

Federal Suit Filed Over Elian; Action Alleges Reno, INS Chief Violated Cuban Boy's Rights

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Body

The international custody battle over 6-year-old Elian Gonzalez moved to a federal courtroom today, as attorneys for the boy's Miami great-uncle filed a federal lawsuit in the latest effort to block the child's return to his father in Cuba.

The lawsuit, which names Attorney General Janet Reno and Immigration and Naturalization Service Commissioner Doris M. Meissner as defendants, says they violated Elian's constitutional rights, as well as INS regulations, by refusing to consider petitions for political asylum filed on his behalf.

The INS ruled Jan. 4 that only Elian's father has the right to speak for the boy, and not the Miami relatives who took him in after he was rescued at sea nearly two months ago--a position backed by Reno and President Clinton.

Elian's father, Juan Miguel Gonzalez, has demanded the boy be sent home.

At a news conference after the suit was filed in U.S. District Court here, attorney Spencer Eig said: "This lawsuit is not about what is best for Elian Gonzalez in the future, but how to get a hearing on that point."

In Washington, U.S. officials said they had not had time to fully review the lawsuit, copies of which they did not receive until late in the afternoon. But they said the Justice Department would vigorously contest it and planned to respond to the court as early as Thursday and would ask that the case be expedited.

In a statement issued this evening, the INS said, "It is important for the well-being of Elian Gonzalez that the status of this 6-year-old boy be resolved as quickly as possible."

Justice and INS officials have eagerly anticipated moving the matter into federal court, repeatedly expressing confidence they would prevail.

After the INS rejected the Miami relatives' initial request for political asylum for Elian in December, saying they had no right to speak for the child, Elian's great-uncle here, Lazaro Gonzalez, sought relief in a state family court. Judge Rosa Rodriguez ruled in the relatives' favor Jan. 10, granting temporary custody and scheduling a full

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hearing for March 6. Last week, Reno said the Florida court had no jurisdiction over the matter, and rejected a second asylum petition.

From the beginning, the Miami family and Cuban Americans who support efforts to keep the boy here have said they only wanted to have their day in court. But some legal experts said today that the latest legal maneuver is doomed to fail.

"They have a chance, but I'm not sure how great a chance," said Miami lawyer Michael D. Ray, president of the South Florida chapter of the American Immigration Lawyers Association. "I can't predict what a judge will do, but they may have a tough row to hoe, showing that they have standing. When the federal government already has made a decision on who speaks for the child, it is not that easy to overcome such a ruling."

The case was referred to U.S. District Court Chief Judge James Lawrence King. Last year, King ruled against the government of Cuba and awarded \$ 187 million to the families of three Brothers to the Rescue pilots who had been shot down by Cuban MiG fighter planes after entering Cuban airspace.

Today's lawsuit, Eig said, would not preempt other attempts to keep Elian in the United States, including efforts by some members of Congress to declare him a U.S. citizen.

The legal challenge appeared to do little to reduce the growing divisions surrounding the boy's future, which has been in limbo since he survived the shipwreck that killed his mother and nine others as they attempted to reach South Florida Thanksgiving week.

In addition to weeks of demonstrations by anti-Castro activist groups in Miami, leaders of groups advocating more normal ties between Cuba and the United States threatened Tuesday to call for protests and acts of civil disobedience if the child is not returned to his father soon.

Pressley reported from Miami; DeYoung from Washington. Special correspondent Catharine Skipp in Miami contributed to this report.

Elian Gonzalez, 6, walks to school entrance in Miami yesterday. Some legal experts said a federal lawsuit over custody of the boy is doomed to fail.

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