214 Va. 639

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Clerk, Supreme Court of Appeals
Richmond, Va.

IN THE SUPREME COURT OF VIRGINIA
AT RICHMOND

Record No. 8272

IN RE ADOPTION OF PETRA SEBISCH, AN INFANT,
BY WILTON R. CLEMENTS AND ILSE FRIEDA CLEMENTS

Viktoria Annaliese Szemler and
Tibor Szemler,
natural parents of child APPELLANTS

v.

Wilton R. Clements and
Ilse Frieda Clements,
proposed adoptive parents of child APPELLEES

APPENDIX A

I. J. Crickenberger
Crickenberger & Moore
Skyline Center
5205 Leesburg Pike
Baileys Crossroads, Va. 22041

Counsel for Appellants

Peter Heidenberger
Lambert, Furlow, Elmore &
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1629 K Street, N. W.
Washington, D. C.

Of Counsel for Appellants

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PETITION BY NATURAL MOTHER
OPPOSING ADOPTION

Your petitioner, Viktoria A. Sebisch, respectfully represents to this Honorable Court as follows:

(1) That she is the natural mother of Petra Sebisch who was born on May 17, 1968 in Frankfurt-Main, Germany;

(2) That she is a citizen and resident of Germany, residing at Ansbacher Strasse #4, Frankfurt, Germany, and has come to the United States expressly and for the sole purpose of regaining custody of her child, Petra Sebisch;

(3) That Ilse F. Clements is her sister, and presently has custody of Petra Sebisch as a result of a consent to adoption obtained from the petitioner by fraudulent misrepresentations on the part of Ilse F. Clements;

(4) That the consent to adoption was signed by her for the sole purpose of allowing the child, Petra Sebisch, to accompany Ilse F. Clements to the United States for a short period of time, and that there was never any actual intention on her part to consent to a legal adoption of her child, the said Petra Sebisch;

(5) That at the time that the consent to adoption was signed she desired her child, Petra Sebisch, to come to the United States as a temporary expedient because of financial difficulties, and it was her intention at all times to resume custody of her natural child as soon as her financial situation was stabilized;

(6) That she revoked her consent to adoption in valid

form according to German law prior to her child leaving Germany, but the child was removed from Germany and brought to the United States by Wilton R. Clements and Ilse F. Clements;

(7) That the petitioner is a fit and proper person to have custody and control of her minor daughter, Petra Sebisch, and can provide adequately for the needs of her daughter; and

(8) That the best interest of her daughter would be promoted by her being returned forthwith to the exclusive care, custody and control of petitioner.

WHEREFORE, the petitioner asks this Court that this proceeding be dismissed with prejudice, and that the custody and control of Petra Sebisch be delivered to her natural mother, Viktoria A. Sebisch.

VIKTORIA A. SEBISCH

_____
By Counsel

Crickenberger & Moore
2400 Wilson Boulevard
Arlington, Virginia 22201
524-4411

By_____
I. J. Crickenberger
Counsel for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Petition was mailed postage prepaid to F. Mather Archer, Esquire at 10560 Main Street, Fairfax, Virginia 22030 this day of

_____
I. J. Crickenberger

CONSENT BY MOTHER TO ADOPTION
(CLEMENTS' EXHIBIT #1)

I, the undersigned Mrs. Anneliese Sebisch nee Schnabel, resident of Frankfurt a.M., Anspacher Str. 4 agree that my daughter Petra Sebisch, born May 17, 1968 emigrates to the USA with my sister and her husband, Lt.Cmdr. and Mrs. Wilton Clements and is adopted by them.

Frankfurt,a.M., March 26, 1970

signed Anneliese Sebisch nee Schnabel

Nr. 30 of the Record Book for 1970

I herewith authenticate the above signature executed in front of me by Mrs. Anneliese Sebisch nee Schnabel, resident of Frankfurt a.M. Anspacher Str. 4, who identified hereself through the Federal Identity Card Nr. D 9861677.

Frankfurt a.M., March 26, 1970

L.S. signed Dr. Schiefhauer
attorney
as officially appointed substitute
of the Notary Public Dr. Georg Nielsen

Ffm., 4.13.1970

I certify that this is a faithful photocopy
of the original document
October 21, 1970
Frankfurt a.M.
(signature illegible)
(there is a seal: City Frankfurt am Main 73)

I HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND ACCURATE TRANSLATION OF THE ATTACHED DOCUMENT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

Rosique Daniel
BERLITZ TRANSLATION SERVICE

Subscribed and sworn to before me on this 29th day of October, 1970.

Helene M. Sullivan
Notary Public My com. expires 11/23/70

Every care is taken to insure the accuracy of all translations. However, The Berlitz Schools of Languages of America, Inc., its divisions, affiliates, agents and employees shall not be liable in respect of any claims of error or negligence in translation or typing.

CERTIFICATE OF GUARDIANSHIP-GERMAN JUVENILE OFFICE
(CLEMENTS' EXHIBIT #2)

CERTIFICATE

concerning the guardianship (paragraph 1709 BGB)

The Juvenile Office Frankfrurt (Main)

becomes guardian of the illegitimate child Petra Schnabel

born on 5.17.1968

in Frankfurt (Main)

from Anneliese Viktoria Sabisch nee Schnabel

The sphere of activities comprises the taking care of the following matters:

1. The establishment of paternity and any further matter which concerns the establishment or change of relationship between parents and child or concerning the family name of the child,

2. The assertion of support claims including a settlement arrangement instead of the support payments as well as an injunction relative to these claims; if the child is placed in a paid foster home, the guardian is entitled to pay out of the support moneys the third pary,

3. The settlement of inheritance and legitimate portions to which the child is entitled in case of death of the father and its relatives.

I certify that this is a faithful photocopy of the
original document, October 21, 1970
Frankfurt a.M.
(signature illebigle)
(there is a seal: City Frankfurt am Main 73)

There is a signature (illegible)
There is a seal: Magistrate's Court
Frankfurt am Main

VS 1 - Certificate of guardianship (paragraph 1709 BGB)

Every care is taken to insure the accuracy of all translations. However, The Berlitz Schools of Languages of America, Inc., its divisions, affiliates, agents and employees shall not be liable in respect of any claims of error or negligence in translation or typing.

CONSENT BY GERMAN JUVENILE OFFICE TO ADOPTION
(CLEMENTS' EXHIBIT #3)

CITY OF FRANKFURT AM MAIN
Migistracy Bureau of Youth Welfare

Station Gallus

CERTIFICATION TO BE PRESENTED TO AMERICAN AUTHORITIES OR ATTORNEYS.

Section at Kriftelerstrasse 84

Tel. 212 4185

File No. S22306
SG/AV

10.20.70

Re.: Guardianship of Petra SCHNABEL, born 5.17.1968 in Frankfurt a.M.

As guardians of the above child, especially in view of Par. 1706/1 of the BGB (Code of Civil Law of Germany) and the intended adoption by Mr. Wilton Clements and his wife Ilse, residing at 7238 Evanston Rd., Springfield, Va., USA 22150, we certify that we are fully agree with the adoption of the above child by the abovementioned couple and that we are in favor of this adoption.

This measure is taken in the interest of the child and for its welfare.

Seal of the City of Frankfurt am Main

Signature
Seeger
Guardian

I HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND ACCURATE TRANSLATION OF THE ATTACHED DOCUMENT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

Monique David
BERLITZ TRANSLATION SERVICE

Subscribed and sworn to before me this 27th day of October 1970
Jean Schwerdt Notary Public
My Comm. exp. 7/27/71

Every care is taken to insure the accuracy of all translations. However, The Berlitz Schools of Languages of America, Inc., its divisions, affiliates, agents and employees shall not be liable in respect of any claims of error or negligence in translation or typing.

AFFIDAVIT OF JOHANNES SEEGER-GERMAN JUVENILE OFFICE (CLEMENTS' EXHIBIT #4)

I, the undersigned Chief Inspector Johannes Seeger, declare under oath the following, whereby I am fully aware that this declaration will be submitted to an American Court.

Since 1959 I have been working in the Youth Commission of the city of Frankfurt am Main and since 1961 I am the head of the Guardianship Section of the Youth Commission.

In this capacity I have been involved since 1967 with the family matters of the children of Mrs. Anneliese Sebisch nee Schnabel.

Since 1969 the Sebisches have been a concern to the Youth Commission because the mother neglected to fulfill her custodial duties toward her children, and actually to such an extent that her children Monika and Viktoria had to be placed in a public orphanage.

Through a decision of the Lower Court of Frankfurt am Main of 2.12.1970 after the divorce of the parents, the fault being found with the mother, the Evangelic Social Service of Frankfurt am Main was awarded the guardianship of the children. Procedures were initiated to withdraw the parental guardianship. A decision was not reached because Mrs. Anneliese Sebisch, in a court deposition dated 8.31.1967 declared herself in agreement with the placement of her children in an orphanage.

The child Petra was born in wedlock but was not sired by husband Sebisch but by a Hungarian named Tibor Szemmler. After the legitimacy of this child was questioned its family name was changed to Schnabel, according to the German law, after the maiden name of the mother, and therefore the child is illegitimate.

Since the child Petra Schnabel was ill cared for by its natural mother (see report of the Social Service Gallus dated 7.3.1969) and since its placement with the Clements family was to its advantage and well-being, my office has approved the adoption request of the Clements.

According to the decision of the lower court of 4.6.1970 - Az. 43 VIII 235/69- a city Youth Commission of Frankfurt am Main was appointed as tutor for Petra Schnabel, said tutelage following a decision of the same lower court dated 7.8.70 was transformed into a guardianship according to paragraph 1709 BGB (Code of Civil Law). The responsibilities of the guardianship comprised among other things, the determination of paternity or any other matters relating to the change in the parent child relationship or to the family name of the child. This also covers the subject of adoption so that in this matter it is the Youth Commission in its capacity as guardian which has to make the decision instead of the mother. The Youth Commission is still of the opinion that the adoption of the child by the Clements is for the good of the child and that it would be detrimental to the child to bring it back to the family of the mother.

The alleged father of the child, the Hungarian citizen named Tibor Szemmler, in spite of several invitations to do so, has not recognized his paternity of the child, Petra Schnabel. As far as the Youth Commission knows a marriage between the mother of the child and him has not been foreseen. The attitude of Mr. Szemmler does not show any intention of his wanting to get married.

The Youth Commission is not aware of any indication that Mrs. Anneliese Sebisch was not in full possession of her senses when she gave her consent. Just shortly before the departure of the Clements she declared she was not any longer in agreement with the adoption. She did not indicate any reasons for it. The Youth Commission in its capacity as guardian does not have any reasons for changing its point of view. It is for this reason that the Youth Commission gave its consent to the departure of the child.

This deposition was read to the testifier, who approved it and signed it in front of the Notary Public.

signed Johannes Seeger

signed Dr. George Nielsen
Notary Public

Bill: in the amount of 5,000 DM

Fee Paragraph 49 I KO	DM	30.--
Tax on the Added Value 5.5%	DM	1.65
	DM	31.65

signed Dr. Nielsen
Notary Public

This document which is in agreement with the main document is issued for the first time and handed to Mr. Johannes Seeger, Lorsbach/Ts., Bornstrasse 45.
Frankfurt am Main November 13, 1970

AFFIDAVIT OF TIBOR SZEMLER
(SZEMLER EXHIBIT #1)

AFFIDAVIT

Tibor Szemler, being duly sworn, deposes and says:

(1) That he is making this affidavit for the purpose of being added as a party to this suit, and for joining with Viktoria A. Szemler (formerly Sebisch) in opposing the adoption of Petra Sebisch by Wilton R. and Ilse F. Clements;

(2) That he is the natural father of Petra Sebisch, who was born to Viktoria A. Szemler on May 17, 1968; and

(3) That he was married to Viktoria A. Szemler (formerly Sebisch), the natural mother of Petra Sebisch, on March 8, 1971.

Tibor Szemler
Tibor Szemler

FEDERAL REPUBLIC OF GERMANY)
Land Hessen)
City of Frankfurt am Main) SS
Consulate General of the)
United States of America)

Before me, the undersigned consular officer, personally appeared on this 26th day of October, 1971, Tibor Szemler and made oath and stated that the matters and things set forth in the foregoing Affidavit are true to the best of his knowledge and belief.

Tibor Szemler
Tibor Szemler

Subscribed and sworn to before me this 26th day of October, 1971.

Daroslav S. Vlahovich
~~Consul of the United States~~
duly commissioned and qualified

ORDER BY DISTRICT COURT OF FRANKFURT
(SZEMLER EXHIBIT #2)

43 VIII 235/69

O R D E R

In the matter of the Guardianship of Petra Schnabel, born 5/17/1968

The motion of the Juvenile Office of Frankfurt/Main, to substitute the consent of Tibor Szemler and his wife, Anneliese Szemler, nee Schnabel, to the adoption of their minor daughter, Petra, born 5/17/1968 by Mrs. Ilse and her husband, Mr. Wilton Raimond Clements, 7138 Evanston Road, Springfield, Virginia, 22150, is denied.

Grounds:

The minor child, Petra, was born while her mother, Mrs. Anneliese Szemler, nee Schnabel, divorced Sebisch, was married to Mr. Alfred Sebisch. Said marriage was divorced by final decree of the County Court of Frankfurt/Main dated 2/14/1969. In its final judgment of 1/30/1970 the County Court of Frankfurt/Main ruled that Petra is not a legitimate child of Mr. Alfred Sebisch. On 2/19/1971 Mr. Tibor Szemler acknowledged to be the father of the child, Petra, before the Registrars Office at Frankfurt/Main - Mitte. Mr. Szemler and the mother of the child have since married. According to § 1719 BGB (German Civil Code), Petra has become a legitimate child by reason of said marriage. Petra did live from her birthday on until 4/14/1970 in the household of her mother. Since 4/14/1970, she has been with Mrs. Clements and her husband, who is the sister of her mother. Mr. and Mrs. Clements have since moved to the United States and taken Petra with them. Mr. and Mrs. Clements intend to adopt Petra. On 3/26/1970, the mother consented to the adoption in a notarized statement. She revoked her statement of consent on 4/24/1971, said statement not having been properly authenticated which made it invalid according to § 1748, subs. III; § 125 BGB. Because both the natural father and the natural mother of the child refuse their consent, required by § 1747, subs. I BGB, the Juvenile Office as temporary guardian of the minor Petra has moved to substitute said consent.

This motion had to be denied because the conditions of § 1747, subs. III BGB for a substitution of the consent have not been met, and no evidence for their existence has been presented.

There was no specific proof that the natural mother has violated continuously and was grossly negligent with reference to her duties to the child. The Juvenile Office has merely noted that the natural mother has been relieved of custody of her two daughters from her marriage with Mr. Sebisch and that it would have moved for the same, regarding Petra, if there had not been an intent for adoption. However, the denial of custody with regards to both of the elder daughters does not mean that the mother did also neglect Petra inasmuch as it has to be taken into consideration that the marriage with the frail Mr. Sebisch and the care for her also ailing daughter, Viktoria, did demand too much from the mother. Actual facts, from which neglect or abuse of custody with respect to Petra would follow, have not been shown.

The natural father also cannot be charged with continuous and gross neglect of his duties with regards to Petra. Although he did not commit himself to the Juvenile Office to pay support, his statement is undisputed that he made payments which he proved by submission of payment stubs for the support of Petra. He had been, for example, on vacation with Petra and her mother in the summer of 1969. The photographs which he submitted show that he devoted his full attention to Petra during this vacation. On said photographs, Petra, seems to be in good care and well nourished. A gross neglect of duty is therefore not shown. Furthermore, there was no proof of the additional prerequisite of § 1747, subs. III BGB, namely the fact of refusal of consent with malicious intent.

The parents did declare with credibility that they have so deep an affection for the child that they deem it to be in the best interest for the child to be raised by her natural parents. The natural father does contest the allegation of the Juvenile Office, that he had told neighbors a child should not be given away but sold. The Juvenile Office did not come up with evidence to prove the alleged statement, although knowing of the contradicting statement of the father.

Furthermore, a refusal of the consent for financial motives seems improbable for the reason that the father and the mother did incur the expenses and inconvenience of a journey to the United States in order to get the child back. The income of Mr. Clements, which has been stated in the report of the American Juvenile Authority, dated 11/26/1969, to be $10,000.00 a year does not warrant the conclusion that the spouses Szemler do speculate upon a settlement-payment which would yield a profit in excess of the incurred travel expenses and attorney's fees.

To the contrary, the court has gotten the impression from the testimony of the parents that they sincerely love Petra and that only for that reason they do not wish to give up the child, despite the fact that the mother at first gave her consent to Petra's adoption in a statement, the signature of which was authenticated by a notary public. The declaration of the mother that she had been pushed to make that statement without the knowledge of its implications seems credible, particularly because she revoked her consent shortly thereafter.

The missing consent of the parents to the adoption of Petra is accordingly not substituted because the prerequisites of § 1747, subs. III BGB are lacking. The decision is rendered without court costs. Expenses will not be reimbursed (§ 13 a FGG).

Frankfurt, (Main), June 7, 1971
District Court, Department 43
Pohan, Judge

Certified Copy
SEAL Signature, Clerk

I hereby certify that this is a true copy of the Original.

Frankfurt (Main), June 28, 1971
Signature, Notary

Statement of Costs:
§§ 141, 154

Fee §§ 141, 55	DM 2.00
Typing Fee	" 4.00
Tax	" 0.33
TOTAL	DM 6.33

Signature, Notary

DEPOSITIONS TAKEN IN GERMANY BY STIPULATION
(SZEMLER EXHIBIT-NOT NUMBERED)

H e a r d

in Frankfurt am Main on January 28, 1972

before me, the undersigned notary

HARRY KASTULL

with location in Frankfurt am Main

appeared today at 3.06 p-m.

1. Tibor Szemler, 6 Frankfurt am Main, Rohmerstraße 22,
   - personally known -;
2. the wife of the above, Anneliese Szemler, née Schnabel, address as above,
   - personally known -;
3. Mr. Gerhard Herzsprung, barrister, 6 Frankfurt am Main, Zeil 10, acting on behalf of the deponents under 1) and 2),
   - personally known -;
4. Mr. Klaus Kotzias, junior barrister, Worms/Rhein, Lutherring 19, introduced to the notary by the deponent under 3), acting on behalf of F. Mather Archer, barrister, Fairfax, Virginia,
5. Ilse Baudy, articled clerk, business address: Frankfurt am Main, Fichtestraße 10.

A. P. HERMANN
Sinngemäß gemäß der beeidigter
Dolmetscher für die Gerichte des
Oberlandesgerichtsbezirks Frankfurt-M
Telefon: 13/130

In the lawsuit before the district court of Fairfax concerning the adoption of the minor Petra Sebisch by Wilton R. Clements and his wife Ilse Clements née Schnabel - ref.no. 3I508 - evidence on oath shall be heard from the witnesses listed below.

The deponent under 4) guarantees that the hearing of the witnesses shall be in accordance with the regulations stipulated in para. 8-304 ff. Code of Virginia (I950).

Henceforth appears Frau Ursula Huber
née Oxendorf, teacher,
in Frankfurt am Main,
resident in Bad Homburg v.d.H.
Seedammweg 35, born on
August 3, I925.

Testifies: on questioning by the deponent under 4):

Q: Are you in any way related to the parties concerned, the couples Szemler or Clements or the child Petra Sebisch, now Szemler?

A: No.

Q: Do you know Frau Szemler, previously Frau Sebisch, née Schnabel?

A: Yes

Q: Where do you know her from?

A: She is the mother of a pupil of mine, who has however been expelled.

Q: Who is this pupil?

A: Viktoria Sebisch.

Q: Did you have any difficulties with this pupil which you consider to have been caused by the present circumstances?

A: No.

Q: Did the pupil complain to you about discord in her home?

A: Yes, she did but a long time ago.

Q: How long ago was it?

A. D. M[illegible]
[illegible]
[illegible]
[illegible]
[illegible]

A: It is probably about five years ago.

Q: - - -

At this point the notary points out to the witness that in her quality as a teacher she requires the permission of her superiors to give evidence about anything concerning her professional sphere.

Q: Have you received such permission?

A: No.

Q: Would you nevertheless like to go on giving evidence?

A: May I ask what the hearing is about?

Explanation of the deponent under 4):

The hearing is concerned with the adoption of the child Petra Sebisch. The lawsuit is at present pending before a court in the American State of Virginia. We are especially concerned with finding out whether the adoption of Petra Sebisch would be in her best interest or whether it is advisable that the child now called Szemler should return to the family Szemler.

Q: Now that you have heard the purpose of this hearing are you willing to go on giving evidence?

A: Yes, I am.

The deponent under 3) objects.

Q: What was the main complaint of your ex-pupil about life in her home?

A: That her mother and father were at discord.

Q: Is it true that the father at the time was Herr Alfred Sebisch?

A: Yes.

Q: Did your pupil Viktoria Sebisch complain to you that her mother did not care enough for her?

A: I cannot remember such a statement.

Q: Do you know whether Viktoria Sebisch or her sister Monika or both were sent to a Home by the Youth Welfare Office?

A: Yes, but only one of them, Vicki, I mean Viktoria Sebisch.

A. D. HERRMANN
Staatlich [illegible] sowie beeidigter
Dolmetscher für die Gerichte des
Oberlandesgerichts Frankfurt-M
6 [illegible] T/MAIN
Adlerflychtstr. 31 - Telefon: 557130

Q: Do you know why she was put in a Home?

A: No, I am sorry, I do not remember. I often visited her in the Home and met her mother there at a Christmas party.

On questioning by the deponent under 3):

Q: Is Viktoria physically handicapped and if so how?

A: Viktoria is defect of hearing.

Q: Is it better for the child to be in a home than with her family because of her defect?

A: At the time I encouraged her to be put in a Home so that she could escape from the atmosphere at home.

Q: - - -

Dictated aloud and approved.

The witness made the following oath:

The notary said the following words:

" I swear by God the Almighty that the evidence you have given and which has gone on record is the truth."

The witness then made the oath by lifting her right hand and saying:

"I swear that the evidence I have given on record is the truth. So help me God."

The witness was dismissed at 3.53 p.m.

As second witness there appeared

Frau Gisela Pribusz née Weinheimer, housewife, resident in Mörfelden, Gundhofstraße 26, born on December 20, 1935.

The witness declares that she is in no way related to any of the parties concerned and that she is willing to give evidence after being duly instructed.

On questioning by the deponent under 3):

Q: Do you know Petra Szemler, previously Petra Sebisch?

A: Yes.

Q: Do you also know her parents?

A: Yes.

A. D. HERRMANN
Staatlich geprüfter sowie beeidigter Dolmetscher für die Gerichte des Oberlandesgerichtsbezirks Frankfurt-M
6 - F... ...T/MAIN
Adlerflychtl... 31 - Telefon: 557130

Q: What was the state of her health?

A: Very good.

Q: What was the state of her clothing?

A: The child was clean and nicely dressed.

Q: What was the relationship like between parents and child?

A: Both of them could manage the child very well and the child was quiet and well balanced. She was also physically well cared for.

Q: Did the parents and child have a close relationship?

A: She was small at the time but reacted when her parents came near her and said "Mama" or "Papa".

On questioning by the deponent under 4):

Q: Where do you know the child Petra and her mother from?

A: They came to visit us at our flat.

Q: When was that roughly? Or how old was Petra at the time?

A: About 6 months old.

Q: How often was the couple Szemler at your house?

A: I can't tell you exactly, but about three or four times spread over a longer period.

Read aloud and approved.

The witness took the same oath as the witness Huber.

The witness was then dismissed at 4.I5 p.m.

As third witness there appeared

Frau Irene Irma Burckhardt,
waitress in Oberursel,
resident in Frankfurt am Main,
Bergerstraße 3I, born on July 30,I925.

The witness declares that she is in no way related to any of the parties concerned and that she is willing to give evidence after being duly instructed.

On questioning by the deponent under 3):

Q: Do you know Petra Szemler, previously Petra Sebisch?

A: I do not know the child personally, only from pictures.

Q: Do you know the youngest child Silke Szemler?

A: Yes.

A. D. HERRMANN
Staatlich geprüfter sowie bestätigter
Dolmetscher für die Sprachen des
Oberlandesgerichtsbezirks Frankfurt-M
6 - F[illegible]
Adickesallee 31 - Telefon: 0571 30

Q: Can you tell us about their family life , as much as you know about it.

A: I only know that the family life was in good order, clean and decent and that the children were well off, including the two other children that Frau Szemler brought with her from her previous marriage.

Q: Does this happy family life still exist?

A: The happy family life still exists.

On questioning by the deponent under 4):

Q: How long have you known the couple Szemler?

A: I have known Frau Szemler for about two years, I used be her manageress.

On questioning by the deponent under 2):

Q: Did my husband get on well with Viktoria?

A: Yes. The husband came to fetch his wife from work every evening.

Read aloud and approved.

The witness took the same oath as the witness Huber.

The witness was then dismissed at 4.35 p.m.

As fourth witness there appeared

Frau Maria Neuschütz née Röhrig,
housewife, resident in Frankfurt am Main,
Anspacher Straße 4, born on October I9,I92I.

The witness declares that she is in no way related to any of the parties concerned and that she is willing to give evidence after being duly instructed.

On questioning by the deponent under 4):

Q: Do you know the couple Szemler?

A: No, I do not know them.

Q: Do you know Frau Anneliese Szemler?

A: Yes, I know her. She was my neighbour.

Q: From when to when was Frau Szemler your neighbour?

A: We were neighbours for about one year.

Q: Was that in I970.

A: Yes, that is exactly when it was.

A. D. HERRMANN
Staatlich geprüfter sowie beeidigter
Dolmetscher für die Gerichte des
Oberlandgerichtsbezirks Frankfurt-M
6 - F... ...RT/MAIN
Adlerflychstr. 31 - Telefon: 557130

Q: Frau Neuschütz, did Frau Szemler ever speak about an adoption of Petra Sebisch to you?

A: She did indeed.

Q: Did she say that this adoption was to be undertaken by the American couple Clements?

A: Yes.

Q: Do you know who Mrs. Clements is?

A: Yes, she is Ilse, Frau Szemler's sister.

Q: What did Frau Szemler - then still Frau Sebisch - say to you about the adoption?

A: She said that her sister would come and fetch Petra. But this good man here (she points to Herr Szemler) did not know that.

Q: Was the word adoption ever mentioned?

A: She said that the child Petra would go over for a year at first.

Q: I ask you again, was the word adoption mentioned?

A: Not to me, I only knew of the one year.

Q: Frau Neuschütz, do you know anything about family discord between Frau and Herr Szemler?

A: Herr Szemler often came when Anneliese was not at home. Anneliese often went away in the evening. The child was alone in bed. Sometimes she gave me the keys.

Q: When did Frau Szemler come home?

A: I cannot say. I often knocked. I saw her early in the morning all dressed in bed.

Q: Was it often after midnight?

A: Yes, sometimes it was even later then that.

Q: Do you know whether there were any violent quarrels between Frau Szemler - or as she was then Frau Sebisch - and Herr Szemler?

A: No there were not any.

Q: Who is Anneliese?

A: The witness pointsto Frau Szemler née Schnabel.

A. D. HERRMANN
Staatlich geprüfter sowie beeidigter Dolmetscher für die Gerichte des Oberlandesgerichtsbezirks Frankfurt-M
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On questioning by the deponent under 4):

Q: Did Herr Szemler take care of the child?

A: Yes, he looked after her very well.

Q: What was the relationship between Herr Szemler and Petra like?

A: It was very good. He was very attached to the child indeed.

Q: - - -

The witness declares without being asked that Frau Szemler was put under pressure at the time. She was given a pill and did not know what she had signed.

On questioning by the deponent under 4):

Q: How do you know all this?

A: Frau Szemler told me herself when Petra had already gone.

Q: How long was this after Petra had left?

A: Two or three days later.

Without being asked the witness declares:

Soon after Petra had left Peter, that is Herr Szemler, came to us and said that Frau Sebisch, Anneliese, was a bad mother that she had allowed her daughter to go. He had not known anything about it.

On questioning by the deponent under 3):

Q: Did Frau Szemler ever tell you how the couple Clements travelled to America with the child Petra?

A: Frau Szemler told me that the couple Clements came on Friday, had fetched Petra to take her to the Taunus (mountain range near Frankfurt). But they had then flown to America on Sunday morning. Frau Szemler told me Petra should have only left on the 20th. But she in fact left on the I2th.

Without being asked the witness declared:

Some days later - it must have been on the I5th April, we went with Frau Szemler to the Welfare Office 3. Frau Szemler cried as is usual in such a case. At this point Herr Seeger said that she should have thought twice before signing. She had read it through two or three times - even four times - in detail and still she signed.

A. D. HERRMANN
Staatlich geprüfter sowie beeidigter Dolmetscher für die Gerichte des Oberlandgerichtsbezirks Frankfurt-M
6-FRANKFURT/MAIN

Q: Do you know where Frau Szemler, then Frau Sebisch, got her income from?

A: Frau Szemler occasionally worked and otherwise she lived off welfare.

Q: On questioning by the deponent under 3):

Q: Did Herr Szemler look after Petra and Frau Szemler financially or materially?

A: Rather more after the child. He did not want to give her (Frau Szemler) any money because she would only through carelessness waste it. He only wanted to give money for the child

To a question by the deponent under 4): (junior barrister, Herr Kotzias)

Q: Your husband should have also been here today as witness; why has he not appeared?

A: He is in the hospital of the "Barmherzige Brüder", ill. -

Without being asked the witness declares:

After Petra had gone Frau Szemler, then Frau Sebisch, burst into a terrible fit of crying in our kitchen as she had learnt that the Clements family had left for America with Petra.

Read aloud and approved.

The witness took the same oath as the witness Huber.

The witnesswas then dismissed at 5.I9 p.m.

As fifth witness there appeared

Frau Hilde Brand née Hajny,
lady clerk in Frankfurt am Main,
resident there, Mainzer Landstraße 502,
born on April 26, I926.

The witness declares that she is in no way related to any of the parties concerned and that she is willing to give evidence after being duly instructed.

Onquestioning by the deponent under 4):

Q: Do you know Frau Sebisch, now Frau Szemler and if so where from?

A: Yes, I know her,she was a neighbour of mine.

Q: How long were you her neighbour for?

A: We were neighbours for nineteen years.

A. D. HERRMANN
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6 · F R ... / ... 1 N
Adelheidstraße 31 · Telefon: 55 71 50

Q: Were you also neighbours when Petra Sebisch, now Petra Szemler was born?

A: No, she was then no longer by us.

Q: Do you know the two other daughters of Frau Szemler?

A: Yes.

Q: Did Frau Szemler look after and care for sufficiently in the case of these daughters?

A: At first she did, but then during the last year she did not any more.

Q: Would you describe Frau Szemler as a good mother as far as you can judge according to the circumstances in those days?

A: As I have already said, at first she looked after her home and the children but later she did not.

Q: How old were the two daughters at the time?

A: I cannot remember, but I think the two daughters, Vicki and Monika, were twelve and fourteen, but I may be mistaken.

Q: Did Frau Szemler, then Frau Sebisch, leave the children alone to go out in the evening?

A: Quite often. Herr Sebisch was at home.

Q: Was Herr Sebisch always there or were the children sometimes alone?

A: I don't know.

Q: Do you know anything about violent quarrels between Frau and Herr Szemler?

A: No.

Without being asked the witness declares:

I can only remember, that is I read it even, that the parental rights were denied her but also denied her husband.

On questioning by the deponent under 3):

Q: Is the fact that Frau Sebisch did not look after Viktoria and Monika properly during the last year a result of the fact that she lived at discord with Herr Sebisch, who was still alive at the time?

A: Yes, I suppose so, because they quarreled quite often.

A. D. HERRMANN
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Read aloud and approved.

The witness took the same oath as the witness Huber.

The witness was then dismissed at 5.39 p.m.

As sixth witness there appeared

Frau Frieda Ilse Sebisch née Schnabel, employed at the Telephone Exchange in Frankfurt am Main, resident there at Jasperstraße 23, born on September I9, I924.

The witness declared that she is the sister of Frau Anneliese Szemler née Schnabel and also the sister of Frau Ilse Clements. The notary pointed out that she has the right to deny to give evidence. The witness declared that she nevertheless wishes to do so.

On questioning by the deponent under 4):

Q: Do you know anything about the family life of the couple Szemler.

A: Not of their present life, only till they got married.

Q: How many children does your sister Anneliese Szemler have?

A: Two legitimate ones, one illegitimate and a further legitimate one as far as I know.

Q: Where did Frau Szemler, at the time Frau Sebisch, live when Petra Sebisch was born?

A: In the Mannheimerstraße near the station. It was a two-room attic flat.

Q: Could you tell us something about how Frau Szemler looked after her children?

A: I would say not at all. Since the affair with the gentleman. (She nods her head towards Herr Szemler.)

Q: From what date onwards was this roughly?

A: This was in September I967 when the two elder children were to be put in a Home.

Q: Did Frau Szemler already have an affair with Herr Szemler while still married to Herr Alfred Sebisch?

A: Yes, this came to my knowledge shortly before the children were put in a Home.

Q: When was Petra Sebisch born?

A: On May I7,I968.

A. D. HERRMANN
Staatlich geprüfter sowie beeidigter Dolmetscher für die Gerichte des Oberlandgerichtsbezirks Frankfurt-M
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Adlerflychtstr. 31 - Telefon: 557130

Q: Would you describe Frau Szemler, then Frau Sebisch as a good mother at the time?

A: The first fifteen years of the marriage were all right. It all started when Frau Szemler began to work for the Deutsche Schlafwagengesellschaft (German Sleeping Car Co.).

Q: When was that?

A: I cannot tell you exactly but I think it was towards the end of 1966.

Q: What would you reproach Frau Szemler for in her role as a mother from this time onwards till Petra Sebisch left for America?

A: A lot, because she often came to me for money.

Q: Did she look after her daughters?

A: She often brought the children to me. I did not know what this meant. I asked the daughter Monika what was going on at home. She said that her father would often rage but with good reason. Often Viktoria did not go to school at all.

Q: Did Frau Szemler, then Frau Sebisch, leave the children alone in the flat?

A: Yes, I was told she did. Once aneighbour told me to look after the children because they were alone for days on end. I then went there but nobody was at home.

Q: Did you and your sister Anneliese ever talk about an adoption of Petra Sebisch?

A: She only told me that she wanted to give the child to our sister in America because she was in her way. I told her at the time that she should not involve the Clements family. They lived a happy family life and should not be put in difficulties.

Q: Did you learn anything about the adoption from the Youth Welfare Office?

A: Yes, when my sister Frau Clements was in Frankfurt. When I was in the emergency accomodation for the first time in October 1969 some women came to me and asked whether I was the sister who was going to adopt the child, and I answered no.

A. D. NIEMANN
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Adler, Skuh. 11 - Telefon: 55 / 150

Q: Did you ever receive a phone-call from the Welfare Office by which you were informed that Frau Szemler was there to sign the adoption papers.

A: I received a phone-call destined for my sister, Mrs. Clements, who was living with me at the time, from the social worker Liechtenstein. Frau Liechtenstein told me that my sister was at the Welfare Office and wanted to sign the adoption papers and why my sister, I mean Mrs. Clements, had not gone there. My sister Ilse immediately went to the Welfare Office. What actually happened at the Welfare Office, I cannot say, I only know that my sister Ilse often said in my presence and in the presence of other witnesses - You don't have to if you don't want to, let's forget the whole thing and I will take another child - she said this more than once.

Q: What was Frau Szemler's answer to this?

A: I cannot say because I could not hear the answer on the phone.

Q: Have you been warned or threatened by anyone to withdraw your evidence given previously?

A: Yes, Herr Tibor Szemler phoned me twice, the first time my children picked up the phone and were very frightened, the second time I did.

Q: Do you remember roughly what Herr Szemler said?

A: Yes, he said I should withdraw my evidence.

Q: Did he say why?

A: I told him that I shall withdraw nothing. What I have said I can repeat before a court. During the conversation Herr Szemler accused me of having two illegitimate children which is not true.

The witness spontaneously declares that the child in the United States in no way resembles the child that she sees there (she points to the child in Frau Szemler's arms). The child in the States has the typical pronounced upper lip, I'll swear to that.

Q: Did you consider Herr Szemler's call as a threat.

A: Yes, I did because Herr Szemler once beat up my brother. My brother told me himself.

Q: Do you know a Mr. Reng?

A: Yes, I do.

A. D. NEERMANN
Staatlich geprüfter sowie beeidigter Dolmetscher für die Gerichte des Oberlandgerichtsbezirks Frankfurt-M
6 - FRANKFURT/MAIN
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Q: Did Herr Reng tell you that he shall appear here today as witness?

A: No, I did not know that.

Q: Did Herr Reng tell you previously that he is afraid to give evidence?

A: Yes, but I was told by Frau Widera.

Q: Did Frau Widera tell you why?

A: Yes, she told me that she is afraid of Herr Szemler. He has a whole gang at his disposal - those were her exact words.

Q: Do you know what family and home life is like in the United States?

A: Yes.

Q: What in your opinion would be the best for the child Petra Sebisch, now Szemler?

A: My personal opinion is that the child should stay there because she will never have it as good as she does with the Clements'.

On questioning by the deponent under 3):

Q: What is your personal relationship to Frau Szemler?

A: My relationship to Frau Szemler is no longer good because I was accused of being a bad sister and jeopordizing my brother-in-law. The whole family hates me.

Q: What are your feelings towards Frau Szemler?

A: What do you mean? She is my sister. I helped her at the time when she was already having an affair with Herr Szemler, in spite of everything so that the child should have enough to eat.

Q: Do you respect or hate Frau Szemler?

A: I do not hate her but I cannot respect her either.

Q: Did you receive money from Mrs. Clements?

A: No, indeed I did not. I do not need money from the Clements'. I have an income of DM I 700,-- myself and do not need their money.

Q: Who paid for the trip to America?

A: I paid for it myself. I am going again this year at my own expense - three of us are going.

M. D. WERRMANN
Staatlich geprüfter sowie beeidigter Dolmetscher für die Gerichte des Oberlandesgerichtsbezirks Frankfurt-M
Telefon: 55/130

Q: What is your personal relationship to Mrs. Clements?

A: Good, it was always very good even before Mrs. Clements was married.

Q: Did you speak with Frau Clements before today's hearing?

A: No, I did not speak to her, or at least not about this hearing.

Q: Did you speak with other witnesses about this hearing?

A: No, I was only summoned yesterday.

For professional reasons the deponent under three had to leave the hearing at 6.56 p.m.. The deponent under 4) also declared that he is not able to continue the hearing. He declares furthermore that he shall get in touch with Herr Herzsprung, the barrister and will arrange a new meeting with the notary, which in the interest of all the parties should take place in the following week.

The notarization of evidence which was interrupted on January 28, I972 is continued on February I8, I972 at 3.30 p.m. by agreement of all those present and listed on page I under nos. I) to 5).

As seventh witness there appears:

Dezsö Pribusz,
boiler-man at the Stadtwerke
(municipal electricity works)
Frankfurt am Main, resident in
Mörfelden, Grundhofstraße 26,
born on May 28, I937,
Hungarian nationality.

The witness declares that he has a command of the German language in writing and orally. The officiating notary was able to confirm this on the basis of his conversation with the witness.

The witness then goes on to declare that he is in no way related to any of the parties concerned. He is willing to give evidence after being duly instructed.

A. D. HERRMANN
Staatlich geprüfter sowie beeidigter
Dolmetscher für die Gerichte des
Oberlandesgerichtsbezirks Frankfurt-M
6 - FRANKFURT/MAIN
Adalbertstr. 31 - Telefon: [illegible]

On questioning by the deponent under 3):

Q: Do you know the Szemler family?

A: Yes.

Q: How long have you known them for?

A: For about 8 years.

Q: Do you also know the daughter Petra?

A: Yes, I know her.

Q: What was Herr Szemler's relationship like to the child?

A: He went to a lot of trouble to look after the child.

Q: Was it a good relationship,as usual between father and child?

A: Yes, it was.

Q: Was the child's health in order?

A: I could not see anything wrong with her.She was clean and well-dressed.

Q: What was Frau Szemler's relationship to the child?

A: Frau Szemler also cared for the child otherwise it would not have looked so well.

Q: Do you know how the Szemlers live at the moment?

A: Yes, I have been there a few times.

Q: How large is their apartment?

A: The apartment has four rooms, kitchen, bathroom and a hall.

Q: How large are the rooms roughly?

A: Each around I5 to 20 sq.m.

Q: Is the apartment nicely furnished and looked after?

A: It is furnished in an average way, I cannot say anything negative about it.

Q: Do you also know the second daughter Silke?

A: Yes.

Q: How is the state of her health?

A: Good.

Q: How is the Szemlers' home life?

A: They lead a normal family life.

On questioning by the deponent under 4):

Q: How often did you see Petra?

A: I saw her about five times when she came to visit us, otherwise I saw her on occasion in town.

A. D. HERRMANN
Staatlich geprüfter sowie beeidigter
Dolmetscher für die Sprachen
Oberlandesgerichtsbezirks Frankfurt-M
6 - [illegible] IN
Adlerflychtstr. 81 - Telefon: 55 71 30

Read aloud and approved.

The witness was sworn in in the same manner as the witness Huber.

The witness was then dismissed at 4.I8 p.m.

The deponent under 3) then made the request

to hear evidence from Tibor S z e m l e r who has been admitted a s an additional party on the basis of the decision of October 8, I97I of the district court of Fairfax.

On questioning by the officiating notary Herr Szemler gives the following particulars:

Tibor Szemler,
mechanical engineer in Frankfurt am Main,
resident in Frankfurt am Main, Rohmerstraße 22,
born on October 5, I936,

and declares: I am the true father of the child Petra Szemler and husband of Frau Anneliese Szemler née Schnabel, resident with me, - the deponent under 2) -.

Instructed about his right to refuse to give evidence and his duty to tell the truth:

I am prepared to give evidence.

On questioning by the deponent under 3):

Q: Do you want to have your child back from America?

A: Yes.

Q: What are your reasons for this?

A: I love my child. I am in a position to take care of my child both financially and from the human point of view, spiritually. I never agreed to an adoption of my child. I also did not know that the couple Clements wanted to take the child with them to America. Had I known this I would have put a stop to it. I cannot imagine that my wife had agreed to an adoption. We loved our child very much and we looked after her very well. We had always intended to get married as soon as possible. In the decision of the district court of Frankfurt am Main of June 7, I97I - I mean the decision which has also been submitted to the court in America - it is stated that the adoption is invalid

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Dolmetscher und Übersetzer für
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because my Wife's declaration of consent was not authenticated by a notary. I suppose that my wife was persuaded by all her relatives to sign the paper and that she did not think of the consequences. I would furthermore like to add the the couple Clements left Germany suddenly and in great haste, as far as I know, and they must have realized that they were acting illegally in taking Petra with them.

Q: What did you undertake to get Petra back?

A: When I realized that the couple Clements had left with Petra I first asked my wife how this could have happened. She said that the couple Clements had come to her and had fetched Petra with the excuse that they were taking her for a walk. They did not return. Later my wife told me that she had somewhere signed some piece of paper that the couple Clements may take Petra with them for a short time. But the sister had promised to bring her back soon. However, they had planned to leave much later and not when they actually did.

Q: Do you know how the couple Clements left?

A: I only know this from what I have been told. I know that my wife's brother (Rudi Schnabel) said that he had lent his car to the couple Clements so that they could drive somewhere, perhaps to town, the exact destination was unknown.

Q: What happened then?

A: He got back his car about eight days later through the police. He was notified that the car was left abandoned in front of the American Military Airbase in Frankfurt am Main and he should come and fetch it. This points to the probability that the Clements left with military machine of the American Air Force. I believe that they left with a military plane because they realized that they were doing something illegal. They were afraid that the police would stop them at a civil airport. I believe that the actions of the couple Clements are not in accrodance with German law. It is a perferct example for the fact that American soldiers in Germany 25 years after the War act as if they were in a defeated land where they do not have to keep to law and order.

A. D. HERRMANN
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Q: What else did you do?

A: I went to my lawyer, the deponent under 3), and instructed him to do everything within his means to get the child back. It is also a known fact that my wife immediately revoked the declaration of consent. As no progress was made along these lines we both went to America, my wife and I. The German Embassy advised us to turn to the barrister Mr. Heidenberger.

Q: Did you want to talk to your sister-in-law?

A: No.

Q: How much money have you spent until now?

A: I have spent about DM 8 000,-- on travel costs, lawyer and lawsuit fees in order to obtain my child again. This shows that we are not poor and we shall employ all means - I mean financially - to get our child back.

On questioning by the deponent under 4):

Q: Is it through personal experience that you are able to describe the details about the declaration of consent of March 26, 1970 and the departure of the couple Clements?

A: No, it is not through personal experience because I was not there at the time.

Q: Did you look after your child Petra properly right from the start and did you love her right from the start too?

A: Yes, indeed.

Q: Why did you allow that the child should live off welfare and in emergency accomodation for a period of two years?

A: It is not true that my child lived off the welfare for two years; my wife was working and I paid maintenance.

Q: When did you get married?

A: We got married on March 8, 1971.

Q: Why did you only get married two years and one month after the divorce became valid?

A: That is not true, the divorce only came through later. I have it with me. An appeal was pending which was only withdrawn after one year.

A. D. HERRMANN
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Dolmetscher für die Gerichte des
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Adlerflychtstr. 31 - Telefon: 557130

Q: Did you and your wife ever quarrel about the recognition of paternity?

A: No, no such quarrel took place.

Q: Why did you only recognize the paternity of the child on February I9,I97I although the district court of Frankfurt already passed a decision stating that Petra was not the legitimate child of your wife's pervious husband; that is one year later?

A: Nobody asked me to. Only when I wanted to get married did the superintendent registrar point this necessity out to me.

Q: Did you describe you wife before or after your marriage while alone with her or in front of your compatriots as "whore" or "prostitute"?

A: No.

Q: I shall read part of a letter, of which I have a notarized photocopy, which your wife wrote to you on September 29, I969:

> "Did I not have to put up with you bringing others home and calling me before your compatriots.... what did you call me....."

and further down

> "And now, dear Tibor as mother of your illegitimate child I shall tell you for the last time, that I am not a whore, which is a grave insult and which you must be able to prove before saying something like this to somebody."

Do you mean to say that your present wife was lying when she made these accusations?

A: I think my wife never wrote such a letter; I cannot remember such a letter.

Q: What is your nationality?

A: I am Hungarian of nationality and recognized in Germany as a foreign refugee.

Q: Do you need a permit to stay in Germany?

A: No, if one is recognized as a refugee the permission to reside is irrevocably granted.

Q: Are you a political refugee?

A: I am recognized as a political refugee, I fled from the Communists during the Hungarian uprising in I956.

A. D. HERRMANN
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FRANKFURT/MAIN
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Q: What other reasons exist for the delay in getting married?

A: I. The exemption from restraint of marriage because of adultery,

2. It took a long time till I could get hold of my papers from Hungary which were needed to get married: birth certificate etc.

Q: On questioning by the deponent under 4):
Who needed the exemption from the restraint of marriage because of adultery?

A: Both parties needed such an exemption, as far as I know.

The deponent under 2) spontaneously declares - without being questioned - that the letter quoted above was stolen from her flat by her mother which only went to show that everybody was against her because she wanted to marry him (she points to Herr Szemler) after all. I did not want to send the letter at all.

On questioning by the officiating notary the deponent under I declares that because of the years he has spent in Germany he has full command of the German language both orally and in writing and understands every word.
The notary was able to testify to this during the hearing.
Read aloud and approved.
The deponent under I) was sworn in at 5.28 in the same way as the witness Huber.
The deponent under 4) declares that he would like to ask the deponent under 2) two questions.
On questioning by the officiating notary the deponent under 2 gave the following particulars:

Viktoria Anneliese Szemler née Schnabel,
divorced Sebisch, housewife in Frankfurt am Main,
resident in Frankfurt, Rohmerstraße 22,
born on July 6, 1927,
nationality: German;

and goes on to declare:

I am the true mother of
Petra Szemler and wife of
Tibor Szemler.

A. D. HERRMANN
Staatlich geprüfter und beeidigter
Dolmetscher für die Gerichte des
Oberlandesgerichtsbezirks Frankfurt-M
6-1 FRANKFURT/MAIN
Adickesallee 1 - Telefon: 557130

The notary instructs the deponent under 2) about her right to refuse to give evidence and her duty to tell the truth if she should be willing to do so.

On questioning by the deponent under 4):

Q: Are you prepared to give evidence and answer questions?

A: I support the evidence given by my husband completely. I also love my child and would like it back. Otherwise I do not want to give evidence.

Read aloud and approved.

The deponent under 2) was then sworn in, in the same way as the previous persons with the additional text that her oath also includes the information given by her husband.

The hearing was ended at 5.58 p.m.

The witness under 6) appears again at 6 p.m. (see P.II of the records): (eleven)

Frau Frieda Ilse Sebisch née Schnabel,
particulars as on P.II of the records.

The officiating notary instructed the witness again and she declares that she can remember the evidence she gave on January 28, 1972 (P. II to I5) in detail and thus does not need the records to be read, she is prepared to take an oath on the information she gave.

Before the oath is taken the deponent under I) declares that the evidence stating that he had beaten up her brother Rudi Schnabel was false.

The witness is asked by the notary if she still maintains her evidence of January 28, 1972.

The witness declares: I maintain my evidence.

Read aloud and approved.

The witness was then sworn in in the same way as the witness Huber.

The witness was then dismissed at 6.I2 p.m.

The deponents under 3) and 4) declared that on the basis of the time needed for the hearing, stated in the records, they would divide the costs of the notarial authentication.

A. D. HERRMANN
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The deponents under 3) and 4) agreed that the value of the hearing was to be set at DM 800 000,--.

They asked for the original to be sent to the Keeper of Records of the district court of Fairfax and two copies to be sent to themselves.

The hearing was then closed at 6.30 p.m.

The public records were then read to the deponents, approved by them and signed personally as follows:

signature	Tibor Szemler
"	Anneliese Szemler
"	Gerhard Herzsprung
"	Klaus Kotzias
"	Ilse Baudy
"	Kastull, (Notary - DS)

The above hearing was recorded for the second time for Herr Gerhard Herzsprung, Counsel, Frankfurt am Main, Zeil IO.

Frankfurt am Main, February 25, I972

Notary

This is to certify to the best of my knowledge that this a true and complete translation of the 2nd copy of the original document issued in German Language.

Frankfurt the 18 th day of May A.D. 1972

A. D. HERRMANN
Staatlich geprüfter sowie bestellter
Dolmetscher für die Gerichte des
Oberlandgerichtsbezirks Frankfurt-M
6-FRANKFURT/MAIN
Adlerflychtstr. 51 - Telefon: 557150

SIXTEENTH JUDICIAL CIRCUIT OF VIRGINIA
PRINCE WILLIAM COUNTY FAIRFAX COUNTY ALEXANDRIA CITY

ARTHUR W. SINCLAIR
BARNARD F. JENNINGS
JAMES KEITH
WILLIAM G. PLUMMER
LEWIS D. MORRIS
PERCY THORNTON, JR.
BURCH MILLSAP
JAMES C. CACHERIS
JUDGES

Fairfax County Courthouse,
Fairfax, Virginia, 22030,
August 31, 1972.

F. Mather Archer, Esq.,
P. O. Box 336,
Fairfax, Virginia. 22030

I. Jack Crickenberger, Esq.,
2400 Wilson Boulevard,
Arlington, Virginia. 22201

Re: Adoption of Petra Sebish, an infant, by Wilton R. Clements and Ilse Frieda Clements - In Chancery No. 31508.

Gentlemen:

I have reviewed the pleadings, exhibits, depositions, authorities and arguments of counsel based on the trial of June 22, 1972.

In this proceeding petitioners Wilton R. Clements and Ilse Frieda Clements seek to adopt a female infant named Petra Sebisch, born on May 17, 1968, in Frankfurt, Germany.

Petitioner Ilse Frieda Clements is the aunt of the child. The child was born to the contestant Anneliese Sebisch Schnabel, who opposes the adoption with the putative father Tibor Szemler. Petitioners allege that said Tibor Szemler is not the father of the child.

The evidence reveals the following:

1. The child, Petra Sebisch, was born in Frankfurt, Germany, to the contestant, Anneliese Sebisch, on May 17, 1968.

2. That Mrs. Clement and the child's mother corresponded in 1968 with reference to an adoption.

3. That in February, 1970, Mrs. Clements went to Germany and visited the child's mother and an older sister, Elfrieda.

4. That in the spring of 1970 the mother and child were living on welfare under poor conditions.

5. That on March 26, 1970, the mother executed a consent to the adoption by the petitioners. (Pet. Exhibit 1(a), (b)

6. That prior to executing the consent the parties went to various authorities for the purpose of obtaining a passport, birth certificate and other documents.

7. On April 12, 1970, petitioners and the child left Germany to return to the United States. The child has resided with petitioners since that date.

8. The child was born in wedlock while the mother was married to Sebisch. The father of the child is Tibor Szemler. (Pet. Exhibit 4 (a), (b)

9. The child was declared to be illegitimate and was placed under guardisnship by the Youth Commission of Frankfurt. They consented to the adoption on November 13, 1970. (Pet. Exhibit 4 (a), (b)

10. Tibor Szemler has by affidavit declared he is the child's father. He married the child's mother on March 8, 1971. He is opposed to the adoption. (Deft. Exhibit 1)

11. On May 21, 1970, a petition for adoption was filed with this court.

12. Subsequently in late May, 1970, or early June, 1970, and after the date of filing the petition, the mother revoked her consent.

13. On June 7, 1971, the District Court of Frankfurt, Germany, entered an order holding that the consent was illegal and that the child became legitimate by the marriage of the mother and Tibor Szemler. The court further held that the consent of the juvenile office could not be submitted for the

consent of the parties. (Deft. Exhibit 2 (a), 2 (b)

14. Dr. Christine W. Kehne, a child psychiatrist, feels it would be detrimental to the child to separate her from petitioners.

15. Since arriving in the United States the child has made progress while in the home of the petitioners.

16. Depositions of witnesses in Germany were taken by both parties.

17. That petitioners are fit and proper persons, providing an excellent home for the child.

I conclude from the evidence:

1. That Tibor Szembler is the father of the child.

2. That Anneliese Sebisch Schnabel executed a valid consent to the adoption, which was subsequently revoked.

3. That by cogent and convincing evidence it is the best interest of the child that she be adopted by petitioners.

Counsel for petitioners should prepare an appropriate order and submit it to counsel for contestants, noting their exceptions.

Very truly yours,

James C. Cacheris.

JCC:elc

ORDER

This cause came on to be heard the 22nd day of June, 1972, upon the Petition for Adoption and Change of Name of the female infant, Petra Sebisch; upon the Petition of Annaliese Sebisch Schnabel contesting the adoption and change of name, in which Tibor Szemler joined; upon the Answer and Amended Answer of the Petitioners to the Contestants' Petition; upon the Report of Preliminary Investigation of the Commissioner of Public Welfare; upon Orders previously entered herein; upon other papers previously read herein; and upon the evidence presented by the Petitioners and by the Contestants; and was argued by counsel.

UPON CONSIDERATION WHEREOF, it appearing to the Court that the Petitioners, Wilton R. and Ilse Frieda Clements, have complied with all the requirements of Chapter 11, Title 63.1, Code of Virginia (1950), as amended; and

The Court as set forth in its letter opinion of August 31, 1972, finding from the pleadings and the evidence presented that the consent to the adoption executed by the Contestant, Annaliese Sebisch Schnabel, is a valid consent which was freely and knowingly given and which was acted upon by Petitioners Clements; that said consent was subsequently revoked by the Contestant and the revocation communicated to the Petitioners after filing of the petition for adoption; that the infant child was born in wedlock while the Contestant was married to Alfred Sebisch, but that the Contestant, Tibor Szemler, is the father of the child; that the Petitioners, Wilton R. and Ilse Frieda Clements, are

financially able to maintain the child adequately and are morally suitable and proper persons to care for and train the child; that the child is suitable for adoption by said Petitioners; and that the welfare and best interests of the child will be promoted by this adoption; it is accordingly

ADJUDGED and ORDERED that henceforth, subject to the probationary period provided for by law and to the provisions of the Final Order of Adoption, the infant child, Petra Sebisch, shall be, to all intents and purposes, the child of the Petitioners, Wilton R. Clements and Ilse Frieda Clements, his wife, and shall be entitled to all the rights and privileges and subject to all the obligations with reference to said Petitioners as are provided by law; and that, upon entry of said Final Order of Adoption, the name of said infant child shall be changed to Heidimarie Annaliese Clements; and it is further

ORDERED that the Clerk of this Court forthwith forward attested copies of this Order to the Commissioner of Public Welfare and to each of counsel for the parties; and it is further

ORDERED that the Commissioner of Public Welfare shall forward a copy of his further report to counsel for the Petitioners Clements.

AND THIS CAUSE IS CONTINUED.

ENTER this 22nd day of September, 1972.

/s/ James C. Cacheris

J U D G E

ASSIGNMENT OF ERROR

The Court erred in denying the natural parents the custody of the child.

The Court erred in holding that the consent to adoption executed by the mother was valid.

The Court erred in finding that the mother did not revoke the executed consent until after the petition for adoption was filed.

The Court erred in holding that the cumulative evidence presented by petitioners established that the best interest of the child would be served by denying the natural parents custody of their child.

The Court erred in concluding that by cogent and convincing evidence it is the best interest of the child that she be adopted by the petitioners.