

2-3-2000

Case of Cuban MInor Elian Gonzalez Enmeshed in U.S. Congress, Courts

LADB Staff

Follow this and additional works at: <https://digitalrepository.unm.edu/noticen>

Recommended Citation

LADB Staff. "Case of Cuban MInor Elian Gonzalez Enmeshed in U.S. Congress, Courts." (2000). <https://digitalrepository.unm.edu/noticen/8647>

This Article is brought to you for free and open access by the Latin America Digital Beat (LADB) at UNM Digital Repository. It has been accepted for inclusion in NotiCen by an authorized administrator of UNM Digital Repository. For more information, please contact amywinter@unm.edu.

Case of Cuban Minor Elian Gonzalez Enmeshed in U.S. Congress, Courts

by LADB Staff

Category/Department: Cuba

Published: 2000-02-03

Since mid-December, events in the Elian Gonzalez custody case (see NotiCen, 1999-12-23) have carried the matter to Congress and to courts in Miami. On Jan. 5, the Immigration and Naturalization Service (INS) ruled that Elian should be returned to Cuba, and set Jan. 14 as the date for his return. Representatives of Elian's great uncle in Miami, Lazaro Gonzalez, and Republican leaders in Congress then moved quickly to tie the case up until Congress came back into session Jan. 24.

To that end, Rep. Dan Burton (R-IN) subpoenaed Elian to testify on Feb. 10 before his House Committee on Government Reform and Oversight. Burton conceded that the purpose of the subpoena was not to elicit testimony from the six-year-old but to prevent the INS from sending him home.

Once Congress reconvened, House and Senate Republicans introduced bills to make Elian a US citizen. Such private bills are rare and have in the past conferred citizenship on illustrious persons such as Winston Churchill and Mother Teresa for their achievements.

Sponsors of the private bills admitted that the purpose was to prevent the INS from returning the boy to Cuba. Citizenship for Elian would deprive the INS of jurisdiction and the matter could then go to a Florida state court, which could grant custody to Lazaro Gonzalez. "Right now, you have attorneys arguing archaic, confusing and hard-to-understand immigration law," said Sen. Connie Mack (R-FL), chief sponsor of the Senate bill.

The shift to a custody case means "you go away from being focused on the law to being focused on what's best for the boy." However, chances of passage began to wane as key members announced their opposition or remained silent. Senate Majority Leader Trent Lott (R-MS) retreated from his pledge of fast-track handling of the bill, and House Speaker Dennis Hastert (R-IL) said the House version would go to the Judiciary Committee, where chair Henry Hyde (R-IL) said he would wait for the courts to act before holding hearings.

By the end of January, discontent among Democrats and some Republicans with legislative interference in the Elian case suggested the bills might not be enacted. On the Democratic side, Rep. Sheila Jackson-Lee (D-TX), a member of the House Judiciary Committee, said, "I am personally appalled. This is not a political matter, this is a family matter." Rep. Charles B. Rangel (D-NY) and other Democrats, joined by Illinois Republican Ray LaHood, introduced a resolution calling for Elian's return to Cuba.

"Congress should not interfere with normal immigration proceedings by taking any unusual or inappropriate legislative measures designed to delay the reunification of Elian and [his father] Juan Gonzalez," said the resolution. Miami judge gives temporary custody to relatives Responding to a petition from Lazaro Gonzalez, Miami-Dade Circuit Court Judge Rosa Rodriguez on Jan. 10 granted him "temporary protective custody" and scheduled March 6 for a hearing on permanent custody.

A few days later, reports surfaced that Rodriguez had a link to Armando Gutierrez, spokesman for the Miami relatives and a principal organizer of the effort to keep Elian in the US. Rodriguez had paid Gutierrez and his wife more than US\$60,000 to run her first judicial election campaign in 1998.

Attorney General Janet Reno wrote to the lawyers representing Lazaro Gonzalez that Rodriguez's order "has no force or effect" on the INS decision. She said in the case of an unaccompanied minor, INS regulations say it must "attempt to remedy the situation by finding the child's parent or legal guardian, even if that person is outside the United States."

Case goes to federal court

Because Reno rejected the authority of the state court, the relatives sued in federal court for a hearing on the political-asylum petition filed on Elian's behalf by Lazaro Gonzalez. The case of Elian Gonzalez vs. Janet Reno was first assigned to US District Judge James Lawrence King. However, a federal prosecutor asked King to recuse himself from the case because King's son, also a judge, has hired Gutierrez as a consultant to help in his judicial election campaign this fall. King stepped aside and the case went to Judge William M. Hoeverler.

The Justice Department filed a 400-page brief with Hoeverler supporting Elian's repatriation. Among other points, the brief argued that retaining Elian would "undermine the effectiveness of the United States in working with other countries for the return of abducted US citizen children." It also included a transcript of Juan Gonzalez's Dec. 31 interview with the INS in Cuba.

Besides insisting on his son's return, Gonzalez said the Miami relatives had offered him money, employment, and other inducements to live in Miami. At the end of January, Judge Hoeverler told the four law firms representing Lazaro Gonzalez that they did not need more time to prepare their case, and moved the hearing date from March 6 to Feb. 22.

Hoeverler also warned the lawyers to end their practice of giving out "sidewalk opinions about who you think is right, who you think is wrong in this case." "I am not interested in all of the hoopla, all of the demonstrations, all of the excesses that are taking place," said Hoeverler. Meeting with grandmothers botched Elian's grandmothers Raquel Rodriguez and Mariela Quintana came to the US and met with Reno Jan. 22.

Besides lobbying in Congress against the citizenship effort, the two women flew to Miami to see Elian, but failed because Lazaro Gonzalez refused to allow the meeting to take place anywhere but in his house. The INS then ordered Gonzalez to take Elian to a neutral site the Miami Beach home of Jeanne O'Laughlin, a Dominican nun and president of Barry University in Miami Shores for a visit with the grandmothers.

But, according to the grandmothers, the meeting was repeatedly interrupted by the Miami relatives, and a cellular telephone the grandmothers had brought so that Elian could talk to his father in Cuba was confiscated. O'Laughlin, a friend of Reno's, later gave a press conference to say she supported the Miami relatives' cause because she believed the Cuban government had instilled fear in the grandmothers.

Ricardo Alarcon, president of the Cuban parliament, rebuked O'Laughlin for abandoning her neutrality. He said the meeting was like a prison visit with O'Laughlin as warden. But Rev. Robert Edgar, general secretary of the National Council of Churches, which sponsored the grandmothers' trip, dismissed Alarcon's description as "wrong." However, he called O'Laughlin's statements "a mistake."

"When she accepted the responsibility from the INS to be a neutral person, I think the rights of being a public person ended," he said. "I'm saddened, but I understand it. Sister Jeanne has to live in the neighborhood." Edgar said the fear shown by the grandmothers did not come from Cuba but from shouting demonstrators led by officials of the Cuban American National Foundation (CANF) outside the O'Laughlin house.

Political considerations complicate the case

A constant theme in the case is the accusation made by all sides that the others are politicizing Elian's plight. Despite President Bill Clinton's insistence on keeping the case out of the political arena, some observers have pointed out that it was the Clinton administration that set the matter on its political course when the INS declined to send Elian back to Cuba as an illegal immigrant under the Cuban Adjustment Act of 1966. Normally, illegal Cuban immigrants who fail to make dry land on their own are repatriated immediately and without an INS hearing or review by federal courts.

Opponents of the Miami exiles' campaign argue that Reno should have executed the law and returned Elian immediately. "The attorney general doesn't even need to wait," said Rep. Jose Serrano (D-NY). "She has the final say." Next, the INS reportedly awarded custody to Lazaro Gonzalez, although Elian has a father in Cuba and the INS is not authorized to grant custody. Former Clinton advisor Richard Nuccio suggested that the INS's decision to treat the case as a custody matter and send it to state court was countermanded by the State Department, which saw the decision as undermining US immigration accords with Cuba.

Subsequently, Reno has stated that the INS never actually gave custody but rather temporarily paroled Elian to Lazaro Gonzalez. Having supported the INS ruling and asserted the primacy of INS jurisdiction, Reno then invited the relatives to sue her in federal court and extended the delay in repatriating Elian past Jan. 14, by which time Congress was back in session and ready to take up a citizenship bill that could turn the case from an immigration question back into a custody battle, which could be adjudicated in Rodriguez's Miami court. Candidates enter the fray Meanwhile, presidential candidates began including the Elian case in their campaigns.

Vice President Al Gore said he favored having a state court decide custody and overturn the INS's Jan. 5 decision. He said he wanted to see "the due process normally followed for determining child

custody cases." Gore's opponent, former Sen. Bill Bradley, said Elian should stay in the US but said he would not "second-guess" the INS. All Republican candidates supported the relatives' cause.

Texas Gov. George W. Bush and Sen. John McCain (R-AZ) agreed that the case should go to a federal court. McCain said Cuba was too totalitarian a state for Elian to live in. On a CNN broadcast, he incorrectly asserted that only criminals are deported to Cuba. Steve Forbes described the INS ruling as "Bill Clinton's human sacrifice to Fidel Castro." [Sources: CNN, 12/24/99; El Nuevo Herald (Miami), 12/26/99; Miami New Times, 12/23-29/99; Department of State daily press briefing, 01/11/00; The New Republic, 01/13/00; The Washington Post, 01/08/00, 01/16/00; Agence France-Presse, 01/24/00; The Miami Herald, 01/07/00, 01/26/00; Reuters, 01/13/00, 01/27/00; Spanish News Service EFE, 01/11/00, 01/20/00, 01/27/00; The New York Times, 01/29/00; Associated Press, 01/10/00, 01/19/00, 01/27/00, 01/31/00]

-- End --