

111TH CONGRESS
1ST SESSION

S. RES. 37

Calling on Brazil to comply with the requirements of the Convention on the Civil Aspects of International Child Abduction and to assist in the safe return of Sean Goldman to his father, David Goldman.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 11, 2009

Mr. LAUTENBERG (for himself, Mr. MENENDEZ, Mr. FEINGOLD, Mr. CASEY, and Mr. MARTINEZ) submitted the following resolution; which was referred to the Committee on Foreign Relations

MARCH 24, 2009

Committee discharged; considered, amended, and agreed to with an amended preamble and an amendment to the title

RESOLUTION

Calling on Brazil to comply with the requirements of the Convention on the Civil Aspects of International Child Abduction and to assist in the safe return of Sean Goldman to his father, David Goldman.

Whereas Sean Goldman is the son of David Goldman and Bruna Goldman, and is a United States citizen and a resident of Tinton Falls, New Jersey;

Whereas Bruna Goldman took Sean Goldman to Brazil on June 16, 2004;

Whereas after Bruna and Sean Goldman arrived in Brazil, Bruna Goldman informed David Goldman that she would

remain permanently in Brazil and would not return Sean Goldman to David Goldman in New Jersey;

Whereas on August 26, 2004, the Superior Court of New Jersey issued a ruling awarding David Goldman physical and legal custody of Sean Goldman and ordering that Sean Goldman be immediately returned to the United States;

Whereas David Goldman initiated judicial proceedings in the Federal Court of Rio de Janeiro, under the Convention on the Civil Aspects of International Child Abduction, done at the Hague October 25, 1980 (TIAS 11670) (the "Convention"), to which both the United States and Brazil are parties;

Whereas the Convention requires that a child who is a habitual resident of a country that is a party to the Convention, and who has been removed from or retained in a country that is also a party to the Convention in violation of the custodial rights of a parent of that child, be returned to the country of habitual residence;

Whereas despite the petition filed in the Federal Court of Rio de Janeiro by David Goldman for the return of his child, less than one year after Sean Goldman was taken to Brazil, David Goldman was prevented from exercising his legal custody of Sean Goldman by rulings of the Federal Regional Court and the 3rd Chamber of the Superior Court of Justice of Brazil;

Whereas Bruna Goldman passed away in August 2008, and her new husband filed a petition to replace the name of David Goldman with his own name on the birth certificate of Sean Goldman;

Whereas the new husband of Bruna Goldman filed a petition for custody of Sean Goldman with the 2nd Family Court of Brazil on August 28, 2008;

Whereas the 2nd Family Court of Brazil granted temporary custody to the new husband of Bruna Goldman, despite specific provisions in the Convention that prohibit action by a family court while a case brought under the Convention is pending;

Whereas Sean Goldman remains in the temporary custody of the new husband of Bruna Goldman;

Whereas the Convention requires the Government of Brazil to “take all appropriate measures to secure within [its territory] the implementation of the objects of the Convention” and “to use the most expeditious procedures available”;

Whereas the Goldman case has been pending in the courts of Brazil since 2004;

Whereas the Department of State reported in the 2008 report on compliance with the Convention, as required under section 2803 of the Foreign Affairs Reform and Restructuring Act of 1998 (42 U.S.C. 11611), that the judicial authorities of Brazil “continued to demonstrate patterns of noncompliance with the Convention”;

Whereas the Special Secretariat for Human Rights of the Presidency of the Republic of Brazil, the central authority for carrying out the Convention in Brazil, wrote to the Office of the Attorney General of Brazil to express concern with the manner in which the 2d Family Court of Brazil conducted the case of Sean Goldman and to state that the issuance of temporary custody rights by

the 2d Family Court of Brazil was a violation of the Convention;

Whereas Sean Goldman is being deprived of his rightful opportunity to live with and be raised by his biological father, David Goldman; and

Whereas it is consistent with international law that Sean Goldman be reunited with his father, David Goldman, in New Jersey: Now, therefore, be it

- 1 *Resolved*, That the Senate calls on Brazil—
 - 2 (1) to fulfill its obligations under the Convention on the Civil Aspects of International Child Abduction, done at the Hague October 25, 1980 (TIAS 11670); and
 - 6 (2) to assist in the safe return of Sean Goldman to his father, David Goldman, in the United States.

○