

2 fathers speak out in Cuban child custody case

A 4-year-old Cuban girl's birth father, foster father and birth mother spoke publicly for the first time about her case.

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Two men, one a Coral Gables businessman, the other a farmer from central Cuba, squared off publicly for the first time Thursday to make their case why each should be the one to raise a 4-year-old girl.

On one side: Joe Cubas, 46, a nationally known sports agent, investor and real estate developer who is the girl's foster father.

On the other: Rafael Izquierdo, 32, a malanga and plantain farmer and sometime fisherman who is the girl's birth father.

In the middle is a precocious auburn-haired youngster with a fondness for ice cream, swimming and playing hide-and-seek.

Outside Miami-Dade's juvenile courthouse, Izquierdo said he was eager to bring his daughter back to Cabaiguán, the small village he calls home.

"Children belong with their parents, and parents belong with their children," said Izquierdo, whose current wife brought their 6-year-old daughter to the United States for the custody proceedings.

Cubas is equally determined that the girl should remain with him.

"There are two children who have been through thick and thin together, who have been through the most difficult times together," Cubas said. "They are in a safe, nurturing, loving home. They spend all their time together, and now they are faced with the possibility of separation."

Cubas refers to the girl and her 13-year-old half-brother -- whom he has adopted -- as "my children." The little girl calls him "Papi" and calls his wife, Maria, "Mami."

Cubas' involvement in the dispute became widely known for the first time Thursday when he spoke openly with reporters. Though he says he no longer represents sports figures, Cubas earned admirers -- and some critics -- when he helped some of Cuba's finest baseball players defect to the United States.

GAG ORDER LIFTED

The custody battle over the girl has raged before Miami-Dade Circuit Judge Jeri B. Cohen since March 2006, mostly behind closed doors. Thursday, the judge lifted a gag order that had barred all participants from discussing the case publicly.

Saying she had erred by granting the secrecy order in the first place, Cohen lifted it during a crowded 2 ½-hour hearing, the second this week.

"I was wrong; I didn't realize it. I don't have a lot of experience with this," Cohen said. The judge, who has been on the bench for 16 years, cited a 1997 legal ruling as the basis for her decision to lift the gag.

The judge said she wouldn't lift the order if she had a choice.

"I just work here," she said. "I have to follow the law. If I don't, I shouldn't be here."

After ruling in Cubas' favor on the gag order, she told him: 'Once you start speaking to the press, it will be extremely difficult to keep the kids' identity a secret.'

To protect their privacy, The Miami Herald has not revealed the names of the children.

Ira Kurzban, Izquierdo's attorney, bitterly opposed the lifting of the gag order, saying it set the stage for a "free-for-all."

He criticized Cubas for changing his mind and asking that the order be lifted after the Gables businessman a few weeks ago called it "despicable" to expose the children to press scrutiny.

"You'll see when he's allowed to go on Spanish- and English-language radio and enflame this community -- and we have seen it before," Kurzban told the judge. "There is a potential for this to turn into another Elián González case."

Elián's saga created a political firestorm nearly eight years ago when he washed ashore in South Florida on an inner tube after his mother drowned crossing the Florida Straits from Cuba. Federal agents seized the boy from the home of Miami relatives after a prolonged custody dispute that sparked international headlines. He returned with his father to Cuba.

Also weighing in for the first time was Elena Perez, the girl's birth mother, whose suicide attempt in 2005 prompted state child-welfare officials to take custody of the children.

Perez, who relinquished her right to raise both of her children, supports her ex-boyfriend's wishes to gain custody of the girl and take her back to Cuba.

"If she can't be with me -- her own mother -- then she should be with her own father, who wants her," Perez, 35, who lives in Miami, said following the hearing.

REAL PARENTS

Asked if she thought her daughter would have just as good a life on the island as in the United States, she replied: ``Material things don't matter in life, but being raised and loved by your real parents does. You don't treat real parents like nothing; they are the most important thing."

Izquierdo also made clear he would not stay in the United States.

"I want to go back to my homeland. I miss my family, I miss my mother. My wife misses her family," he said. ``My other daughter misses her grandmother."

He said he has a room ready for the 4-year-old at the rural home he shares with his parents.

"It's a big house, and she already has her own room, with her own little bed and toys," Izquierdo said.

Cubas said the little girl has made up her own mind and desperately wants to remain with her new family.

The girl's half-brother, Cubas said, acted as her caregiver and emotional anchor during their mother's emotional distress. "He has been her father," Cubas said, describing the girl as ``astute and bright."

"She has made very clear what her wishes are, which are to stay with her brother and stay with us," Cubas said. "The child is extremely happy and extremely bonded to her brother" and her new family, he added.

The long-awaited trial over the birth father's fitness begins Monday, but the preliminary hearings have already offered a window into the bickering and legal wranglings that will come.

On Thursday, at the final pretrial hearing, lawyers on both sides were quick to pounce on the opposition's slightest turn of phrase -- at one point quibbling over how to characterize the physical relationship that produced the girl at the center of the dispute.

"They had sex," said the judge, raising her voice and momentarily silencing the courtroom full of lawyers. ``We at least agree on that."