

Statement of Devon Davenport
Hearing on International Parental Child Abduction
March 25, 2015

In the words of David Goldman on February 27 2014 at the U.S. Senate Committee on Foreign Relations Hearing on International Parental Child Abduction.

“My foundation has been assisting a father by the name of Devon Davenport of North Carolina, whose daughter Nadia was abducted to Brazil in 2009, just a few weeks after her birth. Mr. Davenport has fought admirably to bring Nadia home. In September 2010, a federal court first ordered her return to the U.S. Since then, the return order has been upheld by numerous appeals courts and the legal case is effectively over, yet Devon is still waiting, as I did, for the Brazilian courts to enforce their own return order and put Nadia back on a plane to the U.S. Our government should be demanding, not asking, that Nadia be returned.”

My name is Devon Davenport, the 28 year old father of Nadia Lynn and I happen to still be waiting for justice concerning her illegal abduction to Brazil some 6 years ago.

I believe it has been made evident in the past via various testimonies from left behind parents and politicians that the issue of international child abduction is one of great concern; however, it is absurd that after the immense effort to pass David Goldman and Chris Smith's: Sean and David Goldman International Child Abduction and Return Act (H.R. 3212), we must convince the US Department of State, the sole governmental department responsible for assisting left behind parents systematically navigate legally through the Hague Convention Treaty, to effectively utilize the rhetoric equipping them with the necessary tools to increase resolutions for international abduction cases.

The US Department of State no longer lacks the necessary tools needed in order to optimize and create an efficiently robust pipeline for the handling Hague Cases and distributing pertinent information between Left Behind Parents and Central Authorities from opposing countries.

Countless times throughout my 6 year legal battle, I've been the one to provide updates and ask follow up questions in hopes of obtaining valuable information towards an actual resolution of my case. The Department of State is notorious for providing me with the exact same information I provide them with; hardly do I ever obtain new information and I believe that derives from the fact that they are not proactive in their quest for justice on behalf of left behind parents. The inability and lack of foresight to initiate constructive yet progressive inquiries to the opposing Central Authority is not acceptable. Case officers working for the US Department of State should not only be able to predict the questions and concerns of left behind parents, but also take appropriate measures in obtaining the answers to these questions and concerns while providing feedback to those of us fighting this lengthy battle. The reason for this inability is the lack of empathy, initiative, and urgency; no longer the tools. Herein lies the issue. Until case workers at the Department of State are able to anticipate the next steps in a given Hague Case based on years of internal evidential information from various left behind parents in each country, then there will be no progressive action taken by them to provide information that some parents never think to ask, but deserve to know the answers to, as we look to the Department of State as a source of information and mental solidarity.

The US Department of State has failed to effectively demonstrate an ability to operate in an optimal manner regarding the procedural resolution and legal execution of a return order for abducted children to

return to their country of origin.

Considering they themselves as an entity, are incapable by law of actually enforcing justice, I believe it is necessary to elevate their responsibilities in other areas of which they do have power, such as communicative pressure.

I believe the Central Authorities in both the country of abduction and country of origin should make every effort to contact the sitting Judges at every level of the judicial process and request an expeditious ruling on all processes leading to a Final Certificate of Due Process, as well as the actual logistical execution of the Enforcement Order for return, as they are well within their right to do so.

Article 11 of the Hague Convention Treaty specifically states that:

The judicial or administrative authorities of Contracting States shall act expeditiously in proceedings for the return of children.

If the judicial or administrative authority concerned has not reached a decision within six weeks from the date of commencement of the proceedings, the applicant or the Central Authority of the requested State, on its own initiative or if asked by the Central Authority of the requesting State, shall have the right to request a statement of the reasons for the delay.

Central Authorities must utilize the rhetoric of this Article enumerated in the Hague Treaty as well as the tools they've recently been equipped with via the HR 3212 Bill to ensure that justice is served in a timely manner. I ask that the Department of State make every effort to reach out and question any delays with extreme vigilance in order to ensure the successful and timely return of abducted children to their habitual residence. This type of pressure is vital and should not be suppressed until the process is completed. It serves in no one's best interest to pull back at any point from the beginning of the process until its resolution, as every step forward in the legal process is a critical step and should be treated as such. Therefore, a level of extreme urgency should remain consistent throughout the legal journey in order to adhere to the intent of the Hague Convention Treaty, which is to return children expeditiously to their habitual residence.

Since birth on August 5, 2008 my daughter Nadia Lynn Drummond resided with her mother Larissa Melo Drummond in Cary North Carolina. Due to parental alienation, and prior threats to leave the country with my daughter to Brazil made by Larissa, a court order was filed and established August 20, 2008 restricting the removal of my daughter outside of the state, as well as a confiscation of my daughters' passport to prevent abduction. At the same time a custody order was filed and signed on October 8, 2008 by District Court Judge Walczyk which went into effect on October 14, 2008 notifying each parent that it is a felony to transport the minor child outside of the state. The court order also states that it shall remain into effect until replaced by another Parenting Agreement or Court Order pertaining to custody. According to the signed court ordered visitation schedule between Larissa Drummond and I issued October 14, 2008, our daughter Nadia Lynn was scheduled to have visitation at my residence on Monday's, Tuesday's, and Saturday's at my apartment located in Cary. On Saturday February 7, 2009 my daughter was not brought to my residence for visitation scheduled at 8:00am. At 8:07AM I immediately contacted Larissa asking where she was. After getting no response, I called her mother Mara Bell twice and received no answer. I then called the local Cary Police Department. Upon their arrival, I provided the court ordered visitation and the officer and I went to Larissa's residence and found the house empty. With knowledge of prior threats made by Larissa to leave with my daughter back to Brazil, we contacted the U.S. Department of State to inquire about a possible abduction and were informed that I would receive a call on Monday February 9, 2009 from the abduction officer who handles cases to Brazil, Ms. Daisy Cardiel. I also contacted the National Center for Missing and Exploited Children (NCMEC) and reported the incident and received an NCMEC case number:

TA1115752 for my daughter. On Monday February 12, 2009 Daisy Cardiel contacted me and confirmed my daughter Nadia had been taken to Brazil on February 5, 2009 by Larissa via a United States passport issued in August 2008. It was then confirmed that Larissa had lied about not having a passport for my daughter, violating the court order issued August 20, 2008, and since Larissa did not add me to my daughters birth certificate, and withheld my daughters social security number and other legal documentation concerning my daughter, she was able to obtain a passport for my daughter and fly back to Brazil without my consent. There was a court order calendared by the Wake County Court House in January 2009 to have my name added to my daughters' birth certificate, which was scheduled for April 3, 2009. On February 10, 2009, I filed to have an emergency order granting me sole legal and physical custody of my daughter Nadia, as well as the immediate return of her to her habitual residence in North Carolina, USA, which was signed by District Court Judge Walczyk on February 12, 2009. February 12, 2009 Cary Police entered Nadia into the NCIC as a missing child with case number M487951823, and a kidnapping case, number 09-656 was also opened against Larissa for illegally abducting and transporting Nadia out of the country. My Hague Application was sent and received at the Brazilian Central Authority on March 12, 2009.

April 20, 2009 The US Department of State emailed me stating:

The Brazilian Central Authority (BCA) would like me to inform you that your case was sent to INTERPOL on April 2, 2009. Furthermore, despite the fact that the child has not been located the BCA sent the file to the Federal Attorney's Office in order to commence an analysis on your case.

April 19 2009 I receive a message from a 21 year old law student and member of the Bring Sean Home Foundation forum:

Hi, do the Brazilian authorities know your ex-wife's entire name, info about her address? What do they know about her? Could you give me your ex-wife's entire name and her birthdate and also your daughter's name? I will ask some of my friends who work for the government if they can get some info from the federal computer system archives.

April 27 2009 I received my daughters location from this person with the message "Do not tell anyone how you got this info. Good luck!"

May 06, 2009 I provided the address of my daughter to the US Department of State.

August 10, 2009 Three months later this address was confirmed by INTERPOL

October 5 2009 The Brazilian Office of Attorney General (OAG) filed to the Federal Justice of the State of Santa Catarina for the return of my daughter to the United States.

April 14 2010 I arrived in Brazil for the first instance Hague hearing on the international abduction of my daughter, Nadia Lynn.

September 14 2010 I received a favorable ruling, which issued the return of Nadia back to the United States. I was ordered to spend a 15-day transition period in Brazil before returning. During this transition period, the mother filed an appeal ultimately suspending the return as well as the transition period

between Nadia and I on September 26 2010.

November 30 2011, the TRF-4 Federal Court of Brazil rejected the mothers appeal by a majority panel of judges. She appealed again within the Federal Court.

March 23 2012 the Federal Judge upheld the first instance court order for the return of Nadia back to the United States. The mother filed another appeal to the Superior (STJ) and Supreme (STF) Courts.

May 21 2012, Special Advisor for Children's Issues, Ambassador Susan Jacobs spoke to the Brazilian Central Authority (BCA) directly and requested that my case be expedited and expressed her concerns on the delays and appeals that my case has received.

April 11 2013, the TRF-4 President rejected the appeal filed by the mother before the STJ and STF. I was told that the request for the enforcement order for the return of Nadia back to the United States would be filed on April 30 2013. It was not.

August 14 2013 Ambassador Susan Jacobs and Scott Renner (Children's Issues Division Chief) traveled to Brasilia Brazil to speak directly with the proper personnel to have my case expedited and ruled on, however I received no official report on this meeting. I have no clue what was discussed, with whom the discussion occurred, and what the outcome of said meeting was, although I was told by Margarete of Senator Kay Hagan's Office that I would receive a formal detailed summary within three weeks. On this day I also notified the Office of Children's Issues of the STJ court docket containing yet another appeal by the mother. This appeal was in correspondence to her being found guilty of crimes against the State of Santa Catarina for illegally attempting to change my daughter's last name. She was found guilty and was sentenced to two and a half years of community service plus fines. I requested this information be sent to Susan Jacobs, as surely it would help expedite the ruling on my case.

August 27 2013, a hearing at the first instance court in Criciuma was scheduled in which the Judge in charge of the enforcement order would decide the logistics of the return. Instead of this, they decided to postpone the enforcement order and wait until the appeal was dismissed at the STJ Court in Brasilia, Brazil.

September 6 2013, the appeal was dismissed by the sitting Judge at the STJ Court in Brasilia. Being that it was a monocratic decision, the mother then appealed again, this time requesting a panel of Judges decide on the appeal.

September 27 2013 the Brazilian Central Authority and OAG filed a motion with the first instance court Judge, for the temporary execution of the enforcement order. This was a request that the Judge not wait until the appeals were decided upon. The judge was to formally respond to this motion with a decision.

October 11 2013 I was informed that my case would be heard on October 17 2013. I was later informed by the Brazilian Central Authority that the OAG requested my case be heard first, and that the Brazilian Central Authority Chief Coordinator would be present for the hearing.

October 17 2013, instead of ruling on the appeal, my case was actually removed from the agenda.

Repeated requests for updates as to what is going on with my case were either ignored, or forgotten by the US Department of State. I found myself constantly trying to figure out what was actually going on, as one would think if all the efforts to expedite my case were true, that surely a decision would have been made on October 17 2013.

April 14, 2013, the STJ and STF appeals to the return order were rejected by the TRF-4 President and were yet again appealed only to once again be dismissed by the STJ on September 10 2013, ultimately allowing Nadia to return to the United States once and for all following a 15 day transition period in Brazil set to occur in 2014.

June 17 2014 I traveled to Brazil to complete the 15-day transition period with my daughter with the expectation to return home once and for all to the United States. Upon arrival to Brazil, I was immediately served with another appeal stating the transition period and the return order had been suspended by a last minute injunction filed by the taking parent. I was able to have the suspension of the transition period overturned, however, the courts are still pending a ruling on the suspension of the return order at the STJ.

December 15 2014, Minister Rosa Weber of the STF Court ruled in a monocratic decision to dismiss the special appeal.

January 23 2015, The taking parent filed a motion for clarification on the dismissal of the special appeal, a well known delay tactic.

January 28 2015 I called the STF and asked that Minister Rosa Weber decide on this case as quickly as possible and to note the constant delay tactics being used by the taking parent. Fabiom (the assistant asked me to email my concerns so that he may present it to Minister Weber) and so I did.

February 11 2015 I received an email from the US Department of State stating:

“The panel of Ministers at the STF converted the mother’s declaratory motion to an “agravo regimental” (a motion that is not in the civil code but exists within the internal regulations of the court) and then denied the motion. According to the OAG, this is a good sign, as it shows a tactic from the court to accelerate the process. The OAG said that private attorneys usually first file the declaratory motion so that they can later can appeal on the agravo regimental which, of course, delays the final decision. Since the STF made the move to convert the declaratory motion to the agravo regimental (and subsequently denied it), the OAG believes the court is trying to move the case forward.

March 4 2015, the Special Appeal at the STF was finally rejected, however, the taking parent continues to use delay tactics, in order to prevent the inevitable order of return for my daughter Nadia back to the United States by filing yet another motion for clarification before the STF.

I am here today to not ask, but to demand that my daughter Nadia be returned immediately to the United States without delay. This case has taken its legal course and justice is now overdue.

Thank you for your time, and I hope that my daughter Nadia will soon be returned to her habitual residence here in the United States once and for all.