

[DO NOT PUBLISH]

In the
United States Court of Appeals
For the Eleventh Circuit

No. 25-10915

Non-Argument Calendar

ISRAEL BASSAT,

Plaintiff-Appellee,

versus

SAPIR SWISSA DANA,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Florida
D.C. Docket No. 1:24-cv-24340-CMA

Before ROSENBAUM, BRANCH, and LAGOA, Circuit Judges.

PER CURIAM:

Israel Bassat seeks to return his and Sapir Swissa Dana's daughters, ten-year-old A.B. and nine-year-old G.B., to Israel. Bassat, the girls' father, filed a petition under the Hague Convention on the Civil Aspects of International Child Abduction, Oct. 25, 1980, T.I.A.S. No. 11670 ("Convention"), and the International Child Abduction Remedies Act, 22 U.S.C. § 9001, *et seq.* ("ICARA" or the "Act"). Dana, A.B. and G.B.'s mother, originally brought the girls from Israel to the United States with Bassat's consent, after the events of October 7, 2023. But Bassat contends she wrongly kept them here past the original sixty-day period that the parties had agreed to. The district court granted Bassat's petition, and Dana appealed.

Dana argues that two affirmative defenses apply, permitting her to keep A.B. and G.B. in South Florida: the grave-risk-of-harm defense, and the mature-child exception. In other words, Dana asserts that the girls should be allowed to stay in the United States because (1) returning the girls to their father in Israel subjects them to a grave risk of harm, and (2) as mature children, they've each objected to returning.

After careful consideration, we agree that the grave-risk defense applies. So we reverse the district court's judgment.

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I. BACKGROUND

Dana and Bassat got married in Israel in 2015. They had two daughters: A.B., now age ten, and G.B., now age nine. Bassat, Dana, and the children are all Israeli citizens. Dana holds dual citizenship in Israel and the United States.

The family lived together in Israel—first in Holon, then in Dimona—until 2019, when Dana and Bassat got divorced. Bassat stayed in Dimona and remarried. Dana and the girls returned to Holon. An Israeli family court granted Bassat visitation rights and ordered him to pay Dana child support. In addition, an Israeli family court entered a protective order against Bassat and his current wife, after finding a “reasonable basis to assume that [their behavior] put[] [Dana] in real physical danger.”

Eventually, Bassat became delinquent in his child-support payments, so the two returned to family court. They reached an agreement: Dana would stay the debt-collection efforts, and Bassat would consent to letting Dana take the children abroad for sixty days. The agreement’s language provided that the sixty-day period could be extended “according to the coordination between the Parties and/or limitations unrelated to [Dana], e.g., strikes, Covid-related restrictions, etc.”

On October 7, 2023, Hamas attacked Israel. In its raid, Hamas killed and abducted hundreds of men, women, and children. Israel responded with military action. Since that time, hostilities have been ongoing in that region.

About a month after Hamas attacked Israel, on November 9, 2023, Dana flew with A.B., G.B., and the girls' two half-siblings (twins, then age two) from Tel Aviv to Miami. A.B., G.B., the twins, Dana, and Dana's mother have been living together in South Florida ever since.

Bassat initially supported the trip. But as time went on, things began to sour. Dana asserted she wouldn't bring the kids back to Israel during "wartime." Bassat contended everything was fine, at least where he was, in the city of Dimona.

And so last fall, Bassat filed a petition, asking Dana to promptly return A.B. and G.B. to Israel.¹ Bassat did so under the Hague Convention and ICARA. Bassat claimed wrongful retention. He argued that Dana was not authorized to keep the children in the United States past January 9, 2024. That was the day when the sixty-day period from the parties' agreement expired, after Dana brought the girls here in November 2023. In Bassat's view, Dana has kept the girls here unlawfully for the past year and a half, without his consent.

¹ Generally, courts should decide cases brought under the Convention within sixty days from the proceedings' commencement. *See* Convention, art. 11. Although this appeal was filed in late March 2025, the transcripts for the evidentiary hearings were not available to the Court until mid-May 2025. The court issued its ruling granting the motion to stay the district-court proceedings pending appeal within a week of the transcripts' release. Under the expedited merits briefing schedule, the merits of this case were not fully briefed until mid-July 2025.

Before the district court, Dana asserted several affirmative defenses, although she dropped many of them on appeal. Only two remain: (1) whether the grave-risk-of-harm defense applies, and (2) the applicability of the mature-child exception. In the district court, Dana argued that repatriation posed a grave risk of harm, in relevant part, because of how Bassat treated Dana and the family.² And she contended that both girls were mature enough to decide for themselves whether to go back, and they both objected to doing so.

To evaluate these defenses, the district court conducted a four-day evidentiary hearing. It heard testimony from Bassat, Dana, Dana's cousin, and Dana's sister-in-law, and *in camera* testimony from A.B. and G.B. themselves. We review the more relevant aspects of that testimony.

The parents disputed whether, and the extent to which, they fought with each other and engaged in intimate-partner violence. Bassat generally denied being violent towards Dana or the children "in any way," ever.

But Dana, in contrast, testified that Bassat "beat [her] a couple of times, once before we got married, once when we were

² Dana also argued in the district court that repatriation posed a grave risk to the kids for two more reasons. She had pointed to (1) what she described as the "conditions" in Israel at the time, and (2) Bassat's "criminal activity" and the risk that others would enact retribution against him, which she argued put the girls in harm's way. On appeal, Dana does not press these arguments, so we do not consider them.

married and a couple of times after we separated.” These events included once when he allegedly “hit” her when he picked up the girls. Dana also said Bassat slapped her in front of the girls on her birthday. According to Dana, Bassat was upset that day after seeing her “in a miniskirt,” and so “he slapped [her] very hard in [her] face. [She] started screaming and crying and the whole street came out.” Dana described this incident as “just one instance out of many” of Bassat’s abuse.

Dana also testified that Bassat engaged in a series of dangerous activities that put the family at risk. For starters, Dana said, Bassat set her building on fire at 3:00 a.m., when he thought the girls were inside sleeping.

Besides the arson, Dana testified, Bassat also broke into her car and “stalk[ed]” her. As a result of this behavior, Dana recalled, Israeli law enforcement “follow[ed]” and investigated Bassat.

Dana reported that another time, when Dana was taking the girls to kindergarten, Bassat’s current wife “started beating” Dana. That led to an overnight stay in jail for the stepmom and Bassat.

On yet another occasion, Dana said, Bassat threw a Molotov cocktail at her mother’s house. And Dana recounted still other troubling incidents, when Bassat allegedly slashed her tires, broke her car’s windows, and put sugar in her gas tank—which, Dana worried, could’ve caused it to abruptly stop on the highway with the girls in it.

We observe that, if true, these incidents repeatedly endangered the lives of both Dana and the girls.

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But Dana's assertions of harm didn't end there. Dana added that Bassat regularly attacked and threatened friends, family, and neighbors who tried to help her. For example, Dana testified that Bassat threatened to tear apart a neighbor's shop because the neighbor lent Dana his car. And, she said, Bassat told the neighbor he'd end up "crippled and . . . in a wheelchair" if he helped Dana again.

Dana similarly recalled that Bassat threatened her brother and set his motorcycle on fire. Indeed, Dana said, Bassat "threatened [her] family many times." She described another time that Bassat "beat" her cousin, who was then pregnant.³

Dana testified that she'd secured no-contact orders and protective orders against Bassat and his wife, and that she's filed "dozens of complaints to the police" about him.

As for the girls, Dana said that Bassat "hurt them . . . mentally," contrasting "[t]he mental damage that he caused to [their] children" as "worse than all the physical damage . . . that he caused to" Dana herself. She described how upset A.B. and G.B. got when Bassat didn't follow through on his visitation obligations.

³ The cousin testified at the hearing, too. She reported that Bassat threatened to kill her and "attacked" her when she was pregnant. According to the cousin, Bassat told her, "Prostitute, I will murder you," and he cursed at her repeatedly. The cousin added that Bassat "follow[ed]" Dana around when she was sleeping and burned her things.

Still, she explained that she left the girls in Bassat's care at times when she traveled, but generally not for long periods.

Dana said that she feared for the girls' safety in Bassat's presence, not necessarily because of what he may do to them *directly*—but because of the indirect risks the girls faced from being around him.⁴ So she feared for her girls' safety more generally in Israel; and Dana feared for her own safety from Bassat's hands in Israel. She explained she was concerned that he “want[s] to take revenge on” her.

For their part, the girls testified to their challenging relationships with their father and their views on living in Israel and South Florida, respectively.

The younger child—G.B.—testified that although she'd never seen her mom hit anyone, she'd seen her dad hit somebody “one time, and every time that he would come visit us, he would hit us and he would break the houses, he would break the cars, he would do a fire.” G.B. said that Bassat and her stepmother “were partners in that.” Later in the conversation, when the court asked G.B. again whether she'd ever seen her dad hit anyone, she replied,

⁴ Specifically, Dana testified that she feared for the girls' safety in Bassat's presence because “people want to murder him, not because he's going to do something to the girls.” But then Dana added that she was “very afraid that [Bassat] is going to take revenge against [her] or against [her] babies because of the fact that [she] went here because of the war.” In support of her concern, Dana pointed again to the Molotov cocktail she says he sent to her mom's house in the middle of the night, “just briefly before the previous hearing that we had here in order to send her a warning.”

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“Yes. . . . Me, my mom.” G.B. explained, “[I]t was a lot of times that [her father] hit [her mother], but he didn’t hit her a lot of times.”⁵ So according to G.B., Bassat was physically violent with her and *also* with Dana; and G.B. said she’d seen her father hit her mother in her presence.

G.B. also recounted times the family had tried to visit Bassat in Israel. But Bassat rejected them, saying he “ha[d] work to do.” And one time, G.B. said, Dana and the girls drove to see her father for her birthday, but “he wouldn’t open the door” to let them in. So they returned on the “very long drive back” home. G.B. added that she “barely know[s]” her dad’s family in Israel. She doesn’t know her two half-siblings there, she said, “because [her] dad didn’t really take us to them” to spend time with them.⁶

Besides testifying about her relationship with her father, G.B. told the court about her desire to stay in the United States. She understood that the family came here “because there were alarms in Israel, and people were dying, and [she] had anxiety.” She said she didn’t like living in Israel, where she had trouble sleeping, couldn’t go to school, and struggled with the sirens. So she doesn’t

⁵ It’s not clear whether G.B. meant by this (a) “Bassat hit Dana repeatedly on one occasion,” or (b) “on several different occasions Bassat hit Dana once.” The district court did not ask for clarification on the comment.

⁶ Of course, the girls have been in the United States for the last year and a half, so they couldn’t have seen their half-siblings then. And Dana admitted that she doesn’t always answer the phone when Bassat calls to speak with the girls. In fact, at one point, she said, she blocked him on WhatsApp.

“want to go . . . back to Israel;” rather, she “want[s] to stay here.” G.B. said she doesn’t “want to leave Miami” because she “really, really, really like[s]” it here; she has a lot of friends here and a strong support network among her mom, her maternal grandmother, and the grandmother’s husband. G.B. added that she didn’t feel safe in Israel, but she feels “very” safe in Florida.

The court further probed G.B.’s experiences of living around her father in Israel. G.B. said that she didn’t want to return to Israel because of her experiences there following the October 7 attacks. She added that “in Israel it wasn’t fun, and I – we had sirens, and we didn’t have a dad at home, and . . . it was very, very difficult.” When asked if she’d like being able to see her dad more often back in Israel, she said, “No, I don’t want – I want distance – I don’t want to go back to Israel because I don’t have any life in Israel, and I feel it’s difficult for me.”

The older child—A.B.—described a similarly challenging relationship with their father, though she didn’t say she’d suffered any physical violence at his hands. As for her mother, A.B. testified that she’d never seen Dana hit anyone or get mad at anyone. And she said she’d never seen her dad get mad at anyone, either. But A.B. explained that she dislikes spending time with Bassat’s current wife, A.B.’s stepmom, because she “hits” Dana. And although A.B. said that she’d never seen Bassat really “hit” anyone, she recalled she’d seen him lay hands on Dana “[o]nce.”⁷

⁷ It’s not exactly clear whether A.B. was describing a slap or some other, not-quite-hitting kind of motion. When asked if she’d ever seen Bassat “hit” Dana,

A.B. also said that Bassat makes her feel upset sometimes. In particular, A.B. recounted the birthday incident—when the family went to visit Bassat for G.B.’s birthday, knocked on his door, and he wouldn’t open it for them. According to A.B., she’d seen Bassat “[m]aybe twice in four months” when she lived in Israel. And A.B. said she didn’t really miss her half-siblings (Bassat’s kids with his current wife) in Israel “because [she] barely know[s] them.” A.B. recalled going to the mall with her dad as a kid but did “[n]othing” with him as they got older. Nor does A.B. spend much time with her dad’s relatives, she testified. But in contrast, in Florida, A.B. sees her grandmother, aunt, and uncle with her mom and her sisters. (Given that she’s spent the past year and a half in Florida, this, of course, isn’t surprising.)

A.B. testified that her understanding is that her family came to Florida “[b]ecause it’s fun here,” and she said she has enjoyed “hav[ing] more friends here” and “a nicer school here[.]” A.B. didn’t remember living in Israel “very well,” but she recalled her experiences there following the October 7 attacks. According to A.B., she’d rather live in the United States, and she’d like to see her father “[l]ess.” When asked if she’d like to live with her father and stepmother in Israel, she replied, “No, really not. Never,” adding that she “would miss [her] mom” if she lived with her father.

The district court found that none of the affirmative defenses fully applied, so it ruled in Bassat’s favor. As for the mature-

A.B. replied, “Once. That doesn’t really count as hitting, it just – he did like this with his hands.”

child exception, the court found that it probably did apply to G.B., the younger daughter, but not to A.B. But, in the court's view, this finding wasn't sufficient to defeat the Convention's overall purpose of promoting the children's prompt return. So the court found the defense unavailing as to both of them. And the court rejected the grave-risk defense because it concluded that Dana's testimony effectively defeated it—because Dana herself said she wasn't afraid Bassat would directly physically harm the girls, and Dana evidently entrusted Bassat with their care when she traveled.

On appeal, Dana takes issue with two of the district court's conclusions.⁸ First, she asks us to reconsider whether the grave-risk defense applies based on the alleged risks Bassat poses to the girls. Second, she contends that the district court erred in finding the mature-child exception inapplicable as to A.B.

For the reasons we'll describe, we reverse on the grave-risk defense. Because we find that it applies, we need not and don't consider whether the mature-child exception does.

II. DISCUSSION

In deciding whether the Convention requires Dana to return the girls to Israel, we review the district court's factual findings for clear error, and we review its legal determinations de novo. *Pfeiffer v. Bachotet*, 913 F.3d 1018, 1022 (11th Cir. 2019). We also review de

⁸ Dana initially filed this appeal pro se. But the Court appointed her counsel. Appointed counsel Michael Cohen filed her merits brief. We appreciate his efforts.

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novo the district court's application of the law to the facts. *Id.* "Whether grave risk of harm to a child exists under the terms of the Hague Convention is a mixed question of law and fact." *Baran v. Beaty*, 526 F.3d 1340, 1345 (11th Cir. 2008). So we review that issue de novo as well. *Id.*

We hold that the district court erred in finding that the grave-risk defense doesn't apply. Dana has shown by clear and convincing evidence that G.B. and A.B.'s return to Israel would expose them to a grave risk of harm. Because we find that the grave-risk defense applies, we reverse.

A. Legal Standard

We begin by laying out the legal standard for claims brought under the Convention and ICARA.

Congress enacted ICARA to implement the Convention. *See* 42 U.S.C. § 11601(b)(4). The Convention, in turn, "was adopted in 1980 'to protect children internationally from the harmful effects of their wrongful removal or retention and to establish procedures to ensure their prompt return to the State of their habitual residence'" *Hanley v. Roy*, 485 F.3d 641, 644 (11th Cir. 2007) (quoting Convention, pmb.). "Congress enacted the Convention in order to 'ensure that rights of custody and of access under the law of one Contracting State are effectively respected in the other Contracting States.'" *Chafin v. Chafin*, 742 F.3d 934, 936 (11th Cir. 2013) (quoting Convention, art. 1). The United States and Israel are both signatories to the Convention. Hague Conference on Private Int'l Law, 33 I.L.M. 225 (1994), 225.

The Convention signifies the contracting states’ “inten[tions] to ‘restore the pre-abduction status quo and to deter parents from crossing borders in search of a more sympathetic court.’” *Lops v. Lops*, 140 F.3d 927, 936 (11th Cir. 1998) (quoting *Friedrich v. Friedrich*, 78 F.3d 1060, 1064 (6th Cir. 1996)). Although federal courts evaluating ICARA petitions have jurisdiction over the wrongful-removal claim, we cannot decide the underlying custody dispute. *Id.*

ICARA petitions use a burden-shifting framework. Bassat, as the petitioner, first bears the burden of showing by a preponderance of the evidence that (1) at the time of the alleged wrongful retention, A.B. and G.B. were habitual residents of Israel; (2) the retention breached Bassat’s custody rights under Israeli law; and (3) Bassat was actually exercising those custody rights at the time of the retention. See *Calixto v. Lesmes*, 909 F.3d 1079, 1083–84 (11th Cir. 2018). If Bassat meets his burden, then the children must be returned to Israel unless Dana can establish that any of the Convention’s affirmative defenses apply. *Lops*, 140 F.3d at 945; *Abbott v. Abbott*, 560 U.S. 1, 9 (2010).

Dana raises two affirmative defenses on appeal. First, she contends that the grave-risk-of-harm exception applies. This requires showing that “there is a grave risk that [the child’s] return would expose the child to physical or psychological harm or otherwise place the child in an intolerable situation.” Convention, art. 13(b). To satisfy this defense, the risk must be “grave, not merely serious.” *Gomez v. Fuenmayor*, 812 F.3d 1005, 1012 (11th Cir. 2016)

(internal quotation marks and citations omitted). Dana must prove by clear and convincing evidence that this risk exists. *See* 22 U.S.C. § 9003(e)(2). Second, Dana asserts the mature-child exception. She contends that the girls “object[] to being returned and ha[ve] attained an age and degree of maturity at which it is appropriate to take account of [their] views.” Convention, art. 13. This defense requires proof by a preponderance of the evidence. *See* 22 U.S.C. § 9003(e)(2).

Finally, the Convention’s “affirmative defenses should be ‘construed narrowly’ so as ‘to prevent them from swallowing the rule and rendering the Convention a dead letter.’” *Berenguela-Alvarado v. Castanos*, 950 F.3d 1352, 1358–59 (11th Cir. 2020) (citation omitted).

Next, we consider whether the grave-risk defense applies. In doing so, we assume without deciding that Bassat met his burden of making a *prima facie* showing that he had custodial rights over the children under Israeli law and that he was actually exercising them at the time of the girls’ retention.⁹

B. Dana showed a grave risk of harm.

Dana showed that returning the children to Israel presents a grave risk of harm to A.B. and G.B. because of Bassat’s history of intimate-partner violence.

⁹ The parties don’t dispute that the girls were habitual residents of Israel at the time.

The grave-risk defense requires Dana to show by clear and convincing evidence that “there is a grave risk that [A.B. and G.B.’s] return would expose the child[ren] to physical *or* psychological harm or otherwise place the child[ren] in an intolerable situation.” Convention art. 13(b) (emphasis added).

The district court found this exception inapplicable. It considered three possible types of “harm.”¹⁰ But Dana appeals only the intimate-partner-violence issue. So that’s all we consider here.

The district court observed that Bassat and Dana “dispute whether [Bassat] physically abused [Dana].” Then the district court found that “neither [Dana] nor [her cousin] suggested [Bassat] physically harmed the Children or that he might do so in the future.” In reaching this conclusion, the court focused intently on Dana’s statement that she wasn’t concerned Bassat was “going to do something to the girls,” at least when it comes to direct physical violence.

Upon careful consideration, we conclude that the district court erred in finding that the grave-risk defense doesn’t apply. We reach this conclusion for four reasons.

First, the transcripts show that the district court clearly erred in finding that “neither [Dana] nor the Children testified that [Bassat] had physically harmed the Children or threatened to do

¹⁰ The other two issues concerned the present-day “conditions” in Israel, and Bassat’s alleged “criminal activity,” engendering a risk of retribution from unspecified third parties. Dana doesn’t reassert either of those claims on appeal.

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so.” Even though Bassat generally denied physical violence, and Dana said she wasn’t concerned that he was “going to do something to the girls,” G.B. stated that “every time that [Bassat] would come visit us, *he would hit us*” (emphasis added). And after saying that she’d seen her dad hit someone, when asked who it was, G.B. said “[m]e, my mom” (emphasis added). G.B. suggested that she’d seen Bassat hit her mom repeatedly. This also comports with Dana’s testimony that Bassat had hit her in front of the girls in the past.¹¹

To be sure, Bassat denied this, and A.B. said she’d never seen her father really “hit” anyone. But the district court’s order didn’t acknowledge G.B.’s testimony or find it lacked credibility. To the contrary, the district court said it found Dana’s and the children’s testimony “persuasive,” even though the district court said it “did not resolve the dispute about how involved [Bassat] has been in the Children’s lives.” Plus, in any case, direct harm to the children is not the only way the record shows Bassat placed the children in harm’s way.

Second, even putting aside the hitting allegations, lots of other testimony charged that Bassat engaged in a series of other harmful actions that endangered the girls’ lives. Dana described a time he’d allegedly set the apartment building on fire when the kids

¹¹ Dana and both girls also testified to that Bassat’s current wife has beaten Dana in the girls’ presence. Since Bassat and the stepmother appear to currently live together, returning the girls to Israel would effectively mean returning them to both.

were apparently sleeping in it. G.B., too, testified to her father's attempt to "burn[] down the house." The sugar-in-the-gas-tank incident also could've severely injured or killed the girls, too, if the car had then broken down on the freeway with them in it. And these alleged acts of arson and vandalism aren't all.

Third, testimony reflected that Bassat has repeatedly inflicted violence against those around Dana and the girls in Israel. Dana testified that he beat her repeatedly, and he's threatened her mother, brother, friends, and neighbors—all members of the girls' support system in Israel. For instance, Dana recalled that Bassat threw a Molotov cocktail at Dana's mother's house, which Dana said "burned [her] mother's entire floor;" Dana also remembered Bassat's threats to "cripple[]" Dana's neighbor for helping her; and Dana and her cousin testified that Bassat beat Dana's pregnant cousin. Plus, Dana noted Bassat had stalked her and damaged her car. And G.B. recalled the car-damage incident as well. Not only that, but Dana's cousin also testified that Bassat had set Dana's things on fire while she slept. Indeed, an Israeli family court granted a protective order against Bassat and his wife in the past, after finding there was a "reasonable basis to assume that [their behavior] put[] [Dana] in real physical danger."

These allegations are serious. This isn't a case of parents verbally sparring over who takes the kids which weekend. This is evidence of a father repeatedly putting his children in harm's way, endangering their lives and those of the people around them. And without finding these allegations to lack credibility, the district

court’s conclusion that this is not a case with “sufficiently serious threats to a parent [that] can pose a grave risk of harm to a child” is wrong as a matter of law.

Fourth, the Convention protects against more than just grave risks of physical harms. Rather, Dana can prevail on the grave-risk defense if she shows that returning the girls to Israel will expose them to a grave risk of “physical or psychological harm or otherwise place the child in an intolerable situation.” Convention, art. 13(b) (emphasis added). On this record, Dana’s shown that repatriation will subject the girls to a grave risk of psychological harm and otherwise place them in an intolerable situation.

That’s because of Bassat’s disturbing history of violent threats and actions. Dana and both girls testified to the psychological harms they’ve experienced from their father’s alleged emotional abuse. This includes the harms of watching their father lay hands on their mother—which, according to Dana, he allegedly did repeatedly, including in front of the children. Both girls made it clear that they don’t wish to see their dad in Israel more often. And they repeatedly testified to the challenging experiences they’d had with him.

In short, on this record, where the district court found the testimony of Dana and the children to be “persuasive” and didn’t find their testimony to lack credibility, as a matter of law, Dana has shown by clear and convincing evidence that returning the girls to Israel would subject them to a grave risk of harm. This conclusion aligns with other cases where courts (including ours) have found

the grave-risk defense availing—for example, because one parent abused the other in front of the kids,¹² or where the violence directed at one parent (like the apartment-arson testified to here, among other acts) is “sufficiently serious” to itself “threaten the well-being of a child” See *Gomez v. Fuenmayor*, 812 F.3d 1005, 1010–13 (11th Cir. 2016).¹³ This may include, of course, psychological harms to the child.¹⁴

¹² See, e.g., *Reyes Olguin v. Cruz Santana*, No. 03 CV 6299 JG, 2005 WL 67094, at *1–2 (E.D.N.Y. Jan. 13, 2005) (finding that the exception applied where the father “often” beat the mother “in front of the children” and he “would hit them as well”); *Ermini v. Vittori*, 758 F.3d 153 (2d Cir. 2014); *Application of Blondin v. Dubois*, 78 F. Supp. 2d 283 (S.D.N.Y. 2000), *aff’d sub nom. Blondin v. Dubois*, 238 F.3d 153 (2d Cir. 2001) (similar); *Sadoun v. Guigui*, No. 1:16-CV-22349-KMM, 2016 WL 4444890, at *4–7 (S.D. Fla. Aug. 22, 2016) (finding the defense applicable where the father called the children insulting names, hit them, yelled at them, and yelled at and insulted their mother in the children’s presence); *Baran v. Beaty*, 526 F.3d 1340 (11th Cir. 2008).

¹³ We’ve also noted before that in some cases, one parent’s repeated acts of violence can lead us to infer that the parent may someday act out against the children. See *Gomez*, 812 F.3d at 1014 (citing approvingly to a Seventh Circuit case that recognized that there was a “not . . . negligible” “probability” that a violent father “would some day lose control and inflict actual physical injury on the children” (citation and internal quotation marks omitted)). Relatedly, we’ve said that “it requires no stretch of the imagination to conclude that serious, violent domestic abuse repeatedly directed at a parent can easily be turned against a child.” *Id.* And here, we don’t even need to imagine: G.B. testified that her father has hit her before.

¹⁴ See, e.g., *Application of Blondin v. Dubois*, 78 F. Supp. 2d 283 (S.D.N.Y. 2000), *aff’d sub nom. Blondin v. Dubois*, 238 F.3d 153 (2d Cir. 2001) (finding that the exception applied where the father “repeatedly beat and threatened to kill [the mother], often in the presence of their children,” *id.* at 284; and so “even if”

And Dana’s comments about her own fears for her children don’t take away from the fact that returning them would subject them to a grave risk of physical or psychological harm. As we’ve explained, the risk of Bassat’s physically harming the kids by directly hitting them is clearly not the only cognizable grave risk of harm here. A child can be at a grave risk of harm (physical or psychological) from an abusive father, even if the mother—perhaps *especially* one who has been repeatedly subject to the father’s abuse—still wants that child to have a relationship with the father. Plus, Dana’s own testimony showed that she very much did fear for her children’s safety, if they were returned to be with Bassat in Israel.

So this defense applies. Because this finding alone requires us to reverse the district court’s judgment, we don’t consider whether the mature-child exception also applies. *See Lops*, 140 F.3d at 945.

III. CONCLUSION

For the reasons we’ve described, we conclude that the district court erred in finding that the grave-risk exception does not apply. Because it does, we conclude that Dana has adequately shown an affirmative defense to Bassat’s petition under the Convention. So we reverse the district court’s order granting Bassat’s

returning the children didn’t result in the father physically abusing the children themselves, it’d “result in psychological trauma because of the children’s fear of physical harm, a fear well grounded in their experience,” *id.* at 295).

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petition to return A.B. and G.B. to Israel and remand for further proceedings.

REVERSED AND REMANDED.