

8 Years After Elián, a Cuban Custody Battle

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MIAMI, Sept. 1 — Almost eight years after the custody battle over Elián González took center stage here, a similar situation involving another Cuban child is playing out in a local courtroom.

The dispute this time involves a 4-year-old girl who came to the United States from [Cuba](#) in 2005 with her mother and her 13-year-old half-brother. At issue is whether the girl's father, a Cuban farmer who arrived in Miami in June with his wife and 7-year-old daughter to fight for his younger daughter's custody, is fit to raise her.

The father, Rafael Izquierdo, allowed the girl's mother to take her to the United States, but several months after her arrival, the mother attempted suicide and the state Department of Children and Families took custody of the two children.

The children, who have different fathers, were placed in foster care, and since April 2006 the girl has been in the care of Joe Cubas, a wealthy real estate developer and former sports agent, and his wife. The boy, whose father had surrendered parental rights, was formally adopted by the Cubases, who also want to adopt the girl. Mr. Cubas, who is well known in the Cuban-American community here for helping star baseball players defect to the United States in the 1990s, has the support of the Department of Children and Families in his effort.

"The child is ecstatic living where she is," said Alan Mishael, a lawyer for Mr. Cubas.

Lawyers for the Department of Children and Families argue that Mr. Izquierdo, 32, is not a fit father because he acted irresponsibly by allowing his daughter to emigrate to the United States with her mother, Elena Pérez, whom they say he knew to be mentally unstable. His lawyers reject that claim.

"We want to keep the focus on whether or not a dad has the right to have his child," said Ira Kurzban, one of the father's lawyers. "D.C.F. has not proven any neglect by our client Rafael."

Ms. Pérez, who has said she wants her daughter to return to Cuba with her father, has repeatedly given conflicting testimony and created chaos in court, driving Judge Jeri B. Cohen of Circuit Court in Miami-Dade County to take a recess to seek legal guidance.

On Friday, the fifth day of the trial, Ms. Pérez told the judge that family photos she had testified to have sent to Mr. Izquierdo in Cuba were never sent. She said she gave the photos to one of Mr. Izquierdo's lawyers who kept them to later show them as evidence in

court. On Thursday, Ms. Pérez admitted lying to the judge, saying that letters from the girl's father she had previously testified to having received were actually fabricated by one of the father's lawyers.

"I have tried to twist some things around to favor the father," she said.

But Judge Cohen said she was "very concerned" about her allegations.

Mr. Kurzban adamantly denied anyone in his team had fabricated the letters, saying Ms. Pérez, 35, has "a serious mental problem."

The girl's case evokes that of Elián González, who was 5 years old when he was found floating on an inner tube off Florida after the boat in which he and his mother tried to reach American soil capsized in 1999. His mother drowned, and Elián was placed in the care of his Miami relatives, stirring a custody fight between the relatives and the boy's Cuban father who, like Mr. Izquierdo, traveled to the United States to claim custody.

At the time, thousands of Cuban-Americans held daily protests outside the Little Havana home where Elián lived, and tens of thousands took to the streets in protest when the boy was reunited with his father in Cuba. This time, though, the Cuban-American community does not appear to be as emotionally involved in the outcome.

Ramón Saul Sánchez, leader of the Democracy Movement, an anti-Castro group, said he believed this case should be decided by the judge.

"In Elián's case, the mother wanted to bring him here and died in the process," said Mr. Sánchez, who led many of the protests surrounding that case. "In this case, both parents want her in Cuba."

Bernard Perlmutter, a family law professor at the [University of Miami](#) who has followed both cases, said there were some differences between them.

"This matter is appropriately being adjudicated in a family court," Mr. Perlmutter said of the girl's case. "We don't have all of the [immigration](#) issues that were so complicated and controversial in the Elián case."