

SOMALI PUTS FAITH IN HIGH COURT

U.S. JUSTICES DECIDING WHETHER TO HEAR DEPORTATION CASE

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Body

A Minnesota **Somali** challenging the government's authority to **deport** him to his homeland hopes the **U.S.** Supreme **Court** will **decide** his fate.

Lawyers for Keyse G. Jama filed papers earlier this month asking the Supreme **Court** to review the long-running legal dispute that has seen Jama spend more than 3 1/2 years in immigration custody while facing **deportation**.

A **decision** on whether **justices** will take up the **case** is due in May. Jama, 24, won't get **deported** to Somalia -- where chaos has prevailed in the dozen years since civil war broke out -- under a ruling this month from the 8th **U.S.** Circuit **Court** of Appeals. But he also remains behind bars at the state prison in Rush City, Minn., and the wait isn't getting any easier.

"He's really suffering from the despair of being trapped in this situation," said Michele Garnett McKenzie, a lawyer and director of the refugee and immigrant program at Minnesota Advocates for Human Rights, which is working with Jama.

Minnesota Somalis, one of the state's newest and largest immigrant groups and one of the largest concentrations of **Somali** refugees in the country, are watching the Jama **case** closely.

"That either he remains here or he goes to Somalia depends on the law and how the judges interpret the law," said Saeed Fahia, executive director of the Confederation of **Somali** Community in Minnesota. "It's something noble to us. In Somalia, in the last 35 years, there has been no rule of law. This is reassuring to many community members here."

Thomas Heffelfinger, the **U.S.** attorney in Minnesota, declined to comment because the **case** is pending. The **U.S.** solicitor general, who argues **cases** before the Supreme **Court**, has until Dec. 5 to file a response to Jama's request.

A spokesman for the **U.S.** Bureau of Immigration and Customs Enforcement said only that the government's position is that it has the authority to remove to Somalia those the **courts** have ordered to leave because of criminal convictions or violations of immigration law.

Jama is subject to removal because of a third-degree assault conviction stemming from a 1999 fight in Hennepin County. He completed his criminal sentence in June 2000 but has been in immigration custody since. Over the years, his **case** has gone from a solitary appeal grinding through the federal **courts** to the basis for a class-action lawsuit that led to a ban on **deporting** some 2,700 Somalis nationwide, at least until their homeland reaches some stability.

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His lawyers, Jeffrey Keyes and Kevin Magnuson of Minneapolis' Briggs & Morgan law firm, challenged the legality of deporting Jama to a country without a functioning government to accept him.

U.S. District Judge John Tunheim of Minneapolis agreed, issuing an order last year that barred the government from removing Jama until Somalia has a central government that can accept him. A federal judge in Seattle reached the same opinion in January, citing Jama's case, and imposing a nationwide ban on removing Somalis to their homeland.

Federal appeals courts, however, have since split on the issue. In May, a divided panel of the 8th Circuit reversed Tunheim's order, finding that immigration officials do have the authority to deport Jama to Somalia. The 9th U.S. Circuit Court of Appeals found differently in September, upholding the decision of the federal judge in Seattle who had imposed a nationwide ban on deporting Somalis.

The differing views between federal appeals courts in Minnesota and Washington state may help persuade the Supreme Court to review the dispute, McKenzie said.

"If everyone agreed this is how these cases should be handled, it's unlikely the Supreme Court would want to change them," McKenzie said.

Jama nearly got deported last month when Tunheim ordered the government -- which had had the right to remove him since May but had not done so -- to release him. Immigration officials instead began steps to deport Jama, but his lawyers asked the 8th Circuit for an emergency stay to give them time to file the request for a Supreme Court review.

The 8th Circuit, in a Nov. 10 order, stayed Jama's deportation "until the Supreme Court of the United States takes action on Mr. Jama's petition." That order may provide some clue as to how the Supreme Court will respond, because the 8th Circuit's rules state that it usually denies a stay unless it concludes the case has a reasonable chance to get a Supreme Court review.

Abdi Samatar, a geography professor at the University of Minnesota and Somali native who came to Minnesota as a student in the 1970s, said the case is providing a valuable civics lesson for Somalis and other refugees.

"Here is an individual who is taking his case against the government, and the court system is open to him, which is something no one can say about Somalia," Samatar said. "Even when there was a government, the courts were of a kangaroo nature. That you can go as a recent refugee who has problems with the legal system all the way to the top court in the country, speaks volumes about the legal system here."

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Notes

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Graphic

Photo

Keyse Jama

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