

## Supreme Court: The Husband is Abroad, the Daughter Remains in Israel with the Mother

**The Supreme Court determined that a woman, who divorced her husband who resides in United States, will raise their daughter in Israel until the custody issue is clarified**

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**The Final Word – The Woman's:** the Supreme Court decided today (Tuesday) that a woman, who divorced her husband, who resides in United States, will be able to continue raising their toddler daughter in Israel, until the custody issue is clarified. In their ruling, Supreme Court judges overturned the ruling of the Regional Court and the Family Court, ordering the child's return to the father. Likewise it was determined that an Israeli court will discuss the custody issue.

According to the details specified in the ruling, on 2006 the partners moved to New Jersey. On 2008 they got married and their daughter was born a year later. After one of their visits to Israel, on March 2010, the husband returned to United States. His wife and daughter, who were supposed to join him, eventually stayed in Israel.

The ruling shows that the partners' relationship started to deteriorate before the visit, since the husband began adopting a religious lifestyle. In last year's visit their relationship came to an end after the two stayed separately with their families and the wife filed for divorce in Rabbinical Court.

The two reached an agreed settlement regarding custody over their daughter and property distribution, but eventually the agreement was not signed and the husband returned to his home in United States. After the wife and daughter did not return to United States, the husband turned to Family Court in Nazareth so it will order the wife to return the daughter.

### "The Husband was Involved in Drafting the Agreement"

The court determined that the daughter's retention constitutes abduction and ordered her return to United States. The wife appealed to Regional Court in Nazareth. Regional judges rejected her appeal, but the mother did not give up and turned to Supreme Court. According to the wife, she had cancelled the *ne exeat* warrant issued against the father, after he has consented in the agreement to their daughter's stay in Israel.

Finally, according to majority opinion of Judges Edna Arbel and Hanan Melcer and against the minority opinion of Judge Uzi Vogelman, it was determined that the daughter will stay in Israel. In her ruling Arbel mentioned that the husband was willing to accept the agreement, in which there was a section attesting his consent to the daughter's stay with her mother, but the wife refused to sign it.

"Under these circumstances the agreement should be viewed as main evidence, assisting in completing the overall picture, which indicates that the respondent waived the custodial rights granted to him", stated the Judge.

According to her, "the husband was involved in drafting the financial agreement, and it is possible that he hoped that his daughter and wife will return to United States, but his objective behavior indicates his consent to leaving the custody over the daughter in the wife's hands, and to the staying of both of them in Israel".

Arbel emphasized: "The subjective state of mind, feelings and expectations of the husband are not sufficient to conclude that he did not give his consent to the wife's and the daughter's stay in Israel". In contrary to Arbel, Judge Vogelman stated that the appeal should be rejected since no saying nor presentation was made which attests the husband's consent to his daughter's stay in Israel.

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