

## **Eliau's Miami relatives file lawsuit to keep him in U.S.**

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### **Body**

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Attorneys for the **Miami relatives** of the shipwrecked 6-year-old Cuban boy, Elian Gonzalez, **filed** a federal **lawsuit** Wednesday challenging an immigration ruling that he be returned to his father in Cuba.

"Most people in this country want Elian to have his day in court," said the **relatives**' lead attorney, Spencer Eig.

Standing on the courthouse steps, surrounded by members of the boy's **Miami** family as well as Cuban exile political leaders, Eig said the case of Elian Gonzalez vs. Janet Reno was not an attempt to resolve the contentious 2-month-old custody battle.

LAWYERS

Instead, he said it was designed to prevent **Elian's** being returned to Cuba before his case has been heard by a judge.

"This is a **lawsuit** that serves the purpose of trying to compel the **United States** government to give Elian Gonzalez his constitutional rights," he said.

There was no immediate reaction Wednesday from the Justice Department. This month the Immigration and Naturalization Service ruled that the boy should be returned to Cuba by Jan. 14. That ruling was upheld last week by Attorney General Janet Reno, although the deadline was extended.

Lawyers for the boy's **Miami relatives** want custody to be given to his great-uncle, arguing that Elian would suffer "irreparable harm" if sent back to communist Cuba.

However, the **lawsuit** presented few new arguments likely to impress the court, said legal experts.

"This case is on weak ground," said Bernard Perlmutter, a family law expert at the University of **Miami**. "The great-uncle has no standing to bring this suit."

But the **Miami** attorneys were quietly pleased about one immediate development Wednesday. The case was assigned by random computer selection to Senior Judge James L. King, one of the Southern District's **s** most experienced judges, who is considered by some Cuban exiles to be sympathetic to their cause.

In a December 1997 ruling, King found the Cuban government guilty of premeditated murder in the case of three Cuban exile pilots shot down over the Straits of Florida.

In a powerfully worded ruling, King accused the Cuban government of "outrageous contempt for international law" and awarded the victims' families \$ 186.7-million in damages.

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"I'm sure in the hands of Judge King this case will take its rightful course," said Jose Basulto, president of Brothers to the Rescue, the exile pilots group involved in the downing of the planes.

Basulto, who accompanied the **Miami relatives** to court Wednesday, is one of the exile leaders who led protests in **Miami** this month over the INS ruling to repatriate Eliau.

"If he goes back there, he will be used as a tool of political propaganda by the Castro regime," Basulto said. "This child cannot have a normal life in Cuba. The child will be the property of the Cuban government, not of the father. There's only one law in Cuba - that's Fidel Castro."

The **lawsuit** alleges that if Eliau is forced to return, he will be unfairly subjected to political and psychological pressures in Cuba.

"Eliau would likely be compelled to demonstrate complete loyalty and militancy on behalf of the Cuban government," it says. "He would be politically indoctrinated to a much larger extent than others. He would also be compelled to believe that his deceased mother and stepfather, not to mention his **relatives** in Cuba, were traitors to the revolution."

The boy's mother and stepfather drowned at sea in November trying to flee Cuba with Eliau and nine others. Eliau was found clinging to an inner tube by fishermen off **Miami**.

The **lawsuit** says **Eliau's** stepfather was twice jailed in Cuba for his political views. It alleges that as a result, **Eliau's** mother was also interrogated by Cuban Communist Party officials "who questioned her loyalty to the Cuban government."

The **lawsuit** also argues that despite **Eliau's** age, he does have constitutional rights to be heard in court. Furthermore, the case says **Eliau's** father is not a **U.S.** citizen, and "he therefore has no recognizable rights under the **United States** Constitution."

The INS position is that due to **Eliau's** age, only his father can speak for him and that nationality is not an issue.

"This (**lawsuit**) is not a well-reasoned argument," Perlmutter said. "These guys are making a somewhat illogical leap from this concept of constitutional protection."

Critics say the lawyers are using any argument to **keep** their case alive until Congress reconvenes Monday. Sen. Connie Mack, R-Fla., reiterated his intention Wednesday to introduce a bill next week granting citizenship to the boy.

Interviewed on CBS, Mack acknowledged Congress has only rarely granted this honor - to the likes of Winston Churchill and Mother Teresa.

"Winston Churchill and this little boy have a lot in common. They both stood for freedom," Mack said. "That's what this is all about."

## Graphic

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BLACK AND WHITE PHOTO, (2); Spencer Eig; Eliau Gonzalez

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