

EX-INS OFFICIAL: SEND CUBAN BOY BACK TEMPLE LAW PROFESSOR JAN TING, THE SON OF IMMIGRANTS, ALSO ARGUES FOR AN END TO FAVORED TREATMENT FOR CUBAN EXILES.

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Body

Jan Ting has few fans among Cuban exiles fighting to keep 6-year-old Elian Gonzalez in Miami.

The Temple University law professor thinks the boy is better off with his father in Cuba. Not only that but he also believes that it is time to do away with U.S. immigration privileges for Cubans.

After saying that on television and radio and in newspapers, Ting received an anonymous e-mail from the Washington office of the powerful Cuban American National Foundation. It asked: "Is there any reason why anyone should care what your opinion on this case is?"

On that, Ting would argue yes.

For more than three years, Ting, 51, was responsible for cases like Elian's for the Immigration and Naturalization Service.

As an assistant INS commissioner in the Bush administration, he handled refugees and asylum seekers as well as people hoping for "parole," or emergency entry, into the United States.

Elian was rescued from the Atlantic Ocean more than 10 weeks ago after a shipwreck killed his mother as they tried to make the 90-mile crossing from Cuba to Florida. The INS wants to return the boy to his father in Cuba - over the strident objections of Cuban Americans, who argue that it would be cruel to return him to a nation that denies democratic liberties.

"We should have one simplified system," Ting said. "You can either do that by taking away preferences for certain ethnic groups or by applying the same standard to everyone."

In January, he noted, a boatload of 400 Haitians - including 15 children - landed at the Florida Keys.

All have been returned to Haiti.

"No one asked the parents: 'What would you like us to do with your children?' " Ting said. "Either Cubans are treated the same way as Haitians or Haitians are treated the same way as Cubans."

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He entered the INS in 1990, he said, believing the U.S. immigration laws to be fair and effective. He left in 1993 with a more cynical view: that those laws are based on politics, not American ideals.

Ting feels that Cubans who want political asylum in the United States should face the same test as everyone else: Do they have a well-founded fear of persecution based on race, religion, nationality, or social group of political opinions?

"Unless they are directly fleeing political persecution," he said, "they have no more right than anyone else to come to the United States. They have to wait their turn in line."

Since the days of President Kennedy, Cubans who find their way here have been granted immediate parole. There's no law ensuring that; it's just the way the system has worked for four decades.

After a year of parole, a Cuban can apply to become a permanent resident and get a "green card," the first step toward citizenship. Congress guaranteed that privilege when it enacted the Cuban Adjustment Act of 1966. Ting's suggestion that Cubans should lose that provision has enraged many Cuban Americans.

"It's rather unfortunate that people can't appreciate why there is an exemption for Cuban Americans," said Jose Cardenas, the Washington director of the Cuban American National Foundation.

"The harsh reality is that for 40 years Cuba has been subjected to a totalitarian communist dictatorship that in and of itself should call for special attention because it is the only one in this hemisphere."

No other ethnic group qualifies across-the-board for automatic residency in the United States, but that special treatment, Cardenas said, "was not something that was tossed over to them; it comes with a very real and deserved justification."

Countered Ting, the son of immigrants from Shanghai: "I call that 'Cuban exceptionalism.' Unlike other immigrants, Cuban Americans have convinced themselves that they did not make a choice, that they were forced into exile by Fidel Castro.

"That's a way of asserting their exceptionalism, that they are different than all the other immigrants. But a lot of people came to the United States not because they wanted to be Americans but because they were fleeing a bad situation at home."

His father, Sikwoo Ting, became a U.S. citizen while serving in the U.S. Army as a doctor. During World War II, Congress granted immediate citizenship to foreign nationals on active duty. The elder Ting was sworn in at the U.S. Consulate in Marseilles, France, after the liberation of the city by Allied troops.

Jan Ting, who grew up in the suburbs of Detroit, graduated from Harvard Law School and worked for the Philadelphia firm Pepper, Hamilton & Scheetz as a tax attorney before joining Temple.

In the case of Elian Gonzalez, the INS has made the legal judgment that the boy's father can speak for his interests.

The agency sent interviewers to Havana twice to talk with Juan Miguel Gonzalez.

Speaking from experience, Ting said the interviewers' task was to ascertain Gonzalez's fitness as a father, the quality of his relationship with his son, and his wishes. Based on those considerations, the INS ruled that Elian should go home, a decision that Ting endorses.

Immigration law, Ting said, has become as complicated as tax law, full of loopholes and complexity. He believes immigration policy should be simplified.

"All discrimination on the basis of ethnicity should be prohibited," he said.

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That would mean getting rid of the annual lottery for tens of thousands of visas that **favours** applicants from Europe, eliminating all preferences for asylum accorded religious minorities from the former Soviet Union, and scrapping per-country caps on **immigrants** that have the effect of holding down numbers from such places as China, India, Mexico and the Philippines.

Ting also **argues** that more visas should be awarded to **immigrants** with employment skills that could benefit their new country.

As for why Elian's plight has seized the attention of the **Cuban** American community, he believes it is because the **boy** symbolizes that community's collective experience.

"His is their story," **Ting** said. "And to question that [is to question] the whole heroic story that their community rests on."

Graphic

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Professor Jan Ting's resume includes more than three years handling refugees and asylum seekers for the INS. (JONATHAN WILSON, Inquirer Staff Photographer)

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