

United States Senate

WASHINGTON, DC 20510-3004

August 31, 2005

Consul General
American Embassy
Madrid Spain

RE: Peter Innes

Dear Sir/ Madam:

I am writing on behalf of my constituent, Mr. Peter William Innes. His wife, Maria Jose Carrascosa-Innes, a native of Spain, removed and retained their five year-old daughter, Victoria Solenne Innes. They have been in Spain since January 2005 and to date Ms. Carrascosa-Innes has refused to return her. Mr. Innes is a U.S. citizen and life-long resident of New Jersey. His daughter, Victoria is also a U.S. citizen, raised in New Jersey. Ms. Carrascosa-Innes is a Spanish citizen; however, it is my understanding that she applied for residency in the U.S. in 2000. At this time, this office is writing this letter for the appeal hearing expected in September 2005, which is in response to the June 2005 unfavorable ruling of Mr. Innes.

It is my understanding that the Hague Convention is a civil law mechanism where the parents and not the governments, are parties to the legal action. There is a critical need to address this case from the stance that the spirit of the Hague Convention on International Child Abduction is debased by virtue of the ruling. The Spanish Court ruling issued in June of 2005 refuses the application to return Victoria to the United States and back to Mr. Innes because the Court determined that "the father was not effectively exercising any custody". Herein lies the misinterpretation of the law of the State of New Jersey and a breach of the Convention Articles 1b and 13a. Based on the information presented to this office by Mr. Innes and documented by the judicial officials of the State of New Jersey and the Federal Bureau of Investigation, these articles were not honored.

Article 13a states that "the judicial or administrative authority of the requested State is not bound to order the return of the child if the person, institution or other body which opposes its return establishes that - a) the person, institution or other body having the care of the person of the child was not actually exercising the custody rights at the time of removal or retention..." In the ruling explanation (FIFTH), the Court seemed to be weighing which spouse had "greater" custody than the other. However, this is not in congruence with Article 13a of the Convention. I would like to draw attention to the phrase "exercising the custody rights at the time of removal or retention." The parenting agreement (interim custody agreement), application for joint custody, and the motion to enforce joint custody were all filed prior to January 2005, when Ms. Carrascosa-Innes and Victoria left the country to go to Spain. I have been advised that even though the parties were legally separated and not yet divorced, these three motions filed by Mr. Innes, is demonstrative of his exercising his custodial rights to the fullest extent of New

Jersey law. The ruling by the Spanish Court, based on the Hague Convention, did not recognize these motions as an exercise of custodial rights. In fact, the ruling seemed to indicate that the Court was only looking for documentation of full custody and not of exercise of custody rights.

Article 1b states that one of the objects of the present Convention is "to ensure that rights of custody and of access under the law of one Contracting State are effectively respected in the other Contracting States." The rights of custody and of access under the law in the State of New Jersey in the United States of America honor separation agreements, interim custody agreements, and joint custody agreements, all agreements executed at different stages of a marital separation/divorce. Because Ms. Carrascosa-Innes violated the separation agreement signed on October 8, 2004 which states that both parties agreed not to travel outside the United States with the minor daughter without the written consent of the other party, in March 2005, Judge George Parsons in the U.S. Superior Court in Bergen County in the State of New Jersey, awarded full-custody of Victoria to Mr. Innes. In addition, Ms. Carrascosa-Innes has an active arrest warrant for contempt and criminal kidnapping charges against her at the Bergen County Prosecutor's Office and the FBI. In sum, this is a demonstration that New Jersey law recognizes the interim custody agreement as a binding dual custody agreement, which demonstrates sufficient custody rights for Mr. Innes.

As two of the earliest signatories of this Convention, this office views the Hague Convention of International Child Abduction as a force of cooperation between the two countries where the wrongful removals or retentions occurred. We hold the utmost reverence and faith in the Hague Convention of International Child Abduction, which has proven to be one of the most widely ratified treaties ever agreed at the Hague Conference on Private International Law. We view this Convention as an international agreement of cooperation void of state boundaries.

I thank you for your time and consideration in this matter. I will follow this case very closely and I hope a precedent is set in the realm of international child abduction and in the realm of international treaties and laws. At your earliest convenience, please notify my Director of Immigration, Beth Ritter, with a status of this inquiry. She can be reached by phone at 973-645-3030 or via the internet at beth_ritter@corzine.senate.gov.

Sincerely,



JON S. CORZINE
United States Senator

JSC:tc



9/26/05

DAVID PARANO
NOTARY PUBLIC OF NEW JERSEY

My Commission Expires

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