

# REFLECTING ON MY EXPERIENCES IN BRAZIL

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### JUNE, 2012

In August, 2010, my son, Noan, was illegally retained in Brazil. Using warped logic and a flawed interpretation of the Hague Convention on the Civil Aspects of International Child Abduction (hereafter referred to as the Convention), the judge ruled against the return of my child. In May, 2012, I learned that my case was over. At this point, the only chance I have left of seeing my son is the hope that he will one day desire to come and see me. I suspect that once my son sees life outside of Brazil, he will never want to go back. I wrote the following article to share what I learned throughout the process of trying to get my son back in the hopes that it saves a future Left-Behind Parent (LBP) from some of the suffering I feel each day.

I think that the not knowing of what was happening and what to expect was for me the single worst element of the process and I hope to be able to enlighten others, (as David does in his book, *A Father's Love: One Man's Unrelenting Battle to Bring His Abducted Son Home*) on what can really happen to you and what to expect and how to prepare. I offer all my information to others who are recently facing a child abduction to Brazil and possibly any other country. My assessment is blunt. I call a spade a spade and make no apologies for that.

Timothy Weinstein, another LBP whose two children were taken to Brazil in 2006, had already written a number of articles on the Convention process as it actually applied to his case and others in Brazil and not in the theoretical world of international law and the Office of Children's Issues (OCI). Much of what he wrote was relevant to my case and my experiences with my attempts at getting my son to come home. I have run the gamut from wanting to threaten my ex-wife, looking at hiring a return team, trying to be civil with my ex-wife and make a deal, trying to use an attorney in Brazil, firing my attorney in Brazil, being told one thing by the State Department one week and something completely different the next week and ultimately going to court.

I have spoken with other LBPs- Timothy Weinstein, Devon Davenport, Cam Connor and Marty Pate- and put together elements of what they have done, what worked for them (Cam got his boys back to Australia and Marty now has Nicole visit him in the USA) and what has not been successful. Last month, I even went to Washington, DC to attend the OCI's little soiree whose goal was apparently to show LBPs that they have the situation under control. The last two years have ultimately been a drain on both my financial and more importantly mental and physical health.

**Knowing what I now know, I would NEVER have married someone from a foreign country.**

It's that simple. I have met many people who, after I tell them what happened to myself and the other LBPs I have spoken to, open up to me about a friend of theirs who just went to Brazil or met a Brazilian and is now in love.... and I tell them to tell their friend to drop it and run away. The cultures are just too different. If the Brazilian is poor, trust me, they think like criminals. If they are rich and from a good family, chances are, they think they can do whatever they want.

I am from Brisbane, Australia. At the start of my ordeal, I spoke to a South African who lives in Brisbane whose Brazilian wife took their children back to Brazil and didn't return. He knew of three others from Brisbane who had the same experience with Brazilian wives. All of those eventually were reunited with their children through a voluntary return, as their wives all realized that life was worse back in Brazil. Somehow, they thought they could live there and their husband would simply hand them money to support them.

When I was still married, my ex-wife convinced me to buy property in Brazil and allow her family to live in it. I was told that it would help make their lives better and we would not have to worry about them. I have since learned that this is common and a pre-abduction warning sign. If you are in this situation as well and have been sending money to Brazil or anywhere else, you are likely being set up and your spouse will leave you at some point. Stop giving them money. If that leads to divorce, you are better off – believe me. Try to get all of your money back and under your sole control. It may not stop your spouse from leaving, but it may be a big help in your ability to negotiate to get them back. Although Francois Larivee must now pay the living expenses of his ex-wife when she returned from Brazil with their child to Canada, it helped in the negotiations that he had frozen a sum of her money in Canada.

**No matter what you are told or what you think, filing a petition under the Hague Convention on the Civil Aspects of International Child Abduction will take forever and will not work to bring your child back from Brazil to the USA.**

Cam Connor had two children abducted to Brazil one month after my son. I was naively suckered into believing that after his two boys returned to Australia less than 6 months later, my case had a chance to be resolved quickly. First, I was told that after David Goldman's case, the courts in Rio would be the best and fastest at handling Convention cases in Brazil. Then, I was told that I shouldn't expect my case to move as quickly when compared to the small town where kids Cam's had been because of the huge number of cases in Rio. Most recently, I was told that the courts in Rio are the worst in Brazil at handling Convention cases – not the best. I learned that LBPs will be told whatever someone needs to say to appease them on that day.

- I was told by the AGU attorney in charge of my case that he actually didn't want my son to be returned because David Goldman got his son back. Imagine hearing this from the person who is supposed to be working FOR me!
- I was told by the Director of the BCA that she would get a special liaison Judge who was an expert in the Convention to speak to the judge handling my case to explain to him to need to have the case go quickly. She never did.
- I was told that the American Consul General had a meeting with the judge in my case about mine and another case under his control and that the judge stated he would act quickly. He never did.
- I was told by the State Department that hiring a private attorney in Brazil would be a good thing and that they would be the assistant to the AGU in my case. I was then, at the end of my case, told by my case manager at

the OCI, Daisy Cardiel, that my private attorney had in fact functioned as the lead in my case and that the AGU attorneys didn't even need to show up for court.

When I spoke with Ricardo Zamariola, the attorney for David Goldman and Cam Connor, he told me that in Cam's case, he didn't have to ask a question. The judge had been well educated on the Convention and she asked all the questions. His role was rather minimal. When I asked for his opinion about the Convention, he stated that even though it is the law, there is a certain amount of luck involved.

**The biggest determining factor in whether you will get your child back is your luck in which judge is appointed to your case.**

The OCI, BCA, AGU, your private attorney . . . none of that really matters. Getting your child back all comes down to who the judge is- something you have no control over. Spending \$30,000, \$40,000, or any amount of money on an attorney in Brazil won't make a difference. Save your money. Ultimately, the judge in my case told my attorneys he was canceling the hearing and then he held it anyways with only my ex-wife and her attorneys present. For some unknown reason, he deliberately lied to screw up my case.

Quite simply, you will be lied to at every step of the way by everyone who is involved in your case – even the people who you think are on your side. This will cause you untold stress and confusion. Do not believe anything that you are told by the OCI, AGU, or even your own attorneys. Ask for everything to be written down and emailed to you so that you have records of what you were told. That way, when you question someone on something different than what you had been told earlier, you can refer back to the email that contained the previous information. You have to keep track of everything. Do not expect the OCI to do anything along those lines.

To be honest, in retrospect, I think that trying to utilize the Convention to get your child(ren) back is a waste of time as it is currently being handled and enforced. If it wasn't, there would not have been so many of us in Washington, DC the other week. There would not be over 3000 children who are still not home. I personally believe that dealing with the taking parent and your child directly is your only hope. If possible, try to negotiate with money as the law simply won't work for you.

**One of my biggest fears came true when my ex-wife claimed custody in Brazil and sued me for child support.**

What this means, as of now, is that I can never (not that I would even want to) go to Brazil and try to see my son. Article 16 of the Convention states that no custody cases can be heard while there is a pending Convention case. The judge made the decision never to go to Brazil rather easy for me when he failed to comply with the Convention and halt the custody proceedings. He also refused to grant me any access to see my son, another violation of the Convention. The most egregious part of this violation however, I have learned, is that I have no one to complain to about it. The OCI doesn't care- they know he did it. I learned that the Brazilian courts have no oversight of their judges who are free to do whatever they want. Thus, by not granting me proper due process as would be expected in a United States court, the Brazilian judge not only made my decision never to visit Brazil easier, but also strengthened my legal position in the United States.

**The best thing I did was obtain an order for immediate custody of my son and his return to the proper court of jurisdiction.**

At the time of my divorce, I was lucky I had a sympathetic judge who understood what was going on. Despite my ex-wife hiring a lawyer to appear on her behalf with the thought that she would get everything she wanted as she was the mother, my lawyer made sure that her lawyer stated that the Miami court was in the opinion of her lawyer (and therefore my ex-wife) the proper court of jurisdiction. This, in the eyes of the United States legal system, is an admission by my ex-wife that the United States courts have control over me in this case no matter what she gets in Brazil. It is essential to help the family court judge understand just how bad Brazil (or the taking country) is in respecting your rights and the rights of your child to be with both parents. If not already understood by the judge, it is key to infuriate him/her that the Taking Parent (TP) is showing them no respect by disregarding their order for return. Get the judge as pissed off at the TP as you can.

With this failure to honor the court order for return, (despite what the OCI says regarding filing criminal charges, in my opinion), you should then go to your local police station and file criminal charges against the TP. Keep all the court orders and copies of the FEDEX receipts to show that notification was sent to the TP (needed in USA courts to show that the other person was notified) and then have the police go to the State Attorney for family issues and issue a warrant for the arrest of TP. Get that submitted to Interpol.

When I contacted the US Attorneys office and the Federal Office for the enforcement of international child support, I was referred to this policy.

<http://www.acf.hhs.gov/programs/cse/pol/DCL/1999/dcl9919.htm>

*There is no Federal mandate under title IV-D of the Social Security Act that requires IV-D agencies to enforce child support where a custody dispute exists. The State IV-D agency clearly has discretion not to proceed in providing child support enforcement services in cases of disputed custody, even where there is a State or Federal reciprocity agreement with the country in which the child is located.*

*In coordination with the Department of State, OCSE is available to provide guidance, information or assistance in any case that a State brings to our attention in which international child abduction is at issue. OCSE is strongly committed to ensuring that State IV-D agencies do not provide child support services in cases in which such services would unduly harm families involved in international child abduction.*

In other words, if you have criminal charges against the TP you are protected from claims of child support.

## **Maintaining a relationship with your child is not easy.**

The FBI representative at the meeting in Washington, DC stated that the most important thing you can do as a LBP is to maintain contact with your child. Of course, there was no mention about how to do this. And why would we need the OCI and FBI if we could? Susan Jacobs' complete bewilderment at the comment made that Welfare and Whereabouts Visits cannot occur if the TP refuses them showed me that the OCI has not the faintest idea of how to work for us on what is our most basic need -contact with our children.

You will have to do this on your own. To be successful, you are going to need to know how to bribe, negotiate, or convince the TP, their family or one of her friends how important it is, for the sake of your child, to see and know both parents. Many women (sorry, I know that not all TP are women) simply do this as a 'stunt' to try and get their own way in a dispute. They never give any thought about how, with an Interpol arrest warrant, it could backfire in their face and they will lose their freedom to travel or come home. An Interpol arrest warrant can be a very useful tool to those who who are able to engage the TP in negotiations. Once the warrant is in the system, it is in there until they are caught or die.

With the internet, chances are that some day, your child will come looking for their missing parent. You must help them find you. Plaster the internet with as much coverage as you can. Start a blog where you write to your child once a week or once a month. Blogger is an easy place to do this. Put videos and pictures on YouTube and in the Comments or Tags section, repeatedly write the child's name so it will come up first in a search. Every time I go somewhere with my camera, I take a video of me saying, "Hello" to my son and even have strangers and friends say, "Hello" as well to show Noan that he was in my thoughts and my life every day – even though he was away from me. Children want to know when they come looking that they were important enough that you thought about them all the time. Get out and enjoy your life and record it for your children to see so that they have a happy healthy parent to come home to, whenever that may be.

BUT, to be honest, if the TP is as pyscho as Silvana or Bruna or Carlos Bermudez's ex-wife in Mexico, then you have Buckleys chance of seeing your child. In this situation, you need to either be very patient or hire a SAS squad to go and get them back. At this point, I struggle enormously with even attempting to be accommodating with my ex-wife during this entire process. I have deleted her from my list of contacts in Skype and I stopped waiting for any opportunity to see my son again.

While I have written letters to the Appellate court judge in Brazil regarding the biased actions of the first judge, I realize that if he is biased too, then nothing legal will help me at all. I am trying to financially starve my ex-wife until she has to come to me for money. I have plastered the internet with enough videos and information that if my son or one of his friends ever Googles his name, he will know what happened to him. At present, I am applying to the court in Miami for mediation that will either have her appear and tell me I have to pay her money or, at least, allow the judge to tell her she will get squat unless I get access to my son. Or maybe she will refuse to appear and the judge will be even more pissed at her and I will be less responsible to have to pay support to a criminal and I can save the money for my son when he is 18.

**Devon Davenport gave me perhaps the single best piece of counseling someone could give to me when we met in Washington DC.**

*Whatever happens, we can be thankful that we no longer have these women in our lives. As bad as it is for our kids, we at least have a chance to remain sane and happy and hope for the day that they will come back to know us. Our wives are in hell in Brazil. They are miserable. They have no options and no hope for the future.*

After hearing that from another LBP, I was happy for the first time in a year. We are not bad people for going on with our lives and trying to be happy. This is what our children want and need when they come back to us. Noan, I will be waiting 'til you are 18, son, if that is what I have to do.