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Foreign national acquitted by jury of assault charges, remains detained

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A federal jury acquitted a Mauritanian citizen accused of physically resisting the efforts of deportation officers to put him on a plane to his homeland.

The jury deliberated about five hours Thursday before finding Amadou M'Baye not guilty of one count of assaulting employees of U.S. Immigration and Customs Enforcement.

Prosecutors alleged M'Baye attacked two deportation officers who were trying to escort him through a security checkpoint at O'Hare International Airport. Defense attorneys, however, maintained the officers assaulted their client.

M'Baye faced up to eight years in prison if convicted.

Despite his acquittal, M'Baye is not free. U.S. District Judge Robert M. Dow Jr. remanded him to ICE custody pending his deportation.

M'Baye was represented at trial by criminal defense attorneys Michael I. Leonard of LeonardMeyer LLP and Sami Ziad Azhari of Azhari LLC.

The men said the verdict was not typical for the type of case.

"It is very rare to get an acquittal in federal court, particularly in the Northern District of Illinois," Azhari said.

Leonard estimated federal prosecutors get convictions in up to 95% of cases that go to trial.

M'Baye is a native of Mauritania, a country in northwest Africa.

Some of M'Baye's family members were killed during the political turmoil in Mauritania in the early 1990s, Leonard said, and he fled to the United States to escape persecution.

While a new government is in place now, it includes some people who were in power 25 years ago, Leonard said.

M'Baye took various jobs as a factory worker and laborer in Ohio and Kentucky after arriving in this country, Leonard said.

In an affidavit submitted in September, ICE senior special agent James Buck said M'Baye entered the United States without authorization around February 1994.

M'Baye applied for asylum in December 1996, but U.S. Citizenship and Immigration Services denied the application a year later.

M'Baye filed an amended application in December 1998. An immigration judge denied the application in November 2001 and ordered that M'Baye be removed to Mauritania.

M'Baye appealed the judge's decision, and the Board of Immigration Appeals dismissed that appeal in July 2003.

He was not deported then, however, because immigration officials were unable to obtain a travel document for M'Baye from the Mauritanian government. He was then

released from custody.

In May 2018, ICE officers discovered M'Baye was in the Campbell County Jail in Newport, Ky., following his arrest for failure to appear on a citation. The citation, for attempted credit card fraud, was ultimately dismissed.

M'Baye was transferred to ICE custody in October 2018.

The Mauritanian embassy issued a travel document in August that allowed M'Baye to enter the country. It was valid for 120 days.

Three deportation officers took M'Baye from an ICE facility in Broadview, Ill., to O'Hare in September.

In his affidavit, Buck alleged security camera footage showed M'Baye fighting the two officers who tried to take him through a security checkpoint.

M'Baye resisted one officer with his right hand, Buck alleged. He alleged M'Baye grabbed the shirt collar of another officer with his left hand, scratching her neck, and tried to head-butt her.

The three officers got control of M'Baye and took him to the gate, Buck said. But they did not put M'Baye on the plane, he said, because a supervisor told them to take him to the Chicago field office.

A federal grand jury indicted M'Baye in October.

At a three-day trial last week, Leonard and Azhari maintained M'Baye's actions either did not constitute assault or were made in self-

defense.

"They got, in our view, very physical with him," Leonard said of the officers' actions.

While two of the officers testified, he said, the officer who allegedly was physically injured did not.

Leonard said the most significant factor in M'Baye's acquittal was the testimony of the two officers who took the witness stand.

"They were extraordinarily poor on cross-examination," he said. "They were impeached and shown not to be credible."

Azhari said he is pleased with M'Baye's acquittal.

"But, ironically, after all the preparations and trial, we're back to square one where this all started, with our client in ICE custody subject to deportation," he said.

"So it makes us wonder why this case was brought in the first place because, by bringing this case, they essentially extended his stay in this country."

The case is *United States v. Amadou M'Baye*, No. 19 CR 759.

Assistant U.S. Attorneys Devlin Su and Jason A. Julien prosecuted the case.

"We respect the jury's verdict, though we are disappointed in the outcome," spokesman Joseph Fitzpatrick of the U.S. Attorney's Office said in a statement. "Our office takes assaults of law enforcement officers very seriously, and we will continue to do so."