

US judicial panel backs ultra-rightists in Elian Gonzalez case

Patrick Martin
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Wednesday's decision by a three-judge federal Appeals Court panel barring Elian Gonzalez from leaving the United States until after a May 8 hearing is the predictable outcome of the Clinton administration's cringing before the right-wing Cuban exiles. Despite its legalistic cover, the ruling is a political act by right-wing judges seeking to bolster the position of those who are virtually holding the boy hostage in Miami's Little Havana.

The three judges are James Larry Edmondson, appointed by President Reagan; Joel F. Dubina, appointed by President Bush; and Charles R. Wilson, appointed by President Clinton. They issued an injunction upholding the temporary order issued by another 11th Circuit judge last week, barring Elian from leaving the country and forbidding any individuals or federal officials from assisting him to do so.

The arguments of the three-judge panel are insidious and absurd. They treat the asylum appeal filed under Elian's name by his great-uncle Lazaro Gonzalez as though it was made by a competent adult, not a six-year-old under the physical and psychological control of anti-Castro fanatics. They wrote: "Not only does it appear that plaintiff might be entitled to apply personally for asylum, it appears that he did so. According to record, plaintiff—although a young child—has expressed a wish that he not be returned to Cuba."

The judges chastise the INS because "It appears that never have INS officials attempted to interview plaintiff about his own wishes. It is not clear that the INS, in finding plaintiff's father to be the only proper representative, considered all of the relevant factors—particularly the child's separate and independent interests in seeking asylum." This flies in the face of national and international law, as well as

basic concepts of democratic rights, which uphold the right of parents to be reunited with their children.

The actual legal scope of the ruling is narrowly focused, since the injunction expires once the full Circuit Court takes up the case the week of May 8th. The three-judge panel refused to rule on who should have custody of Elian during that time, in effect leaving that decision where it has rested since last November, with the federal authorities.

But there is no mistaking the political import of the decision, which came amid indications that popular opinion in the United States has shifted decisively in favor of the right of Juan Miguel Gonzalez to regain custody of his son and return home with him to Cuba.

Gregory Craig, the lead American attorney for Juan Miguel Gonzalez, held a press conference after the judicial ruling at which he reiterated the father's demand that his son be immediately returned to him, while the court appeals are in progress. "Nothing in the order issued today by the 11th Circuit undermines or weakens this father's moral claim that he be given immediate custody of his son," Craig said. "In fact, the 11th Circuit's opinion places the obligation to act squarely on the shoulders of the Attorney General. We call upon the United States government to take immediate action. It is unconscionable to wait one day longer. To do so would only cause more harm to Elian."

Craig added, "If the government does not act immediately to remove Elian from the care of Lazaro Gonzalez, and return him to his father, it will bear responsibility for the harm that continues to be inflicted upon Juan Miguel's beloved son." Juan Miguel Gonzalez has repeatedly declared that he has no desire to remain in the United States permanently, but will stay as long as necessary to vindicate his right to

custody of his son.

Attorney General Janet Reno gave no indication that there would be any response to this appeal except continued bowing and scraping before the right-wing Cubans. "The court order does not preclude me from placing Elian in his father's care while he is in the United States," Reno said in Oklahoma City, where she arrived Wednesday for ceremonies commemorating five years since the bombing of the Oklahoma City building by fascist Timothy McVeigh.

One is tempted to ask, to whom was Reno addressing this remark? Was she trying to convince herself, after last week's humiliating retreat from Little Havana? Reno flew to Miami to demand the turnover of Elian to his father, only to be flatly rejected by Lazaro Gonzalez, Elian's great-uncle, who brought the suit before the Appeals Court. This followed a long series of capitulations by the Clinton administration, as the Justice Department and INS, normally ruthless in immigration cases, accepted the defiance of the law by the Miami relatives, allowed deadline after deadline to slip by, and refused to enforce the legal rights of the father.

The ruling by the 11th Circuit Court panel actually cites this continual retreat by the Clinton administration as a reason for issuing the injunction. The 16-page opinion declares: "we doubt that an injunction would harm the INS. Plaintiff has been in the United States for nearly five months. The INS refused to consider Plaintiff's application for asylum more than three months ago. The INS, however, has not sought to remove Plaintiff in the meantime from the United States."

In other words, in both legal and political terms, the cowardice of the Clinton White House and Justice Department in the face of defiance by ultra-right-wing elements has given them room to go forward with their anti-communist campaign to separate Elian Gonzalez from his father. Clinton and Reno are complicit in this politically-inspired kidnapping of a six-year-old child.

It is not only a matter of the fate of Elian Gonzalez, sad as that is. The entire episode is a serious warning about the degree to which official political life has shifted to the right in the US and the present crisis-ridden state of bourgeois democracy itself. Under present conditions, it would be wrong to take any democratic right for granted.



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