

# Free at last

AFRICAN IMMIGRANT WAS ONE OF THOUSANDS WHO LANGUISH IN DETENTION

BY JUSTIN MCLACHLAN

On this point, everyone agrees: Idrisa Sesay came to the United States 15 years ago on a passport from Sierra Leone. Where he's really from and which country should take him back now that a judge has ordered his removal are other matters.

Sesay insists he was born in Sudan and later brought to the U.S. as a teenager after he was given to another family as a slave. The Sierra Leonean passport, he says, is fake, but immigration officials don't believe him. They kept Sesay in a detention center in San Diego for three years, well past legal time limits set by the U.S. Supreme Court. If it weren't for Sesay's lawyer, he'd likely still be in detention, caught in a legal limbo that had no end.

He's not alone. Nationwide, there may be thousands more like him.

Just days after his release, Sesay sat in his lawyer's office, crying. For more than an hour, he relayed his story: how he'd been made a slave after his father was murdered and his mother couldn't afford to care for him; how he was brought to the U.S. by his slave master as a teenager; how he escaped and lived on the streets near Washington, D.C.; how he met a "very nice man" who gave him a place to live and sent him to school; how he got in trouble and ended up first in prison and then in an Immigration and Customs Enforcement detention center; how he waited there for three years before finally—and somewhat suddenly—being released after Thanksgiving.

A question about his next steps unsettles him. His gaze drops to the floor, and he fiddles with the buttons on his shirt, a black and yellow garment borrowed from a friend he met in detention, with whom he's currently staying. After a few long moments, he looks up, his brown eyes bloodshot and filled with tears.

## Detention

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final last January until Hughes asked a judge to release him. Liu spent a total of four years in detention before finally being deported earlier this month. Another client, Hui Mingh Chen, was recently released after three years in detention. She had no criminal record but was stopped by immigration at the border because she didn't have the proper documents. She's now staying with family in Pennsylvania.

In 2001, the U.S. Supreme Court ruled that this kind of indefinite detention raised serious constitutional issues. Justices said the government can hold immigrants only for a reasonable length, generally not more than six months after an initial review period that can be as long as 90 days. After that time, if the immigrant has cooperated and can show his

removal is unlikely to happen soon—and no special circumstances, like terrorism charges or HIV infection exist—he should be let go until travel documents are in hand.

Immigration officials admitted in court documents that none of those special circumstances existed in Sesay's case, but they justified his years-long detention with a host of ever-changing reasons. In some documents, they called him a flight risk and a danger to the community. In other documents, they said he wasn't cooperating and that he tried to derail his repatriation, a claim Fife said is "just crazy." In yet another document, the government claimed Sesay simply hadn't provided all the information Sierra Leone had requested while deportation officers were writing in their reports that the Sierra Leone consulate had stopped responding to calls about Sesay months earlier.

Sesay told *CityBeat* that he was willing to go anywhere if it meant he'd get out of detention.

"I started writing embassies to see if they

"I'm angry," he said. "They destroyed so many lives."

To be fair, many of Sesay's current immigration problems are of his own making. He realizes this. The order to remove him came after a conviction for sexual battery that was preceded by a long record of run-ins with law enforcement. He served his prison time, though, and even waived his right to appeal the removal order. If it weren't for the sexual-battery conviction, an "aggravated felony" under immigration law, he might have been granted asylum in the U.S. Instead, he was placed in detention until the government could get travel documents to send him to Sierra Leone.

James Fife, an attorney with Federal Defenders of San Diego, said that wasn't ever likely to happen. He said Sierra Leone is notorious for not even repatriating its own citizens, let alone those with disputed citizenship. Fife said that if the government had given Sesay's claim about Sudan more credence in the beginning, his prolonged detention could have been avoided.

"They had this tunnel vision: 'No, you're from Sierra Leone, and that's all we're going to investigate,'" Fife said. In 2007, he asked a federal district court to release Sesay, citing his long detention. A judge denied the request, calling the claim that he's Sudanese "self-serving" and "inconsistent." The judge said Sesay held "the keys to his own liberty in his pocket," hinting that if he just said he was from Sier-

ra Leone, all would be well.

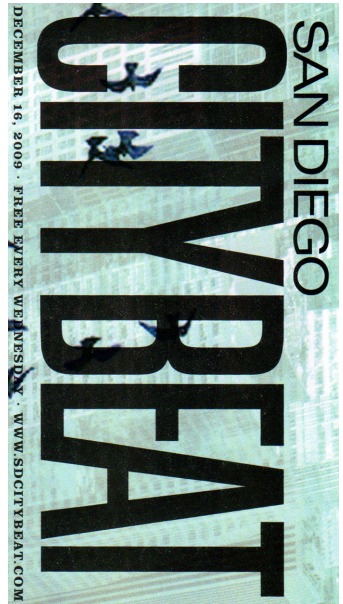
"They wanted this guy to lie," Fife said.

Sesay's case isn't unique. In the last 10 years, the total number of immigrants in custody has tripled, according to a recent report by Amnesty International USA. Another report from the Congressional Research Service said that in the mid-1990s, when detention numbers were 60 percent lower than they are now, nearly 5,000 people were languishing in detention indefinitely. Detention happens, most frequently, when an immigrant's home country won't take him or her back or doesn't have diplomatic relations with the U.S. The actual number of indefinite detainees being held today is anyone's guess—the government doesn't seem to keep good statistics.

There are others in San Diego, too, said Kristi Hughes, a colleague of Fife's at the federal defenders office. She said that Siang-Piow Liu, an immigrant from Malaysia, sat in the same detention center as Sesay for an extra year because no one in immigration noticed that his removal order became

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—IDRISA SESAY



Man without a country finally  
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can accept me," he said. "I wrote to Canada. I wrote to Norway. I wrote to Denmark. Iceland. And Australia. And Ireland."

The answer he got, though, was generally no. Still, Fife said Sesay "was making more of an effort to be removed than ICE was."

In late November, everything changed. After years of fighting, the government suddenly decided to release Sesay for reasons that neither he nor Fife fully understand, though they suspect it may have something to do with the appeal of the 2007 ruling that Fife filed on Sesay's behalf (both the U.S. Attorney's Office and an immigration spokesperson declined to be interviewed for this story).

Sesay's release is conditional, like a convict on parole. He has to check in regularly with immigration and stay out of trouble, or he could be put back in detention. If ICE can get travel documents to a country that will take him—from Sierra Leone or anywhere else—he'll be detained again and ultimately

deported. The plan now, he told *CityBeat*, is to head across the country to stay with a former girlfriend in Tennessee. He's been told to report to immigration officials in New Orleans by Dec. 30.

Now that Sesay's free, Fife says the U.S. Attorney's Office has asked him to withdraw his appeal. That doesn't sit well with Sesay. "I don't want no dismissal, Mr. Fife," Sesay told his lawyer during the interview with *CityBeat*.

But Fife points out other issues. A decision in Sesay's favor might only affect his case, but a bad decision could affect a lot of other immigrants still being held. Faced with that, Sesay relents. He tells Fife to do what he thinks is best.

For now, Fife's main concern is that Sesay isn't locked back up in another detention center with no hope of ever getting out.

"That's not going to happen," Fife said.

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