

High court weighs ban on deporting Somali immigrants

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Body

The Supreme **Court** considered yesterday whether the government may send **immigrants** back to countries that have not agreed to accept them, a question that will determine the fate of thousands of Somalis resisting **deportation** to their war-torn homeland.

The immigration case is one of three being heard this week that seek to delineate the limits of federal authorities, who say they should have wide discretion to send back or indefinitely detain foreigners in a post-Sept. 11 world of heightened attack threats.

The **Somali** case involves Keyse Jama, a 25-year-old refugee who does not dispute grounds for **deportation** because of a felony assault conviction but says he should not be shipped to a lawless country in no position to take him.

"Congress has expressed an interest in the orderly process of **deportation**," Jeffrey Keyes, Jama's attorney, told the justices. "The reason to have the requirement of acceptance is so it would be less likely to have them bounced around and come back."

Government lawyers say federal law gives them authority to act in a way that supports U.S. security interests. Their inability to do so would be particularly troubling, they say, because of Somalia's "observed connection" to terrorist activity.

At issue in Jama v. INS is whether a president is authorized under immigration laws to **deport** legal **immigrants** to countries such as Somalia that have not agreed to take them because they lack a functioning government. The statute is silent on that specific point.

More than 8,000 Somalis being held in the United States are either subject to **deportation** or awaiting hearings. Because it may take years for Somalia to establish a working government, a victory for Jama would probably mean freedom for those **immigrants**, since the Supreme **Court** has previously declared their indefinite detention unconstitutional.

In oral arguments yesterday, justices appeared divided in interpreting the statute.

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Justice Stephen G. Breyer proposed a narrow solution that would grant Jama relief from deportation on the grounds that Somalia was not a "country" because it lacked a government.

When government lawyer Malcolm L. Stewart resisted, Breyer responded: "You're not suggesting we can deport them to Antarctica or send them to the moon? Antarctica is a country, so we can send them to live with the penguins?"

Justice Antonin Scalia expressed concern that a president's authority might be unduly constrained if the United States were required to obtain acceptance before deporting immigrants.

"So if prisoners were sent on a boat to the United States, your interpretation is that Congress forbids the president to send them back?" he asked. Keyes responded that the statute applied only to legal immigrants, not illegal ones.

Currently, a nationwide stay ordered by a federal judge in Seattle prevents the government from removing anyone to Somalia. The ban on deportation remains in effect as the Supreme Court reviews the case.

Also yesterday, the court heard arguments in the case of Josue Leocal, a Haitian man fighting deportation after pleading guilty to a felony charge of drunken driving.

At issue in Leocal v. Ashcroft is whether a DUI accident that causes injury to others is a "crime of violence" that allows the government to start deportation proceedings against the permanent resident. Federal courts are sharply divided.

Also yesterday, the justices:

Agreed to consider a pair of cases to flesh out guidelines for when lawsuits belong in federal or state court. One involves the family of a 14-year-old girl in Puerto Rico who cut her finger on a Star-Kist tuna can; the other involves gas-station owners in 35 states seeking to sue ExxonMobil in a dispute over a discount program.

Declined to decide whether the Pentagon was constitutionally obligated to give the news media access to U.S. troops during combat.

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a Somali's deportation. A9.

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