

## Boy (10) seeks to stay in SA with dad

**ZELDA VENTER**  
HIGH COURT REPORTER

A 10-year-old boy will today ask the Johannesburg High Court to hear his voice and add him as a party so that he can oppose his parents' British custody battle over him.

The boy is in South Africa with his father; his mother in England.

The Central Authority for the Republic of South Africa (the Family Advocate) will ask the court to order the child's return to England for the custody battle to be resolved there.

The boy, however, in an affidavit pleaded: "Please, do not return me to England."

The boy last year ran away from his mother, who has custody over him, and joined his father, who was at the time also living in England. The child apparently pleaded with the father that they return to South Africa, which they did. This, by law, amounted to abduction.

While these issues normally result in a battle between the parents, the child will today ask permission to be added as a party to the proceedings. The Centre for Child Law at the University of Pretoria will also ask the court's permission to enter the fray as an *amicus curiae* (friend of the court).

The centre wanted to assist the court by providing information regarding international law and aspects of The Hague Convention relating to international child abduction.

Advocate Ann Skelton of the centre will argue that the general rule arising from The Hague Convention is that children must be promptly returned. But there has been a shift away from a focus on parental rights

towards a more child-centred approach.

This, she said, was reflected in South African law reform initiatives.

The convention stressed the rights of parents and the protection of children, but Skelton said there were certain cases where the right of an individual child could prevail.

The centre would support the child's application to be joined as a party to these proceedings.

Skelton said the boy was sufficiently mature to express his views. His objection (to return to the UK) was valid and based on his personal experience of his mother. His views were passionately expressed and amounted to much more than a mere preference, she said.

The boy, who was happy in a Vaal Triangle school, said he spoke to his lawyers and told them he was desperate not to go back to England. They explained to him that this case was about which court – an English or a South African one – was going to decide about custody.

He had spent most of his life in South Africa and went to England only when he was in Grade three. "I was teased and I did not fit in there – I am South African. The children in England are rude and I was bullied there. My home is definitely in South Africa," he wrote in a statement.

He said his relationship with his mother was not good. "My mother smokes and drinks and goes out to pubs and leaves us (he and his sister) alone ... She would send us to bed early and I heard her making funny noises with strange men.

"I have been with my dad and I have been safe and much happier."