

107TH CONGRESS
1ST SESSION

H. CON. RES. 237

Expressing the sense of the Congress urging the Republic of Italy to safely and immediately return Ludwig Maximilian Koons to the custody of his father in New York.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 24, 2001

Mr. LAMPSON submitted the following concurrent resolution; which was referred to the Committee on International Relations

CONCURRENT RESOLUTION

Expressing the sense of the Congress urging the Republic of Italy to safely and immediately return Ludwig Maximilian Koons to the custody of his father in New York.

Whereas Jeffrey Lynn Koons and Anna Elena (Ilona) Staller were married and had a son, Ludwig Maximilian, who was born in New York on October 29, 1992;

Whereas before the marriage, the spouses agreed that Mrs. Staller would no longer engage in activities in the field of pornography and erotic entertainment, in order to dedicate her time to the family in New York, where Mr. Koons maintained his residence and primary business interests as a sculptor;

Whereas both parents wanted Ludwig to be raised in the United States, and Mrs. Staller liquidated her businesses

in Rome, Italy, and applied for permanent residency in the United States with the intention of becoming a United States citizen;

Whereas Mrs. Staller, while residing in New York with her family, went on a temporary visit with Ludwig to Rome on October 11, 1993, and subsequently left him in Rome in the care of a stranger while she traveled to Ecuador to participate in an erotic show, thereby breaching her parental duties and breaking her promise to cease all activities as an erotic performer;

Whereas following Mrs. Staller's refusal to return Ludwig to his habitual residence in New York and in light of her resuming her activities as an erotic performer, Mr. Koons initiated divorce proceedings against Mrs. Staller before the Supreme Court of the State of New York on December 27, 1993;

Whereas the New York Supreme Court issued a temporary order on January 17, 1994, which provided that Ludwig could not be removed from the State of New York during the divorce proceeding, and that both parents would have temporary joint custody of Ludwig;

Whereas Mrs. Staller returned to New York and on February 4, 1994, filed an appearance in the divorce proceeding whereby she accepted the jurisdiction of the New York Supreme Court to decide the parties' divorce without contesting Mr. Koons' request to dissolve the marriage;

Whereas Mrs. Staller's petition to the New York Supreme Court for temporary relief, including attorney's fees, costs of litigation, and the right to live in the marital residence, was granted upon her assurances that she would

not remove Ludwig from the jurisdiction of the State of New York;

Whereas, while the proceeding was pending, Mrs. Staller eluded security guards and border control officials and fled the United States with Ludwig on June 9, 1994, thereby committing an international kidnapping through the illegal transfer of a minor, for which she was indicted by the Rome prosecutor's office;

Whereas Mr. Koons obtained a final divorce on December 9, 1994, from the New York Supreme Court, which ruled that the fault of the breakdown of the marriage was attributable exclusively to Mrs. Staller, and granted custody of Ludwig to Mr. Koons;

Whereas following months of hiding, during which time Mr. Koons had no idea of his son's well-being or whereabouts, Mrs. Staller commenced a separation action against Mr. Koons before the Civil Tribunal of Rome in an effort to overturn the decision of the New York Supreme Court awarding custody to Mr. Koons, and to legitimize her abduction of the minor;

Whereas Mr. Koons moved to dismiss the separation action on the grounds that the Civil Tribunal of Rome lacked jurisdiction since the parties had already obtained a final divorce;

Whereas before reaching a final decision, the Civil Tribunal of Rome awarded temporary custody of Ludwig to Mrs. Staller;

Whereas after almost 3 years of litigation, the Civil Tribunal of Rome finally granted Mr. Koons' motion to dismiss the separation action on October 3, 1997, holding that the separation action was improper on the grounds that the

divorce judgment of the New York Supreme Court had already dissolved the bonds of matrimony between the parties;

Whereas the unreasonable delay by the Civil Tribunal of Rome to grant Mr. Koons' motion to dismiss the separation action made it possible for Mrs. Staller to retain Ludwig illegitimately for several years in Italy, despite her commission of a serious crime and her lack of fitness as a custodial parent;

Whereas following the dismissal of the separation action, Mrs. Staller initiated yet another action before the Civil Tribunal of Rome, contesting the custody decision of the New York Supreme Court;

Whereas at the conclusion of a detailed psychiatric evaluation of the parties and the child, both the court-appointed expert and the public prosecutor recommended to the divorce judge the immediate return of Ludwig to Mr. Koons in New York, citing the danger of further irreparable harm to the child if he were to remain in the pornographic environment in which Mrs. Staller had chosen to raise him;

Whereas, on February 13, 1998, the Civil Tribunal of Rome entered a judgment affirming the divorce judgment of the New York Supreme Court on December 9, 1994, and its awarding of permanent custody of Ludwig to Mr. Koons in his New York residence, while providing for visitation rights by Mrs. Staller both in the United States and in Italy;

Whereas the New York Supreme Court subsequently granted a petition by Mr. Koons to modify the divorce decree granted in December 1994, holding that it was in Lud-

wig's best interest that all decisions regarding custody and visitation in the United States be uniform and identical to those in Italy in order to ensure that both parents could be afforded the further protection of the Hague Convention on the Civil Aspects of International Child Abduction;

Whereas following Mrs. Staller's appeal of the divorce action, on September 23, 1998, the Court of Appeals of Rome overturned the decision of the Tribunal, and awarded custody of Ludwig to Mrs. Staller, while prohibiting the child from leaving the Italian territory;

Whereas, in awarding custody of Ludwig to Mrs. Staller, the Court of Appeals of Rome disregarded the recommendations of the American and Italian court-appointed experts who were unanimously in favor of Mr. Koons, and based its decision on the unsupported contention that the return of Ludwig to New York and to the care Mr. Koons following years of residence in Italy would cause him further trauma, and thus, would be contrary to his best interest;

Whereas by setting aside the decision of the Civil Tribunal of Rome, the Court of Appeals of Rome failed to consider that Ludwig had been up-rooted from his family residence in New York and was only in Italy because Mrs. Staller had committed an international kidnapping;

Whereas the decision of the Court of Appeals of Rome to prohibit Ludwig, a United States citizen from birth, access to the United States constitutes a serious breach by Italy of international treaties and principles of law, including those contained in the European Convention on Human Rights and Fundamental Freedoms, the Hague Convention on the Civil Aspects of International Child Abduc-

tion, and the New York Convention on Children's Rights, which laws protect the rights of minors to move freely between the respective residences of their parents and which give equal protection to parents of different nationalities;

Whereas for such violations of international law, Mr. Koons filed a petition against the Republic of Italy with the European Court of Human Rights and a preliminary decision regarding the admissibility of that petition is expected by the Court in October 2001;

Whereas pursuant to Article 36 of the Convention for the Protection of Human Rights and Fundamental Freedoms of the Council of Europe, the United States has a right to intervene in proceedings before the European Court of Human Rights because its citizens are parties seeking relief from human rights violations;

Whereas Mrs. Staller, in blatant disregard for the recommendations of the experts, has violated Ludwig's right to privacy by involving him in numerous interviews on television and in the press as part of a massive defamatory media campaign against Mr. Koons, aimed at swaying public opinion in her favor during the pending custody dispute in Italy;

Whereas after 7 years of proceedings in Rome on the charge of kidnapping, Mrs. Staller was convicted by the Rome Court of Appeals on May 29, 2001, for kidnapping her son from his habitual residence in New York in 1994, but the Court of Appeals did not have the power to order the return of Ludwig;

Whereas following a judgment of the Civil Tribunal of Rome dated May 31, 2001, which held that Mrs. Staller was

liable for repeatedly publishing defamatory statements on television and in the press, Mr. Koons has petitioned two Italian officials, the Commissioner of Privacy and the Commissioner of Communications, to denounce the media companies who had collaborated with Mrs. Staller to violate his son's right to privacy;

Whereas Ludwig has incurred substantial harm as a result of Italy's decision to allow Mrs. Staller to keep Ludwig in her residence in Rome, which, despite the warnings of the child psychiatrists, she continues to utilize as the headquarters for her pornographic activities throughout the world;

Whereas Ludwig's continued exposure to his mother's pornographic environment and activities, and his unwilling participation in her defamatory media campaign against Mr. Koons, have placed the child in grave danger of irreparable psychological harm, as recently confirmed by experts who have manifested concern for the minor's deteriorating condition if not removed from his current environment without delay;

Whereas all courts, both in the United States and Italy, recognized that the family residence was in New York; and

Whereas the Department of Justice has been unsuccessful in its attempts to bring Ludwig back to the United States:
Now, therefore, be it

1 *Resolved by the House of Representatives (the Senate*
2 *concurring), That—*

3 (1) the Congress urges the Republic of Italy to
4 immediately return Ludwig Maximilian Koons to the
5 United States and to the custody of his father, Jef-

1 frey Koons, in accordance with the divorce judgment
2 of the New York Supreme Court on December 9,
3 1994;

4 (2) it is the sense of the Congress that, pursu-
5 ant to Article 36 of the Convention for the Protec-
6 tion of Human Rights and Fundamental Freedoms,
7 the United States should intervene in the proceeding
8 pending before the European Court of Human
9 Rights, *Jeffrey Lynn Koons v. Italy*, case no. 68183/
10 01, to request the Republic of Italy to remedy the
11 violations of international law committed against
12 Mr. Koons and his son, Ludwig; and

13 (3) it is the sense of the Congress that, pending
14 a final decision by the Republic of Italy regarding
15 the permanent return of Ludwig to the United
16 States, the United States should request that the
17 Republic of Italy authorize Ludwig to visit his father
18 in his New York residence on a temporary basis.

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