



U.S. Department of Justice
Immigration and Naturalization Service

Office of the Executive Associate Commissioner

425 I Street NW
Washington, DC 20536

JAN - 5 2000

Mr. Lazaro Gonzalez
2319 N.W. 2nd Street
Miami, Florida 33125-5207

Dear Mr. Gonzalez,

We appreciate your cooperation during our consideration of immigration matters relating to Elian Gonzalez and your meeting with us in Miami on December 20th. After careful consideration and consultation with her legal advisors, the INS Commissioner has made several determinations in this case, of which I am now prepared to inform you.

The INS has been in direct contact with Juan Miguel Gonzalez-Quintana. Mr. Gonzalez-Quintana has provided reliable documentation that he is Elian's biological father and that he now has legal custody of the child under Cuban law. As such, he has the right and obligation to represent Elian in all legal transactions and acts in which Elian has an interest. Therefore, we have determined that Mr. Gonzalez-Quintana has the authority to speak for his son in immigration matters. After carefully considering all relevant factors, we have determined that there is no conflict of interest between Mr. Gonzalez-Quintana and his son, or any other reason, that would warrant our declining to recognize the authority of this father to speak on behalf of his son in immigration matters. Further, we took steps to ensure that Mr. Gonzalez-Quintana could express his true wishes at our interviews with him, and after carefully reviewing the results of the interviews, we are convinced that he did so.

Roger Bernstein and several of his associates, attorneys in Miami, have submitted several Forms G-28, Notice of Entry and Appearance as Attorney, for Elian. Some of these Forms G-28 were signed by you on behalf of Elian. On others, Elian himself has printed his first name. After careful consideration, we have determined that we cannot recognize any of the Forms G-28 as authorizing these attorneys to represent Elian in immigration matters. Although the INS has placed Elian in your physical care, such placement does not confer upon you the authority to act on behalf of Elian in immigration matters or authorize representation in direct opposition to the express wishes of the child's custodial parent. Further, we do not believe that Elian, who recently turned six years old, has the legal capacity on his own to authorize representation. Finally, Mr. Gonzalez-Quintana has expressly declined to authorize Mr. Bernstein or his associates to represent Elian. Therefore, the INS cannot recognize them as Elian's representatives.

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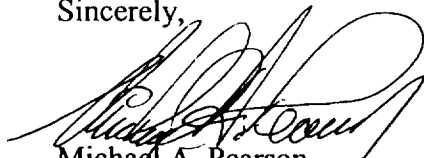
In our direct conversations with Mr. Gonzalez-Quintana, he has repeatedly informed us of his decision not to assert Elian's right to apply for asylum. Mr. Bernstein and his associates have prepared and submitted asylum applications on Elian's behalf, one of which was signed by Elian. After careful consideration, we have determined that Elian does not have the capacity to apply for asylum without the assistance of his parent. Further, neither the applications you have submitted nor any other information available indicates that Elian would be at risk of harm in Cuba such that his interests might so diverge from those of his father that his father could not adequately represent him in this matter. Therefore, given Mr. Gonzalez-Quintana's decision not to assert Elian's right to apply for asylum, we cannot accept the asylum applications as having been submitted on Elian's behalf.

Mr. Gonzalez-Quintana has also repeatedly requested that Elian be returned immediately to his custody in Cuba. We consider this to be a request to withdraw Elian's application for admission to the United States, made by Elian's custodial parent with authority to speak for Elian in immigration matters. Therefore, we have granted Mr. Gonzalez-Quintana's request to withdraw Elian's application for admission to the United States.

Upon his arrival, Elian was temporarily paroled into the United States. Arrangements should now be made within the next nine days for Elian's reunion with his father. It is our hope that you will be able to make arrangements with your nephew to ensure that Elian is returned to him and his immediate family as soon as possible. The INS is prepared to provide whatever assistance would be appropriate. We are also aware that neutral third parties have offered to facilitate Elian's return to Cuba and we are ready to work with them as arrangements are sought.

We appreciate your family's immediate willingness to care for and comfort Elian after the tragic loss of his mother and stepfather and his ordeal on the high seas. Please be assured that we would be happy to facilitate continuing contact between Elian, his father, and your family. If Elian and his immediate family wished to apply for tourist visas at some point in the future, the Consular Section at the U.S. Interests Section in Havana would, of course, consider them very favorably.

Sincerely,



Michael A. Pearson
Executive Associate Commissioner
for Field Operations