhaft in Trills 85, 40699 Erkrath, versichere an Eides Statt durch meine Unterschrift, Folgendes und bin darüber belehrt, dass die Abgabe einer falschen eidesstattlichen Versicherung strafbar ist:

- 1) Mein Name ist Asli Baz und ich bin in Deutschland geboren und aufgewachsen.
- 2) Seit dem 13.05.2022 lebe ich dauerhaft mit meinem Sohn [REDACTED] geboren am 10.05.2017 in Deutschland. Der Vater hat per gerichtlicher Billigung einem dauerhaften Umzug nach Deutschland zugestimmt.
- 3) Ich arbeite als Psychologische Gutachterin in einer familienrechtspsychologischen Praxis in Düsseldorf und als verkehrspsychologische Gutachterin beim TÜV Nord.
- 4) In 2012 habe ich mein Masterstudium in England in Forensischer Psychologie abgeschlossen und entschließ mich, auch meinen Doktor abzuschließen. Nach anfänglichen Bewerbungen in England bewarb ich mich auch an verschiedenen Universitäten in den USA. 2013 reiste ich 3 Monate durch die USA, wo ich den Vater meines Sohnes, Herrn Anthony Patterson, kennenlernte. Wir führten zuerst eine Distanzbeziehung und 2015 erhielt ich ein Stipendium, um in den USA meinen Doktor in Klinischer Psychologie zu machen. Ich zog im Sommer 2015 durch ein Studentenvisum nach Chicago, um mein Studium zu beginnen und mein Ex-Partner pendelte zwischen Chicago und Miami (seiner Heimatstadt).

- 5) Die Beziehung war oft geprägt von verbaler Aggression seinerseits, was ich auf den Stress der Distanzbeziehung und Kommunikationsprobleme zurückführte.
- 6) Ich war mit dem Vater des Kindes nicht verheiratet und ich hatte deshalb nie eine Green Card
- 7) 2016 wurde ich schwanger und mein Ex-Partner, Herr Patterson, wurde immer launischer. Er machte mich oft nieder, beleidigte mich und meine Familie, und sagte mir, ich wäre eine „Bürde“ weil ich keinen Kredit mitunterzeichnen konnte für ihn. Danach entschuldigte er sich oft und sagte, er habe es nicht so gemeint und führte es auf seinen Stress zurück.
- 8) Die Dinge eskalieren, als unser Sohn Aaza geboren wurde und ungefähr 9 Tage alt war. Meine Freundin war zu Besuch und mein Ex-Partner versuchte, sie aus dem Haus zu werfen und drohte mir, ich wisse ja was passieren würde, wenn wir allein sind. Meine Freundin hatte so viel Angst um mich und mein Baby, dass sie sich weigerte zu gehen. Wir hatten uns Essen bestellt und er setzte sich dazu, starnte um 45 Minuten lang aggressiv an, und stand dann letztlich auf und nahm unser Essen weg. Ich hatte unser Baby auf dem Schoß und er griff nach unserem Sohn, um ihn mir wegzunehmen, was ich verweigerte. Ich traute ihm nicht mit unserem Sohn in diesem Zustand. Er schrie meine Freundin wieder an, sie solle gehen und es sei sein Haus und seine Regeln. Sie hatte ihren Rucksack auf dem Schoß und er stellte sich vor sie hin (sie saß) und griff nach ihrem Rucksack woraufhin sie auch aufstand. Er schrie sie an, sie solle endlich gehen und ich dachte, er würde sie als nächstes schlagen und ich rief die Polizei. Er ging dann:

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7

ganz ruhig nach unten und als die Polizei kam, hat er so, als sei nichts gewesen.
Die Polizei sagte ihm, er solle erstmal 24 Stunden das Haus verlassen und er ging.
Nachdem meine Freundin nach Hause gefahren war, kam er wieder ins Haus und
entschuldigte sich. Ich sagte ihm dann, dies sei das Ende unserer Beziehung und
ich wolle mich trennen, was er nicht akzeptierte.

9) An diesem Tag entschloss ich mich, einen Anwalt einzuschalten und das alleinige
Sorgerecht für unseren Sohn zu beantragen.

10) Als er davon erfuhr, terrorisierte er mich die nächsten 3 Wochen. Er kontaktierte
meine Uni und sagte, ich würde illegal arbeiten (weil gegen meine
Visavorschriften verstoßen hätte und zu meiner Abschiebung geführt hätte). Er
sperrte mich und mein Kind im Haus ein und verbot uns, das Haus zu verlassen.
Ich musste jedes Mal die Polizei rufen, weil er so aggressiv war. Er beschimpfte
mich stundenlang und drohte mir an, ich werde das Land ohne meinen Sohn
verlassen und mein Kind würde mich niemals kennen und dafür würde er sorgen.
Er sagte, er werde niemals für einen Pass für unser Kind unterschreiben und ich
werde allein ausreisen (ich musste 2019 in der Tat das US-Gesicht über einen
Pass für einen Deutschlandbesuch zu genehmigen, da er sich weigerte). Er
drohte mir, mir mit der Faust ins Gesicht zu schlagen und sagte, er wisse nicht,
wie teuer das Gericht in Amerika sei. Er drohte, wenn ich das Verfahren nicht
zurückziehe, werde er Antrag nach Antrag einreichen, um mich finanziell zu
ruinieren (was er auch tat). Er sagte, ich werde kein Geld mehr haben, um mein
Studium abzuschließen und ich werde niemals Psychologin werden, was für er
sorgen werde. Er sperrte mich aus unserem gemeinsamen Bankkonto, sodass

14

ich ohne Geld dastand und meine Familie um Hilfe bitten musste. Ich hatte ein neugeborenes Kind und hatte Probleme, Essen für mich zu kaufen, um Milch zu produzieren, und ihn zu stillen.

11) Ich stellte einen Antrag für eine einstweilige Verfügung, was das Gericht auch genehmigte, und verwies ihn für 3 Wochen aus dem Haus. Danach ließ das Gericht ihn im Keller wohnen und mich in der 1. und 2. Etage des gemeinsamen Hauses. Er durfte nur zu bestimmten Zeiten in die Küche, laut Beschluss. Er zahlte keinen Unterhalt und wurde dazu auch nicht angehalten.

12) Am 24.11.2017 hörte ich unten im 1. Stock ein Geräusch und ging runter, um nachzusehen. Es sah so aus, als ob mein Ex-Partner die Balkontüren entfernte. Er reagierte nicht, als ich ihn ansprach und ging auf mich zu, was mich verängstigte. Wegen der Ereignisse der letzten Monate war ich so verängstigt in meinem eigenen Zuhause, das ich Pfefferspray zur Selbstverteidigung an mir hatte und ich anspröhte. Ich rief sofort danach die Polizei, die dann auch gleich kam und ihn ernalhte, er sollte sich von mir fernhalten. Während der Beamte in sein Auto ging, um einen Bericht zu schreiben, drohte mein Ex-Partner mir, „Ich solle mich vorbereiten und es ginge los.“

13) Nachdem ich einen Bericht aufgegeben hatte, und die Polizei wieder weg war, ging ich nach oben, um nach unserem Baby zu sehen und meine Mutter anzurufen. Unser Kind war in seinem Bett und ich räumte den Schrank auf und redete mit meiner Mutter, als ich ein Geräusch hörte und meinen Ex-Partner über dem schlafenden Kind stehen sah. Ich dachte, er will ihm etwas antun oder ihn

9

rausnehmen und stand auf, woraufhin er versuchte, mir mit der Faust ins Gesicht zu schlagen. Ich wich gerade noch aus, und er warf mich auf den Boden und versuchte, mein Handy aus der Hand zu schlagen. Ich schrie und er würgte mich mit einem Arm um meinen Hals und schlug mir mit der anderen Faust mehrmals auf den Kopf. Als ich mich weiterhin weigerte, das Handy loszulassen (meine Mutter musste alles mitanhören), ließ er los und rannte aus dem Zimmer und zurück in den Keller. Ich rief sofort die Polizei an, und er wurde verhaftet. Am 12.3.2018 wurde er vom Strafgericht zu einer 18monatigen Bewährungsstrafe verurteilt (*domestic battery*) und mir wurde erneut eine einstweilige Verfügung gegeben, dieses Mal für 2 Jahre.

14) Herr Patterson wurde vom US Gericht zu einer monatlichen Unterhaltszahlung von 150\$ angehalten im Dezember 2017, was er bis zum Juli 2019 verweigerte und nur durch die Androhung eines elektronischen *Anklemonitors (Monitor zur Überwachung am Fußgelenk)* tat. Im Dezember 2017 wurde er auch zu einer 6-tägigen Haftstrafe verurteilt, da er Antrag auf Antrag (mindestens alle 2 Wochen) stellte (meist um Geld von mir einzufordern für das Airbnb, das wir hatten oder um mehr Umgangsrecht einzufordern) und die Aufforderung des Gerichtes, mit diesen Anträgen aufzuhören, missachtete. Auch in dem Monat zog ich mit meinem Sohn in eine Ein-Zimmer-Wohnung und wir verkauften unser Haus. Herr Patterson bekam 75% des Verkaufspreises und ich gab meinen Anteil sofort für Anwaltskosten, Lebenshaltungskosten und Studiengebühren aus.

15) Ich musste auch meinen Anwalt vom Mandat befreien, da die Anwaltskosten zu dem Zeitpunkt schon über 10.000\$ kosteten, da Herr Patterson so viele Anträge

14

eingereicht hatte. Es wurde finanziell so schwer, dass meine Mutter einen Kredit aufnehmen musste für mich. Das ganze Verfahren lief insgesamt 5 Jahre, seit der Geburt unseres Sohnes, und endete erst mit unserem Umzug nach Deutschland und kostete über 50.000 \$.

16) Umgangszeiten zwischen Herr Patterson und unserem Kind fanden 4-mal wöchentlich für jeweils 4 Stunden statt und wir mussten ihn auf der Polizeiwache austauschen. In den ersten 2 Lebensjahren unseres Sohnes verpasste sein Vater 50-80% der Umgangszeiten, da er oft nach Miami flog, um sich seinen eigenen Angelegenheiten zu widmen. Ihm wurden Umgänge über Nacht verboten, solange er keine Therapie machte. Ich war seit der Geburt unseres Sohnes seine Hauptbezugsperson und habe mich Tag und Nacht um ihn gekümmert und das alles, während ich meinen Doktor machte und das Sorgerechtsverfahren lief. Die Belastung war seelisch und körperlich immens und meine Mutter flog alle paar Monate in die USA, um mir zu helfen. Ich hatte sonst keine Familie dort und war ganz auf mich allein gestellt.

17) Das Gericht erlegte uns auch auf, nur schriftlich über das Kind zu kommunizieren über eine bestimmte Webseite (Talking Parents). Herr Patterson nutzt diese Möglichkeit, um mir Seiten über Seiten mit aggressiven und bedrohlichen Nachrichten zu schreiben, mich und meine Familie zu beschimpfen, und mich weiterhin zu belästigen. Über allem schwebt immer seine Drohung, mich wieder und wieder vor das Gericht zu ziehen. Er hat auch jeden Abend um 18 Uhr einen Facetime Anruf mit unserem Sohn, der er oft nutzt, um unser Kind gegen mich und meine Mutter aufzuhetzen, oder Informationen über unser Leben zuhause zu

11

erhalten (wen wir zu Besuch haben, welche Hautfarbe unsere Gäste haben, wie sie heißen usw).

18) Im August 2020 beendete ich mein Doktorandenstudium und wurde in ein postdoktorales Fellowship aufgenommen, um mich als forensische Gutachterin zu spezialisieren. Dort wurde ich nach dem Jahr auf weiter übernommen als strafrechtliche Gutachterin. Da ich jedoch noch immer keine Green Card hatte, und mein Studentervisum sich dem Ende zuneigte, riet mein dortiger Anwalt mir, einen Immigrationsanwalt zu beauftragen, um eine Green Card zu beantragen. Die Angst, vielleicht ohne meinen Sohn das Land verlassen zu müssen, trieb mich dazu, dies auch zu tun, was natürlich auch Tausende kostete. Das Verfahren, um die Sorge und den Umgang unseres Sohnes zu bestimmen, fand im März 2022 statt. Der Verfahrensbeistand schlug vor, dass mein Sohn doch bei seinem Vater bleiben sollte und ich alleine in Deutschland leben solle, bis meine Green Card Anträge entschieden seien. Da ich seinen Bericht schon gelesen hatte und die Aussicht, mein Kind zu verlieren, für mich so belastend war, sagte mein Anwalt, wir sollten dem Gericht sagen, ich würde zurückkommen, falls ich eine Green Card bekomme. Ansonsten würden wir vielleicht verlieren. Ich schlug vor, ihn in einem internationalen, privaten Kindergarten in Düsseldorf anzumelden (obwohl wir in Erkrath wohnen), da mein Ex sagte, [REDACTED] verstehe nur Deutsch, spreche es aber nicht. Ich musste mich auch dazu bereit erklären, alle Schullieferanten an meinen Ex abzugeben und 3 von 5 Flügen für ihn und unser Kind zu bezahlen im Jahr. Darüber hinaus muss ich auch die Hälfte der Hotelkosten übernehmen für die beiden einwöchigen Besuche, die er in Deutschland verbringt mit unserem Kind.

14

Im Gegenzug steht in unserem Urteil, das er die Hälfte des internationalen Kindergartens zahlt (der pro Jahr fast 14000 Euro kostet).

19) Durch die Vorgeschichte der häuslichen Gewalt und Verweigerung meines Ex-Partners, finanziell für das Kind aufzukommen, gab mir die RichterIn Erlaubnis, mit ■■■ auszureisen und wir kamen am 13.5.2022 zusammen an. ■■■ durfte nur 2 Wochen mit meiner Familie und mir verbringen und musste Juni, Juli und die Hälfte vom August wieder in Chicago verbringen. Bis zu seiner Rückkehr am 10.8.2022 habe ich ein Auto gekauft, eine zusätzliche Tätigkeit beim TÜV Nord gefunden, eine eigene Wohnung auf der gleichen Straße wie meine Mutter gefunden und mir wieder eine Existenz aufgebaut in Deutschland. Meine Mutter arbeitet seit 40 Jahren in der Uni Klinik in Düsseldorf und mein Bruder studiert in Trier. Ich habe eine große und liebevolle Familie in Süddeutschland, die uns oft besuchen und ■■■ sehr lieben. Wir sind hart arbeitende, ehrliche Menschen, die nur das Beste für ■■■ möchten.

20) Herr Patterson hat mich bis jetzt fast den ganzen Kindergarten alleine bezahlen lassen (7000 Euro bis jetzt) und er zahlte nur die Gebühren für Dezember, Jan. Hälfte vom Febr. (1200 Euro). Dies tat er nur, nachdem ich ihm sagte, ich wollte ■■■ im städtischen Kindergarten in Erkrath anmelden, da er mir nicht helfe mit den Gebühren und ■■■ auch jeden Tag 2 Stunden hin und zurück fährt, was ihn erschöpft und seiner Integration ins deutsche Leben überhaupt nicht dienlich ist, da er dort kein Deutsch lernt. Herr Patterson drohte mir auch an, ich könne den Kindergarten nicht wechseln ohne seine Zustimmung (obwohl unser Urteil mir die Wahl der Schule erlaubt, falls wir uns uneinig sind) und er gehe wieder ins

13

amerikanische Gericht, falls ich dies tue. Er droht mir oft, sich wieder ans Gericht zu wenden oder an den Verfahrensbestand dort, da er weiß, das er dort Gehör findet und es mich viel Geld kostet, mich jedes Mal verteidigen zu müssen.

21) Herr Patterson ist jemand, der sich noch an keinen einzigen Gerichtsbeschluss gehalten hat in den letzten 5 Jahren und er unseren Sohn dazu benutzt, um weiterhin Kontrolle über mich auszuüben. Da er jetzt keine körperliche Kontrolle mehr über mich hat, nutzt er den finanziellen und psychischen Druck als Waffe gegen mich.

22) Das ständige Hin und Her Fliegen beeinträchtigt [REDACTED] Verhalten und seine Chance, sich in Deutschland zu integrieren. Seit mehreren Monaten ist er auffällig im Kindergarten und bei mir zu Haus, ist oft aggressiv, oppositionell, und nimmt keine Anweisungen der Erwachsenen an. Wenn ich seinem Vater schreibe, was die Kindergärtnerinnen sagen und berichten, schleibt er mir und meiner Familie die Schuld zu und sagt, ich solle ihn beim Boxen oder Karate anmelden, um die Aggression zu kontrollieren. [REDACTED] war auch vorher in den USA auffällig und Therapie hat uns letztes Jahr sehr geholfen, bis er 3 Wochen über Thanksgiving mit seinem Vater verbrachte im November 2021. Nach seiner Rückkehr erzählte er seiner Therapeutin damals, dass die Freundin seines Vaters den Vater schlage und Herr Patterson dann wiederum die Kinder ([REDACTED] hat eine kleine Halbschwester) schlage.

23) [REDACTED] ein sehr keber und aufgeweckter Junge ist, imitiert er seinen Vater oft, macht sich über andere lustig, schlägt schnell, ist schnell frustriert und

14

beschimpft andere, was ihm durch die täglichen - oft mehrfachen - Videotelefonate mit seinem Vater und dessen Familie oft so vorgelebt wird. Durch die tägliche Pendelei nach Düsseldorf in den Kindergarten ist er chronisch erschöpft und schläft ständig im Bus oder der Bahn ein. Ich bringe ihn bald zur Diagnostik in eine kinderpsychologische Praxis und habe mich auch schon an die Diakonie in Erkrath gewandt, um Unterstützung zu bekommen.

24) Nach dem Umgang im Januar 2023 hat mir Herr Patterson den US-amerikanischen Pass von [REDACTED] nicht zurückgegeben.

25) Am 11.01.2023 kündigte der Vater an, dass er den Sohn nach dem April Umgang nicht mehr zurück nach Deutschland bringen wird.

26) Der Vater zahlt unregelmäßig 150 USD monatlich Kindesunterhalt beteiligte sich aber nicht an den Kosten für den internationalen Kindergarten in Düsseldorf. Ich kann die Kosten dafür nicht alleine tragen und musste [REDACTED] aus dem Kindergarten nehmen. Er geht jetzt in die Kita der Johanner in Erkrath. Dort gefällt es ihm sehr gut.

27) Ich muss laut Beschluss die Flüge für [REDACTED] und den Vater zahlen, dies sind jährlich zwischen 7.000 - 8.000 EUR. Ich arbeite in Teilzeit und verdiene monatlich zwischen 2.500 und 3.000 EUR. Ich bin finanziell am Limit.

28) Mein Sohn leidet unter dem ständigen Hin- und Her und wird belastet von den Anforderungen die an ihn gestellt werden. Auch die täglich mehrfach eingeforderten Face-Time Anrufe sind eine enorme Belastung für ihn.

15

29) Ich habe die Angst, dass der Vater [REDACTED] mit in die USA nimmt und dann dort behält. [REDACTED] hat sich in Deutschland eingelebt, er hat hier Freunde und genießt seinen Alltag. [REDACTED] benötigt Ruhe um gesund aufwachsen zu können.

Erkrath, 13.01.2023



Unterschrift Asli Bez

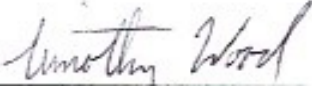
14

A-74



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I, Timothy Wood, hereby certify that I am competent to translate from German to English and that the attached translation is, to the best of my knowledge and belief, a true and accurate translation of the document entitled "German Court Protocol" from German to English.



Timothy Wood

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AB000409

**Non-public Hearing
of the District Court**

Mettmann, 05/31/2023

File no.:

47 F 24/23

In Attendance:

District Court Judge Sörgel

as the Judge

- Without a Secretary § 159 ZPO [*Zivilprozessordnung* [German Code of Civil Procedure]] /
report of proceedings provisionally recorded on a sound recorder

In the matter of the Temporary Order

regarding the minor A■■■■ P■■■■, born on ■■■■ 2017, Trills 85, 40699 Erkrath,

in which matter the following parties are involved:

1. Ms. Asli Baz, Trills 85, 40699 Erkrath,

Petitioner and Child's Mother

Attorney of record:

Attorneys Sawal.Schüller.Hanke,
Joachimsthaler Str. 24, 10719 Berlin

2. Mr. Anthony Patterson, 1902 S. Sawyer Ave, Chicago, Illinois, United States

Respondent and Child's Father

Attorney of record:

Attorneys Weiss, Hippler, Leidinger,
Kapellstr. 12, 40479 Dusseldorf3. *Jugendamt Erkrath* [German Youth Welfare Office in Erkrath], Klinkerweg 7, 40699 Erkrath

Competent Youth Welfare Office.

Upon calling the case, the following people appeared:

- the Petitioner personally and the attorney Dr. Hanke,
- as well as attorney Deppenkemper for the Child's Father,
- connected by video conferencing the Child's Father from Chicago,
- as well as Ms. Wolf from the Youth Welfare Office in Erkrath,
- as well as the interpreter Ms. Beate Maier.

The latter declared about herself:

I am 64 years old, a translator and interpreter by profession, and I am from Hilden.

AB000410

I am not related to the parties nor related to them by marriage and I make reference to the professional oath that I have taken.

The facts of the case and legal situation were discussed.

The Petitioner/Representative declares:

I may have received the brief dated 05/30/2023 by email, but I have not read it yet.

Thereafter, the Respondent/Representative gave a copy of the brief to the Petitioner/Representative.

The Petitioner/Representative asks to be allowed to suspend the hearing briefly in order to discuss the content of the brief and the sworn affidavit with his client.

The hearing is suspended briefly at 3:20 p.m.

The hearing is continued at 3:40 p.m.

Regarding the events on 01/05/2013 [sic: 01/05/2023], the Child's Parents describe their view of things.

With regard to the amicable settlement of the present legal dispute and as an interim settlement for the pending custody proceedings and the main visitation rights proceedings that started today, the Parties conclude the following

S e t t l e m e n t :

1. The Parties are in agreement that joint parental care and custody shall currently remain in place.

The Child's Parents are further in agreement that A■■■ is currently living in Germany with the Child's Mother.

Furthermore, there is agreement that the court settlement from the Circuit Court of Cook County, Illinois, from 05/23/2022 should continue to apply.

AB000411

Regarding the arrangement for the 2023 summer holiday, the extent of the Child's Father's rights to visit A■■ is specified as follows, as stipulated in the settlement from 05/23/2022:

The Child's Father is authorized and required to have parenting time or contact with A■■ during the period from 06/19/2023 through 07/31/2023.

Furthermore, there is agreement that, following this parenting time or contact with the Child, the Child's Father has additional time with A■■ in Germany during the day on 08/02/2023 and 08/03/2023 from 10:00 a.m. to 6:00 p.m.

Additionally, the Child's Father is authorized to attend A■■'s first day of school on 08/08/2023. The Child's Mother shall provide him with information about this event after she receives it.

The Child's Mother shall reserve the flight tickets in consultation with the Child's Father. The latter commits to pay the Child's Mother one half of the price within 24 hours after the reservation is made.

As long as no further specifications have been adopted, the rules in the settlement from 05/23/2022 shall remain in place.

2. The Parties are in agreement that the ban on leaving the country and the border barrier and thus the Order from the Mettmann District Court of 01/23/2023 are lifted.
3. The Child's Father explicitly commits himself to return their son A■■ to Germany after the end of his parenting time.
4. The Child's Parents are in agreement that the Child's Father may hold A■■'s American passport, in view of the fact that a German passport for A■■ is at the Child's Mother disposal, which she keeps.
5. The Parties are in agreement that the custody related matters pertaining to A■■, born on ■■■■2017, in the USA and in Germany will not currently be pursued further in view of the interim settlement that has been reached and because an amicable settlement about visiting the child appears to have been found with the help of the German attorneys of record.

AB000412

Both attorneys of record shall inform the courts about the court settlement reached today in Germany and ask the court to stay the proceedings.

The Respondent commits himself to submit the settlement concluded today to the court in Chicago by 06/02/2023. In any event, the Respondent shall prove this to the representative of the Child's Mother in writing. He commits himself to request that the American court suspend the proceedings in view of the fact that the German attorneys want to come up with an out-of-court solution.

6. The costs of the proceedings and the settlement offset each other.

Dictated aloud, translated, played again
and then translated once again
and then approved by all Parties.

After the hearing of all Parties and with the consent of the Youth Welfare Office:

Ordered and Pronounced

The settlement just concluded is approved by the court because it does not go against the welfare of the child.

The value of the proceedings is set at 2,000.00.

The interpreter is discharged at the end of the hearing at 7:00 p.m. She interpreted simultaneously.

Sörgel

For the accuracy of the transmission of the audio recorder

Billinger, Court Employee
As Registrar of the Business Office

AB000413

**Nichtöffentliche Sitzung
des Amtsgerichts**

Mettmann, 31.05.2023

Geschäfts-Nr.:
47 F 24/23**Gegenwärtig:**Richterin am Amtsgericht Sörgel
als Richterin

- Ohne Protokollführer § 159 ZPO / Protokoll wurde vorläufig auf Tonträger
aufgezeichnet -

In der einstweiligen Anordnungssache

betreffend das minderjährige Kind A■■■■ P■■■■■, geboren am ■■■■■ 2017, Trills 85,
40699 Erkrath,

an der weiter beteiligt sind:

1. Frau Asli Baz, Trills 85, 40699 Erkrath,

Antragstellerin und Kindesmutter,

Verfahrensbevollmächtigte: Rechtsanwälte Sawal.Schüller.Hanke,
Joachimsthaler Str. 24, 10719 Berlin,2. Herr Anthony Patterson, 1902 S Sawyer Ave, Chicago - Illinois, Vereinigte
Staaten,

Antragsgegner und Kindesvater,

Verfahrensbevollmächtigter: Rechtsanwälte Weiss, Hippler, Leidinger,
Kapellstr. 12, 40479 Düsseldorf,

3. Jugendamt Erkrath, Klinkerweg 7, 40699 Erkrath,

zuständiges Jugendamt.

Bei Aufruf der Sache erschienen

- die Antragstellerin persönlich und Rechtsanwalt Dr. Hanke,
- sowie für den Kindesvater Rechtsanwalt Deppenkemper,
- zugeschaltet per Videokonferenz der Kindesvater aus Chicago,
- sowie vom Jugendamt der Stadt Erkrath Frau Wolf,
- sowie als Dolmetscherin Frau Beate Maier.

letztere erklärt zu ihrer Person:

Ich bin 64 Jahre alt, von Beruf Dolmetscherin und Übersetzerin und komme aus
Hilden.**AB000414**

Ich bin nicht verwandt oder verschwägert mit den Beteiligten und beziehe mich auf meinen allgemein geleisteten Dienst.

Die Sach- und Rechtslage wird erörtert.

Der Antragsteller-Vertreter erklärt:

Den Schriftsatz vom 30.05.2023 habe ich gegebenenfalls per Email bekommen aber noch nicht gelesen.

Daraufhin überreicht der Antragsgegner-Vertreter eine Abschrift des Schriftsatzes an den Antragsteller-Vertreter.

Der Antragsteller-Vertreter bittet, kurz die Sitzung unterbrechen zu dürfen, um den Inhalt des Schriftsatzes und der eidesstattlichen Versicherung mit seiner Mandantin zu besprechen.

Die Sitzung wird um 15:20 Uhr kurzzeitig unterbrochen.

Die Sitzung wird um 15:40 Uhr fortgesetzt.

Bezüglich der Vorgänge um den 05.01.2013 schildern die Kindeseltern ihre Sicht der Dinge.

Zur gütlichen Beilegung des vorliegenden Rechtsstreites und als Zwischenvergleich für das anhängige Sorgerechtsverfahren und das heute eingegangene Hauptsache-Umgangsverfahren schließen die Beteiligten folgenden

V e r g l e i c h :

1. Die Beteiligten sind darüber einig, dass es derzeit bei der gemeinsamen elterlichen Sorge verbleibt.

Die Kindeseltern sind weiter darüber einig, dass A ■■■ derzeit bei der Kindesmutter in Deutschland lebt.

Desweiteren besteht Einigkeit darüber, dass der gerichtliche Vergleich des Circuit Court of Cook County, Illinois, vom 23.05.2022 weiter Geltung haben soll.

AB000415

Hinsichtlich der Ausgestaltung der Sommerferien 2023 wird der in dem Vergleich vom 23.05.2022 festgelegte Umgang des Kindesvaters mit A■■■■ wie folgt konkretisiert:

Der Kindesvater ist berechtigt und verpflichtet, Umgang mit A■■■■ zu haben in der Zeit vom 19.06.2023 bis zum 31.07.2023.

Es besteht ferner darüber Einigkeit, dass im Anschluss an diesen Umgang der Kindesvater weiter tageweise Umgang mit A■■■■ in Deutschland hat und zwar am 02.08.2023 und 03.08.2023 in der Zeit von 10:00 bis 18:00 Uhr.

Ferner ist der Kindesvater berechtigt, an der Einschulung von A■■■■ am 08.08.2023 teilzunehmen. Die Informationen über diese Feier stellt ihm die Kindesmutter nach Erhalt zur Verfügung.

Die Flugtickets bucht die Kindesmutter in Absprache mit dem Kindesvater. Dieser verpflichtet sich, nach der Buchung binnen 24 Stunden die Hälfte des Preises an die Kindesmutter zu zahlen.

Soweit keine weiteren Konkretisierungen getroffen wurden, verbleibt es bei der Regelung in dem Vergleich vom 23.05.2022.

2. Die Beteiligten sind darüber einig, dass das Ausreiseverbot und die Grenzsperrung und damit der Beschluss des Amtsgerichts Mettmann vom 23.01.2023 aufgehoben wird.
3. Der Kindesvater verpflichtet sich ausdrücklich, den gemeinsamen Sohn A■■■■ nach Ende der Umgangszeiten nach Deutschland zurückzubringen.
4. Die Kindeseltern sind sich darüber einig, dass der Kindesvater den amerikanischen Reisepass von A■■■■ behalten darf, im Hinblick darauf, dass der Kindesmutter ein deutscher Reisepass für ■■■■ zur Verfügung steht, den diese behält.
5. Die Beteiligten sind darüber einig, dass die Kindschaftssachen betreffend A■■■■, geboren am 10.05.2017, in den USA und Deutschland derzeit nicht weiter betrieben werden im Hinblick auf den geschlossenen Zwischenvergleich und weil mit Hilfe der deutschen Verfahrensbevollmächtigten eine einvernehmliche Regelung über den Umgang gefunden werden soll.

AB000416

Beide Verfahrensbevollmächtigten werden die Gerichte informieren über den heute in Deutschland geschlossenen gerichtlichen Vergleich und das Gericht bitten, das Verfahren zum Ruhen zu bringen.

Der Antragsgegner verpflichtet sich, den heute geschlossenen Vergleich bis zum 02.06.2023 bei dem Gericht in Chicago einzureichen. In jedem Fall weist der Antragsgegner dies gegenüber dem Vertreter der Kindesmutter schriftlich nach. Er verpflichtet sich gegenüber dem amerikanischen Gericht um Aussetzung des Verfahrens nachzusuchen im Hinblick darauf, dass die deutschen Anwälte eine außergerichtliche Lösung herbeiführen wollen.

6. Die Kosten des Verfahrens und des Vergleichs werden gegeneinander aufgehoben.

Laut diktiert, übersetzt, wieder vorgespielt
und sodann noch einmal übersetzt
und sodann von allen Beteiligten genehmigt.

Nach Anhörung aller Beteiligten und mit Zustimmung des Jugendamtes:

b.u.v.

Der soeben geschlossene Vergleich wird gerichtlich gebilligt, weil er dem Kindeswohl jedenfalls nicht widerspricht.

Der Verfahrenswert wird auf 2000,00 festgesetzt.

Die Dolmetscherin wird am Ende der Sitzung um 19:00 Uhr entlassen. Sie übersetzte simultan.

Sörgel

Für die Richtigkeit der Übertragung vom Tonträger

Billinger, Justizbeschäftigte
als Urkundsbeamtin der Geschäftsstelle

AB000417

Attorney No.: 100071

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, DOMESTIC RELATIONS DIVISION**

IN RE THE MARRIAGE OF:

ASLI BAZ,
Petitioner,

and

ANTHONY PATTERSON,
Respondent.

ENTERED
Judge Lori Rosen-2219
JUL 10 2023
IRIS Y. MARTINEZ
CLERK OF THE CIRCUIT COURT
OF COOK COUNTY, IL

Case No.: 17 D 79814

**EMERGENCY EX PARTE TEMPORARY RESTRAINING ORDER
SUBMITTED VIA ELECTRONIC MEANS**

THIS CAUSE coming before the Court on proper notice for hearing of Respondent, ANTHONY PATTERSON's Emergency Ex Parte Petition for Temporary Restraining Order and Preliminary Injunction, Respondent and his Counsel appearing via Zoom, Petitioner not having notice and not appearing, the matter being called at 10:12 a.m., this Court having jurisdiction over the parties and the subject matter hereto, and the Court being advised in the premises:

THE COURT FINDS AS FOLLOWS:

1. This matter is an **EMERGENCY**.
2. Based on the history of this matter and the allegations set forth in the Respondent's Petition, the request to proceed *ex parte*, is **GRANTED**.
3. The parties were not married, however as a result of their relationship one (1) child was born, namely: [REDACTED] born [REDACTED] 2017, currently age six (6).
4. Anthony Patterson and the minor child are currently in Illinois.
5. Anthony Patterson has a protectable right and interest at issue, namely the right to provide to exercise parenting time to maintain the father-child relationship and to prevent the mental, emotional, and psychological harm and manipulation of the minor child.
6. Anthony Patterson has no adequate remedy at law other than to bring the emergency petition to protect his right and interest at issue.
7. Should this matter proceed to hearing, Anthony Patterson has a likelihood of success on the merits of his petition.
8. Based on a balancing of hardships, the Court finds these weighs in favor of Anthony Patterson and granting him injunctive relief.

Accordingly, IT IS HEREBY ORDERED:

1. Petitioner, ASLI BAZ, or any third party on her behalf, is hereby restrained from interfering with Respondent, Anthony Patterson's parenting time with the minor child;
2. Petitioner, ASLI BAZ, or any third party on her behalf, is hereby restrained from having physical contact with the minor child until further Order of this Court;
3. Petitioner, ASLI BAZ, or any third party on her behalf, is hereby restrained from picking up/removing or accessing the minor child while the minor child is in the care of any third-party care provider or activities;
4. Respondent, ANTHONY PATTERSON, is hereby granted exclusive parenting time and decision making for the minor child until further Order of this Court;
5. Respondent, ANTHONY PATTERSON, is hereby granted the right to place the minor child, [REDACTED] born [REDACTED] 2017, currently age six (6) on the No Fly List and alert the Office of Children's Issues within the United States Department of State;
6. Respondent, ANTHONY PATTERSON, is hereby granted sole custody and control of the minor child's passports and travel documents and said documents shall remain in ANTHONY PATTERSON's possession until further order of this Court;
7. Petitioner, ASLI BAZ, shall deposit any and all foreign identification, passport(s) (including, but not limited to any German Passport), or travel document(s) of/for the minor child with ANTHONY PATTERSON prior to July 25, 2023.
8. Petitioner, ASLI BAZ is hereby restrained from obtaining originals or copies of any identification, passport(s), or travel documents (foreign or domestic) for the minor child;
9. The requirement of bond is hereby waived.

10. The issue of an award of attorneys' fees and costs related to the Emergency Ex Parte Petition for Temporary Restraining Order and Preliminary Injunction to Respondent, ANTHONY PATTERSON, from the Petitioner, ASLI BAZ, is hereby reserved.

11. Counsel for Anthony Patterson shall serve Asli Baz, via email, with a copy of the Emergency Ex Parte Petition for Temporary Restraining Order and Preliminary Injunction and this Order prior to July 25, 2023.

12. This matter is set for status and hearing on the preliminary injunction on July 25, 2023 at 9:30 a.m. via Zoom. All parties and counsel shall be present.

July 10, 2023

ENTERED:


#2219
Judge

Birnbaum Gelfman Sharma & Arnoux, LLC
Attorney No.100071
Attorneys for Respondent
161 N. Clark St., 17th Floor
Chicago, IL 60601
(312) 863-2800
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7/10/23

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1679

Attorney No.: 100071

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, DOMESTIC RELATIONS DIVISION**

IN RE THE MARRIAGE OF:)
ASLI BAZ,)
Petitioner,)
and)
ANTHONY PATTERSON,)
Respondent.)

Case No.: 17 D 79814

ENTERED
Judge Lori Rosen-2219
JUL 25 2023
IRIS Y. MARTINEZ
CLERK OF THE CIRCUIT COURT
OF COOK COUNTY, IL

PRELIMINARY INJUNCTION
SUBMITTED VIA ELECTRONIC MEANS

THIS CAUSE coming before the Court on proper notice for hearing of Respondent, ANTHONY PATTERSON's Emergency Ex Parte Petition for Temporary Restraining Order and Preliminary Injunction, Respondent and his Counsel appearing via Zoom, Petitioner being represented by Peskind Law, the Guardian *ad Litem* appearing via Zoom, this Court having jurisdiction over the parties and the subject matter hereto, and the Court being advised in the premises:

THE COURT FINDS AS FOLLOWS:

1. A Emergency Ex Parte Temporary Restraining Order was entered by this Court on July 10, 2023 and was set for July 25, 2023 for hearing on the entry of a Preliminary Injunction.
2. Asli Baz is fully aware of these proceedings given the filing of an appearance by Peskind Law Firm on her behalf and her filing of her Emergency Motion to Stay State Court Custody Proceedings and Notice of Wrongful Retention on July 20, 2023.
3. The parties were not married, however as a result of their relationship one (1) child was born, namely: [REDACTED] born [REDACTED] 2017, currently age six (6).
4. Anthony Patterson and the minor child are currently in Illinois.
5. Anthony Patterson has a protectable right and interest at issue, namely the right to provide to exercise parenting time to maintain the father-child relationship and to prevent the mental, emotional, and psychological harm and manipulation of the minor child.
6. Anthony Patterson has no adequate remedy at law other than to bring the emergency petition to protect his right and interest at issue.
7. At hearing, Anthony Patterson has shown success on the merits of his petition.
8. Based on a balancing of hardships, the Court finds these weighs in favor of Anthony Patterson and granting him injunctive relief and a preliminary injunction.

9. Asli Baz has exhibited extremely concerning behavior as to direct violations of the AJPP and her testimony in open court. Asli Baz has shown utter disregard to the orders entered in this Court.

10. Mr. Michael Bender testifying in his capacity as Guardian *ad Litem* is found to be competent and credible.

Accordingly, over Petitioner's objection, **IT IS HEREBY ORDERED:**

1. The July 10, 2023 Temporary Restraining Order of this Court is converted to a preliminary injunction, *instanter*.
2. All terms of the July 10, 2023 Order of this Court remains in full force and effect.
3. The issue of bond is hereby waived.

July 25, 2023

ENTERED:


#2219
Judge

Birnbaum Gelfman Sharma & Amoux, LLC
Attorney No.100071
Attorneys for Respondent
161 N. Clark St., 17th Floor
Chicago, IL 60601
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§ 11 Grenzüberschreitende Sorge-, Umgangs- und Kindesentführungsfälle	Völker/Clausius	Völker/Clausius, Sorge- und Umgangsrecht 8. Auflage 2021	Rn. 79, 80
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Quelle: beck-online DIE DATENBANK

5. Autonomes Recht (§§ 108–110 FamFG)

Das Gesetz geht in **§§ 108 f. FamFG**³⁰¹ von der grundsätzlichen Anerkennungsfähigkeit und – dies vorausgesetzt (§ 110 FamFG) – Vollstreckbarerklärungsfähigkeit ausländischer Entscheidungen auf dem Gebiet der freiwilligen Gerichtsbarkeit aus. **79**

Eine ausländische Entscheidung soll im Inland dieselbe Wirkung haben wie im Entscheidungsstaat.³⁰² Dabei ist unerheblich, ob es sich um endgültige Regelungen oder um Eilentscheidungen handelt.³⁰³

Die inhaltliche Prüfung der ausländischen Sorgerechtsentscheidung beschränkt sich auf die in § 109 Abs. 1 FamFG genannten **Anerkennungshindernisse**, die den ordre public-Vorbehalt – einschließlich Kindesanhörung³⁰⁴ – aufnehmen (Nr. 4) und zugleich konkretisieren: Die internationale Zuständigkeit des ausländischen Gerichts muss – unter Zugrundelegung deutschen Rechts – gegeben sein (Nr. 1). Das **rechtliche Gehör** muss gewahrt worden sein (Nr. 2). Dies setzt eine sowohl ordnungsgemäße als auch rechtzeitige Mitteilung des verfahrenseinleitenden Dokuments voraus; dieser Versagungsgrund entfällt auch nicht dadurch, dass der Beteiligte nach Erlangung der Kenntnis von der ausländischen Entscheidung keinen nach der Verfahrensordnung des Ursprungsstaats zulässigen Rechtsbehelf eingelegt hat.³⁰⁵ Die anzuerkennende Entscheidung darf mit einer in Deutschland erlassenen oder anzuerkennenden früheren ausländischen Entscheidung nicht unvereinbar sein,³⁰⁶ ebenso wenig das ihr zugrunde liegende Verfahren mit einem in Deutschland früher rechtshängig gewordenen (Nr. 3). Niemals darf eine Sorgerechtsentscheidung das **Kindeswohl** außer Acht lassen.³⁰⁷ **80**

301 Text auszugsweise abgedr. unter → § 14 Rn. 11.

302 Vgl. VGH Hessen 26.3.1998 – 6 TZ 4017/97, FamRZ 1999, 993.

303 Vgl. OLG München 16.9.1992 – 12 UF 390/92, FamRZ 1993, 349.

304 Dazu eingehend OVG Berlin-Brandenburg 2.12.2015 – OVG 11 N 27.14; OVG Berlin-Brandenburg 12.7.2017 – OVG 11 B 5.16.

305 BGH 3.4.2019 – XII ZB 311/17, FamRZ 2019, 996.

306 Vgl. dazu etwa OLG Bremen 30.6.2017 – 1 W 31/17, FamRZ 2017, 2042.

307 Vgl. BGH 14.10.1992 – XII ZB 18/92, FamRZ 1993, 316; vgl. auch OLG Düsseldorf 4.12.1981 – 5 UF 67/81, FamRZ 1982, 534 und – zum afghanischen Recht – OVG Berlin-Brandenburg 26.8.2014 – 6 N 48.14, FamRZ 2015, 66.

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ENGLISH TRANSLATION

Autonomous Law (§§ 108–110 FamFG)

The law, as outlined in sections 108 et seq. of the Family Court Act (FamFG), assumes the fundamental recognizability and, provided certain conditions are met (§ 110 FamFG), enforceability of foreign decisions in the field of voluntary jurisdiction.

A foreign decision should have the same effect domestically as it does in the state where the decision was made. It is irrelevant whether these decisions are final arrangements or interim decisions.

The substantive examination of foreign custody decisions is limited to the recognition impediments mentioned in § 109 (1) FamFG, which incorporate the *ordre public* reservation - including the hearing of the child (No. 4) - and at the same time specify: the international jurisdiction of the foreign court must be given - based on German law (No. 1). The right to be heard must have been preserved (No. 2). This requires both proper and timely communication of the initiating document; this ground for refusal is not eliminated even if the party, after becoming aware of the foreign decision, has not lodged a remedy permissible under the procedural rules of the country of origin. The decision to be recognized must not be incompatible with a decision previously issued or recognized in Germany or the underlying procedure with a previously pending one in Germany (No. 3). A custody decision must never disregard the best interests of the child.

CERTIFICATE OF COMPLIANCE

The undersigned certifies that the foregoing motion complies with Fed. R. App. P. 27(a) and the type-volume limitation of Fed. R. App. P. 27(d)(2)(A) because it contains 306 words.

The undersigned further certifies that this motion complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type style requirements of Fed. R. App. P. 32(a)(6) because this motion has been prepared in a proportionally spaced typeface using Microsoft Word Version 2016 in 12 point Century Schoolbook font.

Dated: January 29, 2024

/s/ Jonathan Schaffer-Goddard
JONATHAN SCHAFFER-GODDARD
Attorney for Respondent-Appellant

CERTIFICATE OF SERVICE

I hereby certify that on January 29, 2024, I filed the foregoing with the Clerk of the Court using the CM/ECF System, which will send notice of such filing to all registered CM/ECF users.

Dated: January 29, 2024

/s/ Jonathan Schaffer-Goddard
JONATHAN SCHAFFER-GODDARD