

DCF takes unusual role in custody case

OUR OPINION: NO EASY CHOICES IN HEARTBREAKING CUSTODY CASE

Opinion
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The case of the 4-year-old girl whose mother, Elena Pérez, brought her to Miami from Cuba only to become unable to care for her and her half-brother is heartbreaking. The Department of Children & Families, which says its job is to maintain the "integrity of the family," seems to have forgotten that role in this case. On Monday, Miami-Dade Circuit Court Judge Jeri B. Cohen reminded DCF of its duty -- and rightly so -- by rejecting the agency's claim that the father's desire to raise his daughter was child abuse. That's preposterous -- and Judge Cohen was justified in saying so.

Eighteen months ago, DCF placed the half-siblings with a foster family, Joe and Maria Cubas. The brother's father agreed to allow the Cubases to adopt him. The Cubas family also wants to adopt the girl. But the girl's father, Rafael Izquierdo, a Cuban national who agreed to his daughter's leaving Cuba with her mother, now wants custody. Mr. Izquierdo waited several months to receive a visa to come to the United States to ask for his daughter. He is married and has another daughter.

Abuse claim rejected

The DCF position in this case is a departure from its norm: It is recommending that the foster family get custody on grounds that Mr. Izquierdo is unfit. Besides rejecting part of DCF's abuse claim, Judge Cohen warned that the law does not seem to support DCF's claim that the father abandoned the girl by not objecting when her mother brought the girl to this country. Then there is the documents blunder. DCF and the juvenile-court clerk's office can't find the paper showing that Ms. Perez formally gave up custody of her daughter.

Some compare this case to the Elián González saga, but there are big differences. Elián's fate was not resolved in family court. After a long, public stalemate between the federal government and supporters of keeping Elián with his Miami family, then-Attorney General Janet Reno sent federal officers to seize the boy and return him to his father in Cuba.

Fairness, impartiality

In family court, birth parents, if fit, have strong custodial rights to their children. This is why DCF's attitude in this case is so puzzling. DCF seems not to have seriously considered Mr. Izquierdo's parental rights. Commendably, the community is doing its best not to let this case become politically polarizing, as happened with the Elián González case.

Some say that the case puts Judge Cohen at risk of losing any reelection bid. She, however, forthrightly declared that fairness and impartiality rule in her courtroom. Good for her. Judge Cohen's job is to sort through this emotional thicket and decide what the law is and what is best for the child. The community's job is to give her the space and support to do that. So far, both are doing just that.