United States Court of Appeals

FOR THE SECOND CIRCUIT

Docket No. 00-6066

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FELIX BLONDIN,

Petitioner-Appellant,

- v. -

MARTHE DUBOIS,

Defendant-Appellee.

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**BRIEF FOR AMICUS CURIAE UNITED STATES OF AMERICA**

**SUPPORTING PETITIONER-APPELLANT AND SUPPORTING REVERSAL**

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**Preliminary Statement**

Pursuant to 28 U.S.C. § 517 and Rule 29 of the Federal Rules of Appellate Procedure, the United States submits this brief as amicus curiae to express its views on the Hague Convention on the Civil Aspects of International Child Abduction (the "Hague Convention" or the "Convention"), Oct. 25, 1980, T.I.A.S. No. 11670, implemented by the International Child Abduction Remedies Act (the "ICARA"), 42 U.S.C. §§ 11601-11610.

**INTEREST OF THE UNITED STATES**

The Hague Convention is designed to “protect children internationally from the harmful effects of their wrongful removal or retention and to establish procedures to ensure their prompt return to the State of their habitual residence.” Hague Convention Preamble. The Department of State has long been involved in the difficult human, legal, and diplomatic problems surrounding international parental child abduction. The Department of State represented th

and maturity” under the Convention.

In addition, in weighing the testimony of a younger child, a court should consider carefully whether it reflects the child’s views, or an attenuated version of the abducting parent’s. 51 Fed. Reg. at 10,510. Applying this standard, courts have found that children aged nine and ten have been sufficiently influenced by their abductors that their views on return should not be taken into account. See Sheikh v. Cahill, 546 N.Y.S.2d 517, 521-22 (Sup. Ct. Kings County 1989); In re Robinson, 983 F. Supp. 1339, 1343-44 (D. Colo. 1997).

In August 1998, the district court concluded that Marie-Eline, then seven, had been “prepared, to a degree,” for a conversation with the court concerning her views on return. Blondin I, 19 F. Supp. 2d at 128. Moreover, in December 1999, the psychiatrist readily admitted that some of Marie-Eline’s “spontaneous” expressions of abuse, such as a fear of her father strangling her, or living in a shelter, could have come only from descriptions of abuse given to her by her mother, since such incidents occurred when Marie-Eline was too young to remember them. (A348-50). Notwithstanding this testimony, the district court summarily concluded that it did not believe Marie-Eline's statements were influenced by her mother. Given the circumstances, it is extremely unlikely that Marie-Eline's views could have been sufficiently free of her abducting parent’s influence to amount to an objection properly cognizable under the Convention.

We do not suggest that the testimony of a younger child cannot be considered as evidence that abuse has occurred or that return to the immediate custody of an abusive parent would pose a grave risk of harm. That is different, however, from giving effect to a carefully considered “objection” by an older child to returning to her former country of residence, based on her independent and mature assessment of her own interests.

**CONCLUSION**

T**he judgment of the district court should be reversed.**

Dated:New York, New York

May 8, 2000

Respectfully submitted,

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**Certificate of Compliance**

Pursuant to Rules 29(c), (d), and 32(a)(7)(C) of the Federal Rules of Appellate Procedure, the undersigned counsel for the United States hereby certifies that this brief complies with the type-volume limitation of Rule 32(a)(7)(B). As measured by the word processing system used to prepare this brief, there are 6964 words in the brief.

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