

Half brother likely to testify in Cuban custody case

The trial to decide whether a 4-year-old girl returns to Cuba with her father begins Monday.

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A trial that will help decide the fate of a 4-year-old girl at the center of a custody dispute spanning the Florida Straits is scheduled to begin in a Miami-Dade courtroom Monday afternoon, when perhaps the case's most poignant witness is expected to take the stand: the girl's older half brother.

Circuit Judge Jeri B. Cohen will hear arguments Monday morning on a motion by the lawyer for the girl's birth father to dismiss allegations against him.

The father, Rafael Izquierdo, is arguing the state Department of Children & Families does not have enough evidence to prove he is an unfit father.

The state claims Izquierdo, who lives in the small Cuban village of Cabaiguán, abandoned his daughter by allowing her to move with her mother to the United States.

The DCF also is alleging that he used poor judgment by allowing the girl to leave with a mother he knew was suffering from mental illness.

Izquierdo's lawyer, Ira Kurzban, also will ask Cohen to release the youngster to her father today because the state cannot locate a crucial document that would show Elena Perez, the girl's mother, agreed to give up custody of the girl last year. Without the document, Kurzban says, the state does not have jurisdiction to retain custody of the girl.

Alan Mishael, who represents the foster family, says he is "confident" Perez consented to transfer custody.

The girl came to the United States in December 2004. About four months later, she was sheltered by the DCF after her mother became distraught and called 911. Her father, who is married to another woman and has a 7-year-old daughter, wants to raise her in Cuba.

The girl now lives with Joe and Maria Cubas, a Cuban-American couple in Coral Gables. The Cubases have had custody of the little girl and her brother -- whom they already have adopted -- for about 16 months. They would like to raise her, and they say the girl has made clear she would rather stay in the United States, and with her foster family.

Jason Dimitris, the DCF's chief of staff and top lawyer in the case, announced last week he will call the girl's 13-year-old half brother, who has a different father, to the stand when the trial begins in the afternoon, following the morning's pretrial motions.