

18-935 MONASKY V. TAGLIERI

DECISION BELOW: 907 F.3d 404

LOWER COURT CASE NUMBER: 16-4128

QUESTION PRESENTED:

The Hague Convention on the Civil Aspects of International Child Abduction requires that any child wrongfully removed from her country of "habitual residence" be returned to that country. A.M.T. was eight weeks old when she traveled with her mother, Michelle Monasky, from a domestic-violence safe house in Italy to her grandparents' home in Ohio. Monasky's husband, from whom she had fled, filed a petition under the Hague Convention seeking A.M.T.'s return to Italy. The district court found that A.M.T. had not acclimated to living in Italy and made no finding that her parents had ever agreed that she would be raised in Italy. The court nevertheless ruled that the existence of a "matrimonial home" presumptively established Italy as A.M.T.'s habitual residence. In a fractured 10-8 opinion, the en banc Sixth Circuit affirmed after reviewing the district court's determination of habitual residence only for clear error and holding that a "subjective agreement" between the parents to raise A.M.T. in Italy was not necessary to establish that A.M.T. was habitually resident in Italy.

The questions presented are:

1. Whether a district court's determination of habitual residence under the Hague Convention should be reviewed *de novo*, as seven circuits have held, under a deferential version of *de novo* review, as the First Circuit has held, or under clear-error review, as the Fourth and Sixth Circuits have held.

2. Where an infant is too young to acclimate to her surroundings, whether a subjective agreement between the infant's parents is necessary to establish her habitual residence under the Hague Convention.

CERT. GRANTED 6/10/2019