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DEAN, NEW JERSEY DELEGATION

Statement by Congressman Chris Smith

*Press Conference
on International Child Abduction
National Press Club
Excerpts of remarks
November 17, 2015*

Every year, an estimated 1,000 American children are unlawfully removed from their homes by one of their parents and taken across international borders.

Parental child abduction rips children from their families and whisks them away to a foreign land, alienating them from the love and care of the parent and family left behind.

Child abduction is child abuse, and it continues to plague families across the United States and world.

The parental child abduction of Nico Brann to Brazil is a particularly egregious act of abduction and wrongful retention—and a textbook example of a parent having done all in his power inhibit his son’s abduction.

For decades, the State Department has used “quiet diplomacy” to attempt to bring these children home. But we know that less than half of these children ever come home—even from countries that have signed the Hague Convention on the Civil Aspects of International Child Abduction.

Last year, Congress unanimously passed legislation I authored—the Sean and David Goldman International Child Abduction and Prevention Act—to add weight to requests for return and access. The actions prescribed by the law escalate in severity, and range from official protests through diplomatic channels, to extradition, to the suspension of development, security, or other foreign assistance

Because of an exceptionally low resolution rate 18% for abductions, Brazil has been designated as a country demonstrating a “pattern of noncompliance” and may be sanctioned by the Obama Administration—a course of action Dr. Brann is not pushing. He just wants his son back.

Dr. Christopher Brann's son, Nicolas, was abducted to Brazil in July 2013 by his mother, Ms. Marcelle Guimarães (dual Brazil-US citizen) from Houston, Texas.

Dr. Brann and Ms. Guimarães were legally separated with joint custody of Nico (and their divorce was in process in TX) at the time of the abduction. In its separation order, the Court forbade any party from unilaterally changing Nico's residence. Before being granted permission to travel with Nico to Brazil on vacation, Ms. Guimarães and Dr. Brann filed with the relevant Texas Court an agreement reaffirming the terms of the joint custody. She agreed to return with Nico on July 20, 2013.

However, Ms. Guimarães did not return with Nico as promised. Rather, she applied for sole custody in Brazil a week after her arrival and obtained an ex-parte order of sole custody three weeks later.

Although eight independent experts from Brazil and Texas have concluded Dr. Brann is an excellent father, he has less than one percent physical custody, and only with supervision from three armed guards.

I am struck by the parallels in the Dr. Brann case and that of the Sean and David Goldman case:

- Sean Goldman was about the same age as Nico when he was abducted by his mother, who was also feigning a "vacation".
- Nico and Dr. Brann, like Sean and David, were inseparable, as only father and son can be.
- The abduction was facilitated and perpetuated by a wealthy, influential family in Brazil—a family that believed it was above the law and that the father's rights didn't matter.
- Wealth and influence trumped the law for a while in that case too. Notably, Judge Duarte relied on the same decision made by the court early in the Sean and David Goldman's case—the same decision that was later **OVERRULED** for Sean's return to his father.

The Brann case, like the Goldman case before it, underscores how governments around the world—especially and including Brazil—have significantly enabled by ignorance, indifference, incompetence, or outright complicity the huge scandal of international child abduction.

Brazil has been a party to the Hague Convention on Civil Aspects of International Child Abduction since 2003. Under the Hague, Nico should have been returned within six weeks.

Dr. Brann however has been forced by judicial delay and digression from the Convention to pursue his case in Brazil for two long years—at an astronomical cost in personal heartbreak and financial loss. And Nico has suffered the loss of separation from a loving,

dedicated father and he remains at risk, as all abducted children do, of serious emotional and psychological problems inherent in abduction.

Brazil's continued intransigence—first demonstrated in the Goldman case—and now epitomized again in the Brann case (and several other abduction cases, such as Devon Davenport's case) is unconscionable and must change once and for all.

Judge Arali Duarte's July 15, 2015 decision makes clear that the Guimarães family violated the law—and yet it is Dr. Brann and Nico who are punished every day by their continued unlawful separation.

Today we bring fresh light, a new focus, a new scrutiny on their heartbreak and call on Brazil to use all available tools to finally and justly end this textbook abduction case. Hold your citizens accountable for violating the laws.

We call on the state court in Brazil to immediately review the 1% allotment of time and supervised visitation ordered for Dr. Brann and Nico—which wrongly treats the law abiding parent as a criminal and deprives the child of unfettered fatherly affection.

Finally let me say that Americans—particularly US family court judges who may be petitioned to allow a child to travel to Brazil on vacation or otherwise— must be forewarned: the first Goldman Act Report, the Supplemental Data released, and the daily injustice endured by Dr. Brann and his son Nicolas make it very clear that Brazil remains unsafe for any child at risk of abduction.