

INTER-AMERICAN COMMISSION OF HUMAN RIGHTS

PETITION AGAINST COSTA RICA FOR VIOLATION OF HUMAN RIGHTS

Petitioner, CHRISTOPHER R. CAMACHO, in the above styled action, by and through his undersigned counsel, hereby lodges his Petition Against Costa Rica for Violation of Human Rights and states his claim against Respondent, COSTA RICA, as follows:

VICTIMS

Christopher R. Camacho, Father

Isabella N. Camacho, Minor Child

Elena N. Camacho, Minor Child

FAMILY MEMBERS

Lucrecia R. Camacho, Former Spouse

PETITIONER'S INFORMATION

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STATE IN VIOLATION OF HUMAN RIGHTS

Costa Rica

FACTS

Petitioner, Christopher R. Camacho (“Father”) and Lucrecia R. Camacho (“Mother”) married on October 11, 2000 in Cobb County, Georgia. Father and Mother made their marital domicile in Cobb County, Georgia until June 4, 2011. During that time Father and Mother had two minor daughters to wit: Isabella Nicole Camacho, DOB 05/16/2001, age 12, and Elena Nicole Camacho, DOB 01/20/2006, age 7.

On June 4, 2011 Mother traveled with the two children to Costa Rica for vacation and to visit her family residing there. During her visit, Mother informed Father that she intended to remain in Costa Rica permanently with the children. At the time of Mother’s abduction of the children, Father was exercising his custodial rights and was exercising custodial rights over them in the United States by caring for them and fully participating in the children’s care, upbringing and nurturing each day of his daughter’s lives.

Father immediately sought legal remedy. Father retained the law firm of The Manely Firm, P.C. on November 18, 2011. On November 23, 2011 Father filed his Petition for Return of the Children and Complaint for Divorce in the Superior Court of Cobb County in Georgia, United States of America. Simultaneously, Father filed his Application pursuant to The Convention on The Civil Aspects of International Child Abduction, completed at the Hague on October 25, 1980 (“The Hague Convention”) with the United States Department of State.

On December 13, 2011 the Superior Court of Cobb County held a temporary hearing in Father’s divorce action. The Superior Court awarded Father temporary custody of his daughters.

Father then sought a ruling from Costa Rica regarding his Hague Convention Application. From April 26 until May 2, 2012, The Family Childhood and Adolescence Court of the Judicial Circuit 1 of San Jose in Costa Rica held a multi-day trial on Father's Hague Convention Petition. On June 26, 2012, the Family Court ruled in favor of Father and held that Mother must return the abducted children.

In July of 2012, Mother appealed to the Family Tribunal of Judicial Circuit 1 of San Jose of Costa Rica. On September 28, 2012, the Family Tribunal also held in favor of Father and Ordered Mother to return the children. Mother next appealed to the Costa Rican Constitutional Court. The Constitutional Court ruled that the children did not have to be returned, citing Article 20 of The Hague Convention, which states, "**The return of the child under the provisions of Article 12 may be refused if this would not be permitted by the fundamental principles of the requested State relating to the protection of human rights and fundamental freedoms.**" (emphasis supplied) According to Costa Rica's Constitutional Court, those fundamental principles relating to the protection of human rights and fundamental freedoms, as applied to this case, are that the children had acquired a dog in Costa Rica, liked to cook with their grandmother, liked to shop in Costa Rica, had made friends in the Costa Rican school and had become comfortable there. According to the Constitutional Court, pets, cooking, shopping and friends are paramount human rights considerations over the rights of parents to their children and children to their parents. To the Constitutional Court, pets and shopping are fundamental freedoms. Freedom from abduction and parents are not.

After the Costa Rican Constitutional Court had determined that pets were more important than fathers, Father sought to have the divorce action in Cobb County Superior Court finalized.

On September 11, 2013 Cobb County Superior Court held a final hearing on Father's divorce petition. The court granted the divorce and awarded Father sole custody of his daughters.

AUTHORITIES RESPONSIBLE

Costa Rican Constitutional Court

HUMAN RIGHTS VIOLATED

Right to a Fair Trial

Right to Equal Protection

Rights of the Child

Rights of the Family

Costa Rica's Constitutional Court violated Petitioner's rights under the American Convention on Human Rights.

Article 8, Section 1 of the American Convention on Human Rights states that “[e]very person has right to a hearing, with due guarantees and within a reasonable time by a competent, independent, and impartial tribunal...for the determination of his rights and obligations of a civil nature.”

Article 24 of the American Convention on Human Rights, Right to Equal Protection, states that “All persons are equal before the law. Consequently, they are entitled, without discrimination, to equal protection of the law.”

Article 19 of the American Convention on Human Rights, Rights of the Child, states: “Every minor child has the right to the measures of protection required by his condition as a minor on the part of his family, society, and the state.”

Article 17, Section 4 of the American Convention on Human Rights, Rights of the Family

states: “The States Parties shall take appropriate steps to ensure the equality of rights and the adequate balancing of responsibilities of the spouses as to marriage, during marriage, and in the event of its dissolution. In case of dissolution, provision shall be made for the necessary protection of any children solely on the basis of their own best interests.”

The court’s interpretation of the children’s freedom as established by their pet, cooking, shopping and friends fails to address the circumstances of the children’s abduction in which this occurred. Mother uprooted the children from their home in the United States and stole them from their father and from the culture of their birth in violation of Article 19. This abduction, theft and uprooting is the complete absence of freedom and a violation of fundamental human rights of both Father and the children.

As Article 19 states, “Every minor child has the right to the measures of protection required by his condition as a minor on the part of his family...” The Costa Rican Constitutional Court placed no weight on Mother’s abduction of the children from their only home that they had known since birth in the United States, though it was in direct violation of the children’s right to protection as a part of their family. Instead, the Constitutional Court placed great weight that on December 13, 2011, four days after Father’s Petition seeking return of his children was received by the Costa Rican National Board of Childhood, Mother registered the children before the Civil Registry so that she could invoke Costa Rican protection. The Constitutional Court held that this one, pre-meditated act of registration created a magical shield which law, treaty, reason, facts and justice could never pierce. The magic shield is in violation of Article 17’s equality of rights of the spouses.

The Constitutional Court used Article 20 of the Hague Convention to rationalize their

finding that, because the children had been registered, albeit subsequent to their abduction, their return would violate fundamental principles to protect human rights and freedoms, such as owning a dog and shopping. The Constitutional Court essentially held that once a child is registered as a citizen of Costa Rica, the Costa Rican government has absolute control of that child regardless of the fundamental rights of anyone else, including the children and including the parents, in violation of Article 19. This holding further deprives every non-Costa Rican of equal protection under the law and is in direct violation of American Convention's Article 24, the "Right to Equal Protection."

The Constitutional Court further reasoned that, under Article 13, Section b of the Hague Convention, return of the child(ren) is not appropriate if "a serious risk that the return of the children would expose the minor to a physical or psychological risk or that in any manner places [them] in an intolerable situation." However, the Constitutional Court provided no rationale as to what harm might occur to the children, if returned to their home in the United States. Even the Constitutional Court found that Mother's allegations that the children might be exposed to domestic violence was baseless. As each previous proceeding established, the children grew up and thrived in the United States for years; Father was always an active part of their lives and contributed to their well-being and growth in a meaningful and positive manner. In other words, Father always sought and maximized the best interests of his daughters, in keeping with Article 17. It was Mother who could not have cared less about the children's fundamental freedoms by abducting them away from their home in violation of Article 19.

According to the Constitutional Court the circumstances of pet ownership, shopping, cooking and having friends are "favorable" and the minor children are "comfortable". According

to the Constitutional Court, to change the children's obvious transient circumstances which their Mother created by abducting them in the first place, to return the children to the United States, to their habitual residence, would not be in the children's best interest. This is a wholly capricious decision made by the Constitutional Court which ignores the facts and fundamental justice of this matter. The Constitutional Court was solely committed to ruling in favor of its citizen against a non-citizen. The Constitutional Court's interpretation of the law and facts is a violation of Articles 8 and 24 and Father's right to a fair trial and equal protection under the law.

As supported by Article 17, the right to parent has been held to be an universal natural right. It is fundamental to life and liberty. In United States, the Supreme Court has recognized that the right to raise one's children has been deemed essential...a basic civil right of man...far more precious than property rights. See Stanley v. Illinois, 405 U.S.645 (1972). While there are certainly times in which the State must step in to protect the interests of the children against the parents, to do so in the manner in which the Constitutional Court in Costa Rica has done, in violation of Articles 17 and 19 will only serve to facilitate future parents to abduct their children from their countries of habitual residence, abscond to Costa Rica and, by a pre-meditated signature, deny the left behind parent any recourse to obtain justice under State law.

LEGAL REMEDY SOUGHT

Father requests that the Commission review the attached documentation and issue a statement regarding Costa Rica's Constitutional Court's misinterpretation and mis-use of the Hague Convention and subsequent violation of same. Father requests that the Commission carry out an official investigation, issue a report on the merits that recommends halting the acts alleged, make reparations for harm caused, make changes to the law and require the State of

Costa Rica to adopt said measures and actions. This Commission should note the need for more stringent review of Hague Convention decisions from Costa Rica, as Costa Rica has been deemed non-compliant in regards to the Hague treaty in 2011 and 2012.

EVIDENCE

Temporary Order, Superior Court of Cobb County

Final Order, Superior Court of Cobb County

Order, The Family Childhood and Adolescence Court

of the Judicial Circuit 1 of San Jose in Costa Rica

Order, Family Tribunal of Judicial Circuit 1 of San Jose of Costa Rica

Order, Constitutional Court of Costa Rica

WITNESSES

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LEGAL REPRESENTATIVE

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