

Mistakenly arrested in Chinatown rape, he fights deportation.

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Body

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Omar Lezama de la Rosa, the immigrant **mistakenly** charged with a **rape** his half-brother now stands accused of, took one step today in immigration court in what will likely be a prolonged **fight** against being sent back to his native Mexico.

The threat exists because of a felony conviction from 1999 involving a scuffle with a police officer. The conviction may be grounds for **deportation**. An immigration judge several years ago decided not to deport de la Rosa, 33, a cook who lives in Ambler with his wife and his toddler son, both U.S. citizens.

The old conviction, for which de la Rosa was sentenced to three to six months of house **arrest**, became an issue again because of the publicity surrounding the **rape** case. De la Rosa was picked out of a photo line-up by the victim of a **rape** July 18 in a **Chinatown** SEPTA station and turned himself into police. He was later cleared by a DNA test.

This morning, his lawyers told immigration judge Charles M. Malloy that they agreed with the facts of the case - that de la Rosa was a non-citizen convicted of an aggravated assault in 1999 - but also stated that they disagreed with the legal conclusion that aggravated assaults inherently involve intentional acts of violence. If they do, then that would make de la Rosa's crime one of "moral turpitude" and, so, grounds for **deportation**.

The judge scheduled a hearing on the case for March 14, 2006.

By Gaiutra Bahadur

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