

UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

Lynne Hales Chafin v. Jeffrey Lee Chafin

742 F.3d 934 (11th Cir. 2013) · No. No. 11-15355 · Decided December 18, 2013

SUMMARY

The Eleventh Circuit affirmed a district court order requiring the return of a child to Scotland under the Hague Convention on the Civil Aspects of International Child Abduction. The court held that the district court did not clearly err in finding Scotland to be the child's habitual residence or in determining that the child was wrongfully retained in the United States. The court also emphasized the need for expedited resolution of International Child Abduction Remedies Act proceedings.

CASE DETAILS

COURT	United States Court of Appeals for the Eleventh Circuit
WRITING FOR THE COURT	Per curiam; Charles R. Wilson; Edwin L. Nelson; Donald M. Middlebrooks
JURISDICTION	Federal
DECIDED	December 18, 2013
DOCKET	No. 11-15355
DISPOSITION	affirmed
PROCEDURAL POSTURE	Jeffrey Chafin appealed from the Northern District of Alabama's decision, following a bench trial, granting Lynne Chafin's petition for the return of their child under the Hague Convention on the Civil Aspects of International Child Abduction and the International Child Abduction Remedies Act. The appeal was decided on the merits after the Supreme Court vacated the Eleventh Circuit's prior dismissal of the appeal as moot.
STANDARD OF REVIEW	Mixed review: factual findings concerning habitual residence are reviewed for clear error; legal determinations and the application of law to facts are reviewed de novo.
PRECEDENTIAL VALUE	Published and precedential Eleventh Circuit opinion
PARTIES	Jeffrey Lee Chafin v. Lynne Hales Chafin

TOPICS

family law

child custody

appellate procedure

standard of review

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PRACTICE AREAS

Family law

international child abduction

appellate procedure

civil procedure

QUESTIONS PRESENTED

1. Whether the district court clearly erred in finding that E.C. was habitually resident in Scotland immediately before her retention in the United States.
2. Whether the district court clearly erred in finding that E.C. was wrongfully retained in the United States under the Hague Convention and ICARA.
3. Whether the district court correctly rejected Jeffrey Chafin's grave-risk-of-harm defense.
4. Whether the district court correctly applied the Hague Convention and ICARA to order E.C.'s return to Scotland.

HOLDINGS

1. Habitual-residence determinations are reviewed under a mixed standard: factual findings are reviewed for clear error, while legal determinations and the application of law to the facts are reviewed de novo.
2. The district court did not clearly err in finding that the parties lacked a settled intent to abandon E.C.'s habitual residence in Scotland and establish a new habitual residence in Alabama.
3. The district court correctly found that E.C. was wrongfully retained in the United States as of May 15, 2010, when Jeffrey removed her passport and prevented her return to Scotland.
4. The district court correctly determined that Jeffrey failed to establish by clear and convincing evidence that returning E.C. to Scotland would expose her to a grave risk of harm.

KEY QUOTATIONS

"Accordingly, we review the district court's findings of fact for clear error and its legal determinations and application of the law to the facts de novo." (742 F.3d at 940)

"Here, there are objective facts pointing to each country, and our de novo review confirms that it is not unequivocally clear that E.C.'s habitual residence in Scotland was abandoned for a new habitual residence in Alabama." (742 F.3d at 941)

FACTUAL BACKGROUND

Jeffrey Chafin, a United States citizen, and Lynne Chafin, a citizen of the United Kingdom, married in 2006 and lived for several years in Scotland. In February 2010, Lynne brought their daughter, E.C., to Alabama on what the district court found was at most a trial period intended to address marital difficulties. After the attempted reconciliation failed, Lynne planned to return to Scotland, but Jeffrey served her with divorce and emergency custody papers and removed E.C.'s passports, preventing the child's return. The district court found that E.C. was habitually resident in Scotland and that Jeffrey had wrongfully retained her in the United States.

PROCEDURAL HISTORY

Lynne Chafin filed an ICARA petition in the United States District Court for the Northern District of Alabama after Jeffrey Chafin retained the child in the United States. Following a two-day bench trial, the district court found Scotland to be the child's habitual residence, found wrongful retention, and rejected the defense that return would expose the child to a grave risk of harm. The Eleventh Circuit initially dismissed the appeal as moot after the child was returned to Scotland, but the Supreme Court vacated that decision and remanded for consideration of the merits. On remand, the Eleventh Circuit affirmed.

DISPOSITION

affirmed

CASES CITED

- Chafin v. Chafin, 133 S. Ct. 1017, 1022, 1027-28 (2013)
- Bekier v. Bekier, 248 F.3d 1051, 1054-56 (11th Cir. 2001)
- Hanley v. Roy, 485 F.3d 641, 644 (11th Cir. 2007)
- Baran v. Beaty, 526 F.3d 1340, 1350 (11th Cir. 2008)
- Lops v. Lops, 140 F.3d 927, 942-45 (11th Cir. 1998)
- Ruiz v. Tenorio, 392 F.3d 1247, 1252-56, 1259 (11th Cir. 2004)
- Mozes v. Mozes, 239 F.3d 1067, 1081 (9th Cir. 2001)
- Whiting v. Krassner, 391 F.3d 540, 550 (3d Cir. 2004)