

## **U.S. Takes Steps to Return 6-Year-Old to Father in Cuba**

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### **Body**

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The Justice Department threatened tonight to take custody of Elian Gonzalez as early as Thursday to return him to Cuba unless his Miami relatives agreed explicitly to surrender the 6-year-old if they lost their court battle to keep him here.

Earlier in the day, a federal appeals court in Atlanta said it would hear arguments in the case during the week of May 8, which could complicate the department's plans.

In a letter to lawyers for Elian's Miami relatives, Justice Department officials wrote that if they did not get a specific written commitment that the boy would be turned over for return to Cuba, "We would have no choice but to move forward with the termination of Elian's parole as of Thursday at 9 a.m."

That means immigration authorities would take control of Elian at that time, although officials would not say how they would do so.

Senior Justice Department officials have acknowledged that they could use the United States Marshal's Service to take custody of the boy, but they have insisted that they hope such a move will not be necessary.

Officials scheduled a meeting early Tuesday morning at the regional offices of the Immigration and Naturalization Service in Miami with the lawyers for Elian's Miami relatives to try to resolve the situation. But Justice Department officials warned that they would insist on an unambiguous statement from the relatives that if they lost the legal appeals they would not obstruct efforts to return Elian to his father.

Justice Department officials laid the groundwork for taking control of Elian by asserting that the boy's Miami relatives had failed to comply with a government order to say explicitly that they would not block his return to his father in Cuba if they lost their court fight.

Seeming to anticipate that some kind of conclusion might be at hand, a crowd began forming outside the home of the boy's relatives this afternoon. Supporters of the family's efforts to keep Elian in the United States staged a candlelight vigil this evening and repeated their intentions to prevent government officials from taking him away.

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Many of the protesters responded to a call by the Democracy Movement, an anti-Castro group, to be prepared to form a human chain around the home if the government tries to remove the child and send him back to his father in Cuba.

"There are a lot of people who aren't willing to kill but are willing to die only for the child's rights," said Ramon Saul Sanchez, head of the Democracy Movement.

Olga Scott, 50, arrived from Houston today to join the protest. "Over our dead bodies, they will not take him," Ms. Scott said.

The rising emotions seemed also to be a result, at least in part, of the first television interview with Elian, broadcast this morning by ABC's s "Good Morning America."

In it, Elian was not asked whether he wanted to return to Cuba. But he described how the boat that was taking him and his mother from Cuba sank, and he said he did not believe that his mother was dead.

Elian drew crayon pictures of the voyage in which his mother and 10 other people drowned. He was found clinging to an inner tube on Thanksgiving and placed with his relatives in Miami.

"My mother is not in heaven, not lost," he said in Spanish through his cousin Marisleysis Gonzalez. "She must have been picked up here in Miami somewhere. She must have lost her memory, and just doesn't know I'm here."

Up to now, the relatives and their lawyers have said repeatedly that they will not violate any laws in their efforts to keep Elian in the United States. But they have declined to be more specific or to comply with the Justice Department's demand.

Kendall Coffey, a lawyer for the Miami relatives, said in an interview, "We have said and we continue to affirm that the family will obey the law."

Asked whether that meant that the family had agreed to accept sending Elian back if the courts ruled against them, Mr. Coffey replied that he was "reluctant to speak to that because we are far from that moment." He said he thought the general statement that the family would comply with the law was "more than sufficient."

Justice Department lawyers disagree, regarding the careful statements by the family lawyers as holding on to their options to resist.

In today's letter from the Justice Department, Michael A. Pearson, the executive associate commissioner of the immigration service, told Spencer Eig, one of the lawyers for the Miami relatives, that the immigration commissioner had first ruled on Jan. 5 that Elian should go back to Cuba.

"Nearly 12 weeks have passed since the commissioner's decision and you have never provided us with a simple, clear statement that your client is willing to produce the child when requested to do so by the I.N.S.," Mr. Pearson wrote.

Last week, David J. Kline, a lawyer in the immigration office of the department, said the government had the authority to terminate permission for Elian's great-uncle Lazaro Gonzalez to have temporary custody of the boy. But Mr. Kline said the department would agree to Mr. Gonzalez's having continued custody only if the relatives said clearly that they would send Elian back three days after they lost in the appeals court unless they obtained an injunction from a court allowing them to file an expedited appeal with the Supreme Court.

Mr. Kline also demanded that Elian's relatives in Miami agree to an expedited schedule of arguments before the appeals court that would have the case argued and ready for a decision by April 4. But the appeals court may have made the department's case more difficult today by agreeing to a slower schedule.

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