

## AFFIDAVIT

22 April 1952

I, James P. Moss, First Lieutenant, United States Air Force, AO 591005, having been duly sworn, make the following free and voluntary statements:

On 26 June 1951, I was transferred to the Far East Command.

Prior to that date, my wife, Mary Anne Moss, and I had completed adoption proceedings of a child, Mary Margaret Moss. The final decree in this proceeding was granted in March or April of 1949. Subsequently thereto, in November 1950, my wife and I petitioned for the adoption of a male child, Robert M. Moss. We were granted legal custody of this child, pending completion of preliminary action. Due, however, to physical infirmities of this child, Robert M., the child could not be adopted and was, accordingly, in January 1952, surrendered by court order to the Massachusetts authorities who had previously granted legal custody of the child to my wife and myself.

In July 1951, my wife obtained legal custody of one Joyce Elaine Vidmar, sometimes known as Virginia Anne or Sarah Anne. A petition for the adoption of this child was filed with the Colorado authorities in January 1952, and legal custody of the child was granted to myself and my wife. The mother of this child, Helen Bergondo, has relinquished all parental rights to this child, and has consented to the adoption of this child by my wife and myself, as reflected by Inclosure B in the file appended hereto. Due, however, to the fact that I was overseas at the time that this petition was filed, the presiding justice in the Colorado District Court could not issue a decree of adoption without my presence, which decree must of necessity be deferred until my return to the United States, at which time I can personally appear in court.

Originally, orders were issued authorizing my wife, Mary Anne, my adopted child, Mary Margaret, and my son, Robert M., authority to travel to the Far East to join me. In view of the fact, however, that my then son, Robert M. had been surrendered to the Massachusetts authorities by reason of physical infirmities, as outlined above, I requested that Robert M.'s name be stricken from the orders, and that my child, Joyce Elaine Vidmar, sometimes known as Virginia Anne or Sarah Anne, be instituted therefor.

It has been intimated that authority for Government travel cannot be granted to transport my child, Joyce Elaine Vidmar, to this theater by reason of the provisions of par. 7001, Joint Travel Regulations. (See GHQ FEC Letter, subj: Travel of Dependents, dated 11 April 1952, appended hereto). I respectfully submit that authority exists for the request that I have made.



SR 55-765-5 (AFR 75-26), entitled "Transportation and Travel -- Travel of Dependents, To, From and Between Overseas Areas", dated 28 April 1949, in par. 4a under "Definitions" provides that the term "dependent" will be the same as defined in AR 35-4880-AFR 173-7. Reference to the above-cited regulations, par. 2a provides, among other things, that "The term 'children' shall be held to include step children and adopted children when such step children or adopted children are in fact dependent upon the person claiming dependency allowance". The act of 16 June 1942, chapter 413, sec. 4, as amended (Title 37, U.S.C., sec. 104) employs the same definition. It is submitted that the word "adopted" which precedes "children" in the above-cited references is not necessarily one of limitation, but rather one of general definition and as such, in accordance with established rules of statutory construction, not subject to strict legalistic interpretation. The test here, as reflected both by the Act of Congress and the Regulations, is whether the child is "in fact dependent upon the person claiming dependency allowance". That this construction is an appropriate one would seem to be indicated by SR 35-1465-15 (AFR 173-127), dated 13 March 1951, where in par. 18 thereunder it is provided that:

"A child may be considered as a dependent for the purpose of entitlement to increased basic allowance for quarters when the child is the subject of adoption proceedings instituted by the service member in which an interlocutory or a final decree of adoption has been entered according to the appropriate law, and said child is in fact dependent upon said member."

While it is true that I have not completed the adoption proceedings of the child, Joyce Elaine Vidmar, otherwise known as Virginia Anne or Sarah Anne, the fact remains that I am responsible for her support and maintenance; have legal custody of her; have filed a petition for adoption; have further supported and maintained her for many months; and finally, that it is my intention, if and when I can return to the United States, to effect her legal adoption. By authority of the presiding justice of the Colorado court having jurisdiction of this cause, I am authorized to take this child without the territorial limits of the United States and to have legal custody of her until such time as I can return to complete the adoption proceedings in this case. This child is mine in every sense except for the ritualistic matter of securing a court decree which cannot be procured save by personal appearance. I submit that, on the basis of these facts, I should be entitled to Government transportation for this child to the Far East Command.

Accordingly, I respectfully request authorization for the transportation of this child to the Far East Command.

In accordance with the instructions contained in par. 3 of GHQ FEC Letter, subj: Travel of Dependents, dated 11 April 1952, Government transportation and housing, under the provisions of SR 55-765-5/AFR 75-26,



is requested for the following named persons:

- (1) Mary Anne Moss - date of birth 17 Apr 25 - female - wife.
- (2) Mary Margaret Moss - date of birth 16 Nov 47 - female - daughter.
- (3) Joyce Elaine Vidmar Moss (otherwise known as Virginia Anne Moss or Sarah Anne Moss) - date of birth 12 Apr 51 - female - daughter - in process of adoption, not completed to date.

JAMES P. MOSS  
1st Lt, USAF  
AO 591005  
Hq 315th Air Division  
APO 959

Sworn to and subscribed before me this \_\_\_\_\_ day of April 1952.

H. L. ALLENSWORTH  
Lt Colonel, USAF  
Summary Court-Martial  
Hq 315th Air Division  
APO 959



# PUBLIC INFORMATION QUESTIONNAIRE

## Biographical and Personal History Information

NOTE: This form will be completed on all general officers, colonels, commanders of units of squadron size or larger, and military or civilian personnel whose former or present accomplishments and/or positions make them of interest to U. S. news media.

\*\*\*\*\*

\*\*\*\*\*

Unit 1270 AACS Sq

Date 24 Oct 56

1. Rank Captain

2. Name Moss James P  
(Last Name) (First Name) (MI)

3. Present Duty Assignment Flight Facilities Off. 1270 AACS  
(Full Title) (Organization)

4. Date of Birth May 13 1924  
(Month) (Day) (Year)

5. Place of Birth Kingston Penna Lucerne  
(City) (State) (Country)

6. Parents Name MR & MRS WARNER A Moss  
(Indicate if either or both are deceased)

7. Parents Address 39 W. Hoyt St Kingston, PA  
(Street & Number) (City) (State)

8. Wife's Name MARY ANNE Neis Moss  
(First Name) (MI) (Maiden Name) (Last Name)

9. Children's Names and Ages:

Name	Age
<u>MARY MARGARET</u>	<u>9</u>
<u>SARAH ANNE</u>	<u>5</u>
<u>DAVID JOSEPH</u>	<u>1</u>

10. Wife's Present Address 24 Denninger St Munich GERMANY  
(Street & Number) (City) (State)

\*\*\*\*\*

\*\*\*\*\*