

LAW, JUSTICE, AND THE HOLOCAUST

HOW THE COURTS FAILED GERMANY

FAMILY LAW CASE

Background

Article 1666 Civil Code: Court measures where the welfare of the child is endangered (1900-1958)

1. If the spiritual or physical welfare of the child is endangered by the father's abuse of his right to care for the child, or his neglect of the child or is guilty of dishonorable or immoral practices then the Guardianship Court is obligated to take whatever actions are required to eliminate the danger to the child.
2. The Guardianship Court can especially order for the purposes of upbringing that the child be placed in the care of an appropriate family, a children's' home or reformatory.

Child Welfare Law (July 9, 1922, RGBI. I S. 633)

1. Every German child has a right to an upbringing for spiritual, physical and social excellence.

Amended in 1938 to:

1. The upbringing of children in the National Socialist state is education to the German National Community (Volksgemeinschaft). The goal in raising the young is physical and spiritual health, moral character, intellectual development, occupational excellence, and a person who is racially conscious, rooted in blood and soil [ideology], and obligated to as well as committed to the people and the country.

Application

Ruling of the District Court of Karlsruhe on April 6, 1937

Ruling by the District Court B III, Karlsruhe, of April 6, 1937, before Justice Krall and his clerk Dechert, Case 3 X 40/37, in the matter of: guardianship of the minor Willi Josef Seitz, born March 11, 1923 Karlsruhe, son of Josef Seitz and Anna Seitz, nee Panther, residing at Kriegsstrasse 171.

The father, Josef Seitz, appears and after being again warned that today's state cannot allow a developing youngster to mature outside the national community, [Seitz] states:

I declare that I must only obey god and Jehovah, that I will exert no force on my son, that he has been apprenticed as an electrician, and that I will teach him privately, circumstances permitting.

We informed the father of the following ruling, pending appeal.

Judgment

- I. Under paragraph 1666 of the Civil Code, the father's custody rights over his son have been removed and that the boy is to be brought for observation to the juvenile home Schloss Flehingen.
- II. The municipal youth welfare office is assigned as official guardian and is to implement this judgment under Paragraph 43 of the child welfare law, should the father not voluntarily deliver his boy to Flehingen by April 9.

Justification:

Based on notification from the Municipal School Office, Willi Seitz has been suspended from school because of

See Franz Josef Seitz, "Meine Erlebnisse im Dritten Reich" Buchenwald, 1945 21 pages typed memoirs in USHMM Archive RG 32.008.01 (Willi Seitz Papers.)

FAMILY LAW CASE CONTINUED

his refusal to participate in national school celebrations, his refusal to use the German greeting or to sing the national anthem or Horst Wessel song. He explained that he pledges his faith to the leader who created heaven and earth.

The boy is uncooperative and rejects every attempt at guidance and, during judicial questioning, referred to the fact that his father was fired from his municipal job.

The father served four months in prison after sentencing by the Mannheim Special Court [Sondergericht] for activities on behalf of the prohibited Jehovah's Witnesses (violation of Paragraph 4 of the Decree of February 28, 1933 for the Protection of People and State prohibited meetings and missionary activities by Jehovah's Witnesses). He still rejects recognition of the Führer [i.e. Adolf Hitler] as well as of the national socialist outlook through refusal to use the German greeting [Heil Hitler], because according to his religious beliefs he has pledged his obedience only to Jehovah.

It does not need to be emphasized that when the father allows himself such liberties, placing himself outside the national community (Volksgemeinschaft), he violates his parental duty to educate his son within the national community by influencing his son to likewise stay outside this national community, thereby inflaming the patriotic feelings of his classmates and necessitating that the school authorities expel the boy. Through this inevitable reprimand, the youth is incapable of pursuing vocational and educational training mandated by German compulsory education laws and the parents are responsible for this damage.

Since the parents have rejected all advice, it is mandatory that we take action in guardianship court under Paragraph 1666 of the Civil Code, placing the boy

in other surroundings that will lead the child back into the national community.

The youth cannot be indefinitely removed from mandatory school attendance until a suitable foster home is found. The guardianship court, in consideration of the March 10, 1937 petition by the municipal school office, has removed familial custodial rights and recommended temporary commitment of the boy to an observation unit under Paragraph 43 of the Child Welfare Code.

This judgment against the father has been made in proceedings held under Paragraph 16, Subsection 3 of the Child Welfare Code and will be implemented without delay, even if the father exercises his legal right for an appeal.

After the sentence was read and the father instructed to sign the decision, the father stated: I confirm receipt of the sentence. I do not accept and will not sign anything.

Signed by Judge Krall and Court Clerk Dechert

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