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## Unrepresented Citizen Fights to Stay in U.S.

Government Pushes To Deport Fresno Man, Despite Proof of California Birth

**By Sandra Hernandez**  
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LOS ANGELES - In September, Jose Ledesma was sent to a Southern California immigration detention center, marking the second time in three years that federal officials had detained the 25-year-old U.S. citizen.

He was released Nov. 4, just hours after the Daily Journal contacted U.S. Immigration and Customs Enforcement about his case.



Alan Mittelstaedt / for the Daily Journal

During his two months in detention, Jose Ledesma Ledesma said he repeatedly told government lawyers and a judge he was born in California.

Twice, his family provided government lawyers with copies of his birth certificate marked "certified copy" by the Madera County clerk recorder's office, showing Ledesma was born along a stretch of Highway 99 at 10 a.m., "en route to the hospital."

Still, prosecutors accused Ledesma of being an undocumented immigrant from Mexico.

"They would tell me the birth certificate is no longer valid," Ledesma said.

"They used the wrong name," he said, noting that he was called Ledezma- Acosta in immigration court. "I told the judge that wasn't my name, but they said it was."

Over the past two years, nearly a dozen U.S. citizens have been mistakenly detained by federal officials, including Pedro Guzman, a U.S.-born man who is developmentally disabled and was deported in May 2007.

In October 2008, immigration officials acknowledged another U.S. citizen was held in a San Diego detention facility for two weeks, even though his family provided officials with his birth certificate. The man, who was twice deported to Mexico, was released after the American Civil Liberties Union became involved.

Like Ledesma, most of those cases involved citizens who fought to prove their claim without a lawyer.

Unlike criminal defendants who are assigned public defenders, those detained in immigration cases are not entitled to free legal representation because their cases are considered civil proceedings, even when they are incarcerated.

About 83 percent of those detained in 2007 had no legal representation, according to the U.S. Justice Department. Of the 117,900 detainees, only 20,000 had a lawyer with them in court.

Legal experts said reports of such cases have spiked amid ramped-up enforcement of existing immigration laws that have increasingly ensnared U.S. citizens.

"With increased immigration enforcement, more U.S. citizens will be caught up in a Kafkaesque no-man's land of immigration detention," said Stephen Yale-Loehr, who teaches immigration law at Cornell Law School.

Virginia Kice, a spokeswoman for ICE, who referred to Ledesma as Ledezma-Acosta, said he was held because he had previously told officials he was born in Mexico.

"Over the years, Ledezma-Acosta claimed multiple times to being a Mexican citizen who was illegally present in the United States," Kice wrote in an e-mail. "Mr. Ledezma-Acosta was again charged with immigration violations, based, in large part on his own prior statements."

She added that the government has no national database that indicates who holds citizenship.

Kice declined to provide detailed information on how ICE investigated Ledesma's claim of citizenship.

Ledesma admits that as a juvenile he told authorities he was born in Mexico, after his mother was deported and he was placed in foster care.

"I escaped from foster care when I was 14, and I didn't want to go back, so I said I was born in Mexico," Ledesma said.

Ledesma's release this November marked the first time immigration authorities recognized his U.S. citizenship since he was a child.

"I was deported at the border about 15 times," Ledesma said. "I would tell them I was born in Fresno and show them my birth certificate. But they would look at the birth certificate and tell me it was a fake. They would tell me I bought it and send me back to Mexico. They said my fingerprints didn't match."

At least four times between 2003 and 2008, Ledesma told immigration authorities he was born in Central California, according to government documents provided to him during his immigration case. And on at least one occasion, immigration agents held Ledesma even after he provided officials with a copy of his birth certificate.

An agent at the border wrote that Ledesma had displayed a birth certificate but "was not being truthful about his identity and nationality," according to a U.S. Department of Justice document dated Nov. 11, 2005.

The officials said Ledesma "was adamant that he is a United States citizen ... and that he resided in the U.S. until he was 15 years old, when his mother was deported and [he] was placed in foster care," according to the document.

Ledesma's claims to citizenship eventually led to multiple accusations of falsely claiming to be a U.S. citizen.

In 2005, a San Diego judge ordered him deported to Mexico.

He said it was the only time he claimed Mexican citizenship as an adult and did so to avoid remaining in detention.

Ledesma lived much of those years in Tijuana. He was arrested in 2005 for attempting to bring marijuana into the United States. The criminal trial was the first time Ledesma had legal help. Stephen Demik, a federal public defender in San Diego, was assigned to represent him.

Demik said he presented a government-issued copy of Ledesma's birth certificate during the trial.

"It's on record in his criminal case," Demik said. "If the government wants to find it, they can."

Ledesma was in a Lompoc federal prison when immigration officials showed up to interview him. He grew worried, and in July 2007 Ledesma wrote prison officials hoping to clear up his citizenship.

"I received a document from emigration and they tell me in this document that I have a detainer against me," Ledesma wrote on an inmate prison request form.

"I am NOT ilegal," he wrote. "I am an American citizen and I have proof of it. I send the copies of my birth certificate and California i.d and my social security number to see if you can do something to take of my hold."

His sister, Lidia Ledesma, sent copies of his birth certificate to prison officials. But, in September, Ledesma was transferred to the Mira Loma detention facility, about an hour north of Los Angeles.

Once again, Ledesma went before an immigration judge without an attorney.

"I don't know that much about the law, but I told the judge I was born here," Ledesma said.

The immigration judge at the detention center asked him if he was Ledezma-Acosta.

"I said it was wrong," Ledesma said. "The judge looked surprised. He turned off the tape recorder and began talking to the government attorney and then turned it back on and told me I had 15 days to provide facts to show I was a citizen."

Ledesma had no attorney and relied on his family for help. Lidia Ledesma again sent copies of the birth certificate and a copy of his baptismal certificate.

The family provided the Daily Journal with a copy of the documents in early November. The newspaper was immediately able to confirm with Madera County officials that a birth certificate with Ledesma's name and birth date is on file. The newspaper also confirmed with St. Joachim Church in Madera that a baptismal record is on file.

Ledesma said the judge asked him why he had so many previous deportations.

"I told him I had tried before but no one believed me," Ledesma said.

Legal experts said the burden of proof was on the government to show Ledesma wasn't a citizen.

"The birth certificate should have been enough to dismiss the case," said Bruce Einhorn, a retired immigration judge in Los Angeles. "I think it's a grave matter and raises serious questions as to why the case was even filed in immigration court, and he was detained."

Ledesma was released one day before his final hearing.

Sandra J. Santos, an attorney with the U.S. Department of Homeland Security, asked the court to dismiss the case against "Ledezma-Acosta" citing "the respondent's evidence regarding his citizenship," according to court documents.

Since his release, Ledesma has moved back to Fresno and found work in a poultry processing plant.

"I think the only reason I got out is immigration saw the newspaper stuff and didn't want to keep me in there after it was public," he said.

"I think I might have gotten out a lot faster if I'd had a lawyer," Ledesma said. "I know my rights, but in court you don't really understand all the legal stuff or they just don't believe you."

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