

Mom says she sent pictures to Cuba after all

The Miami Herald
Sep. 05, 2007

Elena Perez, birth mother of 4-year-old girl, holds up photos that she says were removed from a photo album and substituted with copies under cross-examination during the juvenile dependency hearing known as "Cuba Custody Case" at Miami-Dade County's Civil Courthouse in Miami, Florida, Tuesday, September 4, 2007.

Testimony in the international custody trial involving a 4-year-old Cuban girl shifted this morning from a discussion over *when* the girl's mother, Elena Perez, has lied to an examination of *why*.

On the witness stand for the fourth day, Perez again acknowledged that she had lied numerous times in her testimony over the fitness of her one-time lover, Rafael Izquierdo, to raise the little girl at the center of the dispute. State child welfare lawyers claim Izquierdo is an unfit parent, and should lose his right to raise his daughter.

The state Department of Children & Families wants the girl to remain with Joe and Maria Cubas, a Cuban American family in Coral Gables that has been raising the girl the past 18 months.

Lawyers for Izquierdo are trying to show Perez has a motive for saying Izquierdo and his legal team fabricated evidence and falsified testimony -- claims Perez made last week that sent the already tense trial into chaos. Perez's accusations have been leveled mostly at lawyer Magda Montiel Davis.

"You were jealous of Magda because, unlike you, she had a husband, children, grandchildren and a house to live in, correct?" lawyer Steve Weinger asked during cross-examination, referring to a visit Perez made to the home Davis shares with her husband, Ira Kurzban, another lawyer for Izquierdo.

"Never. No, never," Perez replied.

"You resented Magda Davis because you felt she could have helped you before?" asked Weinger, noting that Davis had given Perez help with rent and food.

"She could have done it last year," Perez answered. "I fought tirelessly, struggled tirelessly to keep, not only my daughter, but both of them," she said, referring to both the 4-year-old and the girl's older half brother, who has since been adopted by the Coral Gables foster family seeking to raise both siblings.

"You blame Magda Montiel for losing your children, correct?" Weinger asked.

"I blame everybody," Perez replied.

"You lied to be spiteful sometimes, correct?" Weinger asked.

"I lie out of necessity," Perez said, a moment later. "I don't lie out of spite. I lie out of necessity. Just to help the father of my daughter. There is no spite. There is hurt."

An attorney for the Guardian-ad-Litem Program began to quiz Perez on the provenance of a series of photos that Perez said she sent to Izquierdo -- and then said she didn't send. Tuesday, once again, Perez said she did send some of the photos to Izquierdo in Cuba.

Following a brief recess, Miami-Dade Circuit Judge Jeri B. Cohen announced that social workers had found an apartment at a supported-living community for Perez, who had been living for several days with Davis's secretary after finding herself nearly homeless.

During her lengthy testimony Tuesday, Perez mentioned that she was living with one of Davis' secretaries.

Perez's living arrangement prompted concern from attorneys for DCF and the Guardian-ad-Litem program, who said they were unaware Perez was staying with an employee of the opposing counsel.

Perez had been staying with Davis' secretary since Friday, the same day Cohen said she was concerned about Perez's apparently shaky mental state, and asked if she felt she could make it through the long holiday weekend without harming herself.

The judge was not aware that Perez, who has been living in a rented efficiency, had been staying with Davis' secretary.

Perez's attorney told Cohen that she was out of town over the long weekend and did not know where her client was staying -- prompting accusations by one of Izquierdo's attorneys that she was lying.

"She's not being honest," said Steven Weinger.

Cohen said the arrangement was ill-advised.

"It's bad judgment. There's an appearance of impropriety."

Kurzban, another of Izquierdo's attorneys and Davis' husband, said they helped out Perez "for humanitarian reasons."

He also said the couple have helped pay for Perez's rent in the past, but that arrangement ended before the trial began last week.