



STATE NEWS

Boy told police his missing brother fell

07:49 AM CDT on Thursday, July 6, 2006

By KATHERINE LEAL UNMUTH / The Dallas Morning News

Days after his 2-year-old brother disappeared, Alexis Majano pointed toward a sinkhole and told a detective, "Elian fell." The 4-year-old's statement to police was one of many details that emerged in a custody battle between his parents and Child Protective Services on Wednesday – two weeks after Elian disappeared in Irving's Lively Park.

Irving police believe that Elian was abducted or that he fell into a sinkhole created by a broken sewage line, though there is little evidence to support either theory. CPS officials took Alexis into protective custody after concluding the children were playing unsupervised in the park.

Both sides agreed Wednesday that Alexis would remain in temporary foster care after emotional testimony stretching more than three hours left the boys' mother, Yancy Majano, 24, in tears.

Testimony at times resembled a soap opera.

There was talk of Majano's alleged affair with the 19-year-old man at the park with her that day. She said the two went to the park because she knew her husband, Gilberto Bercian, would be upset if he knew about the meeting. She also testified that she met Bercian, 52, when he was in a relationship with her mother. One of his adult children is married to Majano's sister.

Dallas attorney Raul Loya said his clients agreed to counseling and other terms because they didn't want to go through another day talking about their personal life.

The couple declined to comment after the hearing. Another hearing is scheduled for August.

"I think it was unfair to put her on trial," Loya said of Majano. "This is a woman who's been through enough."

CPS spokeswoman Marissa Gonzales said the focus should be on the fact the children were left alone and not on the family's relationships.

"Very young children were left unsupervised," she said after the hearing. "Unfortunately, that brought up all of these other family issues. That this is a very chaotic time for the family adds to the fact that the best thing for the child is to be in foster care now."

It is unclear how long the children were left unsupervised in the park on June 21. Majano testified that she and the other man let the children out of the truck without getting out. They did not use car seats for

the children, she said.

She testified that she paused to put on shoes and noticed Elian was gone about 30 seconds later. Majano led Alexis through the park as they searched for Elian. A woman who helped them search called 911 at 6:56 p.m., about 30 minutes after Elian had last been seen.

Bloodhounds tracked Elian's scent to the sinkhole near the truck and farther into the park at the playground, but police have said the dogs may have been hitting on Alexis' scent.

Gonzales said it's not credible that Elian disappeared in seconds and pointed to Majano's changing stories.

Majano's statement to police said she and her friend got out of the truck and then let the children out to play. Soon after, Alexis came back alone.

Officer Rogelio Silva testified Majano was reluctant to identify the children's father the night Elian went missing.

"She refused to answer," he said.

Bercian was working a late shift at McDonald's when Elian disappeared. He said his wife initially said she went to the park with her sister.

"From that point on, I can't tell you if she's telling the truth or lying," he testified. "I hope that this serves as an experience to think about and see the error of her ways and not commit the same mistakes again."

Detective Oscar Escobar testified that removing Alexis from his parents' custody hasn't helped the investigation.

"I think the family could be more distraught and less likely to cooperate with authorities," he said.

Majano and Bercian are from El Salvador and testified through translators.

Loya raised concerns about whether professional translators were used during police interviews and asked whether police knew Majano could not read or write. Detective Escobar said no.

Majano gave mostly one-word answers during testimony and sometimes seemed confused by the questions.

She said Alexis cannot hold a conversation and does not speak much.

"Do you have any idea what happened to Elian?" Loya asked.

"I think somebody took him."

How do you feel about that?

"*Me duele mucho*," she responded. "It hurts a lot."

Irving police issued an Amber Alert about 24 hours after an extensive search of the park and

surrounding area. The department may be informally reprimanded because there was no evidence Elian was abducted. Tarrant County Sheriff Dee Anderson, a member of local and state alert committees, said the alert should be used when police know there has been an abduction and there is enough information for the public to identify a kidnapper.

At the end of the hearing, Judge Cheryl Lee Shannon ordered the parents to undergo psychological evaluations and to attend parenting classes. They will get weekly visitations with their son, the judge ruled. CPS is considering placing Alexis in the home of a family friend.

"We knew there was a lot going on with the family," Gonzales said. "We were there because we wanted to make sure that whatever happened was the best thing for the child."

Loya said the family's issues made the case more emotional, but the focus should be on finding Elian.

"We're looking at a possible abduction, and that's the scariest part of the case," he said.