

FOIA MARKER

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Original OA/ID Number: 4084				
Document ID: 0002232				
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UNCLASSIFIED
NSC/RMO PROFILE

RECORD ID: 0002232
RECEIVED: 30 MAR 00 19

TO: PRESIDENT

FROM: ARMEY, DICK
DELAY, THOMAS
HASTERT, J DENNIS

DOC DATE: 29 MAR 00
SOURCE REF:

KEYWORDS: CUBA
CO

LEGAL ISSUES

PERSONS: GONZALEZ, ELIAN

SUBJECT: EXPRESSES CONCERN RE GONZALEZ CASE

ACTION: OBE / ORIGINALS RETURNED

DUE DATE: 11 APR 00 STATUS: C

STAFF OFFICER: PATTEN

LOGREF:

FILES: PA

NSCP:

CODES:

D O C U M E N T D I S T R I B U T I O N

FOR ACTION

FOR CONCURRENCE

FOR INFO

COMMENTS: IF FINAL REPLY CANNOT BE PREPARED BY DUE DATE, AN INTERIM RESPONSE
MUST BE PREPARED FOR MILES LACKEY'S SIGNATURE.

DISPATCHED BY _____ DATE _____ BY HAND W/ATTCH

OPENED BY: NSDBG

CLOSED BY: NSTSM

DOC 1 OF 1

UNCLASSIFIED

UNCLASSIFIED
ACTION DATA SUMMARY REPORT

RECORD ID: 0002232

DOC ACTION OFFICER

001 PATTEN
001

CAO ASSIGNED ACTION REQUIRED

Z 00033019 PREPARE MEMO FOR BERGER
X 00060514 OBE / ORIGINALS RETURNED

UNCLASSIFIED

Patten, Wendy L. (MULTI)

From: Darnes, Victoria J. (RECORDS)
Sent: Tuesday, May 30, 2000 10:35 AM
To: Patten, Wendy L. (MULTI)
Subject: RE: congressional correspondence on Elian [UNCLASSIFIED]

Wendy--

Just send us the original folders for those that are OBE'd (annotated 'no response necessary') and we will close them out. Let me know if you have any questions.

Thanks, and congratulations!

-----Original Message-----

From: Bash, Brooks L. (EXSEC)
Sent: Tuesday, May 30, 2000 10:32 AM
To: @RECORDS & ACCESS MGMT; @WWD - West Wing Desk
Subject: FW: congressional correspondence on Elian [UNCLASSIFIED]

FYI

-----Original Message-----

From: Shapiro, Daniel B. (LEGIS)
Sent: Tuesday, May 30, 2000 10:28 AM
To: Gray, Wendy E. (NSA); Patten, Wendy L. (MULTI); Rudman, Mara E. (NSA); @RUDMAN
Cc: @MULTILAT - Multilateral and Humanitarian Affairs; @LEGAL - Legal Advisor; @LEGISLAT - Legislative Affairs; @EXECSEC - Executive Secretary
Subject: RE: congressional correspondence on Elian [UNCLASSIFIED]

And Miles was okay with it provided we had front office awareness and sign-off. Close away!

-----Original Message-----

From: Gray, Wendy E. (NSA)
Sent: Monday, May 29, 2000 9:57 AM
To: Patten, Wendy L. (MULTI); Rudman, Mara E. (NSA); @RUDMAN
Cc: @MULTILAT - Multilateral and Humanitarian Affairs; @LEGAL - Legal Advisor; @LEGISLAT - Legislative Affairs; @EXECSEC - Executive Secretary
Subject: RE: congressional correspondence on Elian [UNCLASSIFIED]

Hi Wendy --

Mara is OK with closing out if both Dan and Miles concur on such action. Thanks!

-----Original Message-----

From: Patten, Wendy L. (MULTI)
Sent: Friday, May 26, 2000 7:06 PM
To: Rudman, Mara E. (NSA); @RUDMAN
Cc: @MULTILAT - Multilateral and Humanitarian Affairs; @LEGAL - Legal Advisor; @LEGISLAT - Legislative Affairs
Subject: congressional correspondence on Elian [UNCLASSIFIED]

Please pass to Mara. thanks.

From Wendy Patten
Cleared by Dan Shapiro and Mary DeRosa

Mara,

After reviewing two letters from Congress on the Elian case and even drafting responses, we feel that it would be best not to reply.

The letters -- one from Mack and another from Arme y, Hastert, DeLay, and Watts -- urge the President to direct the Attorney General not to remove Elian from his Miami residence by force and return him to Cuba, to refrain from making unrealistic demands on the Miami relatives, and ensure that the appeals process is allowed to proceed to conclusion.

Given the fast moving pace of events surrounding the case in April, it would have been difficult to craft a response that would not have been OBE'd by the time it arrived on the President's desk. Now, the letters have clearly been OBE'd, and there seems to us to be nothing to be gained by responding. All we really can do is justify the INS action to reunite Elian with his father, which would draw attention to the issue of the appropriateness of the INS action at a time when congressinal interest in hearings has subsided.

In sum, we would like to close these letters out without responding, but first wanted to seek your views.

PRESIDENTIAL/NSA CORRESPONDENCE

IMMEDIATE ACTION REQUIRED

ACTION OFFICER:

~~XXXX~~
PATEN

LOG NUMBER:

2232

DUE DATE:

Apr. 11

DATE STAFFED:

MAR. 30

CORRESPONDENCE ADDRESSED TO:



PRESIDENT



NATIONAL SECURITY ADVISOR

FROM:

Arney, et al

PREPARE A RESPONSE FOR THE PRESIDENT'S OR NATIONAL SECURITY ADVISOR'S SIGNATURE WITHIN 10 DAYS. IF A LETTER DOES NOT REQUIRE A RESPONSE, PLEASE RETURN IT TO RECORDS MANAGEMENT (RM 379) WITH THIS FORM, ANNOTATED ACCORDINGLY.

TO: PRESIDENT

FROM: ARMEY, DICK
DELAY, THOMAS
HASTERT, J DENNIS

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PERSONS: GONZALEZ, ELIAN

SUBJECT: EXPRESSES CONCERN RE GONZALEZ CASE

ACTION: PREPARE MEMO FOR BERGER

DUE DATE: 11 APR 00 STATUS: S

STAFF OFFICER: HOLLIS

LOGREF:

FILES: PA

NSCP:

CODES:

DOCUMENT DISTRIBUTION

FOR ACTION

HOLLIS

PATTEN

FOR CONCURRENCE

BAKER

LACKEY

PATTEN

FOR INFO

SCHWARTZ

VALENZUELA

COMMENTS: IF FINAL REPLY CANNOT BE PREPARED BY DUE DATE, AN INTERIM RESPONSE
MUST BE PREPARED FOR MILES LACKEY'S SIGNATURE.

no response necessary

DISPATCHED BY W. Patten DATE 5-31-00 BY HAND W/ATTCH

OPENED BY: NSDBG

CLOSED BY:

DOC 1 OF 1

J. Dennis Hastert
Fourteenth District
Illinois

(202) 225-0600



Office of the Speaker
United States House of Representatives
Washington, DC 20515

March 29, 2000

The Honorable William J. Clinton
President of the United States
The White House
1600 Pennsylvania Avenue
Washington, DC 20500

Dear Mr. President:

It is our understanding that the Department of Justice may soon attempt to forcibly remove Elian Gonzalez from his Miami home and return him to communist Cuba. As this is a matter of urgency, we request that you immediately instruct Attorney General Reno to not take such action.

We continue to demand that you instruct the Attorney General to abide by your Administration's original position that the Florida family court should decide what is in the best interest of Elian. At a minimum, the proceedings before the federal courts should be allowed to run their course. The judicial process is the best way for determining what is in the best interest of this child, just as the courts are called upon thousands of times each day to make the same determination for other children. Nevertheless, the Department is threatening this removal action while Elian's case is pending before the courts, attempting to short-circuit the appeals process undermining fundamental procedural rights protected by our Constitution.

The Department of Justice, above all agencies within the executive branch, should respect the rule of law. While the United States District Court in Miami has ruled in favor of the Department, this decision is now before the federal appellate courts. In fact, in an unusual move, the 11th Circuit Court of Appeals has agreed to review Elian's case on an expedited schedule. It is critically necessary for Attorney General Reno to allow this important matter to receive full judicial review.

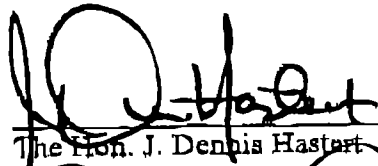
We have attached to this letter a chronology of judicial decisions and Justice Department actions in this case. These facts demonstrate the Department's unwillingness to defer to the judgments of the courts in deciding what is best for Elian. This practice must end.

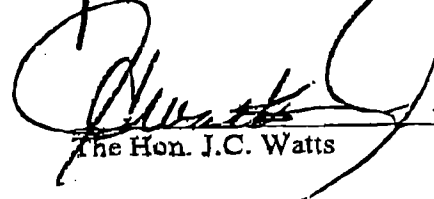
We appreciate your prompt attention to this time sensitive issue.

Respectfully yours,


The Hon. Dick Arney


The Hon. Tom DeLay


The Hon. J. Dennis Hastert


The Hon. J.C. Watts

Addendum attached

J. Dennis Hastert
Fourteenth District
Illinois



(202) 225-0600

Office of the Speaker
United States House of Representatives
Washington, DC 20515

Gonzalez Case: Procedural History

1) On December 1, 1999, after legally paroling Elian Gonzalez into the United States and placing him in the care of his great uncle, Lazaro Gonzalez, the Immigration and Naturalization Service (INS), pursuant to law and established policy and procedure, declared that the issue of the legal custody of Elian Gonzalez must be decided by the Florida Family Court. It further stated that Elian would remain in the United States until the Florida Family Court resolved the issue of his custody.

2) Previously, on December 10, 1998, INS had issued new guidelines in order for children to be able to file claims for political asylum in the U.S. The new INS guidelines stated that asylum procedures for children must recognize that children under the age of 18 may experience persecution differently from adults. The guidelines also established more child-sensitive procedures to help INS asylum officers interact more meaningfully with children. Based on INS guidelines and existing law and procedure, Elian's attorneys filed a petition for political asylum for Elian. The petition was returned by the INS to Elian without an interview or consideration of the merits of said petition.

3) Pursuant to established law, policy and procedure, as well as to the above-referenced INS declaration of December 1, 1999, Lazaro Gonzalez, Elian's great uncle, obtained an order on January 10, 2000 from the Florida Circuit Court for the Eleventh Judicial Circuit, granting him temporary custody of Elian Gonzalez and prohibiting the removal of Elian from Miami-Dade County until the issue of his custody was permanently resolved by the Florida Family Court.

4) After the state court ruling of January 10, 2000 granting Lazaro Gonzalez temporary custody of Elian, a second petition for political asylum for Elian was filed on his behalf by his great uncle Lazaro Gonzalez. INS refused to accept the second petition. INS has consistently espoused the rationale that "only the father can speak for Elian," even though INS' own guidelines do not impose this requirement, and as noted above, INS guidelines recognize that petitions for asylum from children may be appropriate.

5) Despite the INS declaration of December 1, 1999, recognizing that the Florida Family Court must decide the issue of Elian's custody, and despite the well-established principle of American jurisprudence that custody disputes are clearly within the realm of the state courts, as well as the requirement of the 10th Amendment to the United States Constitution that the powers not delegated to the United States by the Constitution nor prohibited by it to the States are reserved to the states, Attorney General Reno stated, in a

letter sent on January 12, 2000 to Elian's attorneys, that she refuse to abide by the state court order, and that INS' custody decisions, "may be challenged, if at all, only in Federal court". She further stated that "we are prepared to litigate in that forum" (federal court).

6) Accordingly, Lazaro Gonzalez, on behalf of Elian, filed an action in the United States Court for the Southern District of Florida seeking to force the INS to follow its own guidelines and grant Elian a hearing for political asylum.

7) The Court set a hearing for March 9, 2000 on the issue of whether it had jurisdiction to hear the lawsuit filed on behalf of Elian by Lazaro Gonzalez.

8) Subsequent to the hearing the Court ruled, on March 16, 2000, that it did have jurisdiction, that the plaintiffs have legal standing to sue on Elian's behalf and, without holding either a trial or even a hearing on a motion for summary judgment, the Court ruled against Elian on the merits of the complaint. The Federal Court left intact the State Court Order granting Lazaro Gonzalez temporary custody of Elian, however, and supported "the state court's conclusion that Lazaro is a proper next friend in the instant case".

9) Immediately, Elian's lawyers filed a notice of intent to appeal the case as authorized by law, to the 11th Circuit Court of Appeals in Atlanta.

10) Acting as both judge and party in the pending legal case, the Justice Department demanded, on March 23, 2000, in a written ultimatum to Elian's attorneys, that they radically shorten the time allowed them by law in order to file their appellate arguments, and that they submit to various other conditions sought to be imposed arbitrarily by the Justice Department.

11) Elian's attorneys proceeded to ask the Appellate Court to expedite the procedure in this case, and the Court, on March 27th, issued an expedited timetable for the presentation of legal documents, and scheduled oral arguments for May 8, 2000.

12) On March 27, the Justice Department in effect rejected the Appellate Court's timetable by stating that it would revoke Elian's parole in the United States, with the possible intention of sending Elian back to Castro's Cuba within days.

In summary, the Justice Department, which declared through the INS on December 1, 1999, that, as required by law, Elian's custody would have to be decided by Florida Family Court, refused to obey a Florida Family Court order that stands to this day granting temporary custody of Elian to his great-uncle and prohibiting Elian from being removed from the area of jurisdiction of the state court; insisted on litigating the matter only in the federal courts, thus forcing Elian's lawyers to file suit in federal court; refused to respect the time-frame set by law for the federal appeal, and refused as well to obey the time-frame set by the federal appellate court itself when the Court agreed to expedite Elian's appeal and scheduled oral arguments for May 8, 2000.

FILE No. 313 03/29 '00 22:13 ID:LANIERFAX6500

H. Dennis Hastert
Fourteenth District
Illinois

*Benker*

(202) 225-0600

Office of the Speaker
United States House of Representatives
Washington, DC 20515

FAX COVER LETTERATTENTION: *Chuck*

FROM: Policy Office Staff

☐ Ralph Hellmann☒ Bill Inglee☐ Amy Jensen☐ David Thompson☐ Bill Hughes☐ Chris Scheve☐ Tim Kurth☐ Katherine Kless☐ Christin Cummings☐ Jonathan MooreDATE: *3/29/00*FAX NUMBER: *456 6220*TOTAL NUMBER OF PAGES (Including Cover): *5*

Comments:

** SENT in THIS EVENING'S
INSIDE MAIL*

Bill

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THE WHITE HOUSE

WASHINGTON

March 30, 2000

MEMORANDUM FOR ROBERT A. BRADTKE
NSC Executive Secretariat

FROM: KAY CASSTEVENs
Legislative Affairs

SUBJECT: PRESIDENTIAL CORRESPONDENCE

Attached are copies of letters sent to the President by various Members of Congress. Since these letters address national security issues, we would appreciate your assistance in drafting the responses.

Thank you very much for your assistance. If you have any questions, please call Courtney Crouch at x67500.

The following is a brief description of the letters:

- 1) Sen. John B. Breaux (D-LA), concerning the Navy training exercises at the Island of Vieques, Puerto Rico;
- 2) Sen. Dianne Feinstein (D-CA), recommending the delegation from the National Federation of Indian-American Associations (NFIA-NRI) participate in some of the public events during the President's recent trip to India;
- 3) Rep. Sam Gejdenson (D-CT), concerning the recent political developments in Russia;
- 4) Rep. J. Dennis Hastert (R-IL), Rep. Richard K. Armey (R-TX), Rep. Tom DeLay (R-TX) and Rep. J. C. Watts, Jr. (R-OK), concerning the case of Elian Gonzalez; and,
- 5) Rep. Maurice D. Hinchey (D-NY), enclosing information on the international community of Auroville, India.

HAR 10-10-00 Enclosures