

COURT: CAN'T HELP SOMALIAN TEEN STAY A FEDERAL JUDGE SAID HE HAD NO JURISDICTION IN THE CASE. THE ISSUE IS THE SAME ONE FACING ELIAN GONZALEZ.

The Philadelphia Inquirer

FEBRUARY 19, 2000 Saturday D EDITION

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The Philadelphia Inquirer

Found on Philly.com

Section: NATIONAL; Pg. A05

Length: 560 words

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Dateline: MIAMI

Body

Confronting one of the same legal issues at the center of the Elian Gonzalez case, a federal judge refused yesterday to get involved in the case of a 17-year-old boy fighting deportation to Somalia.

U.S. District Judge Alan Gold ruled he lacked jurisdiction to help the teenager, who is known in court only as Abdul and claims to know of no relatives left alive in his homeland. Abdul had asked the judge to order that his case be heard in state court.

The judge said that even if he had legal authority to intervene, the Immigration and Naturalization Service acted properly in deciding to send the teenager back to Somalia despite his fears about returning.

The question of jurisdiction also figures in Elian's case, which will be argued Tuesday before a different federal judge.

Abdul flew into Miami by himself Dec. 23. He has said that he and his father were separated from his mother and two brothers by war in 1990, and he told INS officials that he saw his father killed by bandits in 1996.

He wanted a state court to declare him a ward of the state and let him remain in the United States on the grounds of abandonment by his parents.

But federal prosecutors argued that allowing anyone but the INS to decide the boy's future would "thwart the intent of Congress."

Cheryl Little, one of Abdul's lawyers, said that because of yesterday's ruling - and because Abdul turns 18 today - he will have to pursue a political-asylum claim instead, the usual route taken by adults who arrive in this country.

"It's a much higher burden," Little said. "It's much more difficult for him to win his case, because he has to prove he has a well-founded fear of persecution upon his return to Somalia."

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After the ruling, an INS dentist examined Abdul and concluded from his teeth that he is an adult already subject to INS rules governing them. Abdul was allowed to get his belongings from a juvenile center where he had been staying and was transferred to an INS detention center for adults.

Mariano Faget, an INS official arrested Thursday on suspicion of being a Cuban spy, was the one who denied Abdul's requests to remain in this country. But the judge said the arrest had no bearing on Abdul's case.

U.S. officials said Faget played no role in deciding Eliau's case.

Earlier in the day, Attorney General Janet Reno rejected a request to meet with Eliau during a visit to Miami, her hometown. The meeting had been requested by Lazaro Gonzales, the great-uncle with whom the boy is staying and who has protested the INS decision to return Eliau to his father in Cuba.

Also yesterday, the INS rejected a request from the father, Juan Miguel Gonzalez, that the child be transferred to a new temporary custodian. The INS said the move would be too disruptive. The father had complained that Lazaro and his family had given the news media too much access to Eliau, had arranged psychiatric treatment for the boy by doctors who had not been approved by his father, and had allowed relatives with criminal records to be around the boy.

The INS statement said the agency shared the father's concerns about the boy's well-being "and therefore will request information from Lazaro Gonzalez concerning the credentials of any psychiatrist or psychologist who has seen Eliau, as well as any treatment that may have been prescribed for him."

Classification

Language: ENGLISH

Subject: JUDGES (91%); IMMIGRATION (90%); US FEDERAL GOVERNMENT (90%); ARRESTS (87%); LAW COURTS & TRIBUNALS (78%); CITIZENSHIP (78%); JUVENILE JUSTICE (78%); LAWYERS (78%); PUBLIC PROSECUTORS (78%); JURISDICTION (78%); TALKS & MEETINGS (72%); POLITICAL ASYLUM (72%); ATTORNEYS GENERAL (71%); Us Court Ruling Immigration Somalia

Organization: IMMIGRATION & NATURALIZATION SERVICE (83%); IMMIGRATION & NATURALIZATION SERVICE (57%)

Industry: LAWYERS (78%)

Geographic: MIAMI, FL, USA (91%); SOMALIA (93%); UNITED STATES (93%); CUBA (66%)

Load-Date: January 30, 2002