

UNITED STATES DISTRICT COURT
District of Maine

SONJA FALK,)
)
 Petitioner,)
)
 v.) Civil No. 09-346-P-S
)
 JON ALAN SINCLAIR,)
)
 Respondent.)
)

**AMENDED ORDER AFFIRMING THE RECOMMENDED DECISION OF THE
MAGISTRATE JUDGE & GRANTING THE JOINT MOTION TO MODIFY**

The United States Magistrate Judge filed with the Court on December 31, 2009, his Recommended Decision (Docket # 65). Respondent filed his Objection to the Recommended Decision (Docket # 66) on January 19, 2010. Petitioner filed her Response to Respondent's Objection to the Recommended Decision (Docket # 69) on February 11, 2010. This Court filed its Order Affirming the Recommended Decision (Docket # 74) on February 24, 2010. On March 18, 2010, the parties filed their Joint Motion to Modify the Order Affirming the Recommended Decision of the Magistrate Judge (Docket # 78), which is hereby GRANTED. This Amended Order shall replace the Court's February 24, 2010 Order Affirming the Recommended Decision (Docket # 74).

The Court has reviewed and considered the Magistrate Judge's Recommended Decision, together with the entire record, including the transcript of the December 1, 2009 evidentiary hearing. After conducting a *de novo* review, the Court agrees with the findings of fact and conclusions of law contained in the Recommended Decision. The Magistrate Judge's

Recommended Decision is thorough and well-reasoned; further discussion of the issues is not necessary.

Accordingly, it is hereby **ORDERED** that the Recommended Decision of the Magistrate Judge is **AFFIRMED**. The Petition for Return of Child (Docket # 2) is **GRANTED** subject to the following undertakings:

1. Respondent shall return J.J.F. to Germany not later than **June 25, 2010**, give or take one day in order to allow Respondent to secure the best price for the flight. Respondent shall be liable for the costs associated with returning J.J.F. to Germany and shall consult with Petitioner in order to make the appropriate travel arrangements.

2. Respondent shall not remove J.J.F. from the District of Maine prior to her departure from the United States, absent Court approval.

3. The passport of J.J.F. shall be released to Respondent for the sole purpose of returning J.J.F. to Germany. Before the passport will be released to Respondent, he must file an affidavit with the Court stating that J.J.F.'s passport will be used only for the purpose of securing travel arrangements for J.J.F.

4. The Court will welcome amendments to these undertakings upon mutual agreement by the parties.

5. Nothing in this Order or the Magistrate Judge's Recommended Decision shall prevent the relevant court in Germany from making an independent determination with respect to the custody of J.J.F.

Additionally, Article 26 of the Hague Convention and 42 U.S.C. § 11607(b)(3) provide that the Court "shall order the [R]espondent to pay necessary expenses incurred by or on behalf of the [P]etitioner, including court costs, legal fees, foster home or other care during the course

of proceedings in the action, and transportation costs related to the return of the child, unless the respondent establishes that such order would be clearly inappropriate.” 42 U.S.C. § 11607(b)(3). In order to comply with this provision of ICARA, Petitioner shall file an itemized bill of said costs within 14 days of this Order. Respondent may file any objections to Petitioner’s itemized bill of costs within 14 days thereafter.

SO ORDERED.

/s/George Z. Singal
U.S. District Judge

Dated: March 19, 2010

Petitioner

SONJA FALK

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