

FILED
U.S. DISTRICT COURT
SAVANNAH DIV.

IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION

CLERK
SO. DIST. OF GA.

IN RE: REQUEST)
FOR INTERNATIONAL JUDICIAL)
ASSISTANCE FROM THE LOCAL COURT)
OF AMBERG, GERMANY)

CASE NO. MC415-002

O R D E R

Before the Court are the United States' Ex Parte Petition for Order Pursuant to 28 U.S.C. § 1782 (Doc. 1) and Motion to Show Cause (Doc. 2). This case concerns a request from the Local Court of Amberg, Germany that Mr. Robert Williams be ordered to provide a DNA sample for use in a paternity dispute. After careful review of the record, this Court makes the findings below.

This Court, as permitted by the Hague Convention and Federal law, may assist foreign judicial tribunals to obtain discovery within the United States. According to 28 U.S.C. § 1782 a court may assist when

- (1) the request must be made "by a foreign or international tribunal," or by "any interested person";
- (2) the request must seek evidence, whether it be the "testimony or statement" of a person or the production of "a document or other thing";
- (3) the evidence must be "for use in a proceeding in a foreign or international tribunal"; and
- (4) the person from whom discovery is sought must reside or be found in the district of the district court ruling on the application for assistance.

Application of Consorcio Ecuatoriano de Telecomunicaciones S.A. v. JAS Forwarding (USA), Inc., 747 F.3d 1262, 1269 (11th Cir. 2014) (quoting In re Clerici, 481 F.3d 1324 (11th Cir. 2007)). The Court concludes that these factors have been met. A request from the

Local Court of Amberg, Germany, has been properly presented by the United States seeking evidence for use in the Matter of Stephanie Dittmar v. Robert Lee Williams (File No. 3 F 359112,51140106). This request seeks a buccal cell sample for use in the above mentioned proceeding. (Doc. 1 at 2.) Additionally, Mr. Williams resides in the Southern District of Georgia. (Id.) Finally, this Court concludes that the discretionary factors¹ mitigate in favor of granting the United States' motion (Doc. 2). Therefore it is **ORDERED AND ADJUDGED**, pursuant to the authority contained in Title 28, United States Code, § 1782, that:

¹ These factors are

(1) whether 'the person from whom discovery is sought is a participant in the foreign proceeding,' because 'the need for § 1782(a) aid generally is not as apparent as it ordinarily is when evidence is sought from a nonparticipant'; (2) 'the nature of the foreign tribunal, the character of the proceedings underway abroad, and the receptivity of the foreign government or the court or agency abroad to U.S. federal-court judicial assistance'; (3) 'whether the § 1782(a) request conceals an attempt to circumvent foreign proof-gathering restrictions or other policies of a foreign country or the United States'; and (4) whether the request is otherwise 'unduly intrusive or burdensome.'

In re Clerici, 481 F.3d 1324, 1334 (11th Cir. 2007) (quoting Intel Corp. v. Advanced Micro Devices, Inc., 542 U.S. 241, 264-65 (2004)). Here, Mr. Williams is currently domiciled in the United States and not subject to the Local Court of Amberg's jurisdiction, there is no evidence that this is either an attempt to circumvent foreign proof-gathering restrictions or that Germany has been unreceptive to similar requests by the United States. Finally there is no evidence that the request to provide a DNA sample in a paternity suit is intrusive or burdensome.

1. United States Magistrate Judge Stan Baker shall serve as Commissioner to secure evidence from Robert Williams and conduct all proceedings necessary to render the assistance requested by the Local Court of Amberg, Germany;

2. Robert Williams shall appear before the appointed United Magistrate Judge, as the duly appointed Commissioner in these proceedings pursuant to 28 U.S.C. § 1782, at a time and date to be established by the United States Magistrate Judge to show cause, if any, why he should not be ordered to provide a buccal cell sample in compliance with the Letter or Request from the Local Court of Amberg, Germany, which is attached to the Petition filed in these proceedings;

3. If Robert Williams has any defenses to present or motions to make in opposition to the request made in the Letter of Request from the Local Court of Amberg, Germany, Robert Williams shall file said defenses or motions made in writing with the Court, and serve a copy on the United States Attorney's Office, at least 5 business days prior to the date of the show cause hearing. Only those issues raised by motion or brought into controversy by responsive pleading shall be considered by the Court; and

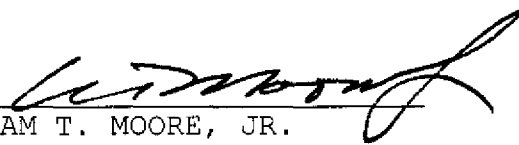
4. At least 30 days prior to the date of the above scheduled hearing the United States Marshal's Office shall personally serve a copy of the following documents on Robert Williams at 1208 Middle Ground Road, Apt. C7, Savannah, GA 31419.

a. The United States' Petition for Order Pursuant to 28 U.S.C. § 1782 and all attachments and exhibits to those documents;

b. The United States' Motion to Show Cause and all attachments and exhibits to those documents; and

c. A copy of this Order.

SO ORDERED this 21ST day of December 2015.



WILLIAM T. MOORE, JR.
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA