

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF VERMONT

Dylan John Stanley v. Kathryn Ann Stanley

Stanley · No. 2:26-cv-00006 · Decided March 26, 2026

SUMMARY

The United States District Court for the District of Vermont grants Dylan John Stanley’s petition under the Hague Convention on the Civil Aspects of International Child Abduction and ICARA seeking the return of his child, P.S., to Australia. The court finds that P.S. was habitually resident in Australia, was wrongfully removed, and that the asserted defenses of consent, acquiescence, and grave risk do not preclude return. The opinion also addresses Respondent’s request for an adverse inference based on the destruction of a recording.

CASE DETAILS

COURT	United States District Court for the District of Vermont
JURISDICTION	United States District Court for the District of Vermont
DECIDED	March 26, 2026
DOCKET	2:26-cv-00006
DISPOSITION	other
PROCEDURAL POSTURE	Petitioner sought an order under the Hague Convention on the Civil Aspects of International Child Abduction and ICARA requiring Respondent to return the parties' child to Australia. After a bench trial, the court granted the petition and ordered the child's prompt return.
STANDARD OF REVIEW	The petitioner bears the burden of proving wrongful removal by a preponderance of the evidence. A respondent asserting consent must prove that defense by a preponderance of the evidence, while the grave-risk defense must be established by clear and convincing evidence. The court made factual findings after a bench trial.
PRECEDENTIAL VALUE	Unpublished federal district court opinion; precedential status unknown
PARTIES	Dylan John Stanley v. Kathryn Ann Stanley

TOPICS

- child custody
- relocation
- family law procedure
- evidence
- remedies

PRACTICE AREAS

family law

international child abduction

civil procedure

evidence

remedies

QUESTIONS PRESENTED

1. Whether the child was wrongfully removed from Australia under the Hague Convention.
2. Whether Respondent established that Petitioner consented or acquiesced to the child's removal.
3. Whether returning the child to Australia would expose the child to a grave risk of physical or psychological harm under Article 13(b) of the Hague Convention.
4. Whether Petitioner's destruction of a recording warranted an adverse spoliation inference.

HOLDINGS

1. Petitioner established by a preponderance of the evidence that the child was habitually resident in Australia, was removed to the United States, that the removal breached Petitioner's custody rights, and that Petitioner was exercising those rights. The removal was therefore wrongful and the child ordinarily had to be returned to Australia.
2. Respondent failed to prove by a preponderance of the evidence that Petitioner consented or acquiesced to the child's removal.
3. Respondent failed to establish by clear and convincing evidence that returning the child to Australia would expose the child to a grave risk of physical or psychological harm or place the child in an intolerable situation.
4. An adverse inference was warranted because Petitioner destroyed a recording after litigation was anticipated, but the inference was slight because four witnesses testified about the recorded conversation.

KEY QUOTATIONS

"The Convention's core premise is that the interests of children in matters relating to their custody are best served when custody decisions are made in the child's country of habitual residence." (at 12)

"The Convention does not establish substantive standards for resolving the merits of any underlying custody dispute." (at 13)

"The deliberately secretive nature of the actions of the removing parent is extremely strong evidence that the other parent would not have consented to the removal." (at 15)

"Spousal abuse . . . is only relevant under Article 13(b) if it seriously endangers the child." (at 17)

FACTUAL BACKGROUND

The parties lived with their child in New South Wales, Australia, where the child was born, attended daycare, and was scheduled to begin school. After separating, the parties discussed a possible relocation by Respondent and the child to the United States but never reached or executed a custody agreement; Respondent had also assured Petitioner in writing that she would not remove the child without his consent or a court order.

Respondent nevertheless secretly flew with the child from Australia to the United States on September 29, 2025. The court found that Australia was the child's habitual residence, that Petitioner was exercising custody rights, and that Petitioner did not pose a grave risk of physical or psychological harm to the child upon return, subject to appropriate communication restrictions.

PROCEDURAL HISTORY

Respondent removed the child from Australia to the United States on September 29, 2025. Petitioner filed this ICARA petition on January 15, 2026; the court entered a temporary restraining order, held a scheduling conference, and conducted a bench trial on March 3 and March 6, 2026. The Australian custody proceeding remained pending, with the Australian court having determined that it lacked jurisdiction over the child after the removal.

DISPOSITION

other

REMAND INSTRUCTIONS

P.S. shall be returned to Australia forthwith, and in no event later than thirty days from the Opinion and Order, for an Australian court to decide custody issues. Respondent was ordered to file by April 3, 2026, at 5:00 p.m., a safe-return plan including the child's travel itinerary and proof thereof; the Clerk was directed to release the child's passports to the adult accompanying the child.

CASES CITED

- *Golan v. Saada*, 596 U.S. 666, 670-71 (2022)
- *Abbott v. Abbott*, 560 U.S. 1, 8 (2010)
- *Mota v. Castillo*, 692 F.3d 108, 112-13 (2d Cir. 2012)
- *Gitter v. Gitter*, 396 F.3d 124, 130-31 (2d Cir. 2005)
- *Blondin v. Dubois*, 189 F.3d 240, 246 (2d Cir. 1999)
- *Lomanto v. Agbelusi*, 2023 WL 4118124, at *18 n.12 (S.D.N.Y. June 22, 2023)
- *Souratgar v. Lee*, 720 F.3d 96, 102-04 (2d Cir. 2013)
- *Swett v. Bowe*, 733 F. Supp. 3d 225, 243, 287 (S.D.N.Y. 2024)
- *In re D.T.J.*, 956 F. Supp. 2d 523, 529, 545 (S.D.N.Y. 2013)
- *Chin v. Port Authority of New York & New Jersey*, 685 F.3d 135, 162 (2d Cir. 2012)
- *Velozny v. Velozny*, 550 F. Supp. 3d 4, 15-17 (S.D.N.Y. 2021)
- *Baxter v. Baxter*, 423 F.3d 363, 371 (3d Cir. 2005)
- *Braude v. Zierler*, 2022 WL 3018175, at *6-9 (S.D.N.Y. July 29, 2022), *aff'd*, 2023 WL 3012269 (2d Cir. Apr. 20, 2023)
- *Simcox v. Simcox*, 511 F.3d 594, 603 (6th Cir. 2007)
- *Friedrich v. Friedrich*, 78 F.3d 1060, 1069 (6th Cir. 1996)

- Padilla v. Troxell, 850 F.3d 168, 176 (4th Cir. 2017)
- Blondin v. Dubois, 238 F.3d 153, 162 (2d Cir. 2001)
- Van De Sande v. Van De Sande, 431 F.3d 567, 570 (7th Cir. 2005)
- Charalambous v. Charalambous, 627 F.3d 462, 468 (1st Cir. 2010) (per curiam)
- Mene v. Sokola, 2024 WL 4227788, at *18 (S.D.N.Y. Sept. 17, 2024)
- Davies v. Davies, 717 F. App'x 43, 47-49 (2d Cir. 2017)
- In re Filipczak, 838 F. Supp. 2d 174, 180 (S.D.N.Y. 2011)
- Rial v. Rijo, 2010 WL 1643995, at *2-3 (S.D.N.Y. Apr. 23, 2010)
- Lachhman v. Lachhman, 2008 WL 5054198, at *9 (E.D.N.Y. Nov. 21, 2008)

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