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March 4, 2022

Via E-File

Honorable Scott S. Harris
Clerk of the Court
Supreme Court of the United States
One First Street, N.E.
Washington, D.C. 20543

Re: No. 20-1034, *Golan v. Saada*

Dear Mr. Harris:

Pursuant to Supreme Court Rule 32.3, respondent seeks to lodge with the Court an order entered on December 16, 2021 by the Milan Court of First Instance in *Isacco Jacky Saada v. Narkis Aliza Golan*, a case that will decide who has custody of their son B.A.S. The order was written in Italian, but respondent seeks to lodge a certified English translation of the order as well. The order is not in the record because it was entered after this Court granted certiorari. It is, however, related to an earlier order entered by the Milan Court of First Instance that was translated into English, placed in the record, and relied on by the district court and the court of appeals in the decisions and judgment that are now before this Court. D. Ct. ECF No. 96-1.

This case involves the petition Mr. Saada filed under the Hague Convention on the Civil Aspects of International Child Abduction to obtain the return of B.A.S. to Italy, after Ms. Golan brought B.A.S. to New York to attend a family wedding and did not return him to his home country. The district court granted the petition and ordered the return of B.A.S. to Italy. Although the court found that return would subject B.A.S. to a grave risk of harm if he were exposed to domestic violence between his parents, it found that there were ameliorative measures that would eliminate the grave risk and allow the safe return of B.A.S. for the Italian courts to resolve the custody dispute. Pet. App. 15a-16a. One of those ameliorative measures was an order, issued by the Milan Court of First Instance in the custody case, that requires Mr. Saada to stay away from Ms. Golan and B.A.S., except for supervised visits between father and son at a neutral location pending disposition of the custody proceedings. *Id.* at 19a-20a. The court of appeals affirmed, holding that the “existing Italian protective order and ongoing involvement of the Italian courts with this case provides sufficient assurance that Saada will not approach Golan in Italy,” and that this separation “ameliorates the grave risk of harm to B.A.S.” Pet. App. 8a.

Ms. Golan has filed a brief arguing that the protective measures were “inappropriate and inadequate,” Pet. Br. at 19, and that this Court should “reverse the court of appeals’ ruling, and allow B.A.S. to remain with his mother in the United States—free from the grave risk that his father presents.” Pet. Br. 47. Mr. Saada has filed a brief arguing that the lower courts properly held that

ameliorative measures should be considered as part of the grave-risk analysis and that the measures now in place ameliorate the grave risk to B.A.S. Resp. Br. at 15-42. In Mr. Saada's view, the judgment should be affirmed because it would violate the Convention and be an affront to the Italian court to refuse to return B.A.S. to Italy immediately. *Id.* at 42-44.

Mr. Saada respectfully submits that the order entered on December 16, 2021 by the Milan Court of First Instance in the custody proceeding is relevant to the Court's resolution of those arguments. In that order, the court appointed an attorney to represent B.A.S. in the custody proceedings, ordered B.A.S.'s attorney and the parties to file statements by February 28 and May 31, respectively, and scheduled a hearing on June 9, 2022 with the intention to make a final decision in the near future. This Court has previously accepted non-record materials from parties in analogous circumstances. *See, e.g., Minnick v. Cal. Dep't of Corrections*, 452 U.S. 105, 127 n.38 (1981) (in case involving challenge to an affirmative action plan adopted in 1974, Court allowed respondents to lodge "a copy of a revised affirmative action plan adopted in 1979" that "might affect the question of whether petitioners are now entitled to injunctive relief").

In accordance with Rule 32.3, Respondent will not submit the Italian court order and certified English translation to the Court unless and until you request them. We have provided Petitioner's counsel with a copy of this letter and these documents.

Respectfully submitted.

/s/ Richard Min

Richard Min
Counsel of Record

cc: Karen King (via e-mail)