

Judge lashes out at DCF lawyers in custody case

The Miami Herald
Aug. 29, 2007

For the second time since she convened trial in a controversial custody battle over a 4-year-old Cuban girl this week, a Miami judge Wednesday lashed out at Florida child welfare lawyers seeking to prevent the girl's return to Cuba.

No more than 20 minutes after testimony in the case began Wednesday morning, Miami-Dade Circuit Judge Jeri B. Cohen scolded lawyers for the Department of Children & Families for failing to adequately prepare. On the witness stand was Maria Zamora, a caseworker for a privately run foster care program.

Zamora, who is a supervisor and is overseeing the girl's case, was describing how the 4-year-old had ended up under the department's care. Zamora was describing events that occurred in Cuba before the girl arrived in Miami -- events she acknowledged she knew about only second-hand.

Ira Kurzban, a lawyer for the girl's birth father, objected that Zamora's testimony consisted largely of hearsay and was relying on case notes that she had not brought to court.

Cohen then castigated department lawyers, who are spearheading the case, for failing to enter the notes into evidence -- forcing Zamora to rely on memories that may not be reliable.

"Now we have a situation where I don't have case notes, I don't know what you are relying on, and I don't know where you heard it," Cohen said, her voice rising with frustration. "I don't know where she [Zamora] gets her recollection. We don't know if her recollection is any good, and we don't have any case notes to rely on."

"He's going to object," Cohen said, referring to Kurzban. "I'm going to have to parse it, and you're going to have your say." All of which, Cohen added, would complicate and slow down Zamora's testimony unnecessarily.

"I want it on my desk," the judge said of the case notes, adding she would give DCF 15 minutes to deliver the file. After lawyers protested that the DCF building was too far away to collect the file in 15 minutes, Cohen gave them 15 more.

"You have a half hour to have them in court," the judge said.

"I'm actually quite shocked and disappointed," she added.

The drama, which pits foster parents Joe and Maria Cubas against the youngster's birth father, Rafael Izquierdo, has been unfolding since December 2005, when the little girl's mother, Elena Perez, took a kitchen knife to her wrists in the throes of depression. DCF took the girl and her older brother into custody when Perez was hospitalized.

The case headed to court in earnest this week as DCF began what could be a monthlong trial of Izquierdo on allegations that he is unfit to raise his daughter because he essentially abandoned her by allowing the girl to move to the United States with her mother.

The department also is alleging Izquierdo failed to protect his daughter from her mother's mood swings and sometimes violent behavior.

DCF lawyers have announced in court that they want the little girl to be raised permanently by the Cubases, with whom she has bonded. They say they want the Cubas family to maintain custody of the girl even if the judge finds Izquierdo to be a fit parent. The Cubases have adopted the girl's older half brother.

With tensions extremely high, Cohen has criticized lawyers for both the department and Izquierdo.

On Tuesday, in a mostly hushed courtroom, the little girl's 13-year-old half brother testified that both he and his sister had been the victims of frequent and often harsh abuse from Perez, who suffered from emotional outbursts that became significantly more severe after the family moved to the United States in March 2005.

The boy said he told Izquierdo at least once about the abuse, but the girl's father never did anything about it. Izquierdo told reporters after the Tuesday hearing that the boy never told him about the abuse.