

## *Haitian returned to uncertain future*

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### **Body**

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When David Joseph arrived in this country he knew he might not be allowed to stay.

But he surely had no idea his presence would arouse a controversy that would go all the way up to the U.S. attorney general.

He was one of 216 Haitians, many of them children, who jumped from a wooden boat off Key Biscayne on Oct. 29, 2002, and swam to shore. TV stations broadcast the scene live as they were chased by police along a major causeway.

Many of the Haitians, including Joseph, then 18, were ordered released on bail by Miami immigration judges while they waited for their asylum cases to be heard. An uncle in New York who is a U.S. citizen agreed to take care of Joseph.

But only the minors - among them Joseph's 17-year-old brother - were ever set free.

Joseph and the others remained locked up at the Krome Avenue detention facility outside Miami. Although asylum-seekers are entitled to remain free while their cases are pending, the government opposed releasing Joseph's group. There were so many of them, it argued, that allowing them to go free could trigger a wave of boat people. Officials were concerned this could strain the antiterrorism efforts of federal agencies including the Coast Guard and the Border Patrol.

In March 2003 the Board of Immigration Appeals, the highest immigration court in the United States, upheld the judge's ruling to grant Joseph bond.

But still the government refused to let him go.

It took a 19-page legal opinion by Attorney General John Ashcroft to settle the matter. The opinion was specifically requested by the Department of Homeland Security, which is now responsible for enforcing immigration laws.

The April 18, 2003, opinion gave the attorney general the authority to jail would-be immigrants indefinitely when national security is at stake.

In making his case, Ashcroft cited U.S. government reports warning that Haiti had become a springboard for potentially dangerous non-Haitians seeking to enter the United States. Without giving specifics, he singled out Palestinians and Pakistanis.

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Immigration rights advocates have seized on the opinion to denounce what they say is the manipulation of antiterrorist legislation against Haitians.

"If our government cannot tell the difference between a real terrorist and a poor Haitian refugee, then God help us all," said Candace Jean, Joseph's Miami attorney.

As a result, Joseph spent two years in detention while his case made its way through the courts. His brother, Daniel, was sent to foster care in New York.

In his request for asylum, Joseph said his family had been persecuted by gang leaders loyal to former President Jean-Bertrand Aristide. "He had scars all over his body from being burned," said Jean, who works for Catholic Charities Legal Services, a branch of the Archdiocese of Miami.

But Joseph's case for asylum was turned down three times, most recently on Oct. 8.

Jean told him not to give up hope. Under pressure from the Haitian government and members of Congress, the Bush administration said earlier this month it was reviewing the deportation of Haitians. But only those from especially ravaged parts of the country would likely be reprieved, officials warned.

Early Monday morning Jean got a phone call saying some of the prisoners had been awakened early and told they were "going home."

In Joseph's case that means Cap Haitien, on Haiti's north coast. But he has no home there anymore, says Jean.

"Unfortunately home has been swallowed by political violence, mud and anarchy," she said, referring to a September flood and ongoing political violence.

When Joseph and his brother fled Haiti they left their parents behind. Jean has been unable to track them down.

Joseph was among a group of Haitians repatriated Monday on an "Alien Transportation" flight, according to Barbara Gonzalez, a spokeswoman for the Bureau of Immigration and Customs Enforcement.

"Joseph was afforded his due process rights under law and exhausted all possible legal avenues for relief," she said.

Jean got a call from the Haitian capital late Monday afternoon. It was Joseph. He described being taken from detention shackled at the arms, waist and ankles.

"He was scared," Jean said. "He's on the streets of Port-au-Prince with nowhere to go."

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