

Commentary: Appellate Court Cases

UPDATE: *Taglieri v. Monasky*, 907 F.3d 404 (6th Cir. 2018)

Other Sixth Circuit Cases

Moreno v. Zank,
895 F.3d 917 (6th Cir. 2018)

Ahmed v. Ahmed,
867 F.3d 682 (6th Cir. 2017)

Pliego v. Hayes,
843 F.3d 226 (6th Cir. 2016)

Jenkins v. Jenkins,
569 F.3d 549 (6th Cir. 2009)

Simcox v. Simcox,
511 F.3d 594 (6th Cir. 2007)

Robert v. Tesson,
507 F.3d 981 (6th Cir. 2007)

Taveras v. Taveraz,
477 F.3d 767 (6th Cir. 2007)

March v. Levine,
249 F.3d 462 (6th Cir. 2001)

Sinclair v. Sinclair,
121 F.3d 709 (6th Cir. 1997)

Friedrich v. Friedrich (*Friedrich II*),
78 F.3d 1060 (6th Cir. 1996)

In re Prevot,
59 F.3d 556 (6th Cir. 1995)

Friedrich v. Friedrich (*Friedrich I*),
983 F.2d 1396 (6th Cir. 1993)

Habitual Residence

This case addressed what standard should be used to determine the habitual residence of an infant who has lived in only one location prior to the its wrongful removal. Father petitioned for return of his six-week-old child to Italy, where child was born and had lived exclusively before mother wrongfully removed the child to the United States.

Update: Supreme Court Grants Certiorari

On June 10, 2019, the Supreme Court granted certiorari in this Sixth Circuit en banc decision. On November 4, 2019, the Supreme Court granted the motion of the solicitor general to participate in oral argument as *amicus curiae*.

Brief Case History

The father, an Italian citizen, and the mother, a U.S. citizen, met at the University of Illinois and married in 2011. The couple moved to Italy in 2013 to continue with their careers. In 2015, the couple's daughter was born in Italy. As a result of the father's persistent physical abuse, including allegations of rape, the mother left Italy with the two-month-old child and returned to the United States. An Italian court granted the father's *ex parte* petition to terminate mother's parental rights. His subsequent petition for return of the child was granted by the district court in Ohio. The Sixth Circuit affirmed the district court's order.

The district court's order was subsequently heard and affirmed by the Sixth Circuit en banc.

The courts' analyses rested on *Ahmed v. Ahmed*,¹ finding that because infants are not able to be sufficiently acclimatized to acquire a habitual residence, courts must look to the "shared parental intent of the parties" to identify the infant's residence. Citing the Hague Convention, the court explained that the question of habitual residence is one of

1. 867 F.3d 682, 690 (6th Cir. 2017).

“pure fact.” Hague cases often present “unfortunate” fact patterns, but the Sixth Circuit found that the district court made no clear errors of fact.

The mother’s petition to the Supreme Court for a writ of certiorari was granted June 10, 2019. The Supreme Court decided the case on February 25, 2020, in *Monasky v. Taglieri*.²

2. 140 S. Ct. 719 (2020).