

CASES ADJUDGED
IN THE
SUPREME COURT OF THE UNITED STATES

AT
OCTOBER TERM, 2009

ABBOTT *v.* ABBOTT

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR
THE FIFTH CIRCUIT

No. 08–645. Argued January 12, 2010—Decided May 17, 2010

After the Abbotts, a married couple, moved to Chile and separated, the Chilean courts granted respondent wife daily care and control of their minor son, A. J. A., while awarding petitioner husband visitation rights. Mr. Abbott also had a *ne exeat* right to consent before Ms. Abbott could take A. J. A. out of the country under Chile Minors Law 16,618 (Minors Law 16,618), Art. 49. When Ms. Abbott brought A. J. A. to Texas without permission from Mr. Abbott or the Chilean family court, Mr. Abbott filed this suit in the Federal District Court, seeking an order requiring his son’s return to Chile under the Hague Convention on the Civil Aspects of International Child Abduction (Convention) and the implementing statute, the International Child Abduction Remedies Act (ICARA), 42 U.S.C. § 11601 *et seq.* Among its provisions, the Convention seeks “to secure the prompt return of children wrongfully removed or retained in any Contracting State,” Art. 1; provides that such “removal or retention . . . is to be considered wrongful where” “it is in breach of rights of custody attributed to a person . . . under the law of the State in which the child was [theretofore] habitually resident,” Art. 3(a), and where “those rights [had been] actually exercised . . . or would have been so exercised but for the removal or retention,” Art. 3(b); and defines “rights of custody” to “include . . . the right to determine the child’s place of residence,” Art. 5(a). The District Court denied relief, holding that the father’s *ne exeat* right did not constitute a “righ[t] of custody”