

Judge Rebuilds 'Berlin Wall' Just for Home-Schoolers

Following a hearing on Dec. 18 in Darmstadt, Germany, family court judge Marcus Malkmus slammed the door on the Wunderlich family's emigration hopes. Lawyers for Dirk, Petra and their children had asked the judge to return legal custody to the parents because they have complied with court orders that the children go to school and because they wish to move to France where home schooling is legal.

In August, the four Wunderlich children were seized in a raid by 20 police officers and social workers simply because they were being home-schooled, an activity that is illegal in Germany. After an international outcry, the children were returned three weeks later on the condition that the parents send them to public school. Testing conducted on the children during their stay in a group home indicated that they were well adjusted, social and academically proficient.

In Malkmus's written order (an unofficial English translation is available [here](#)), he compared home schooling to a straitjacket for children. While acknowledging that the Wunderlich children were well cared for and did not have educational deficiencies, he refused to return legal custody to the parents.

He said it was necessary to keep the Wunderlich children in German public schools to make sure that they were integrated into society. If they were allowed to be home schooled in Germany or anywhere else, the consequences might be that "the children would grow up in a parallel society without having learned to be integrated or to have a dialogue with those who think differently and facing them in the sense of practicing tolerance."

Malkmus also wrote that home schooling creates “concrete endangerment to the well-being of the child.”

‘A Human Right’

Dirk Wunderlich told Home School Legal Defense Association (HSLDA) that he was shocked by the harshness of the decision.

“I had really hoped the judge would just let us leave Germany peacefully,” he said. “We don’t isolate our children. They are well adjusted and doing well academically. We are happy for them to be connected to society. We just prefer to home-school them because we believe it is better for them. It is so sad that my countrymen are not able to see that home schooling should be allowed. It is legal in many other countries, and I believe is a human right.”

“Judge Malkmus has erected another Berlin Wall apparently designed to prevent all parents who might leave to home school from leaving Germany. This is no different than what happened in the former East Germany under communism and before that under the Third Reich,” he continued. “We need help from others around the world to help our country see this terrible violation of human rights.”

HSLDA Chairman Michael Farris says the Wunderlich case underscores why it is important for the United States Supreme Court to intervene in *Romeike v. Holder*, a case HSLDA filed on behalf of a German home-schooling family seeking asylum in the U.S.

“Germany is acting outside the boundaries of accepted international norms by imposing through force its vision for state control through education,” Farris says. “The Romeikes fled Germany in 2008 because of this very threat. The United States should not send them back to a country that will take their children away just because they home-school.”

Bearing on Supreme Court Case

In a joint amicus brief filed Dec. 19, 2013, regarding *Romeike*

v. Holder, Alliance Defending Freedom and the German home-school organization Schuzh pointed out that Germany is violating international human rights standards and asked the U.S. Supreme Court to take the case because of its bearing on human rights issues around the world. (Read the amicus brief online.)

The Supreme Court has ordered Attorney General Eric Holder to respond to HSLDA's petition by Jan. 21. The court will then decide whether to hear the case.

"The responsibility and freedom of parents to educate their children is among the most cherished and important of basic human rights," Farris says. "This right is recognized in the Universal Declaration of Human Rights in direct response to Germany's nationalization of education during World War II. The fact that Germany continues to impose a totalitarian view in education for those who would home-school is very troubling."

HSLDA Director of International Affairs Michael Donnelly, who is coordinating HSLDA's work on behalf of the Wunderlichs, says, "This is a disgraceful court decision. The German Constitution and multiple international treaties guarantee the Wunderlichs' right to leave their country. It's one thing to disagree with home schooling and enforce the law, but to prevent an otherwise loving and caring family from leaving because of home schooling is a monumental violation of basic human rights. Judge Malkmus has effectively imprisoned the Wunderlichs in Germany over their intention to home-school. It's the kind of thing that you would expect from a Communist bureaucrat in the former Soviet Union, not a modern German court of law."

"HSLDA is working with the family's lawyers to obtain their release and see that they are permitted to freely home-school, if not in Germany, then elsewhere," Donnelly adds. "HSLDA calls on German leaders to take immediate action to make home

schooling legal and to stop persecuting parents who home-school. We ask home schoolers everywhere to keep this family in their thoughts and prayers.”

International Issue

After the Wunderlich children were seized in August 2013, HSLDA led an international outcry that helped secure the reunification of the children and their parents on Sept. 19. German attorneys are working diligently to appeal Malkmus’s new decision, but the case is complex and the appeals process takes time.

In the interim, the Wunderlichs have committed to comply with the court’s orders. Malkmus told Dirk and Petra in October that if they left the country without court approval, he would see that steps were taken to return them to Germany where they would be prosecuted criminally and their family likely permanently separated.