

111TH CONGRESS
1ST SESSION

S. RES.

Calling on officials of the Government of Brazil and the federal courts of 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

Mr. Menendez and Mr. Feingold

Mr. LAUTENBERG submitted the following resolution; which was referred to the Committee on

RESOLUTION

Calling on officials of the Government of Brazil and the federal courts of 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 David Goldman traveled to Rio de Janeiro, Brazil, in October 2008 for court-approved visitation with Sean Goldman;

Whereas the new husband of Bruna Goldman failed to present Sean Goldman for such visitation;

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 Federal Court of Rio de Janeiro has failed to comply with the obligations of the Government of Brazil under article 11 of the Convention by failing to expeditiously adjudicate the petition of David Goldman under the Convention;

Whereas it is customary under international law to adjudicate a petition under the Convention within six weeks;

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 officials of the
- 2 Government of Brazil and the federal courts of Brazil—
- 3 (1) to fulfill the obligations of Brazil under the
- 4 Convention on the Civil Aspects of International
- 5 Child Abduction, done at the Hague October 25,
- 6 1980 (TIAS 11670); and
- 7 (2) to assist in the safe return of Sean Gold-
- 8 man to his father, David Goldman, in the United
- 9 States.