Elián González affair

The custody and immigration status of a young Cuban boy, Elián González (born December 6, 1993), was at the center of a heated 2000 controversy involving the governments of Cuba and the United States, González’s father, Juan Miguel González Quintana, González’s other relatives in Miami, Florida, and in Cuba, and Miami’s Cuban American community.

González’s mother drowned in November 1999 while attempting to leave Cuba with her son and her boyfriend to get to the United States. The U.S. Immigration and Naturalization Service (INS) initially placed González with maternal relatives in Miami, who sought to keep him in the United States against his father’s demands that González be returned to Cuba. A federal district court’s ruling that only González’s father, and not his extended relatives, could petition for asylum on the boy’s behalf was upheld by the 11th Circuit Court of Appeals. After the U.S. Supreme Court declined to hear the case, federal agents took González from his relatives and returned him to Cuba in June 2000.

1 Background

Further information: Cuba–United States relations

Hostility between Cuba and the United States has been persistent since soon after the Cuban Revolution ended in 1959. Since then many Cubans have tried to leave Cuba for the United States. This emigration was illegal under both Cuban and U.S. law; any Cuban found at sea attempting to reach U.S. shores will be deported by the U.S. Coast Guard or if discovered by Cuban police, ostracized and prohibited from most Cuban institutions. U.S. policy has evolved into the current “wet feet, dry feet” rule: If a Cuban is picked up at sea or walking toward shore, he/she will be repatriated by force. If he/she can make it to shore (“dry feet”), he/she is permitted to make a case for political asylum.

Cubans who make it to U.S. soil are generally allowed to remain in the country. After a year, the Cuban Adjustment Act allows them to apply for U.S. residency. This differs from U.S. immigration policy applied to refugees of all other Caribbean nations, notably Haitians. To monitor whether returned Cubans are subjected to persecution, the U.S. Interest Section in Havana, in cooperation with international organizations, maintains follow-up contact with the returned Cubans. The result of this monitoring has been a conclusion that there is no systematic legal policy of the Cuban government to persecute those Cubans who have been returned.

2 González’s journey and the beginning of the custody battle

On November 21, 1999, González, his mother, and twelve others left Cuba on a small aluminum boat with a faulty engine; González’s mother and ten others died in the crossing. González and the other two survivors floated at sea until they were rescued by two fishermen, who turned him over to the U.S. Coast Guard. González’s cousin Marisleysis said González told her the motor had broken on the boat and its passengers had tried in vain to bail out the water with nylon bags, but a storm doomed their efforts. He told her he tried to help get the water out and his mother’s boyfriend placed him in an inner tube for safety. “He said afterwards that he fell asleep and that when he woke up he never saw his mother again”. He said, “I think she drowned too because she didn’t know how to swim”. Nivaldo Fernández Ferran, one of the three survivors on the boat, said “Elizabeth protected her son to the end”. According to Ferran, they set out on their trip at 4 a.m., dragging inflated rubber floats, or inner tubes, in case they needed them. As they encountered bad weather, the boat’s engine failed and the craft began to fill with water. After it went under, the passengers clung to the inner tubes in cold water, with waves reaching heights of three to four meters (10 to 13 feet).
The Immigration and Naturalization Service (INS) released González to his paternal great-uncle, Lázaro. According to the Washington Post, González’s father, Juan Miguel González Quintana, had telephoned Lázaro from Cuba on November 22, 1999, to advise that González and his mother had left Cuba without Juan Miguel’s knowledge, and to watch for their arrival. However, Lázaro González, backed by local Cuban-Americans, soon took the position that the boy should remain in the United States and not be returned to his father in Cuba. Marisley González (Lázaro’s adult daughter) became Elián González’s principal caretaker, and quickly became a well-known television figure. Armando Gutiérrez, a local Cuban-American businessman, became the family spokesman. However, Juan Miguel, with the support of his nation’s authorities, demanded that the boy be returned to his care.

On January 21, 2000, González’s grandmothers, Mariela Quintana and Raquel Rodríguez, flew from Havana to the United States to seek their grandson’s return to Cuba. While they were able to meet with the boy only once (at the Miami Beach home of Barry University president Sister Jeanne O’Laughlin), they journeyed to Washington and met with congressmen and Attorney General Janet Reno. After nine days of relentless media coverage (during which Republican lawmakers acknowledged they did not have the votes to pass a bill to give González U.S. citizenship), the two women returned to Cuba to “a hero’s welcome.”

On January 28, the Spanish Foreign Minister Abel Matutes called for the boy’s return to Cuba, stating that international law dictated the return. Meanwhile, the Miami Gonzálezes denied allegations that they had offered Juan Miguel a house and a car if he abandoned the action and joined his son in Miami. Juan Miguel was uninterested in emigrating.

Through January and February, Juan Miguel sent a number of open letters to the U.S. Government — published in, among other places, the Cuban newspaper Granma — demanding the return of his son and refusing the Miami relatives’ demands.

On March 21, a Federal judge dismissed the relatives’ petition for asylum which they had filed on behalf of Elián González. Lázaro vowed to appeal. On March 29, Miami-Dade County Mayor Alex Penelas was joined by 22 other civic leaders in a speech in downtown Miami. Penelas indicated that the municipality would not cooperate with Federal authorities on any repatriation of the boy, and would not lend police assets or any other assistance in taking the boy.

On April 14, a video was released in which Elián tells Juan Miguel that he wants to stay in the United States. However, many thought that he had been coached, as a male voice was heard off-camera directing the young boy. In a September 2005 interview with 60 Minutes after being sent back to Cuba, González stated that during his stay in the U.S., his family members were “telling me bad things about [my father]”, and “were also telling me to tell him that I did not want to go back to Cuba, and I always told them I wanted to.”

Elián González remained a subject of media attention as he went to Walt Disney World Resort one day, then met with politicians the next. Throughout the custody battle, opinion polls showed that a majority of Americans believed Elián should be returned to his father in Cuba, and that doing so was in Elián’s best interests. On April 19, the 11th Circuit Court of Appeals in Atlanta ruled that González must stay in the U.S. until the Miami Gonzálezes could appeal for an asylum hearing in May.

### 3 Elián taken by federal authorities

Attorney general Janet Reno ordered the return of Elián to his father and set a deadline of April 13, 2000, but the Miami relatives defied the order. Negotiations continued for several days as the house was surrounded by protesters as well as police. The relatives insisted on guarantees that they could live with the child for several months and retain custody, and that Elián would not be returned to Cuba. Negotiations carried on throughout the night, but Reno stated that the relatives rejected all workable solutions. A Florida family court judge revoked Lázaro’s temporary custody, clearing the way for Elián to be returned to his father’s custody. On April 20, Reno made the decision to remove Elián González from the house and instructed law enforcement officials to determine the best time to obtain the boy. After being informed of the decision, Marisley González said to a Justice Department community relations officer, “You think we just have cameras in the house? If people try to come in, they could be hurt.”

In the pre-dawn hours of Easter eve, Saturday, April 22, pursuant to an order issued by a federal magistrate, eight agents of the Border Patrol’s elite BORTAC unit as part of an operation in which more than 130 INS personnel took part approached the house; they knocked, and identified themselves. When no one re-
sponded from within, they entered the house. Pepper-spray and mace were employed against those outside the house who attempted to interfere. Nonetheless, a stool, rocks, and bottles were thrown at the agents.[16] In the confusion, Armando Gutierrez called in Alan Diaz, of the Associated Press, to enter the house and entered a room with Elián, his great uncle’s wife Angela Lázaro, her niece, the niece’s young son, and Donato Dalrymple (one of the two men who had rescued him from the ocean). They waited in the room listening to agents searching the house. Diaz took a widely publicized photograph of a border patrol agent confronting Dalrymple and the boy.

INS also stated in the days after the raid that they had identified as many as two dozen persons who were “prepared to thwart any government operation,” some of whom had concealed weapons while others had criminal records.[17][18] The INS noted reported statements made by members of the Lázaro family that they were prepared to deal with any intrusion on their property by force if authorities attempted to take Elián without their consent. Approximately 100 people protested against the raid as it took place, with some calling the INS agents “assassins!”[19]

Public opinion about the INS raid on the Miami González’s house was widely polarized. There were two major foci in media coverage of the event: the raid and the family reunions.[20] A Time magazine issue showed a joyful photo of Elián being reunited with his father (the caption says “Papa!”), while Newsweek ran an issue that focused on the raid, entitled “Seizing Elián.”[21]

5 Return to Cuba

Elián now lives with his family in Cárdenas, where his father, Juan Miguel, is a waiter at an Italian restaurant about 20 km northwest of Cárdenas. Elián’s father was interviewed at the restaurant in 2004 by Keith Morrison of the NBC News program Dateline NBC and Cover to Cover on CNBC. Juan Miguel told Morrison that Elián feared reporters, so Morrison could not interview Elián, but Juan Miguel filmed a home video on which Elián was shown doing his arithmetic homework with Juan Miguel in their dining room, going to bed in his bedroom with his younger half-brother, and attending karate lessons.
Elián’s family had moved to another home to evade reporters. Morrison’s TV report also showed an 18th-century building in Cárdenas which was previously used as a fire station and which was renovated and inaugurated on July 14, 2001, as a museum, called Museo de la Batalla de Ideas (“Museum of the Battle of Ideas”), which includes an Elián exhibition room with a life-size bronze statue of Elián raising a clenched fist. The former González home in Miami has similarly been turned into a museum, with the boy’s bedroom left unaltered.[33] Juan Miguel is also a member of the National Assembly and has attended events for the Communist Party of Cuba with Elián, who has been called up to the stage to meet Fidel Castro. Castro also attended a filmed birthday party of Elián with his schoolmates. On the video of the birthday party, a female clown told Elián to blow out the birthday candles with Fidel to his right and surrounded by Elián’s schoolmates.

In September 2005, Elián was interviewed by 60 Minutes and stated during the interview that Fidel Castro was a friend, and that he considers Castro “not only as a friend but as a father”.[32] Elián’s aunt, Angela González, said she doubted whether the interview represented his true beliefs because of the controls imposed by Cuba on information.[32] In December 2006, an ill Fidel Castro was unable to attend González’s 13th birthday celebration, so his brother Raúl stood in instead.[34]

On August 16, 2006, the United States Court of Appeals for the Eleventh Circuit affirmed the dismissal of an excessive force lawsuit brought by Dalrymple and others against the Federal Government and Reno.[16]

González joined the Young Communist Union of Cuba in June 2008 shortly after graduating from junior high school. At age 15, he began military school.[33][36] In a November 2013 speech, González described his time in the United States as “very sad times for me, which marked me for my whole life”, asserting that the Cuban Adjustment Act led to the denial of his rights, including “the right to be together with my father, the right to keep my nationality and to remain in my cultural context”.[37]

6 Ramifications

The Elián González saga exposed deep divisions among the residents of Miami-Dade County. While there were large protests in favor of Elián staying in the United States, there were also a few demonstrations in favor of sending the boy back to live with his father. Commentators[38][39][40] have suggested that the Elián González affair may have been a factor in voters’ decisions in the 2000 United States presidential election, which could have affected the close outcome in Florida.[41] Al Gore’s handling of the matter may have been as great a factor as anger by the predominantly Republican Cuban community over the boy’s return to Cuba.

Gore initially supported Republican legislation to give the boy and his father permanent residence status,[43] but later supported the Administration position. He was attacked by both sides in the dispute for pandering and being inconsistent.[44]

7 See also

- Cuban exile
- Cuba – United States relations
- Operation Peter Pan (1960–1962)
- Parental rights
- Yossele Schumacher, a similar affair
- Polovchak v. Meese, an earlier child asylum case (1980–1985), viewed by some as a precedent[45][46]

8 Footnotes


[15] Radio Havana account (see awards to INS for bravery)


[19] Federal agents seize Elian in predawn raid: Boy to be reunited with his father in Maryland (April 22, 2000), CNN.


[46] ACLU amicus brief in the Elian Gonzalez matter, IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF FLORIDA No. 00-0206-CIV-HOEVELE

9 Further reading

- de la Cova, Antonio Rafael. "The Elian Gonzalez Case: The World's Most Watched and Politically-Charged Custody Battle that Reached the U.S.


10 External links

• A Brief History of the Elian Gonzalez Affair - slideshow by Time magazine

• (Spanish) Official Cuban website: about the custody battle for Elián


• BORTAC: defusing the hot spots, CBP Today - May 2004 article on U.S. Border Patrol BORTAC Program

• Elián González and the Cuban Crisis: 10 years later expose by The Guardian

• Elián: What Have We Learned?
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