

New Jersey girl may be sent to Argentina

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A 5-year-old American girl who spent most of her life in Argentina is at the center of a custody battle that is forcing New Jersey federal judges to decide whether to protect the allegedly abused child in the United States or return her under international law to South America.

The 3rd Circuit Court of Appeals, which heard arguments in the case last week, plans to rule quickly on whether Arianna Adan, a kindergartner in Elizabeth, must return to Argentina, where, her mother claims, the girl was sexually abused by her father, Ariel Adan.

Elena Mazza, a U.S. citizen, says she fled from Adan because he beat and raped her and abused their daughter, Arianna. She has copies of restraining orders filed against Adan in California and New Jersey along with e-mails he sent with frightening pictures of their daughter attached.

"She's seen him commit acts of violence in Argentina," said Mazza's lawyer, Elliot Gourvitz. "She gets a restraining order there, and he comes home and pulls her outside, beats the crap out of her. No one's helping her there. The police aren't helping her there. What should she do? What would you do?"

Adan says he hasn't seen Arianna in 17 months, since Mazza allegedly kidnapped her from Argentina, where she battled a drug problem. The case is pending in an Argentinian court.

"She is such a bad person, and I just want my daughter home with me," said Adan, who found Arianna through Interpol and the National Center for Missing and Exploited Children.

In the end, Arianna's fate will be determined by a court that has little practice dealing with domestic disputes. This summer, U.S. District Judge William H. Walls ordered Arianna to return to Argentina for the courts there to handle her father's kidnapping claim.

Because the case crosses international borders and involves one of the 61 countries that signed the 1980 Hague Convention agreement dealing with child abduction, the matter falls to the country's federal courts to resolve.

The agreement stipulates that a child will be returned to the country of residence - unless the child is in danger - where the local courts will settle the issue of custody.

Although Arianna was born in the United States, Mazza and Adan moved back to Argentina shortly after. Once there, Mazza says, she was abused and ultimately the couple split. The court awarded her custody, Gourvitz says. Mazza could not be reached for comment Friday.

Lawyers on both sides say the federal system is ill-equipped to deal with the types of domestic cases that are often worked out in state courts, because there are no psychologists to give exams or child advocates to investigate.

"This is a jurisdictional issue," said Hackensack lawyer Walter Lesnevich, who is representing Ariel Adan. "You're specifically not supposed to deal with best interests of the child."

Lesnevich said the Argentinean government has offered to pay for Arianna's plane ticket home and send a

social worker to meet her at the airport.

But Gourvitz appealed the case on the grounds that Arianna is in danger if she returns to Argentina and has asked that the case be remanded to state court in New Jersey, where the child could be evaluated.

While both sides await the appellate court decision, Gourvitz said he will keep trying other avenues. He said at least one legislator has offered to help.

"The kid is in school, she's being treated by a therapist, she's living the American life," Gourvitz said. "That child is not going to go back to Argentina on my watch."

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