

Japanese court stymies B.C. father

His children were abducted by mother and he can't get them back

DAPHNE BRAMHAM VANCOUVER SUN (October 28, 2005)

Eleven months ago, Ayako Maniwa-Wood abducted her two young children under the pretense of taking them to see her dying father in Japan.

When she didn't bring the children back to their father, Murray Wood, a Canada-wide warrant was issued for her arrest. Wood not only has sole custody of the children, he has a B.C. Supreme Court order saying that Maniwa-Wood could take the children on a trip to Japan only if she returned them within a month.

But after thousands of dollars and hundreds of hours spent trying to get Japanese courts to force his ex-wife to return the children, Wood has nothing.

His applications to Japanese courts to get his children back have all failed. In the past 11 months, Wood has not seen his son, 11-year-old Takara, and he has only seen his eight-year-old daughter Manami once, during a brief, court-supervised visit in Japan.

What's so heart-wrenching about Wood's dilemma is that a Japanese judge acknowledged that Maniwa-Wood abducted the children, which is a criminal offence in Japan.

"Indeed, the plaintiff's behaviour of requesting a six-month leave [from her job at Air Canada], disposing of household goods and packing up and shipping her clothes and her children's clothes, etc. to her parents' place in Japan may strongly suggest that the plaintiff did not have an intention to come back to Canada," Japanese family court Judge Shimizu Atsushi wrote in his July ruling.

"Indeed, considerable illegality is observed in the plaintiff's behaviour of not returning the children to the defendant."

Yet he granted sole custody to Maniwa-Wood, ignoring the B.C. court orders. But the judge isn't required to pay any attention to them, since Japan never signed The Hague Convention on the Civil Aspects of International Child Abduction.

If Japan were a signatory, the judge would have been compelled to honour the B.C. Supreme Court order that required Maniwa-Wood to return the children to their father on Dec. 9, 2004, and specifically instructed her "not to commence any application for custody, guardianship or access in any other jurisdiction other than the province of British Columbia."

The judge would not have been able to ignore B.C. Supreme Court Justice Sherman Hood's written decision to give Wood sole custody of the children after Hood deemed Maniwa-Wood to be obstructive and erratic, concluding that "her injurious misconduct in relation to the children must end."

But [Shimizu] went beyond ignoring the court orders. He disregarded the fact that both children are Canadians.

It's not that he didn't know. [Shimizu] acknowledged the Japanese court had no jurisdiction over [Manami], since she is Canadian. But [Shimizu] claimed the right to order Takara into the sole custody of his mother because Takara has dual citizenship.

The judge then gambled — correctly — that given the children's very close relationship, Wood was unlikely to demand the return of [Manami] without Takara.

It's not clear why the Canadian government won't step in and defend two of its tiny, vulnerable citizens whose lives have been turned upside down by whims of a foreign court. However, so far it hasn't.

Wood has set up the International Rights of the Children Society (www.stopinternationalchildabduction.org) as a vehicle to lobby for better protections for Canadian children who are abducted by non-custodial parents.

He wants the Canadian government to provide financial support to help parents with sole

custody from Canadian courts retrieve abducted children.

And he wants Canadian politicians and diplomats to use all means possible to promote the adoption, ratification and use of treaties such as the Hague Convention by non-signatory countries to protect the more than 400 Canadian kids who are abducted by non-custodial parents each year and taken to other countries.

Getting Japan and others to sign The Hague Convention won't bring Wood's children home. But it would help hundreds of other children and their desperate parents.

And while Wood says he'll never give up fighting to get his children back, his last hope is that the Canadian government demand that Japan extradite Maniwa-Wood to Canada to face abduction charges.

But even he admits that's not likely to happen. Extradition requests are rare.

The Canadian government is committed to lobbying other governments to sign the international treaty. But when it comes to actually rescuing children from abducting parents, the political calculus seems to be that it is not worth the time, money and diplomatic energy — even if the children are Canadian citizens.

dbramham@png.canwest.com

Note from Murray Wood:

Judge Atsushi Shimizu of the Saitama Family Court never gave me the option of bringing my daughter home without her brother. Manami is an eight-year-old Canadian citizen over whom the Japanese courts have no jurisdiction. However, the Saitama Family Court ordered that she remain in her mother's custody. Judge Shimizu justified his disregard for Canadian law by claiming that it was in Manami's best interest to stay with her brother.

After being denied access to his left-behind Canadian family for over six months, Takara, a ten-year-old victim of parental abduction, expressed a desire to stay with the abducting parent. His words, consistent with expectations for a child who has suffered this kind of abuse, are being used by the Japanese courts to justify their disregard for Canadian law and international conventions. Consequently, both children are being denied all access to their Canadian family and home.

I continue to demand the return of my children regardless of whether one child returns before the other. I will work to ensure that any separation is temporary, and that the children have access to all of their family on both sides of the Pacific.

Murray Wood

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