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U.S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Jalal Hmaidan,
Murad Al-Hnitin,
Mohammed Aidouni,
Maitham Alzehrani,
Nhat Tran,
Keovongsack Pongphrachanxay,
Den Son,
and others similarly situated,
Petitioners

v.

John Ashcroft, Attorney
General of the United States;
Brian Perryman, as Chicago
District Director, Immigration and
Naturalization Service;
Immigration and Naturalization Service;
United States Department of Justice;
Respondents

DOCKETED

JUL 22 2002

02C 5097
JUDGE ZAGEL

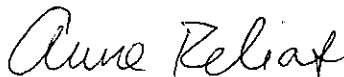
CERTIFICATE OF
SERVICE

MAGISTRATE JUDGE LEVIN

CASE No.:

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the attached "CLASS ACTION PETITION FOR WRIT OF HABEAS CORPUS AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF" by Certified United States Mail, this 18th day of July, 2002.



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CLASS ACTION PETITION
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DECLARATORY AND
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MAGISTRATE JUDGE LEVIN
CASE No.:

U.S. DISTRICT COURT
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**CLASS ACTION PETITION FOR WRIT OF HABEAS CORPUS
AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF**

1. The Supreme Court has held that the Attorney General and the Immigration and Naturalization Service ("INS") have no statutory authority to detain aliens where there is no reasonable likelihood of removing them from the United States. Zadvydas v. Davis, 533 U.S. 678 (2001). The Attorney General and his Immigration and Naturalization Service ("INS") have adopted procedures that delay, ignore, or hinder the release of individuals whom the INS has no authority to detain, practically forcing detainees to bring suit in federal court in order to obtain their liberty. The Attorney General's administrative procedures place unreviewable and standardless decisions to continue detention in the hands of a

faceless bureaucracy, without setting any deadlines, providing for any hearing, ordaining any review by an impartial adjudicator, permitting any administrative appeal of a negative decision, or instituting any other procedures designed to safeguard the liberty interests of indefinite detainees. The seven named Plaintiffs are all detained by the INS; they have been ordered removed from the United States, but cannot be removed to their countries of origin; they have all been detained for longer than six months after entry of the final order of removal (the “presumptively reasonable” length of time for the INS to secure removal). They argue that the Respondents’ procedures violate Procedural and Substantive Due Process, as well as the Administrative Procedures Act. These seven detainees seek habeas and injunctive relief for themselves, and for those who are or will be similarly situated in the Chicago District.

JURISDICTION

2. This Court has jurisdiction pursuant to 28 U.S.C. §2241, the general grant of habeas authority to the District Courts; Art. I, §9, cl. 2 of the United States Constitution, 28 U.S.C. § 1361 (mandamus authority), 28 U.S.C. § 1331(a) (federal action), and 5 U.S.C. §§ 701-706 (Administrative Procedures Act). This Court has jurisdiction to grant declaratory relief pursuant to 28 U.S.C. §§ 2201 and 2202 and Fed. R. Civ. P. 57 and 65. Statutory limitations on the Court’s ability to grant injunctive relief, 8 U.S.C. §1252(f)(1), are inapplicable to this claim; the Petitioners do not seek to restrain the “operation of the provisions of part IV” of the INA, but rather, to limit the Attorney General’s ability to continue a form of detention which the Supreme Court has held is not authorized by statute. Further, §1252(f)(1) would go only to limit the remedy requested, and would not deprive the Court of its ability to hear the case.

THE PARTIES

3.
 - a) Petitioner Jalal Hmaidan, is a native of Kuwait City, Kuwait, and of Palestinian descent. He is detained by and under the authority of the INS Chicago District Director, Brian Perryman, and the Attorney General of the United States.
 - b) Petitioner Murad Al-Hnitin is a native of Jordan. He is detained by and under the authority of the INS Chicago District Director, Brian Perryman, and the Attorney General of the United States.
 - c) Petitioner Mohammed Aidouni is a native and citizen of Algeria. He is detained by and under the authority of the INS Chicago District Director, Brian Perryman, and the Attorney General of the United States.
 - d) Petitioner Maitham Alzehrani, is a native and citizen of Iraq. He is detained by and under the authority of the INS Chicago District Director, Brian Perryman, and the Attorney General of the United States.
 - e) Petitioner Nhat Tran, is a native and citizen of Vietnam. He is detained by and under the authority of the INS Chicago District Director, Brian Perryman, and the Attorney General of the United States.
 - f) Petitioner Keovongsack Pongphrachanxay, is a native and citizen of Laos. He is detained by and under the authority of the INS Chicago District Director, Brian Perryman, and the Attorney General of the United States.
 - g) Petitioner Den Son is a native and citizen of Vietnam. He is detained by and under the authority of the INS Chicago District Director, Brian Perryman, and the Attorney General of the United States.
4. John Ashcroft is the Attorney General of the United States. He has implemented regulations that have the effect of obstructing and hindering the Supreme Court's

decision in Zadvydas. His agents continue to detain the Petitioners; Petitioners are detained under authority of the Attorney General.

5. Brian Perryman is the Chicago District Director for the Immigration and Naturalization Service. He is the legal custodian of the Petitioners.
6. Respondent Immigration and Naturalization Service is an agency of the United States Department of Justice and is the agency responsible for enforcing the immigration laws.
7. Respondent United States Department of Justice is a department of the executive branch of the United States government and is responsible for enforcing the immigration laws.

VENUE AND INTRADISTRICT ASSIGNMENT

8. Petitioners are filing this Petition in the district in which the continuing decision is being made to detain the Petitioners; and in which district Petitioners' custodian, Brian Perryman, Chicago District Director of the Immigration and Naturalization Service, resides and has his place of business.

CLASS ALLEGATIONS

9. Pursuant to Fed. R. Civ. P. 23(a) and 23(b)(1) and (b)(2), Petitioners bring this action on behalf of themselves and all other similarly situated individuals. The Petitioner class consists of:

Individuals who have "entered" the United States, who are not detained pursuant to any regulation or law relating to terrorism or national security, who have been or will have been detained by and under the authority of the Chicago District of the INS for more than six months after the entry of an administratively final order of removal, without opportunity to have such detention reviewed administratively by an impartial adjudicator.

10. The class is so numerous that joinder of all members is impracticable. The number of individuals within the Chicago District who are detained by the INS more than six months after a final order of removal is not known with precision, and is believed to fluctuate. However, there are currently pending, on information and belief, more than 60 separate habeas actions in the Northern District of Illinois, brought by individuals who are, or claim to be, class members. In addition, Plaintiffs seek to define the class to include future class members, so that the actual number will continue to increase.
11. There are a number of common questions of law and fact, including (1) whether the statute authorizes the continued detention of members of the Plaintiff class under the current INS regulations; (2) whether the procedures employed by the INS for class members are facially violative of Procedural or Substantive Due Process; (3) whether Due Process is violated as applied to the Plaintiff class; and (4) whether INS sub-regulatory agency actions, in administering these regulations are arbitrary and capricious actions violative of the Administrative Procedures Act.
12. The claims of the individual-named Petitioners are typical of the claims of the class. Each named Petitioner is a non-citizen with an administratively final order of removal, who has been detained for more than six months after that order was entered. Each has been detained unreasonably and without lawful justification by the Defendants, and each has either failed to receive a timely decision whether to continue or cease detention, or received a decision which is unreasonable and incorrect. Respondents have applied their unlawful practices to each named Petitioner.
13. Petitioners know of no conflict between their interests and those of the class they seek to represent. In defending their own rights, the individual Petitioners will defend the rights of all proposed class members.

14. The individual Petitioners are adequate representatives of the class because they have been adversely affected by Respondents' statutory and constitutional violations.
15. Petitioners' attorneys from the Midwest Immigrant and Human Rights Center are experienced attorneys who have the resources to represent the class as a whole. Further, Petitioners' attorneys are the only agency which actively visits the jails in the Chicago District in which the INS detains individuals.
16. Defendants have acted on grounds generally applicable to each member of the class, insofar as they have failed to release the Petitioners despite their inability to remove them to any other country, and have applied statutorily and constitutionally inadequate procedural protections to each.

GENERAL ALLEGATIONS

17. Prior to 2001, the INS interpreted INA §241(a), 8 U.S.C. §1231(a), enacted in 1996, as permitting the indefinite detention of any immigrant whom it could not remove from the country, 8 C.F.R. §241.4(b) (1997); the INS by regulation created a presumption of detention for individuals ordered removed on certain criminal grounds. 8 C.F.R. §241.4(a) (1997). See, 62 Fed. Reg. 10312, 10378 (March 6, 1997). The presumption of continued detention could only be disproven by "clear and convincing evidence that the release would not pose a danger to the community or a significant flight risk." 8 C.F.R. §241.4(a) (1997).
18. This regulation created a class of individuals known as "lifers," who were unable to meet this standard of proof, and were therefore potentially detained by the INS until death or deportation, whichever came first.
19. Numerous lawsuits followed. Many detainees argued that the statute and regulations violated the Due Process Clause of the Fifth Amendment. The circuits

- split on the issue. Cf., Zadvydas v. Underdown, 185 F.3d 279 (5th Cir. 1999) (finding Due Process not violated because deportation was not “impossible”); Kim Ho Ma v. Reno, 208 F.3d 815 (9th Cir. 2000) (holding statute did not authorize detention past a “reasonable time” after 90 day removal period).
20. The Supreme Court granted certiorari to resolve the split, and in 2001, found as a matter of statutory construction (based on constitutional doubt as to the validity of a statute which said otherwise) that INA §241(a) does not grant authority to detain individuals longer than reasonably necessary to secure deportation or removal. Zadvydas v. Davis, 533 U.S. 678 (2001). To limit litigation, the Supreme Court held that a six month period of detention was presumptively reasonable.
21. The Attorney General publicly attacked the Supreme Court’s decision. “Absent prompt action on our part, th[e Zadvydas] decision could result in the release of thousands of dangerous criminal aliens onto the streets of America over the next several months.... The result of the Supreme Court's ruling is that criminal aliens will be released from detention onto the streets of America.” Attorney General Prepared Remarks, Long-term INS Detainees/Colorado Safe Neighborhoods Event, July 19, 2001, www.usdoj.gov/ag/speeches/2001/071901insdetaineescoloradosafe.htm. “The Supreme Court's ruling will inevitably result in anomalies in which individuals who have committed violent crimes will be released from detention simply because their country of origin refuses to live up to its obligations under international law.” 66 Fed. Reg. 38433-38434 (July 24, 2001).
22. On November 14, 2001, the Respondents published post-Zadvydas regulations governing the continued detention of individuals ordered removed. 66 Fed. Reg. 56967 (Nov. 14, 2001), codified at 8 C.F.R. §§241.4, 241.13, 241.14.
23. Under these regulations, the initial determination to continue to detain an individual ordered removed is made by the INS District Office at the end of the

statutory 90 day removal period. 8 U.S.C. §1231(a)(1). For this initial determination, the impossibility of effectuating removal does not trigger release. 8 C.F.R. §241.4(e). The initial review process maintains the pre-Zadvydas focus on dangerousness and flight risk, postponing a Zadvydas analysis for a second round of custody review.

24. The Attorney General also created, by regulation, the “Headquarters Post-order Detention Unit” (“HQPDU”) to conduct the second level custody review. Only the HQPDU can consider release under Zadvydas – though the custodian of given detainees remains the various District Directors.
25. The HQPDU is given the option to wait until six months have passed in order to begin considering release. 8 C.F.R. §241.13(d)(3). The HQPDU generally does not decide to release a detainee until they have been detained six months after their final order of removal.
26. Under the current procedures, there is no evidentiary hearing regarding the individual case of an individual whom the INS determines to detain due to the possibility of that individual being removed to their country of citizenship; nor is there a hearing where an individual has allegedly failed to cooperate with efforts to secure removal.
27. The current procedures permit a role for an impartial adjudicator only in cases involving “special circumstances,” where the INS acknowledges that a given individual cannot be removed from the United States, but believes that release into the community should not be permitted. See generally, 8 C.F.R. §241.14. On information and belief, these proceedings are rarely, if ever, employed. They have no applicability to the Plaintiff class, which definitionally excludes individuals detained as threats to national security and individuals who receive evidentiary hearings before impartial magistrates. No impartial adjudicator issues any determination in a case in the Plaintiff class.

28. The regulations provide for no administrative appeal of an INS agent's determination (1) that an individual has not cooperated in securing their own return, or (2) that there is still a possibility of removal.
29. The regulations provide no timeframe within which an INS agent's determinations are to be made. At no point does an INS failure to make a determination trigger review by any other impartial or review body, or trigger release.
30. Although required by regulation to give 30 days notice to the detainee of any review by the HQPDU, 8 C.F.R. §241.4(k)(2)(i) and (ii), such notice is not meaningfully given to the plaintiff class. Either it is not given, or in the rare case where it is given, it does not comport with the regulatory requirement.
31. The INS pattern and practice is to take in excess of six months to determine whether to release a given individual from detention.
32. The INS HQPDU has a pattern and practice of "suspending" the removal period for class members, requiring them to show efforts to secure their own removal, in situations where that individual has never failed to cooperate with removal efforts.
33. The Respondents' pattern and practice is to require members of the Plaintiff class to make an affirmative showing of "cooperation" even where INS files clearly demonstrate that such efforts have already been made, or where efforts would clearly be futile, such as in cases where the detainee is a citizen of a country for which the Respondents know it is impossible to obtain travel documents.
34. The Respondents' pattern and practice is to place a burden of proof on detainees to show cooperation, without regard to the length of time for which the detainee has already been detained after entry of an order of removal. This ignores the Supreme Court's holding that the length of time in detention is relevant to the possibility of effectuating removal in the reasonably foreseeable future.
35. These procedures have prompted many actions in habeas corpus to be brought pro

se by detainees unsure of what is happening with their requests for release. Since the plaintiff class has by definition been detained at least six months – many have been detained for 12 months or longer – there is a high rate of indigence for the plaintiff class. These individual pro se habeas actions have not resulted in resolution of the Plaintiff class’s procedural claims.

36. The named plaintiffs have all been detained for in excess of six months, and cannot be removed to their countries of origin.
37. Petitioners herein recount the applicable facts for each of the named plaintiffs herein. Petitioner Hmaidan’s facts are as follows:
 - a) Jalal Hmaidan entered the United States in 1976 after the death of his mother. Ex. (“Ex.”) A(1). He is a Palestinian, who has a Jordanian passport but is effectively stateless. His aunt, a United States citizen, adopted him in 1978, at the age of twelve.
 - b) As Mr. Hmaidan was permitted by the Respondents to enter and to reside in the United States, he effectuated an “entry” into the United States.
 - c) In January of 1998, Mr. Hmaidan was convicted of possession with intent to deliver and he received a sentence of six years incarceration. Ex. A(1). After serving 33 months, he was released on account of “Good Time.”
 - d) During his incarceration, Respondent INS began removal proceedings against Mr. Hmaidan. Id. An Immigration Judge ordered Mr. Hmaidan removed on October 5, 2000, Ex. A(2), and the Board of Immigration Appeals denied Petitioner’s appeal on August 8, 2001. Ex. A(3). The Board’s decision constitutes an administratively final order of removal.
 - e) Mr. Hmaidan was then released from his jail sentence. He has been detained by the Respondents since September 28, 2001. At this point, he has been detained by the Respondents for more than ten months, all of which are after his removal order was final.
 - f) Mr. Hmaidan has a mother, brother, and grand-mother living in the United States, all of whom are United States Citizens or Lawful Permanent Residents. He also has United States Citizen daughter who is eleven years old. He has been living in the United States for the past 25 years.
 - g) Mr. Hmaidan has diligently requested travel documents from both the Jordanian and Kuwaiti consulates. His counsel sent letters requesting travel documents to both consulates by certified mail on February 4, 2002. Ex. A(9), A(10). Mr. Hmaidan followed up with handwritten letters on February 18, 2002. Ex. A(11), A(12). There has been no response to date.
 - h) On March 22, 2002, Mr. Hmaidan’s Attorney requested Petitioner’s release from the Post Order Detention Unit of the INS in Washington D.C.

- ("HQPDU"). See Ex. A(4).
- i) On April 29, 2002, Mr. Hmaidan was served, by hand-delivery, a Notice to Alien of File Review, to be conducted by the Chicago District Office on May 30, 2002. Ex. A(5). A copy was also mailed to counsel. He was invited to submit documents in support of his release, pursuant to 8 C.F.R. §241.4.
 - j) This local custody review was scheduled to take place at the seven month mark, four months after the point at which the regulations provide for such a custody review. 8 C.F.R. §241.4(h)(1).
 - k) Through counsel, Mr. Hmaidan replied to the INS's invitation to submit documentation in support of release. On May 3, 2002, he again submitted this documentation. See Ex. A(6).
 - l) Then, on May 8, 2002, the HQPDU replied to Mr. Hmaidan's request for release, asking Mr. Hmaidan to provide copies of correspondence and other documentation to show his good faith effort to secure his own removal. Ex. A(7). This information had already been provided.
 - m) The May 8, 2002, letter also inform Mr. Hmaidan that the removal period is "held in suspense" until such period as he provides this information. Id.
 - n) On May 24, 2002, Mr. Hmaidan responded to the INS's letter of May 8, 2002, including (a third time) proof that he is cooperating with attempts to secure his own removal. See Ex. A(8).
 - o) Mr. Hmaidan has been in Respondents' custody for ten months and they have been unable to effectuate his removal in this time. Respondents are unable to remove Petitioner to his country of origin, Kuwait, or the country from which Petitioner had a temporary passport, Jordan. There is no reasonable likelihood that the Petitioner can be removed from the United States in the foreseeable future. Petitioner is of Palestinian descent and is stateless.

38. Petitioner Al-Hnitin's facts are as follows:

- a) Murad Al-Hnitin entered the United States on June 29, 1996 on a B-2 visitor visa. See, Ex. B(1).
- b) Because Mr. Al-Hnitin was permitted by the Respondents to enter and to reside in the United States, Petitioner effectuated an "entry" into the United States.
- c) Mr. Al-Hnitin did not leave the United States, as he was supposed to do, on December 28, 1996. Instead, he remained in the United States, and began working at a "Quickstop," in Chicago, Illinois. Id.
- d) Respondent INS issued a Notice to Appear against Mr. Al-Hnitin on October 4, 2001, for working when his visa did not permit employment, and for overstaying his visa. Id.
- e) Mr. Al-Hnitin did not contest the charges. He was ordered removed by the Immigration Judge on October 24, 2001. See Ex. B(2). No appeal was

taken, and that order therefore became a final administrative order of removal.

- f) Mr. Al-Hnitin is still detained by the Respondents. He has now been detained for nearly eight months after the entry of the order of removal.
- g) Mr. Al-Hnitin has cooperated, and is willing to cooperate with efforts to secure his removal. See Ex. B(3). His Attorney has written to the Jordanian Consulate requesting travel documents for Petitioner. See Ex. B(4). There has been no response.
- h) Mr. Al-Hnitin has apparently never received any custody review by the Chicago INS. The regulations provide for a file review after 90 days in detention. 8 C.F.R. §241.4(h)(1).
- i) Mr. Al-Hnitin wrote to the INS, pro se, on March 3, 2002, requesting that the INS either deport him to Kuwait, or release him. Ex. B(3).
- j) On June 28, 2002, Mr. Al-Hnitin's attorney, Anne Relias, wrote to the HQPDU, also requesting release under Zadvydas. Ex. B(5).
- k) On July 10, 2002, the Respondent INS HQPDU advised Mr. Al-Hnitin that it was holding his removal period "in suspense" until he (re)submitted evidence that he was cooperating with attempts to remove him. See Ex. B(6).
- l) Respondents are unable to remove Mr. Al-Hnitin the country where he was born, Jordan, due to his Palestinian ancestry. There is no reasonable likelihood that the he can be removed from the United States in the reasonably foreseeable future; there is no indication that Respondents will be able to do in the next nine months what they have not been able to remove him in the past nine months.

39. Petitioner Mohammed Aidouni's facts are as follows:

- a) Mohammed Aidouni entered the United States as a stowaway in 1991, fleeing from Algeria. Ex. C(1).
- b) Because Mr. Aidouni successfully entered and resided in the United States, he effectuated an "entry" into the United States, under the legal meaning of that term, despite the fact that he entered as a stowaway. Matter of A-, 9 I&N Dec. 356, 358 (BIA 1961).
- c) Some years after his entry, Mr. Aidouni was convicted of retail theft, and given a sentence of one year incarceration. See, Ex. C(1). The government then began proceedings to remove Mr. Aidouni from the country with a Notice of Intent to Issue a Final Administrative Removal Order, on June 10, 1999. *Id.* The INS alleged that Mr. Aidouni had been convicted of an aggravated felony, and had entered the United States as a stowaway on or about September 26, 1991. Since Mr. Aidouni did not contest the facts therein, the INS issued a Final Administrative Removal Order against Mr. Aidouni on August 10, 1999. Ex. C(2).
- d) Because Mr. Aidouni was afraid to return to Algeria, he sought

- “Withholding of Removal” to Algeria, and protection under the Convention Against Torture. For some reason, the government did not act in his case for 10 months, before holding a hearing on June 26, 2000. Ex. C(3). On that date, Mr. Aidouni testified before an Asylum Officer regarding his fear of returning to Algeria. The Asylum Officer determined that there was a “reasonable possibility” that Mr. Aidouni would be tortured or persecuted if returned to Algeria, and referred his case to an Immigration Judge for adjudication of his application. Id.
- e) The Immigration Judge determined that although there was a “reasonable possibility” that Mr. Aidouni would be tortured or persecuted if returned, that Mr. Aidouni could not show that it was “more likely than not” that these things would occur. He therefore denied Mr. Aidouni’s application for Withholding of Removal or Deferral of Removal under the Convention Against Torture. Mr. Aidouni appealed the Judge’s decision, but his claim was ultimately denied by the Board of Immigration Appeals on October 11, 2001. Ex. C(5).
 - f) Although, Mr. Aidouni has had an administratively final order of removal since August 10, 1999, the Respondents were legally prevented from removing him until the October 11, 2001, order.
 - g) Mr. Aidouni has been detained by the INS for nearly three years since the entry of an administratively final order of removal. Mr. Aidouni has been detained by the INS for more than nine months since the Board’s order denying relief under the Convention Against Torture removed all obstacles to his removal from the U.S.
 - h) The government has never been able to secure travel documents for Mr. Aidouni, though they have been seeking such documents for approximately three years. There is no reasonable likelihood that they will succeed in obtaining such documents in the foreseeable future.
 - i) Nevertheless, the government has informed Mr. Aidouni that the Algerian government has never actually refused to issue a travel document; therefore, says the government, it continues to be possible that he can be removed to Algeria.
 - j) On November 6, 2001, the Respondent INS informed Mr. Aidouni that it would conduct a file review in his case on December 6, 2001. Ex. C(7).
 - k) On May 16, 2002, the Respondent INS decided to continue to detain Mr. Aidouni, stating “[y]ou were convicted of robbery and possession of a weapon.” Ex. C(8). It appears that this letter is in response to the December 6, 2001, hearing, and that it simply took the Respondents more than five months to make their determination.
 - m) There is no reasonable likelihood that the Mr. Aidouni can be removed from the United States in the reasonably foreseeable future.

40. Petitioner Maitham Alzehrani’s facts are as follows:

- a) Maitham Alzehrani entered the United States on August 18, 1993, as a

- refugee, fleeing persecution in Iraq. See Ex. D(1). He thereafter became a Lawful Permanent Resident, on June 16, 1996. Id.
- b) Because Mr. Alzehrani was permitted by the Respondents to enter and to reside in the United States, he effectuated a legal “entry” into the United States.
 - c) Mr. Alzehrani was convicted of unlawful restraint and domestic battery in 1997, and criminal sexual assault in 1998. See Ex. D(1).
 - d) On December 15, 2000, the Respondents issued a Notice to Appear against Petitioner. Ex. D(1). The Respondents alleged that Mr. Alzehrani was removable for committing crimes involving moral turpitude, for committing an aggravated felony, and under 8 U.S.C. §1227(a)(2)(E)(i) for a crime involving domestic violence. Pursuant to these charges, Mr. Alzehrani was ordered removed on August 20, 2001. See Ex. D(2). He did not appeal; that order was therefore a final administrative order of removal.
 - e) Mr. Alzehrani has been detained by the Respondents since April 13, 2001. At this point, he has been detained by the Respondent for fourteen months, nearly 11 of which are subsequent to the entry of the order of removal against Mr. Alzehrani.
 - f) On October 3, 2001, shortly after the Supreme Court’s Zadvydas decision, Respondents issued a decision to continue to detain Mr. Alzehrani. See Ex. D(3). The INS said that it was continuing to detain him because (1) he hadn’t presented clear plans on where to live and how to support himself once released, (2) he had displayed an “escalating pattern of violence,” and (3) he had not demonstrated that he is “no longer a threat to society.” Id.
 - g) On May 2, 2002, Respondents issued another decision to continue to detention of Mr. Alzehrani. This time, the INS HQPDU denied release because “[t]he INS has had some success in securing travel documents for Iraqi nationals. A request for a travel document was sent out to the Iraqi Interest Section on December 14, 2002 [sic]. It is currently pending.” Ex. D(4).
 - h) On May 10, 2002, Mr. Alzehrani, now through counsel, renewed his request for release under Zadvydas with the Post Order Detention Unit of the INS. Ex. D(5).
 - i) On June 6, 2002, the HQPDU responded by informing Mr. Alzehrani that it was holding his removal period “in suspense” pending submission (again) of evidence that he was cooperating in securing his own deportation.
 - j) Respondents are unable to remove Mr. Alzehrani to his country of origin, Iraq. The United States does not have diplomatic relations with Iraq; removing an Iraqi is as difficult as removing an individual from Cambodia, Cuba, Vietnam and other countries. See Ex.s D(9) and D(12).
 - k) Mr. Alzehrani has cooperated, and is willing to cooperate with efforts to secure his removal. See Ex.s D(6), D(7) and D(10). Through counsel, Mr. Alzehrani has contacted the Iraqi Interests Section, but without success or

response.

- l) The Attorney General has not been able to remove Mr. Alzehrani for the past ten months, and will be unable remove him to Iraq for the foreseeable future.

41. Petitioner Nhat Tran's facts are as follows:

- a) Nhat Tran entered the United States on March 20, 1984, as a refugee. He was five years old. Mr. Tran is a native and citizen of Vietnam. Ex. E(1).
- b) Mr. Tran obtained Lawful Permanent Resident status on December 13, 1985. Id.
- c) The Respondent INS began removal proceedings against Mr. Tran after he committed the offenses of Retail Theft in 1997 and Theft Embezzlement by Bank Officer in 2001. The INS began proceedings on November 5, 2001. Id.
- d) Mr. Tran was ordered removed on January 8, 2002, by an Immigration Judge. Ex. E(2). He did not contest or appeal the order, and it therefore became an administratively final order of removal.
- e) On March 18, 2002, the Chicago District of the INS notified Mr. Tran that his custody would be reviewed on April 18, 2002. Ex. E(3). Mr. Tran was invited to submit documents showing why he should be released. Mr. Tran responded by submitting letters and documents from a number of friends and family members.
- f) As of the date of this filing, Mr. Tran remains detained by the INS. No decision has yet been communicated to him, regarding his custody status.
- g) Mr. Tran has now been detained by the INS for more than six months after the entry of the administratively final order of removal.
- h) There is no likelihood that Mr. Tran can be removed to Vietnam in the reasonably foreseeable future, because Vietnam does not accept deportations from the United States.

42. Petitioner Keovongsack Pongphrachanxay's facts are as follows:

- a) Keovongsack Pongphrachanxay entered the United States as an immigrant on August 29, 1981. Ex. F(1), F(2). He was born in Laos, but entered the United States through Thailand, where he and his family were living in a refugee camp.
- b) The INS began removal proceedings against Mr. Pongphrachanxay on November 9, 2001, because of Mr. Pongphrachanxay's 1997 conviction for Armed Robbery and his 1995 conviction for Robbery.
- c) Mr. Pongphrachanxay did not contest the charges of removability against

- him, and was ordered removed by the Immigration Judge on December 20, 2001. Ex. F(2). This decision was not appealed, and became an administratively final order of removal.
- d) Because Laos does not accept deportees back into Laos, Mr. Pongphrachanxay cannot be physically removed to Laos.
 - e) On March 18, 2002, the Chicago District of the INS notified Mr. Pongphrachanxay that it would review his custody on April 18, 2002. Ex. F(3). It invited him to submit documents and other evidence, showing why he is not a danger to the community, and should be released. He complied with this request.
 - f) Mr. Pongphrachanxay's request was apparently denied, though he was not notified of this fact.
 - g) The next communication received by Mr. Pongphrachanxay was a letter from the INS's HQPDU, informing him that his removal period was being "suspended" until he submitted evidence that he was cooperating in securing his own removal to Laos. Ex. F(4). This letter was sent on May 21, 2002.
 - h) As the Respondents well know, it is impossible for individuals to be removed to Laos. Any efforts which Mr. Pongphrachanxay would make would clearly be futile.
 - i) Mr. Pongphrachanxay has now been detained for over six months after entry of an order of removal against him. There is no possibility that he will be removed to Laos in the reasonably foreseeable future.

43. Petitioner Den Son's facts are as follows:

- a) Den Son entered the United States as an immigrant on May 23, 1991. He came to the United States to look for his father, whom he believes to have been a soldier in Vietnam. Mr. Son is a native and citizen of Vietnam, but is Amerasian by ethnicity. Ex. G(1). He speaks little English.
- b) Because Mr. Son was permitted by the Respondents to enter and to reside in the United States, he effectuated a legal "entry" into the United States.
- c) In January 1992, Mr. Son was convicted of home invasion and was sentenced to twenty years.
- d) While incarcerated, the INS began deportation proceedings against Mr. Son. Ex. G(1). He was ordered deported by an Immigration Judge on February 22, 1995, and the Board of Immigration Appeals dismissed his appeal on August 3, 1995. This is the final administrative removal order in his case.
- e) Mr. Son was then released from his state sentence and transferred to INS custody on June 8, 2001. He has been in INS custody since that point.
- f) On September 22, 2001, he was sent a notice, by "institutional mail," that his 90 day file review would be conducted that very day. Ex. G(2). INS

Officer Anthony Figueroa signed a certificate of service to that effect on September 22, 2001.

- g) Mr. Son has now been detained by the INS for more than a year, all of which has been after the entry of the final order of deportation.
 - h) It appears, on information and belief, that the INS temporarily misplaced Mr. Son's file.
 - i) Mr. Son has cooperated, and is willing to cooperate with efforts to secure his removal. See, Ex. G(3).
 - j) Mr. Son has sought release both from the Chicago INS Office and from the HQPDU. Ex. G(4), G(5). His requests have thus far been unavailing.
 - k) There is no reasonable likelihood that the Mr. Son can be removed from the United States in the reasonably foreseeable future as the United States has no repatriation agreement with Vietnam.
44. None of the named plaintiffs have been granted any kind of administrative hearing in which an impartial adjudicator has determined that there is any likelihood of their being removed or deported in the foreseeable future.
45. All of the named plaintiffs (and all members of the Plaintiff class, as defined) have effectuated an "entry" into the United States. An entry is defined as (1) physical presence within the United States, (2) either inspection and authorization by a government official, or actual and intentional evasion of inspection, and (3) freedom from restraint within this country. Matter of Pierre, 14 I&N Dec. 467 (BIA 1973).
46. The INS actions with regard to each of these cases have been arbitrary and capricious.

EXHAUSTION

47. There is no formal administrative review of Petitioners' requests for release. Petitioners' only course of action is to seek release informally by letter(s) to the INS. Petitioners have done this. These letters ask Respondents to release Petitioners pursuant to the United States Supreme Court decision in Zadvydas.

These attempts have not yet been successful; some have not been answered.

48. Further, it would be unreasonable to require the Petitioners to undertake any additional steps prior to judicial review, given that the Supreme Court has already found that the Attorney General lacks statutory authority to indefinitely detain individuals who cannot be removed from the United States, and that unreasonable delays are part of what is complained of herein.

RIGHT TO JUDICIAL INTERVENTION

49. The Petitioners reallege and incorporate by reference each and every allegation of paragraphs 1-48 above.
50. By this Petition and Complaint, Petitioners allege grave Constitutional errors, and errors in statutory construction. Petitioners continued detention by the Attorney General is unauthorized by statute, and is violative of their Constitutional rights.
51. Pursuant to Local Rule 81.4, Petitioners would state that the act complained of is the continued detention of the Petitioners, where there is no substantial likelihood that removal can be accomplished in the reasonably foreseeable future, and pursuant to procedures which violate Substantive and Procedural Due Process, as well as the Administrative Procedures Act.
52. Petitioners have a right to judicial intervention, and this Court has jurisdiction over this Petition and Complaint, pursuant to 28 U.S.C. §2241, the general grant of habeas jurisdiction. Petitioners are also guaranteed to habeas review as a matter of Constitutional right. The availability of the Writ of Habeas Corpus is guaranteed by the Constitution, and may not be suspended except where “in cases of Rebellion or Invasion the Public Safety may require it.” U.S. Constitution, Art. 1, §9, Cl. 2 (Suspension Clause).

COUNT ONE
(Detention not Authorized by Statute)

53. The Petitioners reallege and incorporate by reference each and every allegation contained in paragraphs 1-52 above.
54. The Attorney General is authorized by statute to detain individuals ordered removed during the 90 day removal period, 8 U.S.C. §1231(a)(1), and is required to detain certain individuals for that entire period. 8 U.S.C. §1231(a)(2). The length of the removal period may be extended if the detainee refuses to cooperate in securing their travel documents. 8 U.S.C. §1231(a)(1)(C).
55. However, the Supreme Court has found that the statute does not authorize the indefinite detention authority claimed by the Attorney General; such length and type of detention goes beyond the detention authority permitted by statute. Zadvydas v. Davis, 533 U.S. 678 (2001) (interpreting the statute so as to avoid constitutional infirmity). The Supreme Court held that the statute does not authorize detention where there is no reasonable likelihood of removal in the foreseeable future or a compelling state interest; a period of six months is a presumptively reasonable period of time. Id.
56. The Plaintiff class is composed (definitionally) of individuals who have been detained for more than six months after the entrance of an administratively final order of removal, beyond the presumptively reasonable period necessary to effectuate deportation or removal.
57. Under the doctrine of “constitutional doubt,” the courts have an obligation to interpret a statute so as to comport with the Constitution.
58. The administrative procedures and regulations currently employed by the Respondents could not satisfy Procedural or Substantive Due Process, because they provide for no full and fair proceeding to determine whether detention should be continued in a given case.

59. In the absence of proper Due Process protections, the continued detention of such individuals cannot be said to be justified by statute. Since the statute should be interpreted to authorize detention only where in compliance with the Constitution, the Court should interpret the statute as not permitting the detention complained of herein.
60. A writ of habeas corpus may therefore issue for any member of the Plaintiff class in custody of the Respondents, ordering the Respondents to produce a reason for, and evidence in support of, the continued detention of such class members.

COUNT TWO
(Regulations Facially Violate Procedural Component of
Fifth Amendment Due Process Clause)

61. The Petitioners reallege and incorporate by reference each and every allegation contained in paragraphs 1-60 above.
62. The regulations promulgated by the Respondents permit the continued detention of individuals when there is no substantial likelihood that Petitioners can be removed or deported from the United States in the reasonably foreseeable future.
63. The regulations provide inadequate procedural safeguards to prevent individuals from being wrongfully detained past a point that would be reasonable and legal. They provide for no impartial adjudicator to determine whether an individual is failing to cooperate in good faith with efforts to remove that individual, or to determine whether there is a reasonable likelihood that the government can remove or deport an individual in the foreseeable future. These two determinations are placed in the hands of a nameless, faceless unit, located, on information and belief, in Washington, D.C.
64. The regulations improperly shift the burden of proof onto detained individuals to disprove a negative, by requiring detainees to affirmatively show their

cooperation with the removal process. The Respondents detain members of the Plaintiff class, and maintain files on the members of said class. Although it would be simple for the local INS to make a determination whether a given individual is cooperating with deportation efforts, the Respondents have shifted the decision to a Unit in Washington, D.C., which apparently does not know (or acts as if it does not know) whether a given individual is cooperating with the Respondents. This burden-shifting is unreasonable, given the continued detention of the Plaintiff class, the ease with which the INS can inform another part of itself whether there has been cooperation, and the inherent problem with disproving a negative imputation of bad faith. At a minimum, the Respondents should inform members of the class if and when they are allegedly failing to comply with good faith requests, and if so, which requests have not been satisfied; thus, individual class members could submit rebuttal evidence or statement to show cooperation.

65. The regulations fail to properly consider the possibility of effectuating removal in the INS's first determination to continue detention, which takes place at the 90 day mark. 8 C.F.R. §241.4(e), (f), (h). Even where removal clearly cannot be effectuated, the regulations require continued detention of individuals who cannot demonstrate the other factors outlined in 8 C.F.R. §241.4(e), factors which the Zadvydas Court held were inadequate bases for continued INS detention.
66. The regulations impose no time frame on the Respondents within which they are required to make a determination as to release.
67. This creates a pattern whereby individuals are consistently and regularly detained for periods of time after the end of the "presumptively reasonable" six month period after entry of a removal order, even where there is clearly no possibility of removal from the United States. This additional, unnecessary detention is not authorized by statute.
68. The consistent and foreseeable detention of individuals not authorized by statute

to be detained is, if not intended by the framers of these regulations, a clear and unavoidable consequence of their structure.

69. The regulations permit for no appeal of any determination that a member of the Plaintiff class may be removed in the foreseeable future, or has failed to cooperate in good faith in attempts to secure removal of himself.
70. It is clear that non-citizens are protected by the Due Process clause, Yamataya v. Fisher, 189 U.S. 86 (1903), Plyler v. Doe, 457 U.S. 202 (1987), and that lawful permanent residents have an even stronger claims to Constitutional protections. Landon v. Plasencia, 459 U.S. 21, 32 (1982); Kwang Hai Chew v. Colding, 344 U.S. 590 (1953).
71. The Fifth Amendment creates a procedural due process right (which extends to aliens in deportation or removal proceedings) to be heard at a meaningful time and in a meaningful manner, before a deprivation of liberty occurs. Mathews v. Eldridge, 424 U.S. 319, 334 (1976). What process is due depends on the private interest affected by the official action, the risk of erroneous deprivation of the interest, the value (if any) of additional or substitute procedural safeguards, and the government's interest (including fiscal and administrative burdens that additional or substitute procedural requirements would impose). Mathews, 424 U.S. at 335.
72. The interests at stake here are substantial. They involve nothing less than the personal, physical liberty of individuals who have entered and formed ties with the community of the United States.
73. There is a significant risk of the erroneous deprivation of rights in this case, particularly as delay in release implicates a continuing deprivation of rights.
74. The procedures adopted by regulation do not incorporate safeguards to ensure that erroneous deprivation does not occur; indeed, these regulations practically assure that erroneous deprivation will occur. There would be some cost associated with

safeguarding the Petitioners' liberty interests, but it would be fairly minimal, as the Immigration Court infrastructure already exists and is capable of weighing these matters.

75. When these factors are considered together, it is clear that the risk of deprivation is so great, and the procedures here so absent in any concern for that risk, that these procedures are constitutionally insufficient.
76. Thus, the regulations violate, on their face, the right of the Plaintiff class to Procedural Due Process, under the Fifth Amendment.

COUNT THREE
(Regulations Facially Violate the Substantive Component of
Fifth Amendment Due Process Clause)

77. The Petitioners reallege and incorporate by reference each and every allegation contained in paragraphs 1-76 above.
78. Petitioners have a liberty interest in not being detained for an indeterminate length of time by the Attorney General. Zadvydas v. Davis, 533 U.S. 678 (2001). The liberty interest involved here is fundamental.
79. Where the government provides itself with no set time frame within which to decide whether to release individuals, and when such time frame may extend into months or years, such detention may fairly be said to be indefinite.
80. Deprivation of a fundamental liberty interest can only be justified if narrowly tailored to serve a compelling governmental interest. Flores v. Reno, 507 U.S. 292, 302 (1993).
81. The Supreme Court held in Zadvydas v. Davis that the government interests at stake here were not compelling. The Court considered two interests asserted by the government: ensuring the alien's appearance at future proceedings, and preventing danger to the community. The first interest was held to be "weak or

nonexistent” when an individual cannot be deported in the reasonably foreseeable future. Zadvydas v. Davis, 533 U.S. 678 (2001). The second interest, preventative detention, could only be upheld where “limited to specially dangerous individuals and subject to strong procedural protections.” Id. Such protections, as the Supreme Court held in Zadvydas v. Davis, are not incorporated here. Id., at 2499-2500.

82. Likewise, these regulations provide only vague procedural protections, and then place responsibility for handling those procedures in the hands of the very same Respondents who are detaining members of the Plaintiff class in the first place.
83. These regulations apply broadly, and not merely to specialized groups such as terrorists or spies. While it is conceivable that regulations could be narrowly drawn to encompass only such individuals, these regulations clearly encompass a far broader class.
84. There exist no reasonable administrative or judicial safeguards governing the continued detention of members of the Plaintiff class. To the extent that the government has enunciated standards to govern its discretion, it has placed its determination in the hands of employees, rather than an impartial adjudicator; it fails to provide for any appeal of its administrative determinations; it does not provide for an actual hearing; it unfairly places burdens of proof on detainees for matters already within the knowledge of the agency itself.
85. Thus, these regulations are not narrowly tailored to serve the government’s interests.
86. Assuming *arguendo* that the interests involved here are not fundamental, these regulations are not “rationally related” to a legitimate government interest. There is no legitimate interest in punishing these non-citizens; if immigration detention were punishment, the double jeopardy clause would be implicated. The only legitimate interest involved here is the government’s ability to effectuate

deportation, and these regulations are not rationally related to that objective, since these individuals cannot be removed from the United States.

COUNT FOUR

(Due Process violated by Rules and Procedures, as applied)

87. The Petitioners reallege and incorporate by reference each and every allegation contained in paragraphs 1-86 above.
88. Under current procedures and regulations, Respondents are not considering the release of individuals who cannot be deported until long after the end of a presumptively reasonable period for removal. By regulation, the Respondent INS claims for itself a right to delay “in the exercise of its discretion” even initial consideration of release until the end of the removal period. 8 C.F.R. §241.13(d)(3). In practice, this delay is habitual, and results in individuals systematically being detained long after it is clear that they cannot be removed from the United States, and long after the end of the six month presumptively reasonable post-order period.
89. Under current procedures and regulations, members of the Plaintiff class are given no reasonable opportunity to be heard prior to an INS determination regarding their cooperation with efforts to secure removal which delays their release. The INS makes this determination spontaneously, without regard to logic or an actual possibility that an individual can be returned to a given country, making it impossible to predict whether or when the INS will make such a determination.
90. Assuming *arguendo* that the absence of a pre-determination right to be heard is not a per se violation of Due Process, Due Process is offended when the INS ordinarily and consistently refuses to consider release of individuals due to alleged failure to cooperate with efforts to secure removal when (1) such efforts

either would clearly have been futile or (2) evidence of reasonable efforts was already in possession of the Respondents.

91. The opportunity for a detainee to submit more evidence after an INS determination does not obviate or reduce the original Due Process problem. Forcing detainees to go through this futile post-determination process results in unreasonable and unnecessary delay in the release of detainees.
92. Further, the Respondents engage in undue delay in the review of post-determination submission of evidence.
93. Under current procedures and regulations, members of the Plaintiff class are given no reasonable opportunity to be heard regarding an INS determination of the possibility of their being removed or deported from the United States in the reasonably foreseeable future. Assuming *arguendo* that it is not a per se Due Process violation that the INS grants no right of administrative appeal or oversight regarding this crucial determination, Due Process is offended when (1) the Respondents apply this provision to individuals after the expiration of the six month presumptively reasonable period to secure removal and (2) the Respondents apply this provision to individuals from countries which habitually refuse to accept the return of deported individuals.
94. Under current procedures and regulations, members of the Plaintiff class are detained for unreasonable time periods even after it is clear that they cannot be removed from the United States. In such circumstances, their continued detention is without statutory authorization, and is therefore violative of Due Process.
95. Under current procedures and regulations, members of the Plaintiff class are subject to continued detention, without any fixed time frame within which their release will be considered, and a decision made. Even assuming that the absence of a fixed time frame does not constitute a per se Due Process violation, Due Process is offended where the INS ordinarily and persistently fails to release

individuals whom it knows cannot be removed from the country in a timely manner.

96. The regulations, as currently implemented, are "excessive in relation to the regulatory goal Congress sought to achieve," United States v. Salerno, 481 U.S. 739, 747 (1987).
97. The regulations, as currently implemented, are not narrowly tailored to serve a compelling governmental interest.
98. The regulations, as currently implemented, violate Procedural Due Process insofar as they fail to adequately balance the liberty interests involved and the risk of erroneous deprivation with the government's interests.

COUNT FIVE

(Administrative Procedures Act)

99. The Petitioners reallege and incorporate by reference each and every allegation contained in paragraphs 1-98 above.
100. The Respondents have adopted sub-regulatory policies or procedures of (1) failing to adjudicate requests for release under Zadvydas in a timely manner; (2) "suspending" removal periods and postponing release of individuals who allegedly have not shown sufficient efforts to secure their own removals, where those individuals have in fact performed all acts reasonably to be expected by Respondents; (3) requiring detainees to submit evidence of their cooperation in securing their removal from the United States, while refusing to consider facts within the files of detainees, despite regulations authorizing review of the file; 8 C.F.R. §§241.4(i)(7), 241.13(f); (4) requiring clearly futile efforts by individuals to secure their removal from the U.S., even where the Respondents know that the detainee's country of origin will not accept their removal; and (5) failing to

consider the length of post-order detention in evaluating the possibility that removal can be effectuated or that effect of any purported non-cooperation in securing removal.

101. These agency actions are, and will remain, agency actions which are arbitrary, capricious, and not in accordance with the law. Administrative Procedure Act, 5 U.S.C. §§ 701 et seq.
102. The INS and its district and subdistrict offices are “agencies” as defined in the Administrative Procedure Act. See 5 U.S.C. § 701(b)(1).
103. As a direct and proximate result of the Respondents’ policies and procedures, members of the Plaintiff class have suffered the injury of continued detention, even where detention is not authorized by statute since there is no reasonable likelihood of removal in the foreseeable future. The Plaintiff class will continue to suffer said injury while the current policies, procedures, and regulations are in place.

COUNT SIX

(Declaratory and Injunctive Relief)

104. The Petitioners reallege and incorporate by reference each and every allegation contained in paragraphs 1-103 above.
105. An actual and substantial controversy having arisen between the parties, and that controversy continuing to exist regarding their respective rights and duties, including without limitation the finding that the Petitioners remain subject to the Attorney General’s power to detain non-citizens and the propriety of that continued detention, Petitioners ask the Court to issue a decision regarding the respective rights and obligations of the parties.
106. Declaratory relief is necessary in that, as noted herein, Petitioners contend that the

Respondents are improperly continuing to detain the Petitioners beyond the grant of statutory authority and in violation of the Constitution. Further, Petitioners contend that the Due Process clause of the Fifth Amendment prohibits their continued detention past the presumptively reasonable deportation period of six months unless some impartial adjudicator determines that such detention should continue.

107. The Petitioners allege that the relief available in law is insufficient to cure the injury complained of herein, namely, continued detention without sanction of law.
108. Petitioners ask the Court to grant preliminary and permanent injunctive relief, ordering the Respondents to release the Petitioners from custody, unless and until the Respondents become able to effectuate the deportation / removal of the Petitioners from the United States. Petitioners would also ask the Court to grant preliminary and permanent injunctive relief ordering the Respondents to cease and desist from detaining members of the Plaintiff class after the end of the presumptively reasonable six month period after a final order of removal, unless and until some impartial adjudicator determines, through a procedure which comports with Procedural and Substantive Due Process, that the continued detention of class members is justified and proper.
109. Petitioners ask the Court to grant Declaratory relief to the Plaintiff class, finding that the continued detention of the Plaintiff class after the end of a presumptively reasonable six month period is unauthorized by statute under the current regulatory scheme, because that scheme is violative of Due Process norms; that the Respondents' regulations and procedures are facially violative of the Due Process Clause of the Fifth Amendment; and that Respondents' regulations and procedures violate of the Due Process Clause as applied to the Plaintiff class.

PRAYER FOR RELIEF

WHEREFORE, Petitioners respectfully asks the Court to:

1. Assume jurisdiction over this matter;
2. Issue a Writ of Habeas Corpus requiring the Respondents to produce the Petitioners and to show why Petitioners' detention is not unlawful;
3. Declare that the continued detention of individuals past the six month "presumptively reasonable" period is beyond the authority granted to the Attorney General by statute, in the absence of constitutionally sufficient procedures; that the Respondents' regulations and procedures are facially violative of the Due Process Clause of the Fifth Amendment; and that Respondents' regulations and procedures violate of the Due Process Clause as applied to the Plaintiff class;
4. Grant temporary and permanent injunctive relief, ordering the Respondents to release all members of the Plaintiff class from custody, unless and until the Respondents become able to effectuate the deportation / removal of those individuals from the United States.
5. Grant temporary and permanent injunctive relief ordering the Respondents to cease and desist from detaining members of the Plaintiff class after the end of the presumptively reasonable six month period after a final order of removal, unless and until some impartial adjudicator determines, through a procedure which comports with Procedural and Substantive Due Process, that the continued detention of that individual is justified and proper.
6. Grant preliminary and permanent injunctive relief, enjoining the Respondents from (1) failing to make a determination whether to continue detention before the expiration of 180 days after entry of the order of removal; (2) "suspending" the removal period for members of the Plaintiff class where efforts to secure removal

would be futile, or where the detainee's file shows no evidence of non-cooperation; (3) refusing to consider the likelihood of removal in the reasonably foreseeable future at the first stage of the post-order detention process; (4) requiring members of the Plaintiff class to prove cooperation, where there is no evidence or indication of non-cooperation in securing removal; and (5) failing to consider the length of post-order detention in evaluating the possibility that removal can be effectuated or the effect of any purported non-cooperation in securing removal.

7. Order the immediate release from custody of members of the Plaintiff class, under appropriate and reasonable conditions of parole;
8. Order the Respondents to pay appropriate legal fees to the Plaintiffs; and
9. Grant such other relief as the Court deems necessary and proper.

Respectfully Submitted:



Attorneys for Petitioners

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7/18/02
Date

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Jalal Hmaidan)	
Murad Al-Hnitin)	
Maitham Alzehrani)	
Muhammad Aidouni)	
Nhat Tran)	
Keovongsack Ponghrachanxay)	
Den Son)	
)	
Petitioners)	
)	
v.)	INDEX OF EXHIBITS
)	
John Ashcroft, Attorney)	
General of the United States,)	
Brian Perryman, as Chicago)	
District Director, Immigration and)	
Naturalization Service, an Agency)	
of the United States Department)	
of Justice,)	
Respondents)	

INDEX OF EXHIBITS

EXHIBIT A PERTAINING TO PETITIONER JAMAL HMAIDAN

- 1) Notice to Appear
- 2) Order of Removal from the Immigration Judge
- 3) August 8, 2001 Written Order of the Board of Immigration Appeals denying Petitioner's appeal of his order of removal
- 4) March 22, 2002 Letter from Petitioner's Attorney to the Post Order Detention Unit of the INS in Washington, DC requesting Petitioner's release from INS Custody and including a March 22, 2002 Notice of Entry of Appearance as Attorney or Representative (INS Form G-28) and Attached Supporting Documentation
- 5) April 29, 2002 Notice of Custody Review from INS Chicago District
- 6) May 3, 2002 Letter from Petitioner's Attorney to the INS Chicago District in response to their Review Letter (and additional documentation for which see also Exhibit A(4))

- 7) May 8, 2002 Letter from the Post Order Detention Unit indicating that the removal period is "suspended" until Petitioner supplies evidence that he cannot be removed to Jordan.
- 8) May 24, 2002 Letter from Petitioner's Attorney to the Post Order Detention Unit of the INS in Washington, DC in response to their May 8, 2002 letter
- 9) February 4, 2002 Letter from Petitioner's Attorney to the Embassy of Kuwait requesting travel documents on behalf of Petitioner
- 10) February 4, 2002 Letter from Petitioner's Attorney to the Jordanian Consulate requesting travel documents on behalf of Petitioner
- 11) February 18, 2002 Letter from Petitioner to the Jordanian Consulate requesting travel documents
- 12) February 18, 2002 Letter from Petitioner to the Kuwaiti Embassy requesting travel documents

EXHIBIT B PERTAINING TO PETITIONER MURAD AL-HNITIN

- 1) October 4, 2001, Notice to Appear before an Immigration Judge
- 2) October 24, 2001 Order of Removal
- 3) March 3, 2002 Letter from Petitioner to the INS Chicago District Director indicating his willingness to cooperate
- 4) June 6, 2002 Letter from Petitioner's Attorney to the Jordanian Consulate requesting travel document for Petitioner
- 5) June 28, 2002, Letter from Petitioner's Attorney to the Post Order Detention Unit of the INS in Washington, DC requesting Petitioner's release from INS Custody and including a May, 5 2002 Notice of Entry of Appearance as Attorney or Representative (INS Form G-28)
- 6) July 10, 2002, Letter from the Post Order Detention Unit, indicating that the removal period is "suspended" until Petitioner supplies evidence that he cannot be removed to Jordan

EXHIBIT C PERTAINING TO PETITIONER MOHAMMAD AIDOUNI

- 1) June 30, 1999, Notice of Intent to Issue an Administrative Final Removal Order & Final Administrative Removal Order
- 2) August 10, 1999, Final Administrative Removal Order
- 3) Notice of Referral to Immigration Judge, Reasonable Fear Determination Worksheet and Record of Determination/Reasonable Fear Worksheet
- 4) October 11, 2001, Board of Immigration Appeals Decision
- 5) December 28, 1999, Notice to Alien of File Custody Review
- 6) February 4, 2000, Letter from Brian Perryman, District Director of the INS Chicago District
- 7) November 6, 2001, Notice to Alien of File Custody Review

- 8) May 16, 2002, Decision to Continue Detention Following Review

EXHIBIT D PERTAINING TO PETITIONER MAITHAM ALZEHRANI

- 1) December 15, 2000, Notice to Appear before an Immigration Judge
- 2) August 20, 2001 Order of Removal from the Immigration Judge
- 3) October 3, 2001 Decision to Continue Detention
- 4) May 2, 2002 Decision to Continue Detention
- 5) May 10, 2002 Letter from Petitioner's Attorney to the Post Order Detention Unit of the INS in Washington, DC, including a December 28, 2001 Notice of Entry of Appearance as Attorney or Representative, (INS Form G-28)
- 6) Letter to Chicago District Director, Brian Perryman, from Petitioner, requesting his release
- 7) November 5, 2001 Letter to Frank Moore, Chicago INS Officer from Petitioner indicating his willingness to cooperate
- 8) June 7, 2002 Letter to the Post Order Detention Unit of the INS in Washington, DC from Petitioner requesting release
- 9) May 22, 2002 Letter from the American-Arab Anti-Discrimination Committee to the Post Order Detention Unit of the INS in Washington, DC
- 10) Letter from Petitioner's Attorney to the Iraqi Interests Section requesting travel documents for Petitioner
- 11) June 6, 2002, Letter from the Headquarters Post Order Detention Unit, indicating that the removal period is "suspended" until Petitioner supplies evidence that he cannot be removed to Iraq.
- 12) Fiscal Years 1993-1998 Chart: Aliens Removed by Criminal Status and Region and Selected Country of Nationality

EXHIBIT E PERTAINING TO PETITIONER NHAT TRAN

- 1) November 15, 2001, Notice To Appear
- 2) January 8, 2002, Removal Order of the Immigration Judge
- 3) March 18, 2002, Notice to Alien of File Custody Review

EXHIBIT F PERTAINING TO PETITIONER KEOVONGSACK
PONGPHRACHANXAY

- 1) November 9, 2001, Warrant for Arrest of Alien
- 2) December 20, 2001, Order of Removal from the Immigration Judge
- 3) March 18, 2002, Notice to Alien of File Custody Review

- 4) May 21, 2002, Letter from Post Order Detention Unit, indicating that the removal period is "suspended" until Petitioner supplies evidence that he cannot be removed to Vietnam.

EXHIBIT G PERTAINING TO PETITIONER DEN SON

- 1) May 25, 1993, Order to Show Cause
- 2) September 22, 2001, Notice to Alien of File Custody Review
- 3) June 28, 2002, Petitioner's Attorney's Letter to Embassy of Vietnam Requesting Travel Documents
- 4) June 28, 2002, Letter to INS Chicago District requesting release from custody
- 5) June 28, 2002, Letter to INS HQPDU requesting release from custody under Zadvydas v. Davis and including an April 8, 2002, Notice of Entry of Appearance as Attorney or Representative (INS Form G-28)

EXHIBIT A

U.S. Department of Justice
Immigration and Naturalization Service

Notice to Appear

In removal proceedings under section 240 of the Immigration and Nationality Act

File No: A20 318 437

In the Matter of:

Respondent: HMAIDAN, Jalal Ayed Inmate #K72944, PRD 08/30/2001
c/o Logan Correctional Center
RR 3, Box 1000 IL 62656 (217) 735-5581
Lincoln, (Number, street, city, state and ZIP code) (Area code and phone number)

- ☐ 1. You are an arriving alien.
☐ 2. You are an alien present in the United States who has not been admitted or paroled.
☒ 3. You have been admitted to the United States, but are deportable for the reasons stated below.

The Service alleges that you:

1. You are not a citizen or national of the United States;
2. You are a native of Kuwait and a citizen of Jordan;
3. You were admitted to the United States at New York City, NY on or about 06/13/76 as a nonimmigrant (B-2);
4. Your status was adjusted to that of a lawful permanent resident on 02/02/83 under section 245 of the Act;
5. You were, on 04/08/99, convicted in the Circuit Court [at] Cook County, IL for the offense of Aggravated Discharge of a Firearm, case #95CR1960401, in violation of 720 ILCS 5/24-1.5(A), for which a sentence of 3 years IDOC was imposed.
6. You were, on 04/08/99, convicted in the Circuit Court [at] Cook County, IL for the offense of Manufacturing/Delivery of a Controlled Substance, to wit: Cocaine, case #96CR3067201, in violation of 720 ILCS 570/401(C)(2), for which a sentence of 6 years IDOC was imposed.

On the basis of the foregoing, it is charged that you are subject to removal from the United States pursuant to the following provision(s) of law:

Section 237(a)(2)(A)(iii) of the Immigration and Nationality Act (Act), as amended, in that, at any time after admission, you have been convicted of an aggravated felony as defined in Section 101(a)(43)(B) of the Act, an offense relating to the illicit trafficking in a controlled substance, as described in section 102 of the Controlled Substances Act, including a drug trafficking crime, as defined in section 924(c) of Title 18, United States Code.

Section 237(a)(2)(B)(i) of the Immigration and Nationality Act, as amended, in that, at any time after admission, you have been convicted of a violation of (or a conspiracy or attempt to violate) any law or regulation of a State, the United States, or a foreign country relating to a controlled substance (as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. 802), other than a single offense involving possession for one's own use of 30 grams or less of marijuana.

- ☐ This notice is being issued after an asylum officer has found that the respondent has demonstrated a credible fear of persecution.
☐ Section 235(b)(1) order was vacated pursuant to: ☐ 8 CFR 208.30(f)(2) ☐ 8 CFR 235.3(b)(5)(iv)

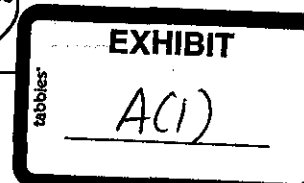
YOU ARE ORDERED to appear before an immigration judge of the United States Department of Justice at:
55 E Monroe, Suite 1900 Chicago, Illinois 60604

on To Be Set at (Complete Address of Immigration Court, including Room Number, if any) to show why you should not be removed from the United States based on the charge(s) set forth above.
(Date) (Time)

Date: 1/31/00

Chicago, Illinois
(City and State)

See reverse for important information



See reverse for important information.

Warning: Any statement you make may be used against you in removal proceedings.

Alien Registration: This copy of the Notice to Appear served upon you is evidence of your alien registration while you are under removal proceedings. You are required to carry it with you at all times.

Representation: If you so choose, you may be represented in this proceeding, at no expense to the Government, by an attorney or other individual authorized and qualified to represent persons before the Executive Office for Immigration Review, pursuant to 8 CFR 3.16. Unless you so request, no hearing will be scheduled earlier than ten days from the date of this notice, to allow you sufficient time to secure counsel. A list of qualified attorneys and organizations who may be available to represent you at no cost will be provided with this Notice.

Conduct of the hearing: At the time of your hearing, you should bring with you any affidavits or other documents which you desire to have considered in connection with your case. If any document is in a foreign language, you must bring the original and a certified English translation of the document. If you wish to have the testimony of any witnesses considered, you should arrange to have such witnesses present at the hearing.

At your hearing you will be given the opportunity to admit or deny any or all of the allegations in the Notice to Appear and that you are inadmissible or deportable on the charges contained in the Notice to Appear. You will have an opportunity to present evidence on your own behalf, to examine any evidence presented by the Government, to object, on proper legal grounds, to the receipt of evidence and to cross examine any witnesses presented by the Government.

You will be advised by the immigration judge before whom you appear, of any relief from removal for which you may appear eligible including the privilege of departing voluntarily. You will be given a reasonable opportunity to make any such application to the immigration judge.

Failure to appear: You are required to provide the INS, in writing, with your full mailing address and telephone number. You must notify the Immigration Court immediately by using Form EOIR-33 whenever you change your address or telephone number during the course of this proceeding. You will be provided with a copy of this form. Notices of hearing will be mailed to this address. If you do not submit Form EOIR-33 and do not otherwise provide an address at which you may be reached during proceedings, then the Government shall not be required to provide you with written notice of your hearing. If you fail to attend the hearing at the time and place designated on this notice, or any date and time later directed by the Immigration Court, a removal order may be made by the immigration judge in your absence, and you may be arrested and detained by the INS.

Request for Prompt Hearing

To expedite a determination in my case, I request an immediate hearing. I waive my right to have a 10-day period prior to appearing before an immigration judge.

(Signature of Respondent)

Before:

(Signature and Title of INS Officer)

Date:

Certificate of Service

This Notice to Appear was served on the respondent by me on 1/31/00, in the following manner and in compliance with section 239(a)(1)(F) of the Act: (Date)

☐ in person ☐ by certified mail, return receipt requested ☒ by regular mail

☒ Attached is a list of organizations and attorneys which provide free legal services.

☐ The alien was provided oral notice in the _____ language of the time and place of his or her hearing and of the consequences of failure to appear as provided in section 240(b)(7) of the Act.

(Signature of Respondent if Personally Served)

(Signature and Title of Officer)

Executive Office for Immigration Review
Office of the Immigration Judge
55 E. Monroe Street, Suite 1900
Chicago, Illinois 60603

In the Matter of:

Jalal Ayed HMAIDAN
Respondent

Case No.: A 20-318-437

IN REMOVAL PROCEEDINGS

This is a summary of the oral decision entered on 10-25-2000

This memorandum is solely for the convenience of the parties. If the proceedings should be appealed or reopened, the oral decision will become the official opinion in the case.

- ☒ The respondent was ordered removed from the United States to Jordan
- ☐ Respondent's application for voluntary departure was denied and respondent was ordered removed to _____
- ☐ Respondent's application for voluntary departure was granted until _____ upon posting a bond in the amount of \$ _____ with an alternated order of removal to _____
- ☐ Respondent's application for asylum was () granted () denied () withdrawn.
- ☐ Respondent's application for withholding of removal was () granted () denied () withdrawn.
- ☐ Respondent's application for cancellation of removal under Section 240A(a) was () granted () denied () withdrawn.
- ☐ Respondent's application for cancellation of removal under Section 240A(b) was () granted () denied () withdrawn. If granted, it was ordered that the respondent be issued all appropriate documents necessary to give effect to this order.
- ☐ Respondent's application for a waiver under Section _____ of the INA was () granted () denied () withdrawn () other.
- ☐ Respondent's application for adjustment of status under Section _____ of the INA was () granted () denied () withdrawn. If granted, it was ordered that the respondent be issued all appropriate documents necessary to give effect to this order.
- ☐ Respondent's status was rescinded under Section 246.
- ☐ Respondent is admitted to the United States as a _____ until _____
- ☐ As a condition of admission, respondent is to post a \$ _____ bond
- ☐ Respondent knowingly filed a frivolous asylum application after proper notice.
- ☐ Respondent was advised of the limitation on discretionary relief for failure to appear as ordered in the Immigration Judge's oral decision.
- ☐ Proceedings were terminated
- ☒ Other: Resp's LPR status was terminated

Date: 10-25-2000

Appeal: W-1000

Appeal Due by: Resp

11-24-2000

Robert D. Vinikoor
Immigration Judge

EXHIBIT

tabbies

EA (2)



U.S. Department of Justice

Executive Office for Immigration Review

Board of Immigration Appeals
Office of the Clerk

312-263-0

5201 Leesburg Pike, Suite 1300
Falls Church, Virginia 22041

for 1-800-898-7180
tws at 312-385-1724

Berg, Royal F., Esquire
33 North LaSalle, Suite 2300
Chicago, IL 60602

Office of the District Counsel/CHI
P.O. Box A-3423
Chicago, IL 60690

Name: *S-HMAIDAN, JALAL AYED

A20-318-437

Date of this notice: 08/08/2001

Enclosed is a copy of the Board's decision and order in the above-referenced case.

Very Truly Yours,

Lori Scialabba

Lori Scialabba
Acting Chairman

Enclosure

Panel Members:

GRANT, EDWARD R.
JONES, PHILEMINA M.
THOMAS, ELLEN K.

EXHIBIT

A(3)

Falls Church, Virginia 22041

File: A20 318 437 - Chicago

Date: **AUG 08 2001**

In re: JALAL AYED HMAIDAN

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Royal F. Berg, Esquire

ON BEHALF OF SERVICE: Seth B. Fitter
Assistant District Counsel

CHARGE:

Notice: Sec. 237(a)(2)(A)(iii), I&N Act [8 U.S.C. § 1227(a)(2)(A)(iii)] -
Convicted of aggravated felony

Sec. 237(a)(2)(B)(i), I&N Act [8 U.S.C. § 1227(a)(2)(B)(i)] -
Convicted of controlled substance violation

APPLICATION: Deferral of removal

We have jurisdiction over this timely appeal pursuant to 8 C.F.R. §§ 3.1(b) and 208.31. Removability is contested. The first issue on appeal is whether these proceedings should be terminated because the respondent is a United States citizen. The second issue on appeal is whether the respondent was denied due process in these proceedings. The third issue on appeal is whether the Immigration Judge correctly found that the respondent was not entitled to deferral of removal under article 3 of the United Nations Convention Against Torture ("Convention").¹ We find that the Immigration Judge's resolution of these issues was correct, and we will dismiss this appeal. The request for oral argument is denied.

We will first address whether the respondent is a United States citizen. The respondent argued on appeal that he is a citizen of this country because his mother became a citizen of this country through naturalization on March 6, 1973, and she legally adopted him on May 17, 1978. We note that he was less than 18 years old at the time of his adoption. We also note that the respondent did not become a lawful permanent resident of this country until February 2, 1983.

¹ United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, opened for signature February 4, 1985, G.A. Res. 39/46, 39 U.N. GAOR Supp. No. 51 at 197, U.N. Doc. A/RES/39/708 (1984), reprinted in 23 I.L.M. 1027 (1984), modified in 24 I.L.M. 535 (1985).

The burden of proof in establishing alienage in deportation proceedings is on the Immigration and Naturalization Service. *United States ex rel. Bilokumsky v. Tod*, 263 U.S. 149 (1923); *United States v. Neelly*, 207 F.2d 281 (7th Cir. 1953). However, one born abroad is prima facie an alien. *Matter of A-M-*, 7 I&N Dec. 332 (BIA 1956). Furthermore, where it is undisputed that an alien sought to be deported was born in a foreign country and came to the United States from that country, the burden of proof to establish United States citizenship is upon the alien. *United States v. Neelly*, *supra*. Such an alien is required to affirmatively establish his citizenship claim. *Matter of A-M-*, *supra*. A bare claim of citizenship, unsubstantiated by any evidence is insufficient to meet the alien's burden. *United States v. Neelly*, *supra*.

The respondent has admitted that he is a native of Kuwait and a citizen of Jordan. Thus, he bears the burden of establishing his United States citizenship. He has submitted documentation with his Notice of Appeal to prove his claim that he is a citizen of this country based upon his contention mentioned above.

Section 321(a) of the Immigration and Nationality Act provides that a child born outside of the United States of alien parents automatically acquires United States citizenship upon fulfillment of the following conditions:

- (1) The naturalization of both parents; or
- (2) The naturalization of the surviving parent if one of the parents is deceased; or
- (3) The naturalization of the parent having legal custody of the child when there has been a legal separation of the parents or the naturalization of the mother if the child was born out of wedlock and the paternity of the child has not been established by legitimation; and if
- (4) Such naturalization takes place while such child is under the age of eighteen years; and
- (5) Such child is residing in the United States pursuant to a lawful admission for permanent residence at the time of the naturalization of the parent last naturalized under clause (1) or the parent naturalized under clause (2) or (3), or thereafter begins to reside permanently in the United States while under the age of eighteen years.

However, section 321(b) of the Act further provides that subsection (a) referred to above shall apply to an adopted child only if the child is residing in the United States at the time of naturalization of such adoptive parent or parents, in the custody of his adoptive parent or parents, pursuant to a lawful admission for permanent residence.

The respondent has not proved that he is a United States citizen because he has not established that when his mother was naturalized on March 6, 1973, he was residing in the United States in her custody as a lawful permanent resident of this country. Consequently, we find insufficient evidence in the record that the respondent is a United States citizen under this provision.

In reaching our decision, we have considered the respondent's argument that section 321(b) of the Act is unconstitutional. The Board is not empowered, however, to rule on the constitutionality of the statutes and regulations that we administer. *Matter of Valdovinos*, 18 I&N Dec. 343 (BIA 1982).

We further note that the respondent argued that he is a United States citizen based upon the automatic citizenship provisions of section 320 of the Immigration and Nationality Act, 8 U.S.C. § 1431 (1994), as amended by the Child Citizenship Act of 2000, Pub. L. No. 106-395, 114 Stat. 1631 ("CCA"). Under the new law, a child born outside of the United States automatically becomes a citizen when the following conditions are met: 1) at least one parent of the child is a United States citizen, whether by birth or naturalization; 2) the child is under the age of 18, and 3) the child is residing in the United States in the legal and physical custody of the citizen parent after having been lawfully admitted for permanent residence. However, all these requirements must be proven to exist on or after February 27, 2001.

In addition, we note our decision in *Matter of Rodriguez-Tejedor*, 23 I&N Dec. 153 (BIA 2001). Therein, the Board held that the Child Citizenship Act is not retroactive and, consequently, does not apply to an individual who resided in the United States with his United States citizen parents as a lawful permanent resident while under the age of 18 years, but who was over the age of 18 years on the effective date of the Child Citizenship Act. *See also Hughes v. Aschcroft*, 2001 WL 699351 (9th Cir. 2001); *Nehme v. INS*, 252 F.3d 415 (5th Cir. 2001).

We conclude that the respondent has not established that he is a citizen of this country under the Child Citizenship Act. The record reflects that the respondent was 34 years old on February 27, 2001, and therefore he cannot prove that he satisfies the second element referred to above. *See Matter of Rodriguez-Tejedor, supra*. We therefore decline to terminate or remand these proceedings.

We will now address whether the respondent was denied a fair hearing in these proceedings. He argued that it was improper for the Immigration Judge to have conducted these proceedings through a video conference. The regulations provide, however, that an Immigration Judge may conduct hearings through a video conference to the same extent as he or she may conduct hearings in person. *See* 8 C.F.R. § 3.25(c). Consequently, we find nothing inherently improper regarding the use of a video conference in these proceedings.

In addition, before the proceeding will be invalidated, it is required that the respondent establish that he was prejudiced by the use of a video conference. *Hartooni v. INS*, 21 F.3d 336, 339-40 (9th Cir. 1994); *Miranda-Lores v. INS*, 17 F.3d 84, 85 (5th Cir. 1994); *United States v. Mendoza-Lopez*, 7 F.3d 1483 (10th Cir. 1993); *Ortiz-Salas v. INS*, 992 F.2d 105 (7th Cir. 1993); *United States v. Polanco-Gomez*, 841 F.2d 235 (8th Cir. 1988); *United States v. Garcia-Jaramillo*, 604 F.2d 1236 (9th Cir. 1979); *Matter of G-*, 20 I&N Dec. 764 (BIA 1993); *Matter of Santos*, 19 I&N Dec. 105, 107-08 (BIA 1984).

Having carefully reviewed the record, we find that the respondent has failed to demonstrate that he was denied a fundamentally fair hearing. The respondent has presented no specific illustrations of exactly how the result in these proceedings would have been different had the Immigration Judge conducted the proceedings in person. Consequently, this aspect of the appeal is dismissed.

The respondent further argued on appeal that the Immigration Judges who heard his case were biased. We find no indication from the record that the Immigration Judges' conduct was improper, displayed bias, or exceeded judicial bounds. We therefore are unable to find that the respondent was denied due process.

The respondent also argued on appeal that the Immigration Judge erred by finding that his alienage had been proven by the Service. We have reviewed the record and find sufficient proof that the respondent is not a citizen of the United States. We note for instance that the record contains a copy of the Record of Deportable Alien (Form I-213). This document appears to be reliable and contains the respondent's name, date of birth, and indicates that he was born in Kuwait. Consequently, we find that alienage has been established. See *Matter of Hernandez*, Interim Decision 3397 (BIA 1999); *Matter of Mejia*, 16 I&N Dec. 6 (BIA 1976).

We have also considered the respondent's argument that the Immigration Judge incorrectly admitted this document into evidence because it was presented in violation of the 10-day rule. The record reflects that the respondent refused to admit or deny at the hearing any of the allegations contained in the charging document. To prove alienage, the Service then introduced the Form I-213 into the record. Later in the hearing, the respondent sought protection under the Convention, and testified he is afraid to return to his country of citizenship, Jordan. Inasmuch as it is undisputed that the respondent was not born in this country, we do not find that he was prejudiced by the admission into the record of the Form I-213. We therefore see no reason to remand these proceedings to conduct a hearing on whether the respondent is an alien.

The respondent argued on appeal that the documents presented to prove removability do not relate to him. We have reviewed the documentation contained in the record including the conviction records, and find that they relate to the respondent and prove the charges contained in the Notice to Appear. Any discrepancy in the spelling of the respondent's name appears immaterial.


We will now address the respondent's claim under the Convention. To qualify for withholding or deferral of removal under the Convention, an applicant must prove that he will be tortured if he returns to his native country, and the act will be instigated by or with the consent or acquiescence of a public official or other person acting in an official capacity. *See* 8 C.F.R. § 208.18(a)(1). Torture is defined as any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or her or a third person information or a confession, punishing him or her for an act he or she or a third person has committed or is suspected of having committed, or intimidating or coercing him or her or a third person, or for any reason based on discrimination of any kind. *See* 8 C.F.R. § 208.18(a)(1). Torture is an extreme form of cruel and inhuman treatment and does not include lesser forms of cruel, inhuman or degrading treatment or punishment. *See* 8 C.F.R. § 208.18(a)(2). An applicant for withholding or deferral of removal under the Convention bears the burden of proof that it is more likely than not that he or she would be tortured if removed to the proposed country of removal. *See* 8 C.F.R. §§ 208.16(c)(2); 208.17(a).

The respondent argued that he will more likely than not be tortured in his country because he was convicted of a drug-related offense in the United States. We have reviewed the background evidence on Jordan submitted by the respondent. Although we do not deny that there are many human rights abuses in that country, we are unable to identify any indication that the Jordanian government more likely than not tortures its citizens for having served jail sentences in other countries for drug crimes committed abroad. We further are unable to find that the respondent will likely be tortured in his country because he sought protection under the Convention.

In addition, we have reviewed the record of proceedings, the Immigration Judge's decision, and the remaining arguments raised on appeal. We find the Immigration Judge adequately and correctly addressed the issues presented, and the decision of the Immigration Judge is affirmed based upon and for the reasons set forth in that decision. Consequently, we find no error in the Immigration Judge's decision to deny the respondent's request for deferral of removal under article 3 of the Convention.

We have also considered the respondent's argument that the transcript in these proceedings was defective. We find no indication that any material error appears in the transcript of the proceedings.

ORDER: The appeal is dismissed.



FOR THE BOARD



March 22, 2002

David Venturella
Office of Detention & Removal Operations
801 "I" Street NW, Suite 900
Washington, DC 20536
VIA FAX: 202-353-9435

Re: Release of Mr. Jalal Ayed Hmaidan (A20-318-437) under INS v. Zadvydas

Dear Mr. Venturella,

I am writing to request the release of Jalal Hmaidan. Mr. Hmaidan is of Palestinian descent, born in Kuwait, but who resided in Jordan and is essentially stateless. He was ordered removed by an Immigration Judge on October 25, 2000. (See attached removal order, exhibit 1) and the Board of Immigration Appeals dismissed his appeal on August 8, 2001 (see attached Board decision, exhibit 2). He has been in INS custody for over seven months since a final removal order and the INS has been unable to effectuate his removal. The Federal Regulations regarding release of detainees six months after a final removal order invite him to submit evidence that his removal is not possible in the reasonably foreseeable future. On behalf of my client I am doing so.

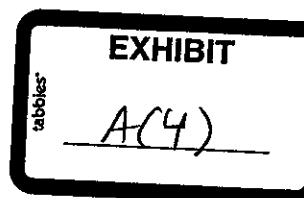
Mr. Hmaidan has been in INS custody for over seven months since a final deportation order. The 2000 Country Report on Human Rights Practices for Jordan states that there are "150,000 Palestinian residents who are refugees or children of refugees." See Department of State 2000 Country Report on Human Rights Practices for Jordan, p. 10, exhibit 3. In addition, the government has emphasized that passports given to Palestinians "do not connote citizenship, which only can be proven by presenting one's national number, a civil registration number accorded at birth or upon naturalization to persons holding citizenship." *Id.* Mr. Hmaidan never received a national number and thus never was considered a citizen of Jordan and therefore, will **not, reasonably in the foreseeable future**, be issued travel documents. INS has not been able to remove Mr. Hmadian in the six months the United States Supreme Court has allotted them. Mr. Hmaidan has fully cooperated with the INS's efforts to remove him from the United States. In complying with INS's further request that the detainee attempt to facilitate his release we have written to the Jordanian and Kuwaiti Consulates requesting travel documents from Mr. Hmaidan. Both Mr. Hmaidan, and myself, have written to the Jordanian and Kuwaiti Consulates. See attached copies of letters, exhibits 6,7,8,9 and 10.

Providing paths from harm to hope through human services

Midwest Immigrant & Human Rights Center

TIA/Chicago Connections, 208 South LaSalle Street, Suite 1818, Chicago, Illinois 60604

phone 312-660-1300 fax 312-660-1505 website: www.heartland-alliance.org



The crimes Mr. Hmaidan committed were drug related and are not of a violent nature. *See* attached criminal records, exhibit 4. Mr. Hmaidan has many family members in the United States who are either United States citizens or lawful permanent residents. His mother, Haifa Ahmed, has been a United States citizen since 1973. If released he will live with Jamal Hemeidan at 1595 Brookvale Drive, #5, San Jose, CA 95129 (T: (408) 255-8997, C: (408-656-2333). Jamal is Jalal's brother and is in the process of naturalizing. *See* Support Letter, LPR Card, and Naturalization Appointment, Exhibit 5. Mr. Hmaidan also has a United States citizen child who is eleven years old.

Enclosed are the following documents supporting Mr. Hmaidan's release under Zadvydas v. Davis:

1. The decision of the Immigration Judge ordering removal, dated October 25, 2000.
2. The decision of the Board of Immigration Appeals, dated August, 8, 2001.
3. United States Department of States Country Report on Jordan, 2000, excerpt.
4. Criminal records of Mr. Hmaidan.
5. Support letter of brother of Mr. Hmaidan, a copy of his LPR Card, and copy of Naturalization Appointment.
6. Mr. Hmaidan's letter to INS Chicago District reflecting Mr. Hmaidan's willingness to cooperate in his removal.
7. Mr. Hmaidan's letter to the Jordanian Consulate requesting travel documents.
8. Mr. Hmaidan's letter to the Kuwaiti Consulate requesting travel documents.
9. My request to the Kuwaiti Embassy for travel documents for Mr. Hmaidan and a certified receipt.
10. My request to the Jordanian Consulate for travel documents for Mr. Hmaidan.

I further reiterate my request that Mr. Hmaidan be released as continuing to hold him violates United States law as decided by the United States Supreme Court. Please respond to this letter within five days. Failure to comply with the Supreme Court decision within that time will result in appropriate legal action.

Thank you for your attention in this matter.
Sincerely,

Anne Relias
Attorney at Law
Midwest Immigrant and Human Rights Center
208 South LaSalle, Suite 1818
Chicago, Illinois 60604
T: (312) 660-1359
F: (312) 669-1505

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

David Venturilla
Office of Det. BRem. Operations
801 I St NW, Suite 900
Washington, DC 20536

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) B. Date of Delivery

C. Signature

X

☐ Agent
☐ Addressee

D. Is delivery address different from item 1?

If YES, enter delivery address below:

☐ Yes
☐ No

3. Service Type

☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

2. Article Number (Copy from service label)

7001 1940 0000 5784 9335

MODE = MEMORY TRANSMISSION

START=MAR-22 18:17

END=MAR-22 18:18

FILE NO. = 052

NO.	COM	ABBR/NTWK	STATION NAME/ TELEPHONE NO.	PAGES	PRG.NO.	PROGRAM NAME
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-TIA MIRC

***** -

- ***** -

3126291960- *****

FACSIMILE

HEARTLAND ALLIANCE

MIDWEST IMMIGRANT & HUMAN RIGHTS CENTER

Fax: (312) 660-1505

Phone: (312) 660-1370

TO: David Venturiella

FAX: 202-353-9435

FROM: Anne Polias

PHONE: 312-660-1359

DATE: 3/22/02

PAGES: 34

Jala/Hmaidan AZO-318-437

REMARKS:

Release under Zadvydas

THIS MESSAGE IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED, AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL AND EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, OR THE EMPLOYEE OR AGENT RESPONSIBLE FOR DELIVERING THE MESSAGE TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE, AND RETURN THE ORIGINAL MESSAGE TO US VIA FIRST CLASS MAIL.

Executive Office for Immigration Review
Office of the Immigration Judge
55 E. Monroe Street, Suite 1900
Chicago, Illinois 60603

In the Matter of:

Jalal Ayed HMAIDAN
Respondent

Case No.: A 20-318-437

IN REMOVAL PROCEEDINGS

This is a summary of the oral decision entered on 10-25-2000.
This memorandum is solely for the convenience of the parties. If the proceedings should be appealed or reopened, the oral decision will become the official opinion in the case.

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☐ Respondent's application for voluntary departure was denied and respondent was ordered removed to _____.
☐ Respondent's application for voluntary departure was granted until _____ upon posting a bond in the amount of \$ _____ with an alternated order of removal to _____.
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☐ Respondent's application for withholding of removal was () granted () denied () withdrawn.
☐ Respondent's application for cancellation of removal under Section 240A(a) was () granted () denied () withdrawn.
☐ Respondent's application for cancellation of removal under Section 240A(b) was () granted () denied () withdrawn. If granted, it was ordered that the respondent be issued all appropriate documents necessary to give effect to this order.
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☐ Respondent's application for adjustment of status under Section _____ of the INA was () granted () denied () withdrawn. If granted, it was ordered that the respondent be issued all appropriate documents necessary to give effect to this order.
☐ Respondent's status was rescinded under Section 246.
☐ Respondent is admitted to the United States as a _____ until _____.
☐ As a condition of admission, respondent is to post a \$ _____ bond.
☐ Respondent knowingly filed a frivolous asylum application after proper notice.
☐ Respondent was advised of the limitation on discretionary relief for failure to appear as ordered in the Immigration Judge's oral decision.
☐ Proceedings were terminated.
☒ Other: Resp's LPR status was terminated

Date:

10-25-2000

Appeal:

Appeal Due by:

Resp

11-24-2000

Robert D. Vinikoor
Immigration Judge

EXHIBIT

tabbies



U.S. Department of Justice

Executive Office for Immigration Review

Board of Immigration Appeals
Office of the Clerk

312-263-09

5201 Leesburg Pike, Suite 1300
Falls Church, Virginia 22041

for 1-800-898-7180
tws agent 312-385-1724

Berg, Royal F., Esquire
33 North LaSalle, Suite 2300
Chicago, IL 60602

Office of the District Counsel/CHI
P.O. Box A-3423
Chicago, IL 60690

Name: *S-HMAIDAN, JALAL AYED

A20-318-437

Date of this notice: 08/08/2001

Enclosed is a copy of the Board's decision and order in the above-referenced case.

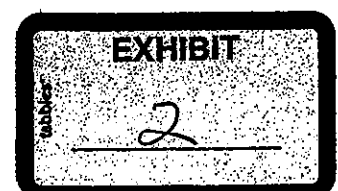
Very Truly Yours,

Lori Scialabba
Acting Chairman

Enclosure

Panel Members:

GRANT, EDWARD R.
JONES, PHILEMINA M.
THOMAS, ELLEN K.



Falls Church, Virginia 22041

File: A20 318 437 - Chicago

Date: AUG 08 2001

In re: JALAL AYED HMAIDAN

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Royal F. Berg, Esquire

ON BEHALF OF SERVICE: Seth B. Fitter
Assistant District Counsel

CHARGE:

Notice: Sec. 237(a)(2)(A)(iii), I&N Act [8 U.S.C. § 1227(a)(2)(A)(iii)] -
Convicted of aggravated felony

Sec. 237(a)(2)(B)(i), I&N Act [8 U.S.C. § 1227(a)(2)(B)(i)] -
Convicted of controlled substance violation

APPLICATION: Deferral of removal

We have jurisdiction over this timely appeal pursuant to 8 C.F.R. §§ 3.1(b) and 208.31. Removability is contested. The first issue on appeal is whether these proceedings should be terminated because the respondent is a United States citizen. The second issue on appeal is whether the respondent was denied due process in these proceedings. The third issue on appeal is whether the Immigration Judge correctly found that the respondent was not entitled to deferral of removal under article 3 of the United Nations Convention Against Torture ("Convention").¹ We find that the Immigration Judge's resolution of these issues was correct, and we will dismiss this appeal. The request for oral argument is denied.

We will first address whether the respondent is a United States citizen. The respondent argued on appeal that he is a citizen of this country because his mother became a citizen of this country through naturalization on March 6, 1973, and she legally adopted him on May 17, 1978. We note that he was less than 18 years old at the time of his adoption. We also note that the respondent did not become a lawful permanent resident of this country until February 2, 1983.

¹ United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, opened for signature February 4, 1985, G.A. Res. 39/46, 39 U.N. GAOR Supp. No. 51 at 197, U.N. Doc. A/RES/39/708 (1984), *reprinted in* 23 I.L.M. 1027 (1984), *modified in* 24 I.L.M. 535 (1985).

The burden of proof in establishing alienage in deportation proceedings is on the Immigration and Naturalization Service. *United States ex rel. Bilokumsky v. Tod*, 263 U.S. 149 (1923); *United States v. Neelly*, 207 F.2d 281 (7th Cir. 1953). However, one born abroad is prima facie an alien. *Matter of A-M-*, 7 I&N Dec. 332 (BIA 1956). Furthermore, where it is undisputed that an alien sought to be deported was born in a foreign country and came to the United States from that country, the burden of proof to establish United States citizenship is upon the alien. *United States v. Neelly*, *supra*. Such an alien is required to affirmatively establish his citizenship claim. *Matter of A-M-*, *supra*. A bare claim of citizenship, unsubstantiated by any evidence is insufficient to meet the alien's burden. *United States v. Neelly*, *supra*.

The respondent has admitted that he is a native of Kuwait and a citizen of Jordan. Thus, he bears the burden of establishing his United States citizenship. He has submitted documentation with his Notice of Appeal to prove his claim that he is a citizen of this country based upon his contention mentioned above.

Section 321(a) of the Immigration and Nationality Act provides that a child born outside of the United States of alien parents automatically acquires United States citizenship upon fulfillment of the following conditions:

- (1) The naturalization of both parents; or
- (2) The naturalization of the surviving parent if one of the parents is deceased; or
- (3) The naturalization of the parent having legal custody of the child when there has been a legal separation of the parents or the naturalization of the mother if the child was born out of wedlock and the paternity of the child has not been established by legitimation; and if
- (4) Such naturalization takes place while such child is under the age of eighteen years; and
- (5) Such child is residing in the United States pursuant to a lawful admission for permanent residence at the time of the naturalization of the parent last naturalized under clause (1) or the parent naturalized under clause (2) or (3), or thereafter begins to reside permanently in the United States while under the age of eighteen years.

However, section 321(b) of the Act further provides that subsection (a) referred to above shall apply to an adopted child only if the child is residing in the United States at the time of naturalization of such adoptive parent or parents, in the custody of his adoptive parent or parents, pursuant to a lawful admission for permanent residence.

The respondent has not proved that he is a United States citizen because he has not established that when his mother was naturalized on March 6, 1973, he was residing in the United States in her custody as a lawful permanent resident of this country. Consequently, we find insufficient evidence in the record that the respondent is a United States citizen under this provision.

In reaching our decision, we have considered the respondent's argument that section 321(b) of the Act is unconstitutional. The Board is not empowered, however, to rule on the constitutionality of the statutes and regulations that we administer. *Matter of Valdovinos*, 18 I&N Dec. 343 (BIA 1982).

We further note that the respondent argued that he is a United States citizen based upon the automatic citizenship provisions of section 320 of the Immigration and Nationality Act, 8 U.S.C. § 1431 (1994), as amended by the Child Citizenship Act of 2000, Pub. L. No. 106-395, 114 Stat. 1631 ("CCA"). Under the new law, a child born outside of the United States automatically becomes a citizen when the following conditions are met: 1) at least one parent of the child is a United States citizen, whether by birth or naturalization; 2) the child is under the age of 18, and 3) the child is residing in the United States in the legal and physical custody of the citizen parent after having been lawfully admitted for permanent residence. However, all these requirements must be proven to exist on or after February 27, 2001.

In addition, we note our decision in *Matter of Rodriguez-Tejedor*, 23 I&N Dec. 153 (BIA 2001). Therein, the Board held that the Child Citizenship Act is not retroactive and, consequently, does not apply to an individual who resided in the United States with his United States citizen parents as a lawful permanent resident while under the age of 18 years, but who was over the age of 18 years on the effective date of the Child Citizenship Act. *See also Hughes v. Aschcroft*, 2001 WL 699351 (9th Cir. 2001); *Nehme v. INS*, 252 F.3d 415 (5th Cir. 2001).

We conclude that the respondent has not established that he is a citizen of this country under the Child Citizenship Act. The record reflects that the respondent was 34 years old on February 27, 2001, and therefore he cannot prove that he satisfies the second element referred to above. *See Matter of Rodriguez-Tejedor, supra*. We therefore decline to terminate or remand these proceedings.

We will now address whether the respondent was denied a fair hearing in these proceedings. He argued that it was improper for the Immigration Judge to have conducted these proceedings through a video conference. The regulations provide, however, that an Immigration Judge may conduct hearings through a video conference to the same extent as he or she may conduct hearings in person. *See* 8 C.F.R. § 3.25(c). Consequently, we find nothing inherently improper regarding the use of a video conference in these proceedings.

In addition, before the proceeding will be invalidated, it is required that the respondent establish that he was prejudiced by the use of a video conference. *Hartooni v. INS*, 21 F.3d 336, 339-40 (9th Cir. 1994); *Miranda-Lores v. INS*, 17 F.3d 84, 85 (5th Cir. 1994); *United States v. Mendoza-Lopez*, 7 F.3d 1483 (10th Cir. 1993); *Ortiz-Salas v. INS*, 992 F.2d 105 (7th Cir. 1993); *United States v. Polanco-Gomez*, 841 F.2d 235 (8th Cir. 1988); *United States v. Garcia-Jaramillo*, 604 F.2d 1236 (9th Cir. 1979); *Matter of G-*, 20 I&N Dec. 764 (BIA 1993); *Matter of Santos*, 19 I&N Dec. 105, 107-08 (BIA 1984).

Having carefully reviewed the record, we find that the respondent has failed to demonstrate that he was denied a fundamentally fair hearing. The respondent has presented no specific illustrations of exactly how the result in these proceedings would have been different had the Immigration Judge conducted the proceedings in person. Consequently, this aspect of the appeal is dismissed.

The respondent further argued on appeal that the Immigration Judges who heard his case were biased. We find no indication from the record that the Immigration Judges' conduct was improper, displayed bias, or exceeded judicial bounds. We therefore are unable to find that the respondent was denied due process.

The respondent also argued on appeal that the Immigration Judge erred by finding that his alienage had been proven by the Service. We have reviewed the record and find sufficient proof that the respondent is not a citizen of the United States. We note for instance that the record contains a copy of the Record of Deportable Alien (Form I-213). This document appears to be reliable and contains the respondent's name, date of birth, and indicates that he was born in Kuwait. Consequently, we find that alienage has been established. See *Matter of Hernandez*, Interim Decision 3397 (BIA 1999); *Matter of Mejia*, 16 I&N Dec. 6 (BIA 1976).

We have also considered the respondent's argument that the Immigration Judge incorrectly admitted this document into evidence because it was presented in violation of the 10-day rule. The record reflects that the respondent refused to admit or deny at the hearing any of the allegations contained in the charging document. To prove alienage, the Service then introduced the Form I-213 into the record. Later in the hearing, the respondent sought protection under the Convention, and testified he is afraid to return to his country of citizenship, Jordan. Inasmuch as it is undisputed that the respondent was not born in this country, we do not find that he was prejudiced by the admission into the record of the Form I-213. We therefore see no reason to remand these proceedings to conduct a hearing on whether the respondent is an alien.

The respondent argued on appeal that the documents presented to prove removability do not relate to him. We have reviewed the documentation contained in the record including the conviction records, and find that they relate to the respondent and prove the charges contained in the Notice to Appear. Any discrepancy in the spelling of the respondent's name appears immaterial.


We will now address the respondent's claim under the Convention. To qualify for withholding or deferral of removal under the Convention, an applicant must prove that he will be tortured if he returns to his native country, and the act will be instigated by or with the consent or acquiescence of a public official or other person acting in an official capacity. *See* 8 C.F.R. § 208.18(a)(1). Torture is defined as any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or her or a third person information or a confession, punishing him or her for an act he or she or a third person has committed or is suspected of having committed, or intimidating or coercing him or her or a third person, or for any reason based on discrimination of any kind. *See* 8 C.F.R. § 208.18(a)(1). Torture is an extreme form of cruel and inhuman treatment and does not include lesser forms of cruel, inhuman or degrading treatment or punishment. *See* 8 C.F.R. § 208.18(a)(2). An applicant for withholding or deferral of removal under the Convention bears the burden of proof that it is more likely than not that he or she would be tortured if removed to the proposed country of removal. *See* 8 C.F.R. §§ 208.16(c)(2); 208.17(a).

The respondent argued that he will more likely than not be tortured in his country because he was convicted of a drug-related offense in the United States. We have reviewed the background evidence on Jordan submitted by the respondent. Although we do not deny that there are many human rights abuses in that country, we are unable to identify any indication that the Jordanian government more likely than not tortures its citizens for having served jail sentences in other countries for drug crimes committed abroad. We further are unable to find that the respondent will likely be tortured in his country because he sought protection under the Convention.

In addition, we have reviewed the record of proceedings, the Immigration Judge's decision, and the remaining arguments raised on appeal. We find the Immigration Judge adequately and correctly addressed the issues presented, and the decision of the Immigration Judge is affirmed based upon and for the reasons set forth in that decision. Consequently, we find no error in the Immigration Judge's decision to deny the respondent's request for deferral of removal under article 3 of the Convention.

We have also considered the respondent's argument that the transcript in these proceedings was defective. We find no indication that any material error appears in the transcript of the proceedings.

ORDER: The appeal is dismissed.



FOR THE BOARD



U.S. DEPARTMENT OF STATE

Jordan

Country Reports on Human Rights Practices - 2000

Released by the Bureau of Democracy, Human Rights, and Labor
February 23, 2001



The Hashemite Kingdom of Jordan is a constitutional monarchy ruled by King Abdullah II bin Hussein since the death of his father, King Hussein bin Talal, in February 1999. The Constitution concentrates a high degree of executive and legislative authority in the King, who determines domestic and foreign policy. In the King's absence, a regent, whose authority is outlined in the Constitution, assumes many of these responsibilities. The Prime Minister and other members of the Cabinet are appointed by the King and manage the daily affairs of government. The Parliament consists of the 40-member Senate, appointed by the King, and the 80-member Chamber of Deputies, which is elected every 4 years. The lower house asserts itself only intermittently on domestic and foreign policy issues. The 1997 parliamentary elections were marred by reports of registration irregularities, fraud, and restrictions on the press and on campaign materials. According to the Constitution, the judiciary is independent of other branches of government; however, in practice it is susceptible to political pressure and interference by the executive.

General police functions are the responsibility of the Public Security Directorate (PSD). The PSD, the General Intelligence Directorate (GID), and the military share responsibility for maintaining internal security, and have authority to monitor the activities of persons believed to be security threats. Elements of the security forces continue to commit human rights abuses.

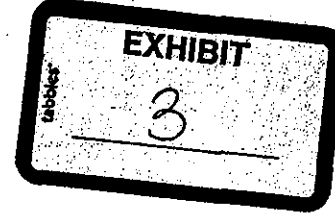
Jordan has a mixed economy, with significant but declining government participation in industry, transportation, and communications. The country has few natural resources and relies heavily on foreign assistance and remittances from citizens working abroad. During the year, the Government took steps to increase privatization and to improve the country's investment climate during the year. For example, in April the country acceded to the World Trade Organization, which entailed extensive legislative and regulatory reform. However, the economy continues to suffer from chronically high unemployment, and GDP growth has remained between 1 and 2 percent since 1996. Price controls remain on bread, pharmaceuticals, gasoline, and animal feed. Wages remain stagnant. International sanctions against Iraq, historically the country's largest trading partner, continue to inhibit export growth. Violence in the occupied territories late in the year adversely affected the tourist industry, and many foreign investment projects were frozen. Per capita gross domestic product in 1999 was approximately \$1,542 (1,086 dinars). Many families, especially those in rural areas, are unable to meet basic needs to subsist.

There continued to be significant problems in the Government's human rights record. There are significant restrictions on citizens' right to change their Government. Citizens may participate in the political system through their elected representatives in Parliament; however, the King has discretionary authority to appoint and dismiss the Prime Minister and Cabinet, to dissolve Parliament, and to establish public policy. Other human rights problems include extrajudicial killings by members of the security forces, police abuse and mistreatment of detainees; allegations of torture; arbitrary arrest and detention; lack of transparent investigations and accountability within the security services; prolonged detention without charge; lack of due process of law and interference in the judicial process; infringements on citizens' privacy rights; harassment of members of opposition political parties and the press; and significant restrictions on freedom of speech, press, assembly, and association. The 1999 Press and Publications Law reduced somewhat the restrictions outlined in previous legislation on the ability of journalists and publications to function and report freely; however, significant restrictions continued to be in effect. The Government imposes some limits on freedom of religion, and there is official and societal discrimination against adherents of unrecognized religions. The evangelical Christian community reported fewer incidents of governmental harassment during the year. There are some restrictions on freedom of movement. Violence against women, restrictions on women's rights, and societal discrimination against women are problems. The law still allows for reduced punishments for violent "honor crimes" against women for alleged immoral acts. Child abuse remains a problem, and discrimination against Palestinians persists. Abuse of foreign servants is a problem.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Political and Other Extrajudicial Killings



Anani in April; the book contained a poem that reportedly was offensive to Islam. The authorities did not bring charges against Al-Anani. The book was published and distributed in Beirut, Lebanon due to the Jordanian ban.

In June due to a dispute stemming from an intrachurch rivalry between the Jerusalem Patriarchate and the Antioch Orthodox Patriarchate, the Government closed an Arab Orthodox church in Amman that was aligned with the Antioch Patriarchate in Damascus, Syria. The Government closed the church following a request from local Orthodox hierarchy to enforce a 1958 law that grants the Jerusalem Patriarchate authority over all Orthodox churches in the country. On November 29, the Government gave permission to the church to open officially on December 14 despite the fact that the dispute over authority had not been resolved. The church opened as scheduled; however, the Government closed it down 1 week later, stating that the church was in violation of the 1958 law for associating itself with the Orthodox church. The Government reportedly stated that the church has permission to reopen under a different name.

In December 1999, the municipality of Amman closed the Roy and Dora Whitman Academy—a nonprofit missionary school in

Amman—on the basis that it was not registered with the Ministry of Education. In April the school received registration and reopened. In July the Ministry of Labor approved official work permits for the academy's staff.

Shari'a in the country is applied in all matters relating to family law involving Muslims or the children of a Muslim father; all citizens, including non-Muslims, are subject to Islamic legal provisions regarding inheritance. All minor children of a male citizen who converts to Islam are automatically considered to be Muslim. Adult children of a male Christian who has converted to Islam become ineligible to inherit from their father if they do not themselves convert to Islam. In cases where a Muslim converts to Christianity, the act is not recognized legally by the authorities, and the subject continues to be treated as a Muslim in matters of family and property law. The minor children of a male Muslim who converts to Christianity continue to be treated as Muslims under the law.

The law prohibits non-Muslims from proselytizing Muslims. Conversion to the Muslim faith by Christians is allowed; however, a Muslim may not convert to another religion. Muslims who convert to other faiths complain of social and government discrimination. The Government does not recognize the legality of such conversions. Under Shari'a converts are regarded as apostates and legally may be denied their property and other rights. However, this principle is not applied. Converts from Islam do not fall under the jurisdiction of their new religion's laws in matters of personal status and still are considered Muslims under Shari'a, although the reverse is not true. Shari'a prescribes a punishment of death for conversion; however, there is no equivalent statute under civil law.

The Political Parties Law prohibits houses of worship from being used for political party activity. The law was designed primarily to prevent Islamist parliamentarians from preaching in mosques.

Religious instruction is mandatory for all Muslim students in public schools. Christian and Baha'i students are not required to attend courses in Islam.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The law provides for the right of citizens to travel freely abroad and within the country except in designated military areas; however, there are some restrictions on freedom of movement. The law requires that all women, including foreign women married to citizens, obtain written permission from a male guardian—usually their father or husband—to apply for a Jordanian passport. During the year, there were several cases in which mothers reportedly were prevented from departing with their children because authorities enforced requests from fathers to prevent their children from leaving the country.

The GID sometimes withholds passports from citizens on security grounds. Local governors have the authority to enact the 1954 Preventing Crimes Law, which allows them to place citizens under house arrest for up to a year without formally charging them (see Section 1.d.). House arrest may involve requiring persons to report daily to local police station and the imposition of a curfew. Persons who violate the terms of their house arrest may be imprisoned for up to 14 days.

In April after the GID released Hassan Mahmoud Abdullah Abu Hanieh following 20 days of detention without charge (see Section 1.d.), the governor of Amman, required Abu Hanieh to report to a local police station twice daily and to return home by 6:30 p.m. every evening. Officials did not bring charges against Hanieh and rescinded the house arrest in August.

Jordanians with full citizenship receive passports that are valid for 5 years. Most Palestinians living in Jordan are citizens and receive passports that are valid for 5 years. However, the Government estimates that there are 150,000 Palestinian residents who are refugees or children of refugees who arrived from Gaza after 1967 do not qualify for citizenship. They receive 2-year passports valid for travel only. In the period following the country's administrative and legal disengagement from the West Bank in 1988, Palestinians residing in the West Bank received 2-year passports valid for travel only, instead of 5-year Jordanian passports). In 1995 King Hussein announced that West Bank residents without other travel documentation again would be eligible to receive 5-year passports. However, the Government has emphasized that the only way to obtain a 5-year passport is by presenting one's "national number," a civil registration number accorded at birth or upon naturalization to persons holding citizenship. The national number is recorded on national identity cards and in family registration books, which are issued

only to citizens.

The Jordanian Society for Citizens' Rights (JSCR) reported a small number of cases in which Jordanian embassies overseas refused to issue new passports to Jordanians of Palestinian origin who were domiciled in foreign countries. Such Palestinians consequently were unable to return to Jordan.

The Constitution specifically prohibits the deportation of citizens. However, in July the High Court rejected an appeal challenging the alleged expulsion of four HAMAS leaders, all four of whom are citizens (see Sections 1.d., 1.e., and 2.b.).

There were credible reports that, due to a ban on his entering the country, government officials stopped former Minister of Parliament, Yaqoub Qarrash, at the border in January when he tried to return from Saudi Arabia.

There is no law or statute that provides for the granting of refugee status to asylum seekers. The Government generally cooperates with the office of the UNHCR. The UNHCR must resettle refugees in other countries. However, in April 1998, the Ministry of Interior signed a memorandum of understanding with the UNHCR concerning the status and treatment of refugees. Under the agreement, the Government admits asylum seekers, including those who have entered the country clandestinely, and respects the UNHCR's eligibility determinations under the refugee definitions set forth in the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The agreement provides protection against the forcible return of refugees from the country, and recognizes the legal definition of a refugee as set forth in the U.N. Convention. Since 1996 the UNHCR has held regular seminars to train law enforcement officials in international refugee law, including specialized courses for policewomen. The Government provides first asylum. According to UNHCR figures, 55,626 persons have sought asylum through the UNHCR since October 1990, and in approximately 8,389 cases (approximately 15 percent), applicants have been accorded refugee status.

The Government estimates that over 200,000 Iraqis reside in the country. Since 1991 thousands of Iraqis have applied for refugee status and received legal and material assistance from the UNHCR. During the year, 6,806 Iraqis applied for, and 641 were accorded, refugee status. Additionally 1,753 out of the total 1,868 refugees accorded status during the year were Iraqi nationals, reflecting applications from previous years. The UNHCR also received applications for refugee status during the year from Sudanese, Russians of Chechen decent, Somali, and Eritrean asylum seekers.

For the 1999-2000 school year, the Government reverted to its policy of denying Iraqi children admittance to school unless such children are legal residents of the country or recognized as refugees by the UNHCR.

According to the Government, it deported eight Libyan nationals affiliated with "international terrorist organizations" in March. The Government did not inform the UNHCR of the presence of the Libyans prior to their deportation from the country. The Libyan Government reportedly executed three of the eight Libyans upon their return to Libya (see Section 1.c).

Almost 1.6 million Palestinian refugees are registered in Jordan with the U.N. Relief and Works Agency for Palestine Refugees (UNRWA). The UNRWA counts another 800,000 Palestinians as either displaced persons from the 1967 war, arrivals following the 1967 war, or returnees from the Gulf between 1990 and 1991.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

There are significant restrictions on citizens' right to change their government. Citizens may participate in the political system through their elected representatives in Parliament; however, the King has discretionary authority to appoint and dismiss the Prime Minister and Cabinet, to dissolve Parliament, and to establish public policy. Appointments made by the King to high government posts do not require legislative approval. Executive power is vested in the King (or, in his absence, in the Regent), who exercises his power through his ministers in accordance with the provisions of the Constitution.

In June King Abdullah dismissed then Prime Minister Abdul Raouf Rawabdeh and appointed Ali Abu Al-Ragheb as his successor. The King also appointed 19 new members to the 29-member Cabinet.

The Parliament is composed of the 40-member Senate, appointed by the King, and the popularly elected 80-member Chamber of Deputies. The Parliament is empowered by the Constitution to initiate legislation, and it can approve, reject, and amend legislation proposed by the Cabinet. A group of 10 senators or deputies may submit draft bills for consideration; however, in practice legislation is initiated and drafted by the Cabinet of Ministers and submitted by the Government to the Parliament for its consideration. Opposition Members of Parliament have complained that attempts by members of the lower house to initiate legislation receive no response from the Government. The King proposes and dismisses extraordinary sessions of Parliament and may postpone regular sessions for up to 60 days. If the Government amends or enacts a law when Parliament is not in session, by law it must submit the law to Parliament for consideration during the next session; however, this does not always occur in practice.

The Electoral Law and the distribution of parliamentary seats deliberately favor electorates in rural and southern Jordan, regions with populations known for their traditional, pro-Hashemite views.

PEOPLE OF THE STATE OF ILLINOIS

VS

NUMBER 96CR3067201

JALAL HEMIDAN

CERTIFIED STATEMENT OF CONVICTION / DISPOSITION

I, AURELIA PUCINSKI, Clerk of the Circuit Court of Cook County, Illinois, and keeper of the records and seal thereof do hereby certify that the electronic records of the Circuit Court of Cook County show that:

The States Attorney of Cook County filed an INFORMATION with the Clerk of the Circuit Court on 11/20/96.

Charging the above named defendant with:

A 720-570/401(C) (2)
720-550/5(D)

MANU/DEL 01-15 GR COCAINE/ANLG
MANU/DEL CANNABIS/30-500

The following disposition was rendered before the Honorable Judge DEBONI, FRANK On :

07/14/98 CHARGE AMENDED	C001
07/14/98 PLEA OF GUILTY	C001
07/14/98 FINDING OF GUILTY	C001
07/14/98 DEF SENTENCED TO PROBATION	C001
30 MTH	
08/20/98 DEF TRANS OUT OF JURISDICTION	CALL
TRANSFER TO IOWA	
04/08/99 PLEA OF GUILTY	CALL
04/08/99 DEF SENTENCED ILLINOIS DOC	CALL
6 YRS	
04/08/99 CREDIT DEFENDANT FOR TIME SERV	
132 DYS	

EXHIBIT

9

I hereby certify that the foregoing has been entered of record on the above captioned case.

Date 08/24/99



Aurelia Pucinski
AURELIA PUCINSKI

CLERK OF THE CIRCUIT COURT OF COOK COUNTY

STATE OF ILLINOIS }
COUNTY OF COOK } ss

I, AURELIA PUCINSKI, Clerk of the Circuit Court of Cook County, in said County and State, and Keeper of the Records and Seal thereof, do hereby certify the above and foregoing to be a true, perfect and complete copy of ... Information

Information Number 96 CR 30672

Filed November 19, 1996

in a certain cause ... lately ... pending in said Court, between
The People of the State of Illinois. ... Were ... Plaintiffs and
Jalal Hamidan ... Was ... Defendant. ...

Witness: AURELIA PUCINSKI,
Clerk of the court, and the Seal thereof, at Chicago
said County, ... August 25, ... 19 99 ..



Aurelia Pucinski
Clerk

The State's Attorney of Cook County now appears before the Circuit Court of Cook County and in the name and by the authority of the People of the State of Illinois states that on or about OCTOBER 17, 1996, in the Cook County, Illinois

JALAL HEMIDAN

committed the offense of POSSESSION OF CONTROLLED SUBSTANCE WITH INTENT
TO DELIVER

in that. HE, KNOWINGLY AND UNLAWFULLY POSSESSED WITH INTENT
TO DELIVER OTHERWISE THAN AS AUTHORIZED IN THE ILLINOIS
CONTROLLED SUBSTANCES ACT OF SAID STATE OF ILLINOIS THEN
IN FORCE AND EFFECT, 15 GRAMS OR MORE BUT LESS THAN 100
GRAMS OF A SUBSTANCE CONTAINING A CERTAIN CONTROLLED
SUBSTANCE, TO WIT: COCAINE, IN VIOLATION OF
CHAPTER 720, ACT 570, SECTION 401-A-2-A OF THE ILLINOIS
COMPILED STATUTES 1992 AS AMENDED, AND

contrary to the Statute, and against the peace and dignity of the
People of the State of Illinois.

(Count No. 01)

Charge ID Code: 5095130
No: 96CR-30672

AURELIA PUCINSKI, CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

The State's Attorney of Cook County now appears before the Circuit Court of Cook County and in the name and by the authority of the People of the State of Illinois states that on or about OCTOBER 17, 1996, in the Cook County, Illinois

JALAL HEMIDAN

committed the offense of POSSESSION OF CANNABIS WITH INTENT TO DELIVER

in that HE, KNOWINGLY AND UNLAWFULLY POSSESSED WITH INTENT TO DELIVER OTHERWISE THAN AS AUTHORIZED IN THE CANNABIS CONTROL ACT OF SAID STATE OF ILLINOIS THEN IN FORCE AND EFFECT, MORE THAN 30 BUT LESS THAN 500 GRAMS OF A SUBSTANCE CONTAINING CANNABIS, SOMETIMES CALLED MARIJUANA, IN VIOLATION OF CHAPTER 720, ACT 550, SECTION 5-D, OF THE ILLINOIS COMPILED STATUTES 1992 AS AMENDED, AND

contrary to the Statute, and against the peace and dignity of the People of the State of Illinois.

(Count No. 02)

Charge ID Code: 5020300
No: 96CR-30672

AURELIA PUCINSKI, CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

THE PEOPLE OF THE STATE OF ILLINOIS by the State's Attorney of Cook County,
through his Assistant State's Attorney, after first being duly sworn on his
oath, deposes and swears that the foregoing TWO count(s) in this
information has/have been read and subscribed by him as evidenced by his
signature below and that the same in each count hereby incorporated is
true.

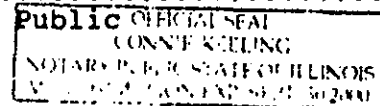
.....
Assistant State's Attorney

NOV 19 1996

Subscribed and sworn (or affirmed) to before me, 19....
by

Connie Keeling

.....
Notary



The bail is fixed at

JUDGE:
Enter

AURELIA PUCINSKI, CLERK OF THE CIRCUIT COURT OF COOK COUNTY

To Whom It May Concern:

This is a Sworn Statement in Support of Jalal Hemeidan's Application for an order of Supervision
A-040-115-795
State of California
County of Santa Clara

I, Jamal Hemeidan hereby state under oath as follows:

I am a legal permanent resident of the United States.

I am a brother of jalal Hemeidan who currently detained at the INS Detainee center at Chicago, IL.

I am employed as a clerk/cashier at
Albertson Corporation, 844 Blossom Hill RD. San jose CA, 95123
General office, P. O. Box 20 Boise, ID 83720

I am able and prepared to provide food and lodging for Jalal Hemeidan as long as his case is pending. If Jalal Hemeidan is granted and order of supervision, he will reside with me at the following address:

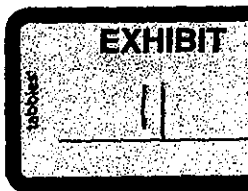
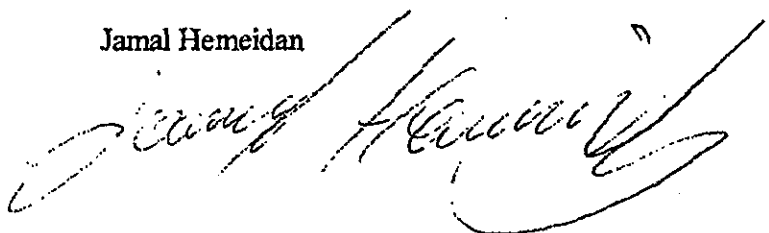
1595 Brookvale Drive # 6
San Jose, CA. 95129
Home Ph.# (408) 255 - 8997
Cellular Ph. # (408) 656 - 2333

While Jalal's case is pending, I will do everything in my power to make sure that he attends his hearings in court.

If you require any further information, Please call or write me at the above address.
Thank you.

Jamal Hemeidan

March 21, 2002



Request for Applicant to Appear for Naturalization Initial Interview

CASE TYPE
N400 Application For Naturalization

APPLICATION NUMBER
WSC*000427700

RECEIVED DATE
February 08, 2000

PRIORITY DATE
February 08, 2000

PAGE
1 of 1

APPLICANT NAME AND MAILING ADDRESS

Please come to:
USINS SAN FRANCISCO DISTRICT OFFICE
630 SANSOME ST
ROOM 406
WAITING ROOM B
SAN FRANCISCO CA 94111

On (Date): Tuesday, April 30, 2002
At (Time): 08:40 AM

References

If you are applying for citizenship for yourself, you will be tested on your knowledge of the government and history of the United States. You will also be tested on reading, writing, and speaking English, unless on the day you filed your application, you have been living in the United States for a total of at least 20 years as a lawful permanent resident and are over 50 years old, or you have been living in the United States for a total of 15 years as a lawful permanent resident and are over 55 years old, or unless you have a medically determinable disability (you must have filed form N648 Medical Certification for Disability Exception, with your N400 Application for Naturalization).

- This letter.
- Your Alien Registration Card (green card).
- Any evidence of Selective Service Registration.
- Your passport and/or any other documents you used in connection with any entries into the United States.
- Those items noted below which are applicable to you:

- Your marriage certificate.
- Proof of death or divorce for each prior marriage of yourself or spouse.
- Your spouse's birth or naturalization certificate or certificate of citizenship.

- Your discharge certificate, or form DD 214.

PLEASE keep this appointment, even if you do not have all the items indicated above.

INS Office Address:
US IMMIGRATION AND NATURALIZATION SERVICE
630 SANSOME ST
SAN FRANCISCO CA 94111-

INS Customer Service Number:
(949) 831-8427

APPLICANT COPY





Proof of Identification
PC12



Resident alien card

Date Feb. 18, 2002

BRIAN PERRYMAN
District Director

INS
10 W. Jackson Blvd.
Chicago, IL. 60604

DEAR DISTRICT DIRECTOR PERRYMAN:

I REQUESTED that you review my custody status
BECAUSE I believe that I am not a flight
risk or a danger to the community. I request
that I be released from INS custody under
an order of supervision.

I came to the United States in 1976, I
was 9 yrs old. I have family members in the
U.S., including my grandparents whom came
the U.S. 1949, my grandfather works with
NASA as an engineer, he's been here over an
half of century as a citizen.

My adopted mother been here since 1969
and been a citizen since 1972. She's a doc
in San Jose California.

EXHIBIT

4

Pg 2

My daughter was born here, by an American citizen as well.

I have a brother and a sister as well lawful permanent resident. This all the family.

I know I have that here in this country.

I was adopted in this country as a little boy, after my biological mother was killed in this country when I was 5 yrs old. I don't know no other country but this one.

I am not a danger to the U.S. community because I pleaded guilty to a crime that I fought for two yrs that I didn't commit only because the attorney miss represented I. I was never involve in no gangs or any other violence crimes during my stay in this country. I was just at the wrong place at the wrong time.

I use all my time in prison during positive things such as getting my G.E.D., taking drugs and alcohol programs. I been rehabilitate myself for the best, to be a better person.

I was convicted of 6 yrs, and only serve 3 yrs do to my good conduct, and now I been 5 months sitting in INS custody in TRI. Co Detention working as a cook.

SINCE my INCARCERATION, my Family has BEEN there, and NO ONE has turn there back ON ME. EVERYONE has supported me mentally as well as FINANCIALLY.

My mother and I agree that, I get more SCHOOLING, she's willing to paid whatever it may CAUSE for me to pursue my GOAL.

All the time when I fought my case for two years, I was ON BOND which I never jumped or miss a court date. I have NO history of any escapes or attempted escapes from any places, as well as failures to appear.

I BEEN cooperating with the INS for my deportation, and I will cooperate UNDER my supervision release, ON everything the INS request.

I AM NOT a flight risk because, I will live at this address 4675 NORWALK DR. ^{APT 201} SAN JOSE, with my mother. (Haïta AHAMED) 95129

When I'm release I will follow up on all the goal I mention to you, and work as well as support my Family.

I will abide by any and all the conditions on my release from INS, custody.

For the reasons stated above, I ask you exercise your discretion and grant me an order of supervision so that I may support my family, return to gainful employment, and no longer be a financial burden to society. I further request that I be afforded an interview in which, I can demonstrate my suitability for release and present additional evidence.

Respectfully,

Mr. Salal Hmaidan

A20318437

TRC. Co. DETENTION CENTER
1026 SHAWNEE COLLEGE Rd.
ULLIN, IL. 62992

February 18, 2002

TO THE JORDANIAN CONSULATE

Miss Asal-Al-Pal

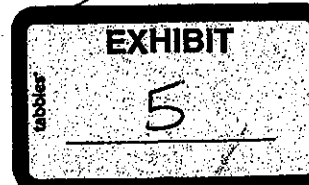
RE: TRAVEL documents for Jalal Hmaidan
DOB 4/23/66 IN DEPORTATION PROCEEDINGS,
PLEASE INFORM ASAP STATUS ON THIS SUBJECT

Address your response to this mailing
address below

TRI. CO. DETENTION CENTER
1026 SHAWNEE COLLEGE RD
ULLIN, IL. 62992

FOR YOUR COOPERATION.

Thank you!



Jalal Hmaidan

February 18, 2002

TO The Kuwaitite Embassy

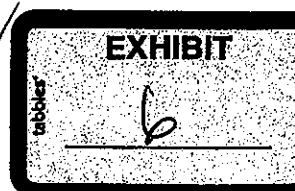
TO: Whom it may concern

Re: TRAVEL documents for Jalal Hmaidan
D.O.B 4/23/66 IN DEPORTATION PROCEEDING
PLEASE inform ASAP status on this subject
I WAS BORN IN KUWAIT ON the above date
AS AN PALESTINIAN REFUGEE. I have a
birth certificate to prove it.

PLEASE response to this mailing address
below.

IRI. Co. Detention Center
1026 SHAWNEE COLLEGE RD
ULLIN, IL. 62992

Thank you for your cooperation!



Jalal Hmaidan

HEARTLAND ALLIANCE
TIA/Chicago Connections
The Midwest Immigrant Rights Center

February 4, 2002

Embassy of Kuwait
2940 Tilden Street, NW
Washington, DC 20008

Re: Travel documents for Jalal Ayed Hmaidan,

To Whom It May Concern:

I am writing on behalf of my client, Jalal Hmaidan. Mr. Hmaidan was born in Kuwait in 1966 and is of Palestinian descent. He was ordered removed to Jordan on October 25, 2000. On August 8, 2001, the Board of Immigration Appeals denied his appeal. Mr. Hmaidan has been detained by the INS for over six months following a final removal order. The INS has not been able to remove him. The INS has requested that Mr. Hmaidan take measures to facilitate his removal. I am requesting that you respond, in writing, to this written request to supply Mr. Hmaidan with travel documents. Please state whether INS has requested travel documents for this individual. Please provide an explanation of why Mr. Hmaidan cannot be issued travel documents if that is the case.

Please feel free to call me with any questions: (312) 660-1359.

Thank you for your immediate attention in this matter.

Sincerely,

Anne Relias

Anne Relias
Attorney at Law
Detention Project
Midwest Immigrant and Human Rights Center
208 S. LaSalle, Suite 1818
Chicago, Illinois 60604

Cc: David Venturella, INS



U.S. Postal Service
CERTIFIED MAIL RECEIPT
 (Domestic Mail Only; No Insurance Coverage Provided)

OFFICIAL USE

0405 9536 1000 0405 1940 5040

Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$

Postmark Here
 re: Jalal Hmaidan

Sent To Kuwait Embassy
 Street, Apt. No., or PO Box No. 2940 Tilden St. NW
 City, State, ZIP+4 Wash DC
 PS Form 3800, January 2001 See Reverse for Instructions

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Kuwait Embassy
~~2940 Tilden St.~~ 2940 Tilden St.
NW
Washington, DC 20008
~~20008~~

2. Article Number (Copy from service label)

7001 1940 0001 4936 5040

PS Form 3811, July 1999

Domestic Return Receipt

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) Capl. Allen H. King B. Date of Delivery 7/8/00
 C. Signature Capl. Allen H. King ☒ Agent ☐ Addressee
 D. Is delivery address different from item 1? ☐ Yes ☒ No
 If YES, enter delivery address below:

3. Service Type
☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.
 4. Restricted Delivery? (Extra Fee) ☐ Yes ☒ No

102595-99

HEARTLAND ALLIANCE
TIA/Chicago Connections
The Midwest Immigrant Rights Center

February 4, 2002

Asal al-Tal
Jordanian Consulate
3504 International Drive, NW
Washington, DC 20008

Re: Travel documents for Jalal Ayed Hmaidan,

Dear Ms. al-Tal,

I am writing on behalf of my client, Jalal Hmaidan. Mr. Hmaidan was born in Kuwait in 1966 and is of Palestinian descent. He was ordered removed to Jordan on October 25, 2000. On August 8, 2001, the Board of Immigration Appeals denied his appeal. Mr. Hmaidan has been detained by the INS for over six months following a final removal order. The INS has not been able to remove him. The INS has requested that Mr. Hmaidan take measures to facilitate his removal. I am requesting that you respond, in writing, to this written request to supply Mr. Hmaidan with travel documents. Please state whether INS has requested travel documents for this individual. Please provide an explanation of why Mr. Hmaidan cannot be issued travel documents if that is the case.

Please feel free to call me with any questions: (312) 660-1359.

Thank you for your immediate attention in this matter.

Sincerely,

Anne Relias

Anne Relias

Attorney at Law

Detention Project

Midwest Immigrant and Human Rights Center

208 S. LaSalle, Suite 1818

Chicago, Illinois 60604

Cc: David Venturella, INS



U.S. Postal Service
CERTIFIED MAIL RECEIPT

(Domestic Mail Only; No Insurance Coverage Provided)

OFFICIAL USE

7001 1140 0001 1115 2416

Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$

Postmark
Here

*Talal
R: Hmaider*

Sent To	<i>Asad al-Tal</i>
Street, Apt. No., or PO Box No.	<i>Jordanian Consulate</i>
City, State, ZIP+4	<i>Wash DC</i>

PS Form 3800, January 2001

See Reverse for Instructions

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

*Asad al-Tal
Jordanian Consulate
3504 International Drive NW
Washington, DC 20008*

2. Article Number

(Transfer from service label)

7001 1140 0001 1115 2416

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) B. Date of Delivery

Mari *JAN 22 2002*

C. Signature

X

☐ Agent
☐ Addressee

D. Is delivery address different from item 1?

If YES, enter delivery address below:

☐ Yes
☐ No

3. Service Type

☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

PS Form 3811, March 2001

Domestic Return Receipt

102595-01-M-1424



March 22, 2002

Officer Frank Moore
Deportation Branch
Immigration and Naturalization Service
10 West Jackson
Chicago, Illinois 60604

Re: Release of Mr. Jalal Ayed Hmaidan (A20-318-437) under INS v. Zadvydas

Dear Officer Moore,

Enclosed is a copy of the letter and support packet I faxed to Washington in regards to Mr. Hmaidan's release under Zadvydas. Please feel free to call me if you have any questions.

Thank you for your attention to this matter.

Sincerely,

Anne Relias
Attorney at Law
Midwest Immigrant and Human Rights Center
208 South LaSalle, Suite 1818
Chicago, Illinois 60604
T: (312) 660-1359
F: (312) 660-1505

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Off. Frank Moore
Deportation Branch
Immigration & Naturalization Service
W. Jackson Blvd.
Chicago, Illinois 60604

2. Article Number (Copy from service label)

7001 1940 0000 5784 9311

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) B. Date of

Immigration & Naturalization
10 West Jackson Boulevard
Chicago, Illinois 60604

D. Is delivery address different from item 1? ☐ Y ☐ N
If YES, enter delivery address below: ☐ N

MAR 27 2002

3. Service Type

- ☐ Certified Mail ☐ Express Mail
- ☐ Registered ☐ Return Receipt for Merchandise
- ☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Y ☐ N

PS Form 3811, July 1999

Domestic Return Receipt

102595-8

Provi

Midwest Immigrant & Human Rights Center

TIA/Chicago Connections, 208 South LaSalle Street, Suite 1818, Chicago, Illinois 60604

phone 312-660-1300 fax 312-660-1505 website: www.heartland-alliance.org

10 West Jackson Blvd.
Chicago, Illinois 60604

Jalal Ayed HMAIDAN
C/O Tri County Detention Center
1026 Shawnee College Rd.
Ullin, IL 62992

A# 20 318 437

Notice to Alien of File Custody Review

You are detained in the custody of the Immigration and Naturalization Service (INS) and you are required to cooperate with the INS in effecting your removal from the United States. If the INS has not removed you from the United States within the removal period as set forth in INA 241 (a) (normally 90 days) of either: 1) your entering INS custody with a final order of removal, deportation, or exclusion, or 2) the date of any final order you receive while you are in INS custody, the District Director will review your case for consideration of release on an Order of Supervision. Release, however, is dependent on your demonstrating by "clear and convincing evidence" that you will not pose a danger to the community and you will not be a significant flight risk.

Your custody status will be reviewed on or about: May 30, 2002. The District Director may consider, but is not limited to considering, the following:

1. The nature and seriousness of your criminal convictions;
2. Other criminal history;
3. Sentence(s) imposed and time actually served;
4. History of escape, failures to appear for judicial or other proceedings, and other defaults;
5. Probation history;
6. Disciplinary problems while incarcerated;
7. Evidence of rehabilitative effort or recidivism;
8. Equities in the United States;
9. Prior immigration violations and history; and
10. Cooperation in obtaining your travel document.

You may submit any documentation you wish to be reviewed in support of your release, prior to the date listed above, to the Officer and address below. English translations must be provided pursuant to 8 CFR 103.2(b)(3). An attorney or any other person may submit materials on your behalf.

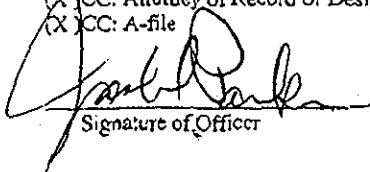
U.S. Department of Justice
Immigration and Naturalization Service
Attn: Officer Navarro
10 West Jackson Blvd, Room 553
Chicago, IL 60604

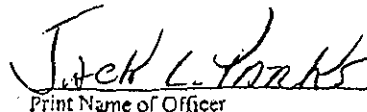
Method of Service

I certify that this form was provided to the alien by:
☒ CC: Attorney of Record or Designated Representative
☒ CC: A-file

HAND

INSTITUTION MAIL


Signature of Officer


Print Name of Officer

4/29/02
Date

EXHIBIT

tabbies

A(5)



May 3, 2002

Officer Zamora
Immigration and Naturalization Service
Deportation Branch
10 West Jackson
Chicago, Illinois 60603

Re: Release of Mr. Jalal Ayed Hmaidan (A20-318-437) under an order of supervision and Zadvydas v. Davis

Dear Mr. Zamora,

On March 22, 2002, I wrote, on behalf of Mr. Hmaidan, to INS Headquarters in Washington, requesting his release. A copy of this request was given to Officer Fred Moore.

I am now writing in response to your issuance of a Notice to Alien of File Custody Review. This review should have been conducted in November of 2001, rather than May of 2002. On May 30, 2002, Mr. Hmaidan will have been in INS custody following a removal order for nine months. Mr. Hmaidan is both eligible for release under an order of supervision and under the Supreme Court decision Zadvydas v. Davis. Therefore, I request that this review be conducted as soon as this letter and supporting documentation are received. Mr. Hmaidan, through counsel, waives the thirty-day period prior to review.

The crimes Mr. Hmaidan committed were drug related and are not of a violent nature. See attached criminal records, exhibit 1 While his criminal case was pending, Mr. Hmaidan was released on a bond and went to court for every hearing date. Mr. Hmaidan completed drug and alcohol counseling while in Illinois State custody and received his GED. See Exhibits 2 and 3. Mr. Hmaidan has many family members in the United States who are either United States citizens or lawful permanent residents. His adoptive mother, Haifa Ahmed, has been a United States citizen since 1973. See attached naturalization certificate and adoption records, Exhibit 4. If released he will live with Jamal Hemeidan at 1595 Brookvale Drive, #5, San Jose, CA 95129 (T: (408) 255-8997, C: (408)-656-2333). Jamal is Jalal's brother and is in the process of naturalizing. See attached support Letter, LPR Card, and Naturalization Appointment, Exhibit 5. Mr. Hmaidan also has a United States citizen child who is eleven years old.

Mr. Hmaidan is of Palestinian descent, born in Kuwait, but who resided in Jordan and is essentially stateless. He was ordered removed by an Immigration Judge on October 25, 2000 (see attached removal order, Exhibit 6) and the Board of Immigration Appeals dismissed his

Providing paths from harm to hope through human services

Midwest Immigrant & Human Rights Center

TIA/Chicago Connections, 208 South LaSalle Street, Suite 1818, Chicago, Illinois 60604
phone 312-660-1300 fax 312-660-1505 website: www.heartland-alliance.org

EXHIBIT

A(6)

appeal on August 8, 2001 (see attached Board Decision, Exhibit 7). He has been in INS custody for eight months since a final removal order has been issued and the INS has been unable to effectuate his removal. The 2000 Country Report on Human Rights Practices for Jordan states that there are "150,000 Palestinian residents who are refugees or children of refugees." See attached Department of State 2000 Country Report on Human Rights Practices for Jordan, p. 9, Exhibit 8. In addition, the government has emphasized that passports given to Palestinians "do not connote citizenship, which only can be proven by presenting one's national number, a civil registration number accorded at birth or upon naturalization to persons holding citizenship." Id. Mr. Hmaidan never received a national number and thus never was considered a citizen of Jordan and therefore, will **not, reasonably in the foreseeable future**, be issued travel documents. INS has not been able to remove Mr. Hmadian in the six months the United States Supreme Court has allotted them. Mr. Hmaidan has fully cooperated with the INS's efforts to remove him from the United States. In complying with INS's further request that the detainee attempt to facilitate his release we have written to the Jordanian and Kuwaiti Consulates requesting travel documents from Mr. Hmaidan. Both Mr. Hmaidan, and myself, have written to the Jordanian and Kuwaiti Consulates. See attached copies of letters, Exhibits 9, 10, 11, 12 and 13. We have heard no response.

Enclosed are the following documents supporting Mr. Hmaidan's release under an order of supervision:

1. Criminal records of Mr. Hmaidan.
2. Perfect Attendance Certificate at his General Equivalency Development Program
3. Student of the Month Certificate
4. Naturalization Certificate of Haifa Mahmoud Ahmad and Court Documents certifying that she adopted Jalal Hmaidan.
5. Support letter of brother of Mr. Hmaidan, a copy of his LPR Card, and copy of Naturalization Appointment
6. The decision of the Immigration Judge ordering removal, dated October 25, 2000.
7. The decision of the Board of Immigration Appeals, dated August, 8, 2001.
8. United States Department of States Country Report on Jordan, 2000, excerpt.
9. Mr. Hmaidan's letter to INS Chicago District reflecting Mr. Hmaidan's willingness to cooperate in his removal.
10. Mr. Hmaidan's letter to the Jordanian Consulate requesting travel documents.
11. Mr. Hmaidan's letter to the Kuwaiti Consulate requesting travel documents.
12. My request to the Kuwaiti Embassy for travel documents for Mr. Hmaidan and a certified receipt.
13. My request to the Jordanian Consulate for travel documents for Mr. Hmaidan.

I further reiterate my request that Mr. Hmaidan be released under an order of supervision. He is not a danger to the community and is not a flight risk. He will continue to cooperate with the INS in facilitating his removal. Moreover, continuing to hold him violates United States law as decided by the United States Supreme Court in Zadvydas v. Davis.

Thank you for your immediate attention in this matter and please do not hesitate to call if you have any questions (312-660-1359).

Sincerely,

Anne Relias

Anne Relias
Staff Attorney

cc: Officer Navarro

Department of Education

General Equivalency Development Program

Perfect Attendance

The Department of Education is pleased to present this certificate to you

Jalal Hemidan

In recognition of outstanding attendance during the month of

August, 2001

Hessler

Educator

Sandra L. Lutz

Education Facility Administrator

tabbies®

EXHIBIT

2

Achievement



Presented on the 14th day of September, 2001



Student of the Month

In Recognition of Outstanding Performance

Jalal Hemidan

is hereby presented with this certificate of outstanding educational achievement. The recipient is selected for student of the month as a result of his outstanding performance in the classroom during the month of August, 2001.

Gleason
Educator

Sandra L. Lutz
Education Facility Administrator

tabbles®

3

EXHIBIT

THE UNITED STATES OF AMERICA



No. 9779746

CERTIFICATE OF

NATURALIZATION

Petition No. 202819

Alien Registration No. A10 219 207

ORIGINAL

Personal description of holder as of date of naturalization: Date of birth September 9, 1944 sex female
 complexion medium color of eyes brown color of hair brown height 5 feet 6 inches
 weight 125 pounds visible distinctive marks mole on lower left side of cheek
 Marital status divorced Country of former nativity Jordan

I certify that the description above given is true and that the photograph affixed hereto is a likeness of me

Hatfa Mahmoud Ahmad
 (Complete and true signature of holder)

UNITED STATES OF AMERICA
 NORTHERN DIST. OF CALIFORNIA

Be it known, that, at a term of the District Court of the United States

held pursuant to law at San Francisco on March 6, 1973

HATFA MAHMOUD AHMAD
 then residing at 3200 Payne Avenue, San Jose, California, intends to reside permanently in the United States (upon so requiring, with the Naturalization laws of the United States); having in all other respects complied with the applicable provisions of such naturalization laws and was duly admitted to citizenship; therefore ordered that such person be and is admitted as a citizen of the United States of America.

In testimony whereof, the seal of the court is hereunto affixed this March day of seventy-three

CHARLES T. UFFERS

Clerk of the U.S. District Court
 By *C. H. Harnett* Deputy Clerk



IT IS PUNISHABLE BY U. S. LAW TO COPY, PRINT OR PHOTOGRAPH THIS CERTIFICATE.

DEPARTMENT OF JUSTICE

EXHIBIT

4

F (312)

(SPACE BELOW FOR FILING STAMP ONLY)

ROY O. LANGE
ATTORNEY AT LAW
260 Sheridan Avenue
Palo Alto, Ca. 94306
68101 887-2800

Attorney for Petitioner

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA

In the Matter of the Adoption
Petition of:

No. A-2122

HAIFA MAHMOUD AHMAD,
Petitioner

JUDGMENT OF ADOPTION

The petition of HAIFA MAHMOUD AHMAD for an order of this Court adjudging that henceforth JAMAL HMAIDAN, born February 4, 1964, at Zerka, Jordan, JIHAN HMAIDAN, born February 14, 1965, at Jerusalem, and JALAL HMAIDAN, born April 23, 1966, at Kuwait, minors, shall be the adopted children of the petitioner, came on regularly on the 17th day of May, 1978, for hearing, Roy O. Lange appearing as attorney for the petitioner; and the petitioner and minor children having appeared before the Court, and the Court having examined them, each separately; and the Court having heard the petition and evidence in support of it, and the matter being submitted, the Court finds:

1. That all the averments contained in the petition of HAIFA MAHMOUD AHMAD are true; that the petitioner is the sister of the late mother of the said minor children, HEYAM AYED HEMIDAN, deceased; that petitioner is an adult person, and is more than ten years older than the unmarried minors;

1 2. That the surviving parent of the said minors, AYED
2 HMAIDAN, has consented in the manner and form prescribed to the
3 adoption of the said minor children by this petitioner, and his
4 consent form has been filed with the clerk of this Court; and that
5 the State of California Health and Welfare Agency, Department of
6 Health, has heretofore filed its written report recommending the
7 granting of the petition, and the report has been considered by
8 the Court;

9 3. That the petitioner has executed an agreement that
10 the children shall be treated in all respects as the lawful
11 children of petitioner;

12 4. That the children are proper subjects for adoption,
13 and the petitioner's home is suitable for the children; and that
14 the interests of the children will be promoted by their adoption
15 by the petitioner: now therefore,

16 IT IS ORDERED THAT, JAMAL HMAIDAN, JIHAN HMAIDAN, and
17 JALAL HMAIDAN be adopted by HAIFA MAHMOUD ARMAD, and that these
18 persons shall hereafter sustain toward each other all legal
19 obligations of parent and child, and shall have all the rights and
20 be under all the duties of such relationship, including all legal
21 rights and duties of custody, support and inheritance.

22 IT IS FURTHER ORDERED THAT, the children shall continue
23 to bear the names of their birth and shall be known as JAMAL
24 HMAIDAN, JIHAN HMAIDAN, and JALAL HMAIDAN.

25 Dated: May 17, 1978

26 
27 Judge of the Superior Court
28



U.S. Department of Justice
Immigration and Naturalization Service

HQPDU
Washington, DC 20536

A20 318 437

Anne Relias
Attorney At Law
Midwest Immigrant and Human Rights Center
208 S. LaSalle St., Suite 1818
Chicago, Illinois 60604
Re: A20318437

We have received your request for review for a custody re-determination. The Immigration and Naturalization Service ("INS") is in the process of reviewing the likelihood of repatriating you to your home country or country where ordered removed pursuant to a final administrative deportation/removal order. You are advised that in accordance with the Supreme Court's instruction in Zadvydas v. Davis, 121 S.Ct. 2491 (2001) and INS regulations, 8 C.F.R. § 241.13 (66 FR 56967, November 14, 2001), you have the burden to show that there is no significant likelihood of repatriating you in the reasonably foreseeable future. In order to undertake the review, in accordance with 8 CFR §241.4 and 8 CFR §241.13, you must provide the following documentation:

- Copies all passports, birth certificates or other nationality documents in your possession
- Copies of correspondence indicating your good faith efforts to obtain a passport from your country of nationality or other country indicated on your Order of Removal.
- Copies of receipts or responses from Embassies, Consulates or other governmental offices responding to your request for a travel document

Upon receipt of the above information, this office will conduct a full review of your case and make a determination of custody. Until such time as you submit the above information, the removal period defined in 8 CFR §§ 241.4 and 241.13 is held in suspense.

You may submit additional evidence if you believe your removal is not possible in the reasonably foreseeable future. You must resubmit evidence previously submitted that your removal is not imminent for reconsideration. You must also prove that you are taking positive measures to facilitate your removal from the United States. You are also advised that the Service may continue to detain you until there has been a determination under 8 CFR §241.13 whether there is a significant likelihood that you can be removed in the reasonably foreseeable future.

All evidence should be sent to the Headquarters Post Order Unit (HQPDU), 801 I St, NW, Washington, DC 20536, Room 800.

EXHIBIT

A(7)

The HQPDU has chosen not to review your case at this time because of:

- _____ You are not currently in INS custody.
- _____ Your immigration case is pending review by the Board of Immigration Appeals and is therefore, not a final order subject to review by the HQPDU.
- _____ The Removal Period has not yet expired, thus making you ineligible for any review.
- _____ You have not been in custody with a final order of removal for the statutory period of time.
- _____ Your case is pending before a Circuit Court of Appeals and you are not eligible for a review of your case.
- _____ You have a judicially ordered stay of deportation, exclusion or removal.
- _____ Records indicate that you are statutorily ineligible for a custody review pursuant to 8 CFR 241.13

Once you are eligible for review, the HQPDU will conduct a review of your case and issue a decision.



K. H. Signature of HQPDU Director/Designated Representative

5-8-02
Date



May 24, 2002

Officer Rozas
Headquarters Post Order Unit
801 I Street, NW, Room 800
Washington DC, 20536
RE: JALAL HMAIDAN, A 20-318-437

Dear Officer Rozas,

On March 22, 2002, I submitted a request for Mr. Hmaidan's released under the Supreme Court decision, Zadvydas v. Davis. In that request I submitted four exhibits (10, 11, 12 and 13) indicating correspondence illustrating my client's good faith efforts to obtain a passport from his country of birth as well as his country of residence. Those exhibits are the following:

1. Mr. Hamidan's letter to the Jordanian Consulate requesting travel documents (Mr. Hmaidan was ordered removed to Jordan)
2. Mr. Hamidan's letter to the Kuwaiti Embassy requesting travel documents (Mr. Hmaidan was born in Kuwait).
3. My written request to the Kuwaiti Embassy for travel documents for Mr. Hamidan and a certified receipt.
4. My request to the Jordanian Consulate for travel documents for Mr. Hmaidan and a certified receipt.

Neither Mr. Hmaidan, nor I have received any response from either the Jordanian Consulate or the Kuwaiti Embassy.

Mr. Hmaidan used to have a Jordanian passport, however it expired and could not be renewed. Mr. Hmaidan is not a native of Jordan and is of Palestinian descent, therefore his Jordanian passport was only of a temporary nature. Mr. Hmaidan is not in possession of his birth certificate.

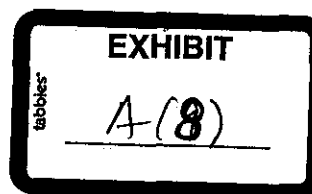
Because you received this information with my initial request for review of Mr. Hmaidan's case I expect that a full review of his case has already begun. The removal period defined in 8 CFR §§ 241.4 and 241.13 should not be held in suspense as I submitted this information with my initial request for review.

Providing paths from harm to hope through human services

Midwest Immigrant & Human Rights Center

TIA/Chicago Connections, 208 South LaSalle Street, Suite 1818, Chicago, Illinois 60604

phone 312-660-1300 fax 312-660-1505 website: www.heartland-alliance.org



I have enclosed a copy of my initial request as well as the exhibits corresponding to your written request which were originally submitted two months ago.

Thank you for your immediate attention to this matter.

Sincerely,

Anne Relias

Anne Relias

Attorney at Law

(312) 660-1359

cc: Officer Navarro, Officer Zamora Chicago District

HEARTLAND ALLIANCE
TIA/Chicago Connections
The Midwest Immigrant Rights Center

February 4, 2002

Embassy of Kuwait
2940 Tilden Street, NW
Washington, DC 20008

Re: Travel documents for Jalal Ayed Hmaidan,

To Whom It May Concern:

I am writing on behalf of my client, Jalal Hmaidan. Mr. Hmaidan was born in Kuwait in 1966 and is of Palestinian descent. He was ordered removed to Jordan on October 25, 2000. On August 8, 2001, the Board of Immigration Appeals denied his appeal. Mr. Hmaidan has been detained by the INS for over six months following a final removal order. The INS has not been able to remove him. The INS has requested that Mr. Hmaidan take measures to facilitate his removal. I am requesting that you respond, in writing, to this written request to supply Mr. Hmaidan with travel documents. Please state whether INS has requested travel documents for this individual. Please provide an explanation of why Mr. Hmaidan cannot be issued travel documents if that is the case.

Please feel free to call me with any questions: (312) 660-1359.

Thank you for your immediate attention in this matter.

Sincerely,

Anne Relias

Anne Relias

Attorney at Law

Detention Project

Midwest Immigrant and Human Rights Center

208 S. LaSalle, Suite 1818

Chicago, Illinois 60604

Cc: David Venturella, INS

EXHIBIT

tabbies

A(9)

U.S. Postal Service
CERTIFIED MAIL RECEIPT
 (Domestic Mail Only; No Insurance Coverage Provided)

OFFICIAL USE

0405 9E64 1000 0461 1002

Postage \$
 Certified Fee
 Return Receipt Fee
 (Endorsement Required)
 Restricted Delivery Fee
 (Endorsement Required)
 Total Postage & Fees \$

Postmark
 Here

re:
 Jalal
 Hmaidan

Sent To

Kuwait Embassy

Street, Apt. No.,
 or PO Box No.

2940 Tilden St. NW

City, State, ZIP+4

Wash DC

PS Form 3800, January 2001

See Reverse for Instructions.

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Kuwait Embassy
~~0000~~ 2940 Tilden St.
 NW
 Washington, DC 20008
~~0000-0000~~

2. Article Number (Copy from service label)

7001 1940 0001 4936 5040

PS Form 3811, July 1999

Domestic Return Receipt

102595-99-M-1

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly)

B. Date of Delivery
 1/8/02

C. Signature

x Capt. Allen Uley *TCU*

☒ Agent
☐ Address

D. Is delivery address different from item 1? ☐ Yes
 If YES, enter delivery address below: ☐ No

3. Service Type

☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

HEARTLAND ALLIANCE
TIA/Chicago Connections
The Midwest Immigrant Rights Center

February 4, 2002

Asal al-Tal
Jordanian Consulate
3504 International Drive, NW
Washington, DC 20008

Re: Travel documents for Jalal Ayed Hmaidan,

Dear Ms. al-Tal,

I am writing on behalf of my client, Jalal Hmaidan. Mr. Hmaidan was born in Kuwait in 1966 and is of Palestinian descent. He was ordered removed to Jordan on October 25, 2000. On August 8, 2001, the Board of Immigration Appeals denied his appeal. Mr. Hmaidan has been detained by the INS for over six months following a final removal order. The INS has not been able to remove him. The INS has requested that Mr. Hmaidan take measures to facilitate his removal. I am requesting that you respond, in writing, to this written request to supply Mr. Hmaidan with travel documents. Please state whether INS has requested travel documents for this individual. Please provide an explanation of why Mr. Hmaidan cannot be issued travel documents if that is the case.

Please feel free to call me with any questions: (312) 660-1359.

Thank you for your immediate attention in this matter.

Sincerely,

Anne Relias

Anne Relias

Attorney at Law

Detention Project

Midwest Immigrant and Human Rights Center

208 S. LaSalle, Suite 1818

Chicago, Illinois 60604

Cc: David Venturella, INS

EXHIBIT

A(10)

U.S. Postal Service
CERTIFIED MAIL RECEIPT
 (Domestic Mail Only; No Insurance Coverage Provided)

OFFICIAL USE

7001 0441 1000 4436 9534 HES

Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$

Postmark
Here

*R: Jatal
Himaider*

Sent To	<i>Asal al-Tal</i>
Street, Apt. No., or PO Box No.	<i>Jordanian Consulate</i>
City, State, ZIP+4	<i>Wash DC</i>

PS Form 3800, January 2001

See Reverse for Instructions

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

*Asal al Tal
 Jordanian Consulate
 3504 International Drive NW
 Washington, DC 20008*

2. Article Number

(Transfer from service label)

7001 1140 0001 1115 2416

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) **B. Date of Delivery**

Mari **JAN 22 2002**

C. Signature

X

- ☐ Agent
☐ Addressee

D. Is delivery address different from item 1?

If YES, enter delivery address below:

- ☐ Yes
☐ No

3. Service Type

- ☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

- ☐ Yes

February 18, 2002

TO THE JORDANIAN CONSULATE

Miss Asal-Al-Pal

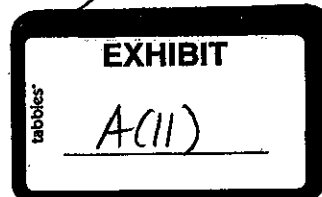
RE: TRAVEL documents for Jalal Hmaidan.
DOB 4/23/66 IN DEPORTATION PROCEEDINGS,
PLEASE INFORM ASAP STATUS ON THIS SUBJECT.

Address your response to this mailing
address below.

TRI. CO. DETENTION CENTER
1026 SHAWNEE COLLEGE RD
ULLIN, IL. 62992

FOR YOUR COOPERATION.

Thank you!



Jalal Hmaidan

February 18, 2002

TO The KUWAITI Embassy

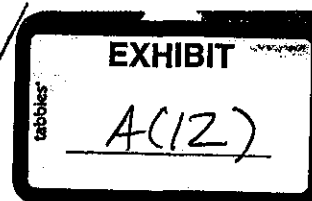
TO: Whom it may CONCERN

RE: TRAVEL documents for Jalal Hmaidan
D.O.B 4/23/66 IN DEPORTATION PROCEEDING,
PLEASE inform ASAP status on this subject.
I WAS BORN IN KUWAIT ON the above date
AS AN PALESTINIAN REFUGEE. I have a
BIRTH CERTIFICATE to prove it.

PLEASE response to this mailing address
below.

IRI. Co. Detention Center
1026 SHAWNEE COLLEGE RD
ULLIN, IL. 62992

Thank you for your cooperation!



Jalal Hmaidan

EXHIBIT B

U.S. Department of Justice
Immigration and Naturalization Service

Notice to Appear**In removal proceedings under section 240 of the Immigration and Nationality Act**File No: A78 851 016

In the Matter of:

Respondent: AL Hniti Murad6825 South Western Avenue
Chicago

(Number, street, city, state and ZIP code)

IL 606361-773-778-5200
(Area code and phone number)

- ☐ 1. You are an arriving alien.
☐ 2. You are an alien present in the United States who has not been admitted or paroled.
☒ 3. You have been admitted to the United States, but are deportable for the reasons stated below.

The Service alleges that you:

1. You are not a citizen or national of the United States;
2. You are a native of Jordan and a citizen of Jordan;
3. You were admitted to the United States at Chicago, Illinois on or about June 29, 1996 as a nonimmigrant visitor for pleasure (B-2) with authorization to remain in the United States for a temporary period not to exceed December 28, 1996;
4. You remained in the United States beyond December 28, 1996 without authorization from the Immigration and Naturalization Service;
5. You were employed for wages or other compensation in 1997-2000 at Quickstop, in Chicago, Illinois without authorization of the Immigration and Naturalization Service.

On the basis of the foregoing, it is charged that you are subject to removal from the United States pursuant to the following provision(s) of law:

Section 237(a)(1)(B) of the Immigration and Nationality Act (Act), as amended, in that after admission as a nonimmigrant under Section 101(a)(15) of the Act, you have remained in the United States for a time longer than permitted, in violation of this Act or any other law of the United States.

Section 237(a)(1)(C)(i) of the Immigration and Nationality Act (Act), as amended, in that after admission as a nonimmigrant under Section 101(a)(15) of the Act, you failed to maintain or comply with the conditions of the nonimmigrant status under which you were admitted.

☐ This notice is being issued after an asylum officer has found that the respondent has demonstrated a credible fear of persecution.

☐ Section 235(b)(1) order was vacated pursuant to: ☐ 8 CFR 208.30(f)(2) ☐ 8 CFR 235.3(b)(5)(iv)

YOU ARE ORDERED to appear before an immigration judge of the United States Department of Justice at:
55 East Monroe Street, Suite 1900, Chicago, Illinois 60603

(on) TO BE SET at TO BE SET to show why you should not be removed from the United States based on the
(Date) (Time)
charge(s) set forth above.

Acting Assistant District Director, for Inv.
(Signature and Title of Issuing Officer)

Date: 10-4-01

Chicago, Illinois
(City and State)

EXHIBIT**B(1)****See reverse for important information**

See reverse for important information

Warning: Any statement you make may be used against you in removal proceedings.

Alien Registration: This copy of the Notice to Appear served upon you is evidence of your alien registration while you are under removal proceedings. You are required to carry it with you at all times.

Representation: If you so choose, you may be represented in this proceeding, at no expense to the Government, by an attorney or other individual authorized and qualified to represent persons before the Executive Office for Immigration Review, pursuant to 8 CFR 3.16. Unless you so request, no hearing will be scheduled earlier than ten days from the date of this notice, to allow you sufficient time to secure counsel. A list of qualified attorneys and organizations who may be available to represent you at no cost will be provided with this Notice.

Conduct of the hearing: At the time of your hearing, you should bring with you any affidavits or other documents which you desire to have considered in connection with your case. If any document is in a foreign language, you must bring the original and a certified English translation of the document. If you wish to have the testimony of any witnesses considered, you should arrange to have such witnesses present at the hearing.

At your hearing you will be given the opportunity to admit or deny any or all of the allegations in the Notice to Appear and that you are inadmissible or deportable on the charges contained in the Notice to Appear. You will have an opportunity to present evidence on your own behalf, to examine any evidence presented by the Government, to object, on proper legal grounds, to the receipt of evidence and to cross examine any witnesses presented by the Government.

You will be advised by the immigration judge before whom you appear, of any relief from removal for which you may appear eligible including the privilege of departing voluntarily. You will be given a reasonable opportunity to make any such application to the immigration judge.

Failure to appear: You are required to provide the INS, in writing, with your full mailing address and telephone number. You must notify the Immigration Court immediately by using Form EOIR-33 whenever you change your address or telephone number during the course of this proceeding. You will be provided with a copy of this form. Notices of hearing will be mailed to this address. If you do not submit Form EOIR-33 and do not otherwise provide an address at which you may be reached during proceedings, then the Government shall not be required to provide you with written notice of your hearing. If you fail to attend the hearing at the time and place designated on this notice, or any date and time later directed by the Immigration Court, a removal order may be made by the immigration judge in your absence, and you may be arrested and detained by the INS.

Request for Prompt Hearing

To expedite a determination in my case, I request an immediate hearing. I waive my right to have a 10-day period prior to appearing before an immigration judge.

(Signature of Respondent)

Before:

Date:

(Signature and Title of INS Officer)

Certificate of Service

This Notice to Appear was served on the respondent by me on October 4, 2001, in the following manner and in compliance with section 239(a)(1)(F) of the Act:

☒ in person ☐ by certified mail, return receipt requested ☐ by regular mail

☒ Attached is a list of organizations and attorneys which provide free legal services.

☐ The alien was provided oral notice in the _____ language of the time and place of his or her hearing and of the consequences of failure to appear as provided in section 240(b)(7) of the Act.

refused to sign
(Signature of Respondent If Personally Served)Special Agent
(Signature and Title of Officer)

IMMIGRATION COURT
35 E. Monroe Street, Suite 1900
Chicago, Illinois 60603

312 385-1720

In the Matter of: Mouad Al Hashin

Case A# 75-851-016

Respondent

IN REMOVAL PROCEEDINGS

ORDER OF THE IMMIGRATION JUDGE

This is a summary of the oral decision entered on October 24, 2001.
This memorandum is solely for the convenience of the parties. If the proceedings should be appealed or reopened, the oral decision will become the official opinion in the case.

- The respondent was ordered removed from the United States to JORDAN.
Respondent's application for voluntary departure was denied and respondent was ordered removed to _____ alternative to _____.
Respondent's application for voluntary departure was granted until _____ upon posting a bond in the amount of \$ _____ with an alternate order of removal to _____.
Respondent's application for asylum was ☐ granted ☐ denied ☐ withdrawn.
Respondent's application for withholding of removal was ☐ granted ☐ denied ☐ withdrawn.
Respondent's application for cancellation of removal under Section 240A(a) was ☐ granted ☐ denied ☐ withdrawn.
Respondent's application for cancellation of removal under Section 240A(b) was ☐ granted ☐ denied ☐ withdrawn. If granted, it was ordered that the respondent be issued all appropriate documents necessary to give effect to this order.
Respondent's application for a waiver under Section _____ of the INA was ☐ granted ☐ denied ☐ withdrawn ☐ other.
Respondent's application for adjustment of status under Section _____ of the INA was ☐ granted ☐ denied ☐ withdrawn. If granted, it was ordered that respondent be issued all appropriate documents necessary to give effect to this order.
Respondent's status was rescinded under Section 246.
Respondent is admitted to the United States as a _____ until _____.
As a condition of admission, respondent is to post a _____ bond.
Respondent knowingly filed a frivolous asylum application after proper notice.
Respondent was advised of the limitation on discretionary relief for failure to appear as ordered in the Immigration Judge's oral decision.
Proceedings were terminated.
Other: _____

Date: October 24, 2001

Appeal: ☐ WAIVED ☐ RESERVED
By: ☐ Respondent ☐ INS ☐ Both
Appeal due date: _____

Immigration Judge

EXHIBIT

B(2)

Ref: Murad Al Hritin
A# 78-851-016

03/03/02

EXHIBIT

tabbies
B(3)

Dear District Director,

I am writing to you in reference to a matter pertaining to my removal from the United States based upon a decision that was made by the Immigration Judge on October 24, 2001.

Since that decision was made; my deportation Officer Mr. Koren, sent me a form to fill out to allow him to secure travel documents for me from the Jordanian Embassy. I filled out the form that was brought to me in McHenry County Jail in November, 2001. A month later I contacted Mr. Koren to find out if any progress had been made on my behalf. He informed me he had lost the form that he sent to me. He promised he was going to send me another form to fill out to no avail.

I find myself in a dilemma. I keep wondering if my removal will be expedited soon or whether the INS is going to continue to let me sit in jail forever. It's been 5 months since I have been in INS custody.

I have no problem going back to Jordan and I'll appreciate if you can be of any assistance in helping to speed up the process with my deportation officer.

The INS keeping me in jail indefinitely is causing me extreme mental anguish especially with no hopes of seeing the end of the tunnel. If for some strange reason the INS cannot expedite my removal I will be exceedingly

glad if you can intervene on my behalf for release
after reviewing my custody. I have not committed a
crime against the United States and I'm in no way
a danger to her citizens.

Your cooperation in this matter will be greatly
appreciated. Hope to hear from you.

Yours Respectfully
MURAD Al-Hnitin
(Murad Al-Hnitin)

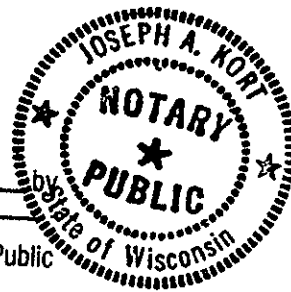
MURAD Al-Hnitin
cc: Murad Al Hnitin #147876
Ozaukee County Jail
P.O. Box 245
Port Washington, WI, 53074

State of Wisconsin
County of Ozaukee

Signed and sworn to before me on

March 3, 2002
MURAD AL-HNITIN

[Signature] Notary Public
My commission expires 12-22-07



June 6, 2002

Asal al-Tal
Jordanian Consulate
3504 International Drive, NW
Washington, DC 20008

Dear Ms. Asal al-Tal,

I am writing on behalf of my client, Murad Al-Hnitin. Mr. Al-Hnitin was born in Zarqa, Jordan on January 7, 1980. In 1995 he entered the United States on a B-2 Visitor Visa. He was ordered removed to Jordan on October 24, 2001. He is currently in INS custody at Tri-County Detention Center in Ullin, Illinois. At the request of the INS, and on behalf of my client, I am requesting that he be issued travel documents to Jordan. If the Consulate is unable to do so please explain, in writing, why.

Please feel free to contact me to discuss this case.

Sincerely,

Anne Relias

Anne Relias
Attorney at Law
Midwest Immigrant and Human Rights Center
208 South LaSalle, Suite 1818
Chicago, IL 60604
T: (312) 660-1359
F: (312) 660-1505

- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Asal al-Tal
Jordanian Consulate
3504 International Drive NW
Washington, DC 20008

2. Article Number (From carrier label)

PS Form 38

C. Signature

X *Murad*

☐ Ag
☐ Ad

D. Is delivery address different from item 1?
If YES, enter delivery address below:

☐ Yes
☐ No

3. Service Type

☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

OFFICIAL USE

Postage	\$	6/6/02 Postmark Here re: Al-Hnitin
Certified Fee		
Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees	\$	

Sent To *Jordanian Cons*

Street, Apt. No., or PO Box No.

City, State, ZIP+4 *Wash DC*

PS Form 3800, January 2001 See Reverse for Instructions

Providing paths from harm to hope through human services

Midwest Immigrant & Human Rights Center

TIA/Chicago Connections, 208 South LaSalle Street, Suite 1818, Chicago, Illinois 60604

phone 312-660-1300 fax 312-660-1505 website: www.heartland-alliance.org

EXHIBIT

B(4)



June 28, 2002

Headquarters Post Order Unit
801 I Street, NW Room 800
Washington, DC 20536

RE: REQUEST FOR RELEASE OF MURAD AL-HNITIN, A 78-851-016

Dear Officer Rozas

I am writing to request the release of Murad Al-Hnitin. Mr. Al-Hnitin was born in Zarqa, Jordan on January 7, 1980. In 1995 he entered the United States on a B-2 Visitor Visa. He was ordered removed to Jordan on October 24, 2001. He is currently in INS Custody at Tri-County Detention Center in Ullin, Illinois. He has been in INS Custody for over six months after a final order of removal. The INS has been unable to effectuate his removal, and therefore he is eligible for release under the United States Supreme Court decision, Zadvydas v. Davis. Continuing to detain him violates federal law.

Attached are the following documents in support of Mr. Al-Hnitin's release:

- 1) A copy of the Immigration Judge's removal order dated October 24, 2001
- 2) A letter from Respondent's Counsel to the Jordanian Embassy requesting travel documents
- 3) A letter from Respondent to the Chicago District Director agreeing to cooperate in effectuating his removal

Thank you for your immediate attention to this matter.

Sincerely,

Anne Relias

Anne Relias
Staff Attorney
Midwest Immigrant and Human Rights Center
T: (312) 660-1359

Attached: Letter to Jordanian Consulate

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

OFFICIAL USE

Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$

re: Al-Hnitin
Postmark
Here

6/28/02

Sent To **INS-HQPDV**

Street, Apt. No.;
or PO Box No.
City, State, ZIP+ 4

PS Form 3800, January 2001

See Reverse for Instructions

Providing paths from harm to hope through human services

Midwest Immigrant & Human Rights Center

TIA/Chicago Connections, 208 South LaSalle Street, Suite 1818, Chicago, Illinois 60604

phone 312-660-1300 fax 312-660-1505 website: www.heartland-alliance.org

EXHIBIT

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B(5)

UNITED STATES POSTAL SERVICE



First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4 in this box •

RECEIVED

JUL 17 2002

Anne Relias
TRAVELERS & IMMIGRANTS AID
208 S. LA SALLE STE. 1818
CHICAGO, ILLINOIS 60604

re: Murad Al-Hnitin

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

INS-HQPDV
801 I St. NW R. 800
Washington, DC
20536

2. Article Number (Copy from service label)

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) B. Date of Delivery

9/5/02

C. Signature

XSA Douglas

☒ Agent

☐ Addressee

D. Is delivery address different from item 1? ☐ Yes

If YES, enter delivery address below: ☐ No

3. Service type

☒ Certified Mail

☐ Express Mail

☐ Registered

☐ Return Receipt for Merchandise

☐ Insured Mail

☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

7001 1940 0000 1820 4449

Notice of Entry of Appearance
as Attorney or Representative

Appearances - An appearance shall be filed on this form by the attorney or representative appearing in each case. Thereafter, substitution may be permitted upon the written withdrawal of the attorney or representative of record or upon notification of the new attorney or representative. When an appearance is made by a person acting in a representative capacity, his personal appearance or signature shall constitute a representation that under the provisions of this chapter he is authorized and qualified to represent. Further proof of authority to act in a representative capacity may be required. **Availability of Records** - During the time a case is pending, and except as otherwise provided in 8 CFR 103.2(b), a party to a proceeding or his attorney or representative shall be permitted to examine the record of proceeding in a Service office. He may, in conformity with 8 CFR 103.10, obtain copies of Service records or information therefrom and copies of documents or transcripts of evidence furnished by him. Upon request, he/she may, in addition, be loaned a copy of the testimony and exhibits contained in the record of proceeding upon giving his/her receipt for such copies and pledging that it will be surrendered upon final disposition of the case or upon demand. If extra copies of exhibits do not exist, they shall not be furnished free on loan; however, they shall be made available for copying or purchase of copies as provided in 8 CFR 103.10.

In re: Murad Al-Hnitin Date: 05/05/02
File No. A-78-851-016

I hereby enter my appearance as attorney for (or representative of), and at the request of the following named person(s):

Name: <u>Murad Al-Hnitin</u>	<input checked="" type="checkbox"/> Petitioner <input type="checkbox"/> Beneficiary	<input type="checkbox"/> Applicant
Address: (Apt. No.) <u>INS</u> (Number & Street) <u>Custody</u> (City) (State) (Zip Code)		
Name:	<input type="checkbox"/> Petitioner <input type="checkbox"/> Beneficiary	<input type="checkbox"/> Applicant
Address: (Apt. No.) (Number & Street) (City) (State) (Zip Code)		

Check Applicable Item(s) below:

- ☒ 1. I am an attorney and a member in good standing of the bar of the Supreme Court of the United States or of the highest court of the following State, territory, insular possession, or District of Columbia: Illinois Supreme Court and am not under a court or administrative agency order suspending, enjoining, restraining, disbaring, or otherwise restricting me in practicing law.
- ☐ 2. I am an accredited representative of the following named religious, charitable, social service, or similar organization established in the United States and which is so recognized by the Board:
- ☐ 3. I am associated with _____ the attorney of record previously filed a notice of appearance in this case and my appearance is at his request. (If you check this item, also check item 1 or 2 whichever is appropriate.)
- ☐ 4. Others (Explain Fully.)

SIGNATURE <u>Anne G. Relias</u>	COMPLETE ADDRESS <u>TIA/CHICAGO CONNECTIONS</u> <u>208 S. LaSalle St, Suite 1818</u> <u>Chicago, IL 60604</u>
NAME (Type or Print) <u>Anne G. Relias</u>	TELEPHONE NUMBER <u>312.660.1370</u>

PURSUANT TO THE PRIVACY ACT OF 1974, I HEREBY CONSENT TO THE DISCLOSURE TO THE FOLLOWING NAMED ATTORNEY OR REPRESENTATIVE OF ANY RECORD PERTAINING TO ME WHICH APPEARS IN ANY IMMIGRATION AND NATURALIZATION SERVICE SYSTEM OF RECORDS.

TIA MIHRC

(Name of Attorney or Representative)

THE ABOVE CONSENT TO DISCLOSURE IS IN CONNECTION WITH THE FOLLOWING MATTER:

Name of Person Consenting <u>Murad Al-Hnitin</u>	Signature of Person Consenting <u>M. Al-Hnitin</u>	Date <u>5-15-2002</u>
---	---	--------------------------

(NOTE: Execution of this box is required under the Privacy Act of 1974 where the person being represented is a citizen of the United States or an alien lawfully admitted for permanent residence.)



U.S. Department of Justice
Immigration and Naturalization Service

HQPDU
Washington, DC 20536

A 78 851 016

Anne Relias
TIA/ Chicago Connections
208 South LaSalle St. Suite 1818
Chicago, Illinois 60604

We have received your request for review for a custody re-determination. The Immigration and Naturalization Service ("INS") is in the process of reviewing the likelihood of repatriating you to your home country or country where ordered removed pursuant to a final administrative deportation/removal order. You are advised that in accordance with the Supreme Court's instruction in Zadvydas v. Davis, 121 S.Ct. 2491 (2001) and INS regulations, 8 C.F.R. § 241.13 (66 FR 56967, November 14, 2001), you have the burden to show that there is no significant likelihood of repatriating you in the reasonably foreseeable future. In order to undertake the review, , in accordance with 8 CFR §241.4 and 8 CFR §241.13, you must provide the following documentation:

- Copies all passports, birth certificates or other nationality documents in your possession
- Copies of correspondence indicating your good faith efforts to obtain a passport from your country of nationality or other country indicated on your Order of Removal.
- Copies of receipts or responses from Embassies, Consulates or other governmental offices responding to your request for a travel document

Upon receipt of the above information, this office will conduct a full review of your case and make a determination of custody. Until such time as you submit the above information, the removal period defined in 8 CFR §§ 241.4 and 241.13 is held in suspense.

You may submit additional evidence if you believe your removal is not possible in the reasonably foreseeable future. You must resubmit evidence previously submitted that your removal is not imminent for reconsideration. You must also prove that you are taking positive measures to facilitate your removal from the United States. You are also advised that the Service may continue to detain you until there has been a determination under 8 CFR §241.13 whether there is a significant likelihood that you can be removed in the reasonably foreseeable future.

All evidence should be sent to the Headquarters Post Order Unit (HQPDU), 801 I St, NW, Washington, DC 20536, Room 800.

EXHIBIT

B(6)

The HQPDU has checked and not to review your case at this time because of:

- ☐ You are not currently in INS custody.
- ☐ Your immigration case is pending review by the Board of Immigration Appeals and is therefore, not a final order subject to review by the HQPDU.
- ☐ The Removal Period has not yet expired, thus making you ineligible for any review.
- ☐ You have not been in custody with a final order of removal for the statutory period of time.
- ☐ Your case is pending before a Circuit Court of Appeals and you are not eligible for a review of your case.
- ☐ You have a judicially ordered stay of deportation, exclusion or removal.
- ☐ Records indicate that you are statutorily ineligible for a custody review pursuant to 8 CFR 241.13

Once you are eligible for review, the HQPDU will conduct a review of your case and issue a decision.



K.H. Signature of HQPDU Director/Designated Representative

7-10-02
Date

EXHIBIT C

ALIEN
Notice of Intent to Issue a Final Administrative Removal Order

In removal proceedings under section 238(b) of the Immigration and Nationality Act

File No: A70 525 409

Do: AIDOUNI, Mohamed Hamid AKA: AIDOUNI, Mohammed

Address: 438 67th Street, Brooklyn, NY 11220
(Number, Street, City, State and ZIP Code)

Telephone: (718) 491-6175
(Area Code and Phone Number)

In pursuant to section 238(b) of the Immigration and Nationality Act (Act), 8 U.S.C. 1228(b), the Immigration and Naturalization Service (Service) has determined that you are amenable to expedited administrative removal proceedings. The determination is based on the following allegations:

You are not a citizen or national of the United States.

You are a native of Algeria and a citizen of Algeria

You entered the United States (at)(near) Houston, Texas on or about September 26, 1991

At that time you entered as a stowaway without being admitted or paroled into the U.S. by an immigration officer.

You are not lawfully admitted for permanent residence.

You were, on May 4, 1999, convicted in the Circuit Court of Cook county, Illinois for the offense of Retail Theft in violation of Chapter 720, Act 5, Section 16A-3-A of the ICS 1992, as amended for which the term of imprisonment imposed was one year in the Illinois Department of Corrections

Charge:

You are deportable under section 237(a)(2)(A)(iii) of the Act, 8 U.S.C. 1227(a)(2)(A)(iii), as amended, because you have been convicted of an aggravated felony as defined in section 101(a)(43) of the Act, 8 U.S.C. 1101(a)(43).

Pursuant to section 238(b) of the Act, the Service is serving upon you this NOTICE OF INTENT TO ISSUE A FINAL ADMINISTRATIVE REMOVAL ORDER ("Notice of Intent") without a hearing before an Immigration Judge.

Your Rights and Responsibilities:

You may be represented (at no expense to the United States government) by counsel, authorized to practice in this proceeding. If you wish legal advice and cannot afford it, you may contact legal counsel from the list of available free legal services provided to you.

You must respond to the above charges in writing to the Service address provided on the other side of this form within 10 calendar days of service of this notice (or 13 calendar days if service is by mail). The Service must **RECEIVE** your response within that time period.

In your response you may: request, for good cause, an extension of time; rebut the charges stated above (with supporting evidence); request an opportunity to review the government's evidence; admit deportability; designate the country to which you choose to be moved in the event that a final order of removal is issued (which designation the Service will honor only to the extent permitted under section 241 of the Act, 8 U.S.C. 1231); and/or, if you fear persecution in any specific country or countries on account of race, religion, nationality, membership in a particular social group, or political opinion or, if you fear torture in any specific country or countries, you may request withholding of removal under section 241(b)(3) of the Act or withholding/deferral of removal under the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (Convention Against Torture). A grant of withholding or deferral of removal would prohibit your return to a country or countries where you would be persecuted or tortured, but would not prevent your removal to a safe country.

You may seek judicial review of any final administrative order by filing a petition for review within 14 calendar days after the date such final administrative order is issued, or you may waive such appeal by stating, in writing, your desire not to appeal.

Deputy Asst. District Director for Investigations
(Signature and Title of Issuing Officer)

Chicago, Illinois
(City and State of Issuance)

June 30, 1999

(Date)

EXHIBIT

Certificate of Service

I served this Notice of Intent. I have determined that the person served with this document is the individual named on the other side of this form.

Will M. Orr SPECIAL AGENT
(Signature and Title of Officer)

7/8/99 9:10 PM
(Date and Manner of Service)

- ☒ I explained and/or served this Notice of Intent to the alien in the ENGLISH language.
Name of Interpreter _____
Location/Employer _____

I Acknowledge that I Have Received this Notice of Intent to Issue a Final Administrative Removal Order.

[Signature]
(Signature of Respondent)

(Date and Time)

- ☒ Alien refused to acknowledge receipt of this document.

Will M. Orr SPECIAL AGENT
(Signature and Title of Officer)

7/8/99 9:10 PM
(Date and Time)

I Wish to Contest and/or to Request Withholding of Removal

- ☐ I contest my deportability because: (Attach any supporting documentation)

- ☐ I am a citizen or national of the United States.
☐ I am a lawful permanent resident of the United States.
☐ I was not convicted of the criminal offense described in allegation number 6 above.
☐ I am attaching documents in support of my rebuttal and request for further review.

- ☐ I request withholding or deferral of removal to _____ (Name(s) of Country or Countries)

- ☐ Under section 241(b)(3) of the Act, because I fear persecution on account of my race, religion, nationality, membership in a particular social group, or political opinion in that country or those countries.

- ☐ Under the Convention Against Torture, because I fear torture in that country or those countries.

(Signature of Respondent)

(Printed Name of Respondent)

(Date and Time)

I Do Not Wish to Contest or Request Withholding of Removal

- ☐ I admit the allegations and charge in this Notice of Intent. I admit that I am deportable and acknowledge that I am not eligible for any form of relief from removal. I waive my right to rebut and contest the above charges and my right to file a petition for review of the Final Removal Order. I do not wish to request withholding or deferral of removal. I wish to be removed.

- ☐ I also waive the 14-day period for execution of the Final Removal Order.

(Signature of Respondent)

(Printed Name of Respondent)

(Date and Time)

(Signature of Witness)

(Printed Name of Witness)

(Date and Time)

RETURN THIS FORM TO:

**United States Department of Justice
Immigration and Naturalization Service**

10 West Jackson Blvd.
Chicago, Illinois 60604

ATTENTION: Deportation Branch

The Service office at the above address must **RECEIVE** your response within 10 calendar days from the date of service of this notice (or 13 calendar days if service is by mail).

U.S. Department of Justice
Immigration and Naturalization Service

Final Administrative Removal Order

FINAL ADMINISTRATIVE REMOVAL ORDER UNDER SECTION 238A(b) OF THE IMMIGRATION AND NATIONALITY ACT

File No: A70 525 409

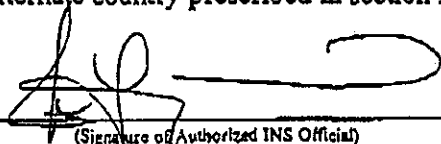
Date: August 10, 1999

To: AIDOUNI, Mohamed Hamid AKA: Mohamed Aidouni
Address: c/o U. S. Immigration & Naturalization Service, Chicago, IL. 60604
(Number, street, city state and ZIP code)

Telephone: 312 385 1724
(Area code and phone number)

ORDER

Based upon the allegations set forth in the Notice of Intent to Issue a Final Administrative Removal Order and evidence contained in the administrative record, I, the undersigned Deciding Service Officer of the Immigration and Naturalization Service, make the following findings of fact and conclusions of law. I find that you are not a citizen or national of the United States and that you were not lawfully admitted for permanent residence. I further find that you have a final conviction of an aggravated felony as defined in section 101(a)(43) of the Act, 8 U.S.C. 1101(a)(43), and are ineligible for any relief from removal that the Attorney General may grant in an exercise of discretion. I further find that the administrative record established by clear, convincing, and unequivocal evidence that you are deportable as an alien convicted of an aggravated felony pursuant to section 237(a)(2)(A)(iii) of the Act, 8 U.S.C. 1227(a)(2)(A)(iii). By the power and authority vested in the Attorney General and in me as the Attorney General's delegate under the laws of the United States, I find you deportable as charged and order that you be removed from the United States to Algeria or to any alternate country prescribed in section 241 of the Act.


(Signature of Authorized INS Official)
Acting Deputy ADD/Deportation
(Title of official)
August 10, 1999 - Chicago, Illinois
(Date and office location)

Petition for review: ☐ Waived by respondent.
☐ Reserved by respondent.

Certificate of Service

I served this FINAL ADMINISTRATIVE REMOVAL ORDER upon the above named individual.

8/14/00, 11:55 AM Chicago (BSSM) All.
(Date, time, place and manner of service)

W. B. B. / Ch.
(Signature and title of officer)

Form I

EXHIBIT

tabbies

C(2)

		Date
		A-File 70 525 409
Name	AIDOUNI, Mohammed	Country of Citizenship Algerian
Place and Manner of Arrival	houston,tx, e-w-I	Date of Arrival 9/26/91

To immigration judge:

- ☐ 1. The above-named alien has been found inadmissible to the United States and ordered removed pursuant to section 235(b)(1) of the Immigration and Nationality Act (Act). A copy of the removal order is attached. The alien has requested asylum and/or protection under the Convention against Torture and the matter has been reviewed by an asylum officer who has concluded the alien does not have a credible fear of persecution or torture. The alien has requested a review of that determination in accordance with section 235(b)(1)(B)(iii)(III) of the Act and 8 C.F.R. §§ 208.30(e) and (f).
- ☐ 2. The above-named alien arrived in the United States as a stowaway and has been ordered removed pursuant to section 235(a)(2) of the Act. The alien has requested asylum and/or withholding of removal under the Convention against Torture and the matter has been reviewed by an asylum officer who has concluded the alien does not have a credible fear of persecution or torture. The alien has requested a review of that determination in accordance with section 235(b)(1)(B)(iii)(III) of the Act.
- ☐ 3. The above-named alien arrived in the United States in the manner described below and has requested asylum and/or withholding of removal under the Convention against Torture. The matter is referred for a determination in accordance with 8 CFR 208.2(b). Arrival category (check one):
- | | | |
|---|--|---|
| <input type="checkbox"/> Crewmember/applicant | <input type="checkbox"/> Crewmember/refused | <input type="checkbox"/> Crewmember/landed |
| <input type="checkbox"/> Crewmember/violator | <input type="checkbox"/> VWPP/applicant | <input type="checkbox"/> VWPP/violator |
| <input type="checkbox"/> 235(c) order | <input type="checkbox"/> S-visa nonimmigrant | <input type="checkbox"/> Stowaway: credible fear determination attached |
- ☐ 4. The above-named alien has been ordered removed by an immigration officer pursuant to section 235(b)(1) of the Act. A copy of the removal order is attached. In accordance with section 235(b)(1)(C) of the Act, the matter is referred for review of that order. The above-named alien claims to be (check one):
- | | |
|---|--|
| <input type="checkbox"/> a United States citizen | <input type="checkbox"/> a lawful permanent resident alien |
| <input type="checkbox"/> an alien granted refugee status under section 207 of the Act | <input type="checkbox"/> an alien granted asylum under section 208 of the Act. |
- ☐ 5. The above-named alien has been ordered removed pursuant to section 238(b) of the Act, or the INS has reinstated a prior exclusion, deportation, or removal order of the above-named alien pursuant to section 241(a)(5) of the Act. A copy of the removal order and, if applicable, the notice of reinstatement, are attached. The alien has expressed fear of persecution or torture and the claim has been reviewed by an asylum officer who has concluded the alien **does not** have a reasonable fear of persecution or torture. The alien has requested a review of that determination in accordance with 8 C.F.R. §§ 208.31(f) and (g).
- ☒ 6. The above-named alien has been ordered removed pursuant to section 238(b) of the Act, or the INS has reinstated a prior exclusion, deportation, or removal order of the above-named alien pursuant to section 241(a)(5) of the Act. A copy of the removal order and, if applicable, the notice of reinstatement, are attached. The alien has expressed fear of persecution or torture and the claim has been reviewed by an asylum officer who has concluded the alien **has** a reasonable fear of persecution or torture. The matter has been referred for a determination in accordance with 8 C.F.R. § 208.31(e).

U. S. Department of Justice
Immigration and Naturalization Service

Information about Reasonable Fear Interview

Purpose of this notice

The purpose of this notice is to explain what will happen while your case is being decided, what rights you have, and what may happen to you as a result of statements you make. It is important that you understand your rights and what will happen. **PLEASE READ THIS NOTICE CAREFULLY.**

You have been ordered removed because the U.S. Immigration and Naturalization Service (INS) has determined that you do not have the right to stay in the United States. You have indicated an intention to apply for withholding of removal, or have expressed a fear of persecution, torture, or return to your country. You will be interviewed by a specially trained asylum officer to determine if you have a "reasonable fear of persecution or torture." You may be detained both before and after the interview if the INS determines that it is appropriate to detain you.

Right to consult with other persons

Normally, you will receive an orientation by an asylum officer shortly after you are ordered removed. The asylum officer will explain the reasonable fear process to you, and will tell you when your interview is scheduled. Normally the interview is 48 hours after your orientation. You may use this time to find a lawyer or accredited representative who will represent you. If you need additional time, you should inform an INS officer. You may request that the interview take place sooner if you are prepared to discuss your fears or claim immediately.

You may consult with a lawyer or representative of your choosing, provided that such consultation is at no expense to the government and does not delay the process. Your representative can be present with you at your interview, or can participate by telephone. A list of representatives who may be able to speak to you free of charge is attached to this notice. You may use the telephone while you are in detention to call a representative, friend or family member in the United States, collect or at your own expense. If you wish to call someone, you may ask an INS officer for assistance. You also may contact the United States Office of the United Nations High Commissioner for Refugees, at (202) 296-5191 from 9:00 a.m.-5:00 p.m. (eastern standard time), Monday through Friday.

Description of reasonable fear interview

The purpose of the reasonable fear interview is to determine whether you might be eligible to apply for withholding of removal or other protection before an immigration judge. This interview is not a formal withholding of removal hearing. It is only to help us determine whether you could be eligible for withholding of removal and should therefore be allowed to present your case before an immigration judge.

At your interview, you will have the opportunity to explain to the asylum officer why you think you should not be returned to your home country. If you want to apply for withholding of removal or think you will be harmed, persecuted or tortured if you return to your home country, you must show an asylum officer that you have a reasonable fear of being harmed or persecuted because of your race, religion, nationality, membership in a particular social group or political opinion, or that there is a reasonable possibility that you will be tortured. The officer will take written notes.

If the officer determines that you have a reasonable fear of persecution or torture in the country to which you have been ordered removed, you will be able to ask an immigration judge for withholding of removal or deferral of removal to that country, by completing a Form I-589 Application for Asylum and for Withholding of Removal and filing this with the Immigration Court.

It is very important that you tell the officer all the reasons why you have concerns about being removed to the country to which you have been ordered removed. United States law provides strict rules to prevent disclosure of what you tell an asylum officer about the reasons you fear harm. The information you provide about the reasons for your fear will not be disclosed to your government, except in exceptional circumstances.

It is also very important that you tell the truth during your interview. Although the purpose of this interview is not to gather evidence against you, failure to tell the truth could be used against you in this or in any future immigration proceeding.

Need for interpreter or special consideration

If you do not speak English well or if you prefer to be interviewed in your own language, INS will provide an interpreter for the interview. The interpreter has been told to keep the information you discuss confidential. If the interpreter is not translating correctly or you do not feel comfortable with the interpreter, you may request another interpreter.

You may request a female officer and female interpreter, or a male officer and male interpreter, if this would make it easier for you to tell the asylum officer about information that is very personal or difficult to discuss. The INS will provide them if they are available. You will also have the opportunity to speak with the asylum officer separately from your family if you so desire.

Consequences of failure to establish reasonable fear and review of determination

If the asylum officer determines that you do not have a reasonable fear of persecution or torture, you may ask to have an immigration judge review that decision. If you do not request such review, you may be removed. If you request review, the immigration judge's review will be in person or by telephone or video connection. Normally, the review will happen within a few days. You may consult with your representative before the review by the immigration judge, provided it does not cause unreasonable delay. You will be given a copy of the asylum officer's record of determination prior to the review by the immigration judge. If any of the information is incorrect, you should notify the immigration judge. The immigration judge may decide that you do have a reasonable fear and that you are eligible hearing to apply for withholding or removal. If the immigration judge agrees with the determination that you do not have a reasonable fear of persecution or torture, you may be removed from the United States.

Interpreter Certification

I N/A (name of interpreter) certify that I am fluent in both the N/A and English languages, that I interpreted the above information from English to N/A completely and accurately, and that the recipient appears to have understood my interpretation.

N/A
(Signature of interpreter)

6/21/00
(Date)

Alien Acknowledgment of Receipt

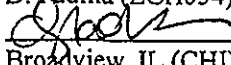
I acknowledge that I have been given notice concerning my reasonable fear interview. I understand that I may consult with an attorney or accredited representative of my choosing prior to the interview as long as it does not unreasonably delay the process and is at no expense to the government.

Mohammed Adorn
(Signature of person being referred to asylum officer)

06/21/00
(Date)

REASONABLE DEAR DETERMINATION

Alien Number: A # 70 525 409
Name: Mohammed Aidouni
Country: Algeria
Asylum Office: ZCH

Interview Date: August 17, 2000
Asylum Officer: D. Padilla (ZCH034)
Reviewing Officer: 
Location: Broadview, IL (CHI)

Background

Applicant is a 35-year old native and citizen of Algeria who entered the United States on 26SEP91 at the Port of Houston, Texas, as a stowaway aboard the M/V Maersk Mostoles. Applicant was arrested for domestic violence on two occasions in 1992; arrested and convicted of robbery and possession of a weapon in 1994; burglary in 1995; criminal misconduct in 1997; and retail theft in 1999. On 10AUG99 the INS under Section 237(a)(2)(A)(iii) of the Act issued Applicant a Final Order of Removal.

Applicant fears he will be persecuted or tortured by the Algerian government on account of his political opinion.

Testimony

Applicant credibly testified that he is from Arzew, Algeria. He is a citizen of Algeria only and does not have the legal right to reside permanently in any other country. Applicant testified that his father died in 1971 and his mother currently resides in Arzew. Applicant has four siblings, all of whom reside in Algeria. Applicant testified that he married an American citizen in 1991 but has not had contact with her since approximately August 1992. Applicant completed 13 years of school in Algeria, after which he served two years in the military and then worked as a fireman for a gas and fuel company.

Applicant testified that he has never been arrested, detained, interrogated or physically harmed in Algeria. In 1990 Applicant volunteered to distribute leaflets for the Front of Islamic Salvation (FIS). Over the next year he took several boxes containing more than ten thousand flyers from the local mosque and distributed them to villagers and co-workers. In August 1991 Applicant was in his home when two men with guns knocked on his door, yelling his name and demanding that he open the door. Applicant looked outside and noticed a green van in front of the house. He fled through a window in the back and did not return to the house again. Applicant stayed with his brother, cousins and friends for 29 days before securing exit from Algeria. Applicant stated that he believed he would be arrested and tortured because green vans are associated with the military security forces and those forces had earlier apprehended three young men whom Applicant had given flyers to pass out. Applicant's brother later informed him that the forces were searching for Applicant at several locations in the town.

Analysis

To establish a reasonable fear of persecution, an applicant must establish that there is a reasonable possibility that he or she would be persecuted on account of race, religion, nationality, membership in a particular social group, or political opinion in the country to which he or she has been ordered removed. To establish a reasonable fear of torture, an applicant must establish that there is a reasonable possibility he or she would be subjected to torture, as defined in the Convention against Torture and U.S. regulations, in the country to which he or she has been ordered removed.

Applicant's Past Mistreatment

Applicant has not been persecuted or tortured in the past; he makes no claim to any past harm.

Applicant's Risk of Being Persecuted or Tortured

Applicant has established that there is a reasonable possibility that he would be persecuted on account of a political opinion of support for the FIS. Applicant has provided credible testimony that supports this finding. Country conditions reports corroborate Applicant's claim that the Algerian government desires to punish him for his membership in and activities for the FIS. The Department of State has indicated: "[T]he security forces committed extrajudicial killings, routinely tortured or otherwise abused detainees, and arbitrarily arrested and detained, or held incommunicado, many individuals suspected of involvement with armed Islamist groups...FIS president Abassi Madani, who was released from prison in 1997, remains under house arrest and is allowed to receive visits only from members of his family (see Section 2.d.), although he made numerous press statements and conducted interviews while under house arrest. Jailed oppositionist and FIS vice president Ali Belhadj, who had been held incommunicado from 1992 until 1998, is allowed contact with members of his family, who speak to the press on his behalf...there are numerous cases of self-imposed exile involving former FIS members or individuals who maintain that they have been accused falsely of terrorism as punishment for openly criticizing government policies...[D]efense lawyers for members of the banned FIS have suffered harassment, death threats, and arrest. There are no credible estimates of the number of political prisoners; some estimate the number to be several thousand. An unknown number of persons who could be considered political prisoners were serving prison sentences because of their Islamist sympathies and membership in the FIS." (*Country Reports on Human Rights Practices for 1999-Algeria*, U.S. Department of State, February 2000) Amnesty international states: "Thousands of known or suspected FIS supporters were arrested and more than 10,000 were placed in administrative detention without charge or trial in internment camps in the desert in the south of the country." (*Civilian Population Caught in a Spiral of Violence*, Amnesty International, 01 November 1997) Human Rights Watch has stated that, "[W]hile two Islamist parties held seats in parliament and one held government portfolios, the FIS remained outlawed. Those of its leaders who had been released from prison remained under various restrictions, including a ban on making public statements or meeting with visiting delegations." (*Human Rights Watch World Report 1999: Algeria*, Human Rights Watch, 1999) The Canadian government states: "[P]eople who are known to be, or who are perceived as active FIS supporters could be at risk from the authorities. Individuals who have distributed radical Islamic literature may face problems, including imprisonment. There have been reports of ill-treatment of relatives, friends or neighbours of individuals who have been targeted by the authorities." (*Algeria: Country Assessment*, Country Information and Policy Unit, Asylum and Appeals Policy Directorate, Immigration and Nationality Directorate, Canada, 1 March 1999) Consequently, Applicant has established a reasonable possibility of future persecution on account of his political opinion of support for the FIS.

Conclusion

For the reasons stated above, Applicant has established a reasonable fear of persecution.

Record Of Determination/Reasonable Fear Worksheet

<u>chi</u> District Office Code	<u>zch</u> Asylum Office Code	<u>70 525 409</u> Alien's File Number
<u>Diane</u> Asylum Officer's Last Name	<u>Padilla</u> Asylum Officer's First Name	<u>Algerian</u> Alien's Nationality
	<u>AIDOUNI</u> Alien's Last/ Family Name	<u>Mohammed</u> Alien's First Name

All statements in italics must be read to the applicant

SECTION I:

INTERVIEW PREPARATION

- 1.1 8/18/00 1.2 broadview
Date of interview [MM/YY/DD] Interview site
- 1.3 ☐ Applicant received and signed Form M-488 and relevant *pro bono* list on _____
Date signed [MM/DD/YY]
- 1.4 Representative name, address, telephone number and relationship to applicant:
briceyda cancio, midwest immigrant rights center, 312 629 1960
- 1.5 Persons present at the interview (check which apply)
☐ Representative
☐ Other(s), list: none
☐ No one other than applicant and asylum officer
- 1.6 Language used by applicant in interview: english
- 1.7 _____
Interpreter Service, Interpreter ID Number. ☐ Yes ☐ No
Interpreter Has Forms Time Started Time Ended
- 1.8 _____
Interpreter Service, Interpreter ID Number. ☐ Yes ☐ No
Interpreter Has Forms Time Started Time Ended
- 1.9 _____
Interpreter Service, Interpreter ID Number. ☐ Yes ☐ No
Interpreter Has Forms Time Started Time Ended
- 1.10 ☐ Interpreter oath completed.
- 1.11 ☐ Interpreter was not changed during the interview
- 1.12 ☐ Interpreter was changed during the interview for the following reason(s) :
1.13 ☐ Applicant requested a female interpreter replace a male interpreter, or vice versa
1.14 ☐ Applicant found interpreter was not competent 1.15 ☐ Applicant found interpreter was not neutral
1.16 ☐ Officer found interpreter was not competent 1.17 ☐ Officer found interpreter was not neutral
1.18 ☐ Bad telephone connection
- 1.11 ☒ Asylum officer read the following paragraph to the applicant at the beginning of the interview:
The purpose of this interview is to determine whether you should be referred to an immigration judge to apply for withholding or deferral of removal. You will be eligible for such a referral if the INS finds that there is a reasonable possibility you would be persecuted or tortured in the country to which you have been ordered removed. I am going to ask you questions about why you fear returning to the country to which you have been ordered removed, or any other country. It is very important that you tell the truth during the interview and that you respond to all of my questions. This may be your only opportunity to give such information. Please feel comfortable telling me why you fear harm. U.S. law has strict rules to prevent the disclosure of what you tell me today about the reasons you fear harm. The information you tell me about the reasons for your fear will not be disclosed to your government, except in exceptional circumstances. The statements you make today may be used in deciding your claim and in any future immigration proceedings. It is important that we understand each other. If at any time I make a statement you do not understand, please stop me and tell me you do not understand so that I can explain it to you. If at any time you tell me something I do not understand, I will ask you to explain.

SECTION II:

BIOGRAPHIC INFORMATION

2.1 AIDOUNI

Last Name/ Family Name [ALL CAPS]

2.2 Mohammed

First Name

2.3

Middle Name

2.4 12/11/65

Date of birth [MM/DD/YY]

2.5

Gender ☒ Male ☐ Female

2.6 Karim KASSAM,

Other names and dates of birth used

2.7 Algeria

Country of birth

2.8

Algerian

Country (countries) of citizenship (list all)

2.9 Prior address in last country in which applicant fears persecution or torture (List Address, City/Town, Province, State, Department and Country):

Arzew, Albgeria, Algeria

2.10 9/26/91

Date of last arrival [MM/DD/YY]

2.11

houston,tx

Port of arrival

2.12 7/8/99

Date of detention [MM/DD/YY]

2.13

chi

Place of detention

2.14 Grounds provided by Deportation Officer for removal:

☐ Prior order reinstated pursuant to 241 (a)(5) of the INA

☐ Removal order pursuant to 238(b) of the INA (based on aggravated felony conviction)

2.15 ALGERIAN

Applicant's race or ethnicity

2.16

Muslim

Applicant's religion

2.17

English, Arabic

All languages spoken fluently by applicant

2.18 Does the applicant claim to have a medical condition (physical or mental), or has the officer observed any indication that a medical condition (physical or mental) exists?

☐ Yes ☐ No

2.19 If YES, Explain:

no medical problems

2.20 Does applicant indicate, or does officer believe medical condition is serious?

☐ Yes ☐ No

2.21 Does applicant request immediate attention for a medical condition, or does the officer believe applicant needs immediate attention for a medical condition?

☐ Yes ☐ No

2.22 Does applicant claim that medical condition relates to torture?

☐ Yes ☐ No

SECTION III:

REASONABLE FEAR FINDING

TYPED SWORN STATEMENT IN QUESTION AND ANSWER FORMAT AND ASSESSMENT OF REASONABLE FEAR MUST BE ATTACHED TO THIS WORKSHEET. If the asylum officer finds the applicant not credible, the sworn statement must reflect that the applicant was asked to explain any inconsistencies or lack of detail on material issues.

A person has a reasonable fear of persecution or torture if there is a reasonable possibility the person would be persecuted or subjected to torture.

A. Credibility Determination

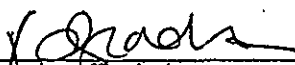
- 3.1 ☒ The applicant's testimony was sufficiently detailed, consistent and plausible in material respects and therefore is found credible.
- 3.2 ☐ The applicant's testimony was found not credible in material respects. [Assessment must (1) identify specific discrepancies, inconsistencies, kind of detail applicant was unable to provide, etc. (2) Summarize applicant's explanation for the inconsistencies, inability to provide detail, etc.; and why the explanation failed to overcome reasons for finding the applicant not credible; and (3) explain how the non-credible aspects of the testimony are material to the claim.]
- 3.3 ☐ Material aspects of the applicant's testimony were found credible in part and not credible in part. [Assessment must identify which material aspects were credible and which were not credible. For part of testimony found not credible, (1) identify specific discrepancies, inconsistencies, kind of detail applicant was unable to provide, etc.; (2) Summarize applicant's explanation for the inconsistencies, inability to provide detail, etc.; and (3) Explain how the non-credible aspects of testimony are material to the claim.]

B. Reasonable Fear Determination

- 3.4 ☒ Reasonable Fear of Persecution Established (I-863 Box 6)
[The applicant has established that there is a reasonable possibility of suffering harm constituting persecution in the country to which the applicant has been ordered removed, AND the applicant has established that there is a reasonable possibility the persecution she/he fears is on account of race, religion, nationality, membership in a particular social group, or political opinion.]
Is political opinion related to Coercive Family Planning? ☐ Yes ☒ No
- 3.5 ☐ Reasonable Fear of Torture Established (I-863 Box 6)
[The applicant has established that there is a reasonable possibility that 1) the applicant would be subject to severe pain or suffering in the country to which the applicant has been ordered removed; 2) the feared harm would be specifically intended to inflict severe physical or mental pain or suffering; 3) the pain or suffering would be inflicted by or at the instigation of, or with the consent or acquiescence of, a public official or other person acting in an official capacity; 4) the feared harm would be inflicted while the applicant is in the custody or physical control of the offender; and 5) there is a reasonable possibility that the feared harm would not be in accordance with lawful sanctions.]
- 3.6 ☐ No Reasonable Fear of Persecution Established and No Reasonable Fear of Torture Established (I-863 Box 5, if applicant requests review) [Assessment must explain reasons for both findings.]

ASYLUM OFFICER / SUPERVISOR NAMES AND SIGNATURES

3.7 -- Padilla Diane, zch024
Asylum officer name and ID CODE (print)

3.8 
Asylum officer's signature

3.9 ~~8/11/00~~ 8/11/00
Decision date

3.10 r.a. hess
Supervisory asylum officer name

3.11 
Supervisor's signature

3.12 ~~8/11/00~~ 8/18/00
Date supervisor approved decision



U.S. Department of Justice

T-077 P.02/06 F-989

Executive Office for Immigration Review

Board of Immigration Appeals
Office of the Clerk

5201 Leesburg Pike, Suite 1300
Falls Church, Virginia 22041

DURE, KARIM G.
1621 DOBSON STREET,
EVANSTON, IL 60202-0000

Office of the District Counsel/CH
P.O. Box A-3423
Chicago, IL 60690

Name: AIDOUNI, MOHAMMED

A70-525-409

Date of this notice: 10/11/2001

Enclosed is a copy of the Board's decision and order in the above-referenced case.

Very Truly Yours.

A handwritten signature in cursive script, reading "Lori Scialabba".

Lori Scialabba
Acting Chairman

Enclosure

Panel Members:

ROSENBERG, LORY D.
SCHMIDT, PAUL W.
VILLAGELIU, GUS

EXHIBIT

tabbles

C(4)

U.S. Department of Justice
Executive Office for Immigration Review

Decision of the Board of Immigration Appeals

Falls Church, Virginia 22041

File: A70 525 409 - Chicago

Date: OCT 11 2001

In re: MOHAMMED AIDOUNI

IN ASYLUM PROCEEDINGS PURSUANT TO 8 C.F.R. § 208.31(e)

APPEAL

ON BEHALF OF RESPONDENT: Karim Dure

ON BEHALF OF SERVICE: Debra G. Gordon
Assistant District Counsel

APPLICATION: Withholding of removal

On January 16, 2001, an Immigration Judge denied the respondent's applications for withholding of removal. See Section 241(b)(3)(A) of the Immigration and Nationality Act; 8 U.S.C. § 1231(b)(3)(A); Article 3 of the United Nations Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment ("Convention Against Torture").¹ The respondent has appealed from this decision. The appeal will be dismissed. The respondent's request for oral argument is denied. See 8 C.F.R. § 3.1(e).

I. BACKGROUND

The respondent is a native and citizen of Algeria. He entered the United States without inspection in September 1991. In 1999, he was convicted of retail theft in Illinois and sentenced to a year in prison for his crime. The Immigration and Naturalization Service placed him in expedited removal proceedings due to his conviction and ordered him removed from the United States.

During his proceedings, the respondent expressed a fear of returning to Algeria, and the Service referred him to an asylum officer for a credible fear interview. The asylum officer, in turn, found that the respondent had a credible fear of facing persecution in Algeria, and she referred his case to an Immigration Judge for a full hearing on his eligibility for withholding of removal. The respondent's aggravated felony conviction makes him statutorily ineligible for asylum. See Section 208(b)(2)(A)(ii) and (B)(i) of the Act, 8 U.S.C. § 1158(b)(2)(A)(ii) and (B)(i).

¹ United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted and opened for signature Dec. 10, 1984, G.A. Res. 39/46, 39 U.N. GAOR Supp. No. 51, at 197, U.N. Doc. A/RES/39/708 (1984) (entered into force June 26, 1987; for the United States Apr. 18, 1988).

A70 525 409

After reviewing the respondent's applications for withholding of removal under the Act and the CAT and considering the respondent's testimony, the Immigration Judge found that he had failed to establish eligibility for these forms of relief. In reaching this conclusion, the Immigration Judge noted that the respondent had not been persecuted or tortured while he was in Algeria and that he had been out of that country for over 9 years. The Immigration Judge pointed out that the respondent had not offered any evidence to show that the government had a continuing interest in him, and the Immigration Judge noted the respondent had not indicated that his family members who remained in Algeria had experienced any difficulties since the respondent left. The Immigration Judge therefore found that the respondent had failed to establish that it was more likely than not that he would be persecuted or tortured by the government if he were forced to return to Algeria.

The respondent has appealed from the Immigration Judge's decision. On appeal, he contends that the Immigration Judge failed to consider the fact that he was a member of the Algerian military before he joined the Islamic Salvation Front (FIS). He claims that joining an opposition party was a direct violation of his military commitment and makes him a prime target for the Algerian government. In addition, he argues that the Immigration Judge did not acknowledge the fact that three teenagers from his neighborhood who also distributed flyers for the FIS were arrested around the same time the security forces came to his home. He claims that these teenagers have not been seen or heard from since that time. Finally, the respondent maintains that the Immigration Judge did not consider the continued, random violence that is occurring in Algeria when he evaluated the respondent's testimony. The respondent argues that, when this factor, together with his military background and the treatment of his colleagues, is taken into account, he has presented sufficient evidence to show that he has a clear probability of being persecuted in Algeria on account of his political activities.

II. WITHHOLDING OF REMOVAL UNDER THE ACT

According to section 241(b)(3)(A) of the Act, the Attorney General "may not remove an alien to a country if the Attorney General decides that the alien's life or freedom would be threatened in that country because of the alien's race, religion, nationality, membership in a particular social group, or political opinion." The burden is on the alien to show that these conditions exist, and the burden is more stringent than the one the alien must meet to establish eligibility for asylum. Instead of showing that he has a well-founded fear of facing persecution in his native country, the alien must show that he has a clear probability of facing persecution on account of one of the five statutory grounds. In other words, he must show that it is more likely than not that he will be persecuted if he is forced to return to his homeland. See *INS v. Stevic*, 467 U.S. 407, 413 (1984); *Mitev v. INS*, 67 F.3d 1325 (7th Cir. 1995).

The respondent in the present case claims that he has met this burden, but we disagree. We find that the Immigration Judge considered all of the respondent's evidence, including the factors he has discussed on appeal, and correctly concluded that the respondent has failed to show that it is more likely than not that he will be persecuted if he is forced to return to Algeria.

A70 525 409

As the Immigration Judge noted, the respondent was not persecuted while he was in Algeria. Members of the secret service came to his home in August 1991, but he escaped through a back window before they entered the house (Tr. at 69-70). He said that several days earlier, members of the secret service had arrested three teenage boys in his neighborhood and no one had seen or heard from the boys since their arrest (Tr. at 69-73). He said the boys had helped him distribute flyers for the FIS, and he seemed to believe that the secret service had obtained his name from them (Tr. at 111-14). He also indicated that the secret service arrested many suspected FIS supporters in his hometown during the same time period (Tr. at 96-99).

The respondent did not return to his house after the secret service's visit; he instead remained in hiding for a month and then left Algeria on a ship as a stowaway. The respondent said that, while he was in hiding, the secret service searched his house and confiscated a box of 6,000 FIS flyers from under his bed (Tr. at 79, 83-84). He said that his brother told him about this incident and told him not to go home.

These facts suggest that, in 1991, the respondent had a well-founded fear of facing persecution at the hands of the Algerian government due to his political activities. But the respondent has been absent from Algeria for almost 10 years. The FIS is still an illegal party in that country and members may still be persecuted by the government; however, the respondent had only minor involvement in the party and had only one brief encounter with the secret service. He also has not offered any evidence to suggest that the current Algerian government still associates him with that group.

The respondent stated that he spoke to his mother in 1996 and that she told him the military had not forgotten him (Tr. at 76), but he did not explain the basis for his mother's beliefs. Moreover, his conversation with her occurred over 4 years ago. The conversation therefore is not sufficient to show that it is more likely than not that the respondent will be persecuted by the Algerian government if he is forced to return to that country now.

In addition, the respondent has offered no other evidence to suggest that the government has recently expressed interest in him. His mother, his three brothers and his sister still live in his hometown, but he does not appear to have received any warnings from them and he has not indicated that they have experienced any difficulties due to his political activities. In the absence of this type of evidence, we must agree with the Immigration Judge that the respondent has failed to show that he has a clear probability of being persecuted if he is forced to return to Algeria. *See e.g. Sofinet v. INS*, 196 F.3d 742 (7th Cir. 1999)(finding that the absence of evidence of harm to alien's family can undermine claim of well-founded fear of persecution).

The respondent's status as a former member of the military and the current unrest in Algeria do not change this conclusion. The respondent still must show that the current government is aware of both his past military service and his past political activities and that it has the inclination to punish him for these acts. He has not met this burden. *See e.g. Nenadovic v. INS*, 108 F.3d 124 (7th Cir. 1997)(stating that unpleasant and even dangerous conditions do not necessarily establish that alien has well-founded fear of persecution); *Matter of S-V-*, Interim Decision 3430 (BIA 2000)(noting that general conditions of civil war, on their own, do not establish clear probability of persecution).

A70 525 409

We therefore uphold the Immigration Judge's decision to deny his application for withholding of removal under the Act.

III. WITHHOLDING UNDER CAT

The respondent also has not establish that it is more likely than not that he will be tortured by the Algerian government if he is forced to return to that country. As we noted above, the respondent has not offered any evidence to suggest that the government is still interest in him 10 years after he left his homeland. We therefore cannot conclude that he has met his burden of showing that he has a clear probability of facing torture at the hands of the government upon his return, and we must uphold the Immigration Judge's decision denying his application for withholding under the Convention Against Torture. Accordingly, we dismiss the respondent's appeal.

ORDER: The appeal is dismissed.

Steven D. Vukobrat
FOR THE BOARD



U.S. Department of Justice
Immigration and Naturalization Service

10 West Jackson Blvd.
Chicago, Illinois 60604

Mohamed Hamid AIDOUNI
C/O COLES COUNTY JAIL
701 7th Street
Charleston, IL. 61920

A# 70 525 409

December 28, 1999

**Notice to Alien of File Custody Review
(Alternate Review)**

It is the policy of the Immigration and Naturalization Service (INS) to periodically review the custody status of detained aliens who have final orders of removal, deportation, or exclusion. You are required to cooperate with the INS in effecting your removal from the United States.

The INS District Director will review your case for consideration of release on an Order of Supervision. Release from INS custody is dependent on your demonstrating by "clear and convincing evidence" that you **will not** pose a danger to the community and **will not** be a significant flight risk.

Your custody status will be reviewed on or about: 01/28/2000. The District Director may consider, but is not limited to considering the following:

1. The nature and seriousness of your criminal convictions;
2. Other criminal history;
3. Sentence(s) imposed and time actually served;
4. History of escapes, failures to appear for judicial or other proceedings, and other defaults;
5. Probation history;
6. Disciplinary problems while incarcerated;
7. Evidence of rehabilitative effort or recidivism;
8. Equities in the United States;
9. Prior immigration violations and history; and
10. Cooperation in obtaining your travel document.

You may submit any documentation you wish to be reviewed in support of your release, prior to the date listed above, to the Officer and address below. English translations must be provided pursuant to 8 CFR 103.2(b)(3). An attorney or any other person may submit materials on your behalf.

U.S. Department of Justice
Immigration and Naturalization Service
Attn: Officer I. C. GARCIA
10 West Jackson Blvd.
Chicago, IL 60604

EXHIBIT

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C(5)



U.S. Department of Justice
Immigration and Naturalization Service

10 West Jackson Blvd.
Chicago, Illinois 60604

February 04, 2000

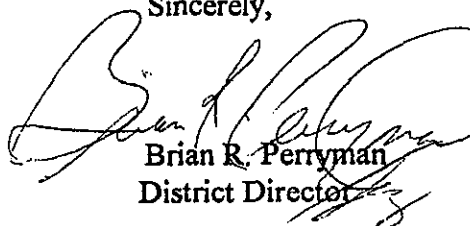
Mohamed Hamid Aidouni
c/o Coles County Jail
701 7th Street
Charleston, Illinois 61920

RE: INS File A70 525 409

Dear Mr. Aidouni:

This is to advise that your Service record shall not be reviewed, at this time, as it does not fall under the guidelines for post-order custody cases wherein immediate repatriation is not possible or practicable. The issuance of a travel document is still pending.

Sincerely,


Brian R. Perryman
District Director

EXHIBIT

tabbies

C(6)



U.S. Department of Justice
Immigration and Naturalization Service

November 6, 2001

10 West Jackson Blvd.
Chicago, Illinois 60604

AIDOUNI, MOHAMMED
C/O Coles County Jail
701 7th Street
Charleston, Illinois 61201

A# 70 525 409

Notice to Alien of File Custody Review

You are detained in the custody of the Immigration and Naturalization Service (INS) and you are required to cooperate with the INS in effecting your removal from the United States. If the INS has not removed you from the United States within the removal period as set forth in INA 241 (a) (normally 90 days) of either: 1) your entering INS custody with a final order of removal, deportation, or exclusion, or 2) the date of any final order you receive while you are in INS custody, the District Director will review your case for consideration of release on an Order of Supervision. Release, however, is dependent on your demonstrating by "clear and convincing evidence" that you will not pose a danger to the community and you will not be a significant flight risk.

Your custody status will be reviewed on or about: December 6, 2001. The District Director may consider, but is not limited to considering, the following:

1. The nature and seriousness of your criminal convictions;
2. Other criminal history;
3. Sentence(s) imposed and time actually served;
4. History of escape, failures to appear for judicial or other proceedings, and other defaults;
5. Probation history;
6. Disciplinary problems while incarcerated;
7. Evidence of rehabilitative effort or recidivism;
8. Equities in the United States;
9. Prior immigration violations and history; and
10. Cooperation in obtaining your travel document.

You may submit any documentation you wish to be reviewed in support of your release, prior to the date listed above, to the Officer and address below. English translations must be provided pursuant to 8 CFR 103.2(b)(3). An attorney or any other person may submit materials on your behalf.

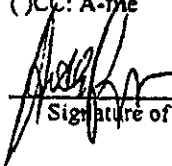
U.S. Department of Justice
Immigration and Naturalization Service
Attn: Officer Figueroa
10 West Jackson Blvd.
Chicago, IL 60604

Method of Service

I certify that this form was provided to the alien by:
() CC: Attorney of Record or Designated Representative
() CC: A-file

HAND

INSTITUTION MAIL


Signature of Officer


Print Name of Officer

11/6/01
Date

EXHIBIT

C(7)



U.S. Department of Justice
Immigration and Naturalization Service

10 West Jackson Blvd.
Chicago, Illinois

Mohammed AIDOUNI
Tri-County Detention Center
1024 Shawnee College Rd.
Ulin, IL 62992

A# 70 525 409

**Decision to Continue Detention
Following File Review**

This letter is to inform you that your custody status has been reviewed by the Immigration and Naturalization Service (INS) and that you will not be released from custody at this time.

This decision was based on a review of your file record and consideration of information you submitted to INS' reviewing officials.

You are not being released because (attach additional sheets if necessary):

- You were convicted of robbery and possession of a weapon.

This concludes all review at the District level. Your case will now be referred to the INS Headquarters Post-Order Detention Unit (HQPDU) in Washington, DC. HQPDU will commence a custody review within 30 days of referral or as soon as possible thereafter. You will receive 30-days notice of interview when one is scheduled. It is in your best interest to maintain proper behavior while awaiting this review. If you have any questions please contact:

Frank Moore

(Officer Name)

10 West Jackson Blvd., Room 553, Chicago, Illinois 60604

(Address)

Signature of District Director/Designated Representative

Date

(Page 1 of 2)

- Denied Asylum
- Jan 16, 2001
- Oct 11, 2001

EXHIBIT

C(8)

EXHIBIT D

In removal proceedings under section 240 of the Immigration and Nationality Act

File No: A71 674 230

In the Matter of:

Respondent: ALZEHRANI, Maitham Aziz Karim K70403 PRD 4/13/2001

c/o Big Muddy River CC, PO Box 1000

Ina

IL

62846

(618)437-5300

(Number, street, city, state and ZIP code)

(Area code and phone number)

- ☐ 1. You are an arriving alien.
- ☐ 2. You are an alien present in the United States who has not been admitted or paroled.
- ☒ 3. You have been admitted to the United States, but are deportable for the reasons stated below.

The Service alleges that you:

See Continuation Page I-831

On the basis of the foregoing, it is charged that you are subject to removal from the United States pursuant to the following provision(s) of law:

Section 237(a)(2)(A)(iii) of the Immigration and Nationality Act (Act), as amended, in that, at any time after admission, you have been convicted of an aggravated felony as defined in section 101(a)(43)(A) of the Act, a law relating to Rape.

Section 237(a)(2)(A)(i) of the Immigration and Nationality Act, as amended, in that you have been convicted of a crime involving moral turpitude committed within five years after admission for which a sentence of one year or longer may be imposed.

Section 237(a)(2)(A)(ii) of the Immigration and Nationality Act, as amended, in that, at any time after admission, you have been convicted of two crimes involving moral turpitude not arising out of a single scheme of criminal misconduct.

Section 237(a)(2)(E)(i) of the Immigration and Nationality Act, as amended, in that you are an alien who at any time after entry has been convicted of a crime of domestic violence, a crime of stalking, or a crime of child abuse, child neglect, or child abandonment.

☐ This notice is being issued after an asylum officer has found that the respondent has demonstrated a credible fear of persecution.

☐ Section 235(b)(1) order was vacated pursuant to: ☐ 8 CFR 208.30(f)(2) ☐ 8 CFR 235.3(b)(5)(iv)

YOU ARE ORDERED to appear before an immigration judge of the United States Department of Justice at:
55 East Monroe Street, Suite 1900, Chicago, IL 60603

on To Be Set at To Be Set to show why you should not be removed from the United States based on the
(Date) (Time)
charge(s) set forth above.

[Signature]
Assistant Secretary, Department of Homeland Security
(Signature and Title of Issuing Officer)

Date: 12/15/00

Chicago, IL
(City and State)

See reverse for important information

EXHIBIT

DC11

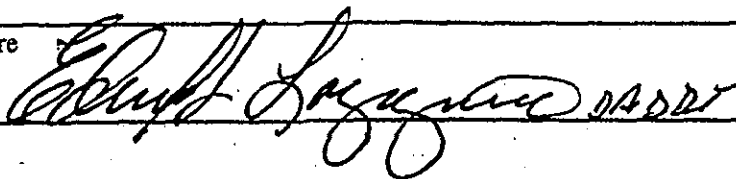
Alien's Name ALZEHRANI, Maitham Aziz Karim K70403 PRD
4/13/2001

File Number
A71 674 230

Date
12/15/00

1. You are not a citizen or national of the United States;
2. You are a native of Iraq and a citizen of Iraq;
3. You were admitted to the United States at NYC, NY on or about 8/18/93 as a Refugee, Section 209 (a) of the I&N Act;
4. Your status was adjusted on 6/16/96 to that of a lawful permanent resident, as of 8/18/93, under section 209 (a) of the Act;
5. You were, on 7/29/97, convicted in the Circuit Court at Kane County, IL for the offense of Unlawful Restraint and Domestic Battery in violation of 720 ILCS 5/10-3(a) and 720 ILCS 5/12-3.2(a)(1).
6. That offense was committed against Nancy ARREGUIN, a family member of the defendant.
7. For that offense, a sentence of one year or longer may be imposed.
8. You were, on 12/17/98, convicted in the Circuit Court at Kane County, IL for the offense of Criminal Sexual Assault in violation of 720 ILCS 5/12-13(a)(1).
9. For that offense, a sentence of one year or longer may be imposed.

Signature



Title

Assistant District Director, Investigations

IMMIGRATION COURT
53 E. Monroe Street, Suite 1900
Chicago, Illinois 60603

In the Matter of Matthew A. K.
Al Lehman
Respondent

Case A# 71-674-230

IN REMOVAL PROCEEDINGS

ORDER OF THE IMMIGRATION JUDGE

This is a summary of the oral decision entered on August 20, 2001

This memorandum is solely for the convenience of the parties. If the proceedings should be appealed or reopened, the oral decision will become the official opinion in the case.

- ☒ The respondent was ordered removed from the United States to Erag
- ☐ Respondent's application for voluntary departure was denied and respondent was ordered removed to _____ alternative to _____
- ☐ Respondent's application for voluntary departure was granted until _____ upon posting a bond in the amount of \$ _____ with an alternate order of removal to _____
- ☐ Respondent's application for asylum was ☐ granted ☐ denied ☐ withdrawn
- ☐ Respondent's application for withholding of removal was ☐ granted ☐ denied ☐ withdrawn
- ☐ Respondent's application for cancellation of removal under Section 240A(a) was ☐ granted ☐ denied ☐ withdrawn
- ☐ Respondent's application for cancellation of removal under Section 240A(b) was ☐ granted ☐ denied ☐ withdrawn. If granted, it was ordered that the respondent be issued all appropriate documents necessary to give effect to this order.
- ☐ Respondent's application for a waiver under Section _____ of the INA was ☐ granted ☐ denied ☐ withdrawn ☐ other
- ☐ Respondent's application for adjustment of status under Section _____ of the INA was ☐ granted ☐ denied ☐ withdrawn. If granted, it was ordered that respondent be issued all appropriate documents necessary to give effect to this order.
- ☐ Respondent's status was rescinded under Section 246.
- ☐ Respondent is admitted to the United States as a _____ until _____
- ☐ As a condition of admission, respondent is to post a \$ _____ bond.
- ☐ Respondent knowingly filed a frivolous asylum application after proper notice.
- ☐ Respondent was advised of the limitation on discretionary relief for failure to appear as ordered in the Immigration Judge's oral decision.
- ☐ Proceedings were terminated.
- ☐ Other: Art 3 Relief Application Withdrawn

8/20/01
eal: ☒ WAIVED ☐ RESERVED
☐ Respondent ☐ INS ☒ Both
Appeal due date: _____

Christa Smith
Immigration Judge

EXHIBIT

DC(2)



U.S. Department of Justice
Immigration and Naturalization Service

10 West Jackson Blvd.
Chicago, Illinois

Maitham Aziz Karim ALZEHRANI
C/O Tri-County Detention Center
1026 Shawnee College Road
Ullin, IL 62991

A# 71 674 230

AD 12

**Decision to Continue Detention
Following File Review**

This letter is to inform you that your custody status has been reviewed by the Immigration and Naturalization Service (INS) and that you will not be released from custody at this time.

This decision was based on a review of your file record and consideration of information you submitted to INS' reviewing officials.

You are not being released because (attach additional sheets if necessary):

You have not presented any clear plans on where you would live and how you would support yourself if you were released. You have also displayed an escalating pattern of violence in your criminal activities. You have not demonstrated that you are no longer a threat to society.

RECEIVED
INS
& NIS
DEPORTATION & IMMIGRATION
CHICAGO, ILLINOIS
2001 OCT 17 10:33 AM

This concludes all review at the District level. Your case will now be referred to Headquarters Post-Order Detention Unit (HQPDU) in Washington, DC. HQPDU will commence a custody review within 30 days of referral or as soon as possible thereafter. You will receive 30-days notice of interview when one is scheduled. It is in your best interest to maintain proper behavior while awaiting this review. If you have any questions please contact:

Frank Moore

(Officer Name)

10 West Jackson Blvd., Room 553 Chicago, Illinois 60604

(Address)

Signature of District Director/Designated Representative

Date

10/03/01

EXHIBIT

D(3)



U.S. Department of Justice
Immigration and Naturalization Service

HQPDU
Washington, DC 20536

A71 674 230

Maitham Aziz Karim Alzerhrani
C/O: U.S. Immigration & Naturalization Service
Chicago District Office.
10 West Jackson Blvd
Chicago, IL 62991

Decision to Continue Detention

This letter is to inform you that your custody status has been reviewed and it has been determined that you will not be released from the custody of the Immigration and Naturalization Service (INS) at this time. This decision has been made based on a review of your file and/or your personal interview and any consideration of the information submitted to INS' reviewing officials in support of your application for release.

Your administrative record shows that you are a native and citizen of Iraq who entered the United States as a refugee on August 18, 1994. You were granted Lawful Permanent Residence Status on June 16, 1996. Since your entry you have been convicted of Unlawful Restraint, Domestic Battery and Criminal Sexual Assault. Based on your convictions, you were ordered removed by an immigration judge on August 26, 2001.

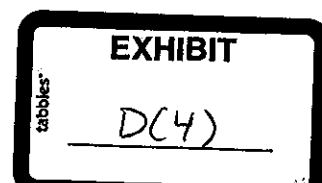
The INS has had some success in securing travel documents for Iraqi nationals. A request for a travel document was sent out to the Iraqi Interest Section on December 14, 2002. This request is currently pending. You have not provided any evidence to show that your removal is not feasible within the foreseeable future.

You are required to assist the INS in its efforts to secure a travel document. You must request a Passport on your own behalf for Iraq. The INS will not consider your release until you have satisfied this requirement and provided evidence. The INS recommends that you utilize family members in the United States and Iraq to assist in the issuance of a passport. You may send this evidence to the Headquarters Post Order Unit, 801 I St, NW, Washington, DC 20536, Room 800.



Signature of HQPDU Director/Designated Representative

5/2/02
Date



PROOF OF SERVICE

(1) Personal Service (Officer to complete both (a) and (b) below.)

(a) I _____, _____,
Name of INS Officer Title
certify that I served _____ with a copy of
Name of detainee
this document at _____ on _____, at _____.
Institution Date Time

(b) I certify that I served the custodian _____,
Name of Official
_____, at _____, on
Title Institution
_____ with a copy of this document.
Date

OR

(2) Service by certified mail, return receipt. (Attach copy of receipt)

I Tony Gimadevilla, DEPORTATION OFFICER, certify
Name of INS Officer Title
that I served ALZEHRANI and the custodian _____,
Name of detainee Name of Official
with a copy of this document by certified mail at Jefferson Co. on 5-7-02
Institution Date

HEARTLAND ALLIANCE

TIA/Chicago Connections

The Midwest Immigrant Rights Center

May 10, 2002

David Venturella
Office of Detention & Removal Operations
801 "T" Street NW, Suite 900
Washington, DC 20536
VIA FAX: 202-353-9435

Re: Release of Maitham Alzehrani, 71-674-230, under Zadvydas v. Davis

Dear Mr. Venturella,

I am writing on behalf of Maitham Alzehrani to request his release under the Supreme Court decision, Zadvydas v. Davis.

It is well established that the United States has no diplomatic relations with Iraq, just as it has no diplomatic relations with Cuba, Cambodia, Vietnam and Laos. With the United States currently waging a war against terrorism in the Middle East and the fact that the United States has placed severe economic sanctions on Iraq for the past seven years, it is certain that Mr. Alzehrani **will not be removed in the "reasonably foreseeable future."** The harsh criticism of Iraq in the 2000 Department of State's Country Report for Human Rights Practices on Iraq illustrates the clear lack of diplomatic relations between the United States and Iraq. There is no Iraqi consulate in the United States and the U.S. has no embassy in Iraq.

Enclosed is (1) a copy of the INS's Decision to Continue Detention, dated October 3, 2001, (2) the removal order of the Immigration Judge, dated August 20, 2001, (3) a letter requesting supervision release from Mr. Alzehrani to the Chicago District, (4) a letter to Officer Frank Moore from Mr. Alzehrani indicating that he will cooperate with INS and a (5) GED Certificate.

I further reiterate my request that Mr. Alzehrani be released by the INS as continuing to hold him violates United States law as decided by the United States Supreme Court.

Thank you for your attention in this matter.

Sincerely,

Anne Relias

Anne Relias
Detention Project

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

OFFICIAL U.S.

Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$

5/10/02
Postmark
Here

Maitham
Alzehrani

Sent To

Street, Apt. No.,
or PO Box No.

City, State, ZIP+4

EXHIBIT

DC(5)

Appearances - An appearance shall be filed on this form by the attorney or representative appearing in each case. Thereafter, substitution may be permitted upon the written withdrawal of the attorney or representative of record or upon notification of the new attorney or representative. When an appearance is made by a person acting in a representative capacity, his personal appearance or signature shall constitute a representation that under the provisions of this chapter he is authorized and qualified to represent. Further proof of authority to act in a representative capacity may be required. Availability of Records - During the time a case is pending, and except as otherwise provided in 8 CFR 103.2(b), a party to a proceeding or his attorney or representative shall be permitted to examine the record of proceeding in a Service office. He may, in conformity with 8 CFR 103.10, obtain copies of Service records or information therefrom and copies of documents or transcripts of evidence furnished by him. Upon request, he/she may, in addition, be loaned a copy of the testimony and exhibits contained in the record of proceeding upon giving his/her receipt for such copies and pledging that it will be surrendered upon final disposition of the case or upon demand. If extra copies of exhibits do not exist, they shall not be furnished free on loan; however, they shall be made available for copying or purchase of copies as provided in 8 CFR 103.10.

In re: Haitham Alzehrani

Date: 1/18/02

File No. A 71-674-230

I hereby enter my appearance as attorney for (or representative of), and at the request of the following named person(s):

Name: Haitham Alzehrani

☒ Petitioner
☐ Beneficiary

☐ Applicant

Address: (Apt. No.) (Number & Street) (City) (State) (Zip Code)

Name:

☐ Petitioner
☐ Beneficiary

☐ Applicant

Address: (Apt. No.) (Number & Street) (City) (State) (Zip Code)

Check Applicable Item(s) below:

- ☒ 1. I am an attorney and a member in good standing of the bar of the Supreme Court of the United States or of the highest court of the following State, territory, insular possession, or District of Columbia
Illinois Supreme Court and am not under a court or administrative agency order suspending, enjoining, restraining, disbaring, or otherwise restricting me in practicing law.
- ☐ 2. I am an accredited representative of the following named religious, charitable, social service, or similar organization established in the United States and which is so recognized by the Board:
- ☐ 3. I am associated with
the attorney of record previously filed a notice of appearance in this case and my appearance is at his request. (If you check this item, also check item 1 or 2 whichever is appropriate.)
- ☐ 4. Others (Explain Fully.)

SIGNATURE

Anne H. Relias

COMPLETE ADDRESS

TIA/CHICAGO CONNECTIONS
208 S. LaSalle St, Suite 1818
Chicago, IL 60604

NAME (Type or Print)

Anne Relias

TELEPHONE NUMBER

312.660.1370

PURSUANT TO THE PRIVACY ACT OF 1974, I HEREBY CONSENT TO THE DISCLOSURE TO THE FOLLOWING NAMED ATTORNEY OR REPRESENTATIVE OF ANY RECORD PERTAINING TO ME WHICH APPEARS IN ANY IMMIGRATION AND NATURALIZATION SERVICE SYSTEM OF RECORDS.

TIA MIHRC

(Name of Attorney or Representative)

THE ABOVE CONSENT TO DISCLOSURE IS IN CONNECTION WITH THE FOLLOWING MATTER:

Name of Person Consenting

HAITHAM ALZEHRANI

Signature of Person Consenting

Haitham Alzehrani

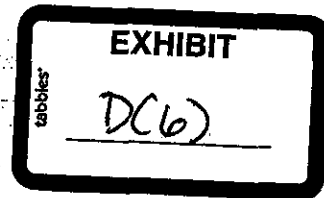
Date

01-18-02

(NOTE: Execution of this box is required under the Privacy Act of 1974 where the person being represented is a citizen of the United States or an alien lawfully admitted for permanent residence.)

Brian perryman.
District Director
I.N.S.

10 W. JACKSON Blvd,
Chicago, IL. 60604.



"Requesting Supervision Release"

Dear. District Director. Brian, perryman, Sir
I Request that the district director review my
custody status, because I believe that I
Qualify for an order of supervision,
Specifically, I have been in detention more
than 90 days. after being ordered removed
I'm not a danger to the community, and
I'm not a flight risk. if appropriate, I also
Request an interview. I entered the U.S.
United States. in 08-18-1994. at that time
I was 22 years old. I have the following family
members here in the U.S.A. Name is
Li-La Jasmine ALZehrani, She is my only
daughter She was born in Elgin-IL, U.S. 09-1
1997. So she is a U.S. citizen. I would like
be part of her life as she grows up and I want
to support her as well. Sir, I'm not a danger to
the community because I took my case to

trail, than I was convicted by jury trail. I
trying to prove that I'm not guilty but s.
some time things change.. and we human b
most time we learn from our past alot
things. we never know befor. sir befor I gc
convicted on this case. I was always a wor
man who supported my self and my famil
I did file my tax or income tax every ye
Sir now I'm asking you to release me from
the .I.N.S. Custody and I promise you sir
I will be even better than befor. I will b
working and takeing care for my kid and
look for better future for me and my fam

Dear Sir D.D.!

①. I will remain away from that city where
used to lived befor. that just because I'm
not seeking for no problem. for my self.
will stay away from bad friend and Bad
people.

②. I will live with a close friend by his agreeema
for living with him or be in half way house
while I will have a stable home envirommen
my friend name is.

③ Sir, I will find a job as soon my release process is done. and I have experience and skill so it will not take me long time to get a job.

④ I want to continue my education and will enroll in support program in the city where I will live.

⑤ I never been a drug user or alcoholic. I like to keep healthy and get my education done like G.E.D. or collage I want to be a good person and I will become one.

⑥ Sir, I do not have any disciplinary problem in my incarceration time and I will have none in my release time. I have been incarcerated finishing my time in A.B.E. and pre G.E.D. taking classes and trying to get my education done.

⑦ Sir, I have healthy support network and I'm available, which will help me succeed. I describe to my family support system and make us productive members of society.

⑧ Sir. I have unusual circumstances that warrant my release. I have such as kid who need my help and my financial support and father ship.

⑨ Sir. I realize that I made mistake in the past. but I have learned from them much and I want my family to be proud of me in the future and to be a productive member of society.

Sir. I'm not a flight risk because I will live at

with my friend and family member - Sir. When I will be released. I will concentrate on working and supporting my family dear sir district director. if I get my release I will not flee the area and I will comply with all restriction, imposed on me as part of my release. I will abide by any and all condition, placed on my release.

for the reasons stated above, I am asking
you sir to granted me supervised
release so that I may join my family
return to gainful employment, and no
longer be a financial burden to society.
I further request an interview in order
to demonstrate my suitability for release
and present additional evidence.

Thank you.

Respectfully submitted,

MAITHAM ALZEHRANI

Maitham Alzehrani

Dated, . . .

11-05-2001.

A# 71674230.

MR Frank Moore
10 West Jackson, Blvd, room 553
Chicago, IL-60604.

Bear MR Frank Moore.

I am writing you this letter to confirm that I am completely willing to cooperate with the I.N.S. such as being fingerprinted photographed and signing travel documents. It had been three months since Immigration judge order my deportation and I.N.S. has not asked me to sign any documents, or fill out forms, and never took my photograph or fingerprint to obtain travel document.

Sincerely,
Meitham Alzehrani
Meitham-ALZehrani.

EXHIBIT

D(7)

TO: The Headquarters Post Detention Unit.

801 I St, NW Room 800
Washington, D C 20536

FR: Maitham Alzehrani A#71674230

Jefferson County Detention Center
102 W "C" St
Waurika, OK 73573

RE: Release Form Detention

Date: 6/7/002

Dear Sir/Madam:

I am forwarding this letter to you concerning my review and I would like to know the process of my case.

I am a citizen of Iraq. I entered to the United States as a refugee in 1994. I left Iraq during the Gulf War when I was in the Iraqi Army. While Iraq was in a war with the World Coalition in 1991 I was among those who surrendered to the United States Troops in the Kuwaiti-Iraqi Borders. I was taken as a POW to a refugee camp in Saudi Arabia and I remained there from 1991 until 1994. (Please See the record) On Aug. 18, 1994 the United Nation processed my papers and I admitted as a political refugee to the United States.

Upon my arrival, I lived in the State of Maryland for six months with the Catholic Refugee Organization. After that, I moved to Elgin, Ill and I remained there. While I was there I worked in different factories and paid taxes every year from 1995 to 1998. On April 13, 1998 I arrested and charged with a class one felony. The Jury to six years with parole disqualification convicted me. I served three years prison time, on April 13, 2001; I was released to the custody of the INS from Big Muddy River Correction Center in Ina Ill. I was transferred and placed in Sheridan Correction Center until April 13, 2001 and the INS picked me from there and shuttled me through several detentions that I can not remember until I was transferred to JCDC.

On Aug. 20, 2001, the INS Judge ordered me deported to my country. Three months later the INS served me with a review to continue detention. That was on 10/1/2001. After that, I have not heard from them since.

The reason I am writing you today to inform you that, I have been in custody for almost one year and one month, I only had one review. I do not know what is the reason for me to remain in custody as long as I am not deportable. It is obvious that, I can not be deported to Iraq and there is no way the INS can facilitate travel document for me. I am not going to mention cooperation because there is no sense of mention that. Iraq is a country that has no diplomatic relation with the United States and I have left it as a POW. Therefore, my deportation to that country is impossible.

I would like to inform you that, my continual incarceration is not serving the public interest since I have paid my dues to society and I acknowledged my guilt. I can not explain why I had to get into trouble with the law other then cultural differences and my lack of familiarity with the American Law. I do not have any excuses regarding my offenses. The only thing I can say, I am sorry for what I have done. I deeply apologize for the inconvenience that I have caused to myself and to the American Justice System. I pray that, you understand the huge gap between the two cultures (The United States and Iraq) and pardon my mishaps and irresponsibility.

I came to this country young and naïve. Life taught me how to be responsible and law-abiding resident. I have learnt from my incarceration so much; I could not have learnt that anywhere else. I worked hard to rehabilitate myself. I took classes for English and other vocational seminars. I attended programs dealing with anger management, life skills and other vocational classes.

I am in Jefferson County Detention Center, working hard on my rehabilitation. I attend computer classes, seminars, vocational courses and all other programs available to me. The atmosphere here is very rehabilitative. I have the chance to interact with society

EXHIBIT

tabbies

D(8)

through programs and work assignments. There are counselors who work very close with us and prepare us to deal with today's work challenges. I am concentrating on recovery as my number one issue. I knew I made a mistake and I have to prove to you, to myself and to my four-year-old daughter who is in dire need for my presence. I do not want her to grow up without a father figure in her life. Today she became the center of my attention. I have brought her in this world and I know I am responsible for her up bringing. I do not need to list her needs for you. You must have an idea how hard for the child to function without support. My daughter (Leila) is at a very critical age and she needs schooling, clothing and other necessary care that, nobody will provide her with, if I remain in detention. That is why I believe that, my incarceration does not serve the public interest.

Instead of being a burden on society including my daughter, I want to be released so I can become an active member in my community. You can check my record and see that, I am a hard worker. I always supported my family while I was in society. As you know my family in Iraq is suffering under the Iraqi regime. Since my arrival in the States, Iraq remained under international sanction, which hurt the oppressed people like my family. I had to support my sisters and brothers from time to time.

I want to let you know that, upon my release I have a place to stay and people to support me until I get on my feet. My girlfriend (Somput Lamp) offered me a place to stay and whatever helps I may need. I also have several friends who vowed to help me upon my release please see the names below.

This is address is where I will live when released:

309 South Highland Ave.
Rockford, Ill. 61104
(815) 398 1341

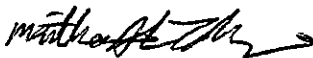
Those are the names of my friends who will help me upon my release from custody.

- (1) Hamid Al basri Telephone # (815) 399 0119
- (2) Thalab Alaboodi Telephone (847) 373 6679
- Jasim Alsim Telephone (773) 427 0885

Note: I have sent to your office all the documents related to my rehabilitation and other supporting letters I gathered from those who wrote you to attest to my change. I failed to mention that, I have legal assistant by the name of Anne Relias who wrote you several letters in my behalf seeking my release. She is a human right lawyer. I believe you can check my record for more information about her. You also can contact her for more information about me because she got all my paperwork. Her telephone is (312) 263 0901. The Direct # (312) 660 1359 Please feel free to contact her for information. I am also forwarding some copies that I have here, which I believe you already have them in your possession, but if not please take a note of them.

Respectfully submitted

Maitham Alzehrani



May 22, 2002

United States Immigration and Naturalization Service HQPDU
801 I Street, NW
Suite 800
Washington D.C. 20536

Dear Sir / Madam,

Re: A# 71674230 in the matter of Mr. Maitham Al Zahrani


The American-Arab Anti-Discrimination Committee (ADC) is a civil rights organization committed to defending the rights of people of Arab descent and promoting their rich cultural heritage. ADC, which is non-sectarian and non-partisan, is the largest Arab-American membership organization in the United States. It was founded in 1980 by former Senator James Abourezk and has chapters nationwide. Through its Legal Department, ADC offers counseling in cases of discrimination and defamation and selected impact litigation in the areas of immigration.

It has come to ADC's attention that Mr. Maitham Al-Zahrani is allegedly being detained and was allegedly denied release on his most recent three month review, on the grounds that he has made insufficient effort to obtain travel documents to return to Iraq. It is alleged that the INS is aware that an application for travel documents was sent to the Iraqi Interest Section on December 14, 2001. This request is currently pending and as of this date, there has been no response from the Iraqi Interest Section.

The INS should take into account the well-known fact that the United States and Iraq do not currently have diplomatic relations. The possibility that the United States will take military action against Iraq has been widely publicized. It is therefore unlikely that the INS will be able to deport Mr. Al-Zahrani to Iraq in the reasonable foreseeable future.

Continuing to detain this individual violates the Supreme Court decision Zadvydas v. Davis. We request that you investigate Mr. Al Zahrani's detention and reconsider your decision on this matter.

Sincerely,


Leila Laoudji, JD
Legal Advisor

EXHIBIT

tabbles

D(9)



July 17, 2002

Iraqi Interests Section
1801 P Street, NW
Washington, DC 20036

Re: Travel documents for Maitham Alzehrani

To Whom It May Concern:

I am writing on behalf of my client, Maitham Alzehrani. Mr. Alzehrani is a native of Iraq who entered the United States, with the assistance of the United Nations, as a refugee on August 18, 1993. Mr. Alzehrani was ordered removed to Iraq on August 20, 2001, and has been in INS Custody since April 13, 2001. I am writing to formally request that you issue Mr. Alzehrani a travel document as he is a native of Iraq. Please respond, in writing, to this request to supply Mr. Alzehrani with travel documents. Please provide a written explanation as to why Mr. Alzehrani cannot be issued travel documents if that is the case.

Please feel free to call me with any questions: (312) 660-1359.

Thank you for your immediate attention in this matter.

Sincerely,

Anne Relias

Anne Relias

Staff Attorney

Midwest Immigrant and Human Rights Center

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Pro

OFFICIAL U.S.

Postage	\$	re: Alzehrani 7/17/02 Postmark Here
Certified Fee		
Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees	\$	

Sent To	Iraqi Interests Sect
Street, Apt. No., or PO Box No.	1801 P St NW
City, State, ZIP+4	Wash DC 20036

PS Form 3800, January 2001

Providing paths from harm to hope through

Midwest Immigrant & Human Rights Center

TIA/Chicago Connections, 208 South LaSalle Street, Suite 1818, Chicago, Illinois 60604

EXHIBIT



U.S. Department of Justice
Immigration and Naturalization Service

HQPDU
Washington, DC 20536

A 71 674 230

Maitham Alzehrani
J.C.D.C.
102 "C" St.
Waurika, OK 73573

We have received your request for review for a custody re-determination. The Immigration and Naturalization Service ("INS") is in the process of reviewing the likelihood of repatriating you to your home country or country where ordered removed pursuant to a final administrative deportation/removal order. You are advised that in accordance with the Supreme Court's instruction in Zadvydas v. Davis, 121 S.Ct. 2491 (2001) and INS regulations, 8 C.F.R. § 241.13 (66 FR 56967, November 14, 2001), you have the burden to show that there is no significant likelihood of repatriating you in the reasonably foreseeable future. In order to undertake the review, in accordance with 8 CFR §241.4 and 8 CFR §241.13, you must provide the following documentation:

- Copies all passports, birth certificates or other nationality documents in your possession
- Copies of correspondence indicating your good faith efforts to obtain a passport from your country of nationality or other country indicated on your Order of Removal.
- Copies of receipts or responses from Embassies, Consulates or other governmental offices responding to your request for a travel document

Upon receipt of the above information, this office will conduct a full review of your case and make a determination of custody. Until such time as you submit the above information, the removal period defined in 8 CFR §§ 241.4 and 241.13 is held in suspense.

You may submit additional evidence if you believe your removal is not possible in the reasonably foreseeable future. You must resubmit evidence previously submitted that your removal is not imminent for reconsideration. You must also prove that you are taking positive measures to facilitate your removal from the United States. You are also advised that the Service may continue to detain you until there has been a determination under 8 CFR §241.13 whether there is a significant likelihood that you can be removed in the reasonably foreseeable future.

All evidence should be sent to the Headquarters Post Order Unit (HQPDU), 801 I St, NW, Washington, DC 20536, Room 800.

EXHIBIT

tabbies

D(11)

The HQPDU has chosen not to review your case at this time because of:

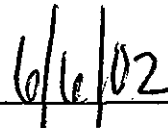
- ☐ You are not currently in INS custody.
- ☐ Your immigration case is pending review by the Board of Immigration Appeals and is therefore, not a final order subject to review by the HQPDU.
- ☐ The Removal Period has not yet expired, thus making you ineligible for any review.
- ☐ You have not been in custody with a final order of removal for the statutory period of time.
- ☐ Your case is pending before a Circuit Court of Appeals and you are not eligible for a review of your case.
- ☐ You have a judicially ordered stay of deportation, exclusion or removal.

Once you are eligible for review, the HQPDU will conduct a review of your case and issue a decision.



Rm

Signature of HQPDU Director/Designated Representative



Date

**TABLE 65. ALIENS REMOVED BY CRIMINAL STATUS AND REGION AND
SELECTED COUNTRY OF NATIONALITY
FISCAL YEARS 1993-98**

Region and country of nationality ¹	1993			1994			1995		
	Total	Criminal ²	Non- criminal	Total	Criminal ²	Non- criminal	Total	Criminal ²	Non- criminal
All countries	42,469	27,827	14,642	45,621	30,158	15,463	50,873	31,631	19,242
Europe	774	331	443	925	377	548	934	398	536
Albania	3	1	2	15	5	10	11	4	7
Andorra	-	-	-	-	-	-	1	-	1
Austria	3	1	2	4	1	3	3	1	2
Belgium	5	3	2	5	4	1	16	5	11
Bulgaria	4	1	3	12	1	11	18	6	12
Czechoslovakia, former	11	4	7	12	4	8	5	3	2
Czech Republic	-	-	-	-	-	-	-	-	-
Slovak Republic	-	-	-	3	1	2	1	1	-
Unknown republic	11	4	7	9	3	6	4	2	2
Denmark	3	1	2	7	-	7	5	-	5
Estonia	-	-	-	3	-	3	1	1	-
Finland	4	3	1	2	-	2	5	-	5
France	49	15	34	52	14	38	58	27	31
Germany	99	44	55	101	30	71	90	30	60
Greece	26	13	13	24	19	5	24	11	13
Hungary	17	10	7	10	4	6	11	7	4
Iceland	4	1	3	4	2	2	-	-	-
Ireland	6	4	2	13	6	7	19	4	15
Italy	52	25	27	57	28	29	59	30	29
Latvia	1	-	1	1	-	1	1	-	1
Lithuania	3	1	2	1	-	1	2	1	1
Luxembourg	1	1	-	-	-	-	-	-	-
Malta	-	-	-	2	1	1	1	1	-
Monaco	-	-	-	-	-	-	-	-	-
Netherlands	22	8	14	15	8	7	38	20	18
Norway	4	3	1	4	2	2	5	1	4
Poland	78	8	70	81	21	60	62	18	44
Portugal	46	39	7	53	43	10	42	32	10
Romania	10	3	7	30	7	23	45	6	39
Soviet Union, former	19	7	12	44	13	31	55	16	39
Armenia	-	-	-	3	2	1	7	5	2
Azerbaijan	-	-	-	-	-	-	1	-	1
Belarus	-	-	-	-	-	-	-	-	-
Georgia	-	-	-	1	-	1	-	-	-
Kazakhstan	-	-	-	-	-	-	-	-	-
Kyrgyzstan	-	-	-	-	-	-	-	-	-
Moldova	-	-	-	-	-	-	-	-	-
Russia	9	1	8	26	9	17	30	7	23
Ukraine	3	1	2	3	-	3	10	3	7
Uzbekistan	-	-	-	-	-	-	-	-	-
Unknown republic	7	5	2	11	2	9	7	1	6
Spain	17	10	7	24	9	15	34	10	24
Sweden	10	2	8	7	1	6	9	4	5
Switzerland	6	2	4	9	4	5	19	7	12
United Kingdom	248	115	133	283	137	146	252	142	110
Yugoslavia, former	23	6	17	50	13	37	43	11	32
Bosnia-Herzegovina	-	-	-	-	-	-	2	-	2
Croatia	-	-	-	6	2	4	1	-	1
Macedonia	-	-	-	-	-	-	3	-	3
Slovenia	-	-	-	-	-	-	2	-	2
Unknown	23	6	17	44	11	33	35	11	24

See footnotes at end of table.

**TABLE 65. ALIENS REMOVED BY CRIMINAL STATUS AND REGION AND
SELECTED COUNTRY OF NATIONALITY
FISCAL YEARS 1993-98—Continued**

Region and country of nationality ¹	1993			1994			1995		
	Total	Criminal ²	Non- criminal	Total	Criminal ²	Non- criminal	Total	Criminal ²	Non- criminal
Asia	1,247	357	890	1,654	385	1,269	1,332	345	987
Afghanistan	10	5	5	10	4	6	17	10	7
Bahrain	-	-	-	1	1	-	-	-	-
Bangladesh	48	1	47	44	4	40	44	5	39
Burma	2	2	-	10	-	10	2	-	2
Cambodia	-	-	-	2	-	2	14	2	12
China, People's Republic	94	22	72	448	19	429	307	25	282
Cyprus	1	-	1	1	1	-	-	-	-
Hong Kong	22	17	5	19	13	6	12	3	9
India	261	22	239	216	22	194	167	15	152
Indonesia	17	6	11	7	1	6	8	4	4
Iran	58	35	23	61	27	34	50	30	20
Iraq	3	1	2	4	1	3	2	2	-
Israel	49	24	25	41	26	15	40	15	25
Japan	44	10	34	55	9	46	31	11	20
Jordan	44	21	23	37	19	18	29	12	17
Korea	44	20	24	58	26	32	50	20	30
Kuwait	1	-	1	4	2	2	3	2	1
Laos	-	-	-	12	-	12	9	2	7
Lebanon	67	32	35	55	30	25	46	28	18
Macau	-	-	-	-	-	-	1	-	1
Malaysia	15	3	12	9	2	7	12	5	7
Maldives	-	-	-	1	-	1	-	-	-
Mongolia	-	-	-	-	-	-	-	-	-
Nepal	3	3	-	2	-	2	4	2	2
Pakistan	134	31	103	145	30	115	140	33	107
Philippines	162	63	99	236	85	151	193	82	111
Qatar	-	-	-	-	-	-	-	-	-
Saudi Arabia	3	2	1	3	1	2	4	1	3
Singapore	9	3	6	11	6	5	5	2	3
Sri Lanka	77	2	75	43	3	40	49	5	44
Syria	13	6	7	14	6	8	12	4	8
Taiwan	20	7	13	28	15	13	20	7	13
Thailand	23	13	10	27	17	10	30	8	22
Turkey	15	2	13	33	11	22	26	6	20
United Arab Emirates	1	-	1	1	-	1	-	-	-
Vietnam	5	3	2	6	2	4	3	2	1
Yemen	2	1	1	10	2	8	2	2	-
Africa	705	398	307	959	600	359	927	516	411
Algeria	5	1	4	10	3	7	15	1	14
Angola	2	2	-	1	1	-	1	1	-
Benin	1	1	-	6	5	1	5	4	1
Burkina Faso	-	-	-	1	-	1	-	-	-
Burundi	-	-	-	-	-	-	1	-	1
Cameroon	5	2	3	8	3	5	13	2	11
Cape Verde	10	7	3	22	17	5	18	17	1
Central African Republic	-	-	-	-	-	-	-	-	-
Chad	-	-	-	1	1	-	-	-	-
Congo, Democratic Republic ³	8	4	4	4	1	3	5	2	3
Congo, Republic ³	-	-	-	-	-	-	-	-	-
Cote d'Ivoire	15	3	12	17	2	15	19	4	15
Djibouti	-	-	-	-	-	-	-	-	-
Egypt	24	13	11	20	6	14	31	12	19
Equatorial Guinea	-	-	-	-	-	-	-	-	-
Eritrea	-	-	-	-	-	-	1	-	1

See footnotes at end of table.

**TABLE 65. ALIENS REMOVED BY CRIMINAL STATUS AND REGION AND
SELECTED COUNTRY OF NATIONALITY
FISCAL YEARS 1993-98—Continued**

Region and country of nationality ¹	1993			1994			1995		
	Total	Criminal ²	Non- criminal	Total	Criminal ²	Non- criminal	Total	Criminal ²	Non- criminal
Ethiopia	12	7	5	22	10	12	20	14	6
Gabon	-	-	-	-	-	-	1	-	1
Gambia, The	10	1	9	12	2	10	11	3	8
Ghana	108	21	87	127	52	75	177	74	103
Guinea	3	-	3	10	3	7	15	6	9
Guinea-Bissau	1	1	-	-	-	-	1	-	1
Kenya	6	2	4	21	8	13	8	2	6
Lesotho	-	-	-	1	1	-	-	-	-
Liberia	31	8	23	36	22	14	37	19	18
Libya	2	2	-	2	1	1	5	3	2
Madagascar	1	1	-	1	-	1	1	1	-
Malawi	-	-	-	-	-	-	2	-	2
Mali	2	-	2	6	2	4	14	4	10
Mauritania	-	-	-	1	-	1	1	-	1
Mauritius	-	-	-	-	-	-	-	-	-
Morocco	15	8	7	13	6	7	9	7	2
Mozambique	-	-	-	-	-	-	-	-	-
Namibia	1	-	1	1	-	1	1	1	-
Niger	47	28	19	38	12	26	68	26	42
Nigeria	335	262	73	490	404	86	332	261	71
Rwanda	2	2	-	-	-	-	2	-	2
Sao Tome & Principe	1	1	-	-	-	-	-	-	-
Senegal	12	4	8	9	2	7	27	8	19
Seychelles	3	-	3	-	-	-	1	1	-
Sierra Leone	11	8	3	9	3	6	21	14	7
Somalia	4	-	4	14	3	11	11	1	10
South Africa	15	4	11	21	12	9	24	13	11
Sudan	3	1	2	7	3	4	8	2	6
Swaziland	1	-	1	-	-	-	-	-	-
Tanzania	-	-	-	3	2	1	1	-	1
Togo	3	-	3	19	13	6	11	10	1
Tunisia	2	2	-	2	-	2	4	1	3
Uganda	3	1	2	2	-	2	3	1	2
Zambia	1	1	-	2	-	2	1	-	1
Zimbabwe	-	-	-	-	-	-	1	1	-
Oceania	87	33	54	95	49	46	90	42	48
Australia	16	4	12	13	3	10	14	4	10
Fiji	9	2	7	11	6	5	8	3	5
French Polynesia	-	-	-	10	6	4	6	-	6
Kiribati	-	-	-	1	1	-	-	-	-
Marshall Islands	2	1	1	-	-	-	1	-	1
Micronesia, Federated States	16	3	13	12	9	3	13	13	-
New Zealand	2	2	-	17	5	12	21	4	17
Palau	4	1	3	4	4	-	3	2	1
Papua New Guinea	11	3	8	1	-	1	-	-	-
Samoa ⁴	13	7	6	13	8	5	14	12	2
Tonga	14	10	4	13	7	6	10	4	6
Tuvalu	-	-	-	-	-	-	-	-	-
North America	37,565	25,306	12,259	39,786	27,200	12,586	45,354	28,721	16,633
Canada	1,262	1,065	197	1,163	937	226	1,073	877	196
Mexico	27,101	19,582	7,519	30,082	21,869	8,213	34,662	22,906	11,756
United States	1	-	1	3	1	2	-	-	-

See footnotes at end of table.

**TABLE 65. ALIENS REMOVED BY CRIMINAL STATUS AND REGION AND
SELECTED COUNTRY OF NATIONALITY
FISCAL YEARS 1993-98—Continued**

Region and country of nationality ¹	1993			1994			1995		
	Total	Criminal ²	Non- criminal	Total	Criminal ²	Non- criminal	Total	Criminal ²	Non- criminal
Caribbean	3,506	2,497	1,009	3,107	2,220	887	3,427	2,649	778
Anguilla	-	-	-	2	1	1	-	-	-
Antigua-Barbuda	19	14	5	19	12	7	25	19	6
Aruba	2	2	-	2	2	-	1	1	-
Bahamas, The	68	45	23	61	48	13	73	55	18
Barbados	28	27	1	28	27	1	28	23	5
Bermuda	6	5	1	8	7	1	9	8	1
British Virgin Islands	2	1	1	3	1	2	2	1	1
Cayman Islands	1	-	1	1	-	1	1	1	-
Cuba	149	126	23	93	75	18	60	52	8
Dominica	38	20	18	39	19	20	24	14	10
Dominican Republic	1,651	1,029	622	1,546	958	588	1,618	1,170	448
Grenada	13	12	1	9	6	3	12	12	-
Guadeloupe	-	-	-	-	-	-	2	-	2
Haiti	318	195	123	153	124	29	338	245	93
Jamaica	1,038	871	167	980	814	166	1,043	909	134
Martinique	-	-	-	-	-	-	-	-	-
Montserrat	1	1	-	1	1	-	1	1	-
Netherlands Antilles	4	2	2	2	2	-	-	-	-
Puerto Rico	-	-	-	-	-	-	1	-	1
St. Kitts-Nevis	14	11	3	8	5	3	12	8	4
St. Lucia	14	12	2	13	7	6	13	6	7
St. Vincent & Grenadines	6	5	1	10	9	1	20	13	7
Trinidad & Tobago	133	118	15	127	102	25	143	110	33
Turks & Caicos Islands	1	1	-	2	-	2	1	1	-
Central America	5,695	2,162	3,533	5,431	2,173	3,258	6,192	2,289	3,903
Belize	129	83	46	98	70	28	71	54	17
Costa Rica	40	21	19	31	17	14	43	28	15
El Salvador	2,104	1,023	1,081	1,890	933	957	1,927	957	970
Guatemala	1,366	406	960	1,271	455	816	1,761	498	1,263
Honduras	1,676	402	1,274	1,647	498	1,149	1,927	533	1,394
Nicaragua	269	130	139	390	111	279	373	139	234
Panama	111	97	14	104	89	15	90	80	10
South America	2,060	1,388	672	2,186	1,538	648	2,234	1,608	626
Argentina	19	9	10	31	16	15	30	16	14
Bolivia	46	23	23	39	16	23	48	31	17
Brazil	101	14	87	128	34	94	96	18	78
Chile	47	27	20	46	24	22	61	29	32
Colombia	1,303	1,028	275	1,424	1,146	278	1,418	1,199	219
Ecuador	134	50	84	122	80	42	166	85	81
French Guiana	-	-	-	-	-	-	-	-	-
Guyana	124	86	38	107	75	32	128	67	61
Paraguay	4	1	3	4	2	2	1	-	1
Peru	210	108	102	190	86	104	204	105	99
Suriname	5	2	3	2	1	1	-	-	-
Uruguay	18	11	7	19	11	8	7	6	1
Venezuela	49	29	20	74	47	27	75	52	23
Stateless	1	-	1	-	-	-	-	-	-
Unknown and not reported	30	14	16	16	9	7	2	1	1

See footnotes at end of table.

**TABLE 65. ALIENS REMOVED BY CRIMINAL STATUS AND REGION AND
SELECTED COUNTRY OF NATIONALITY
FISCAL YEARS 1993-98—Continued**

Region and country of nationality ¹	1996			1997			1998		
	Total	Criminal ²	Non- criminal	Total	Criminal ²	Non- criminal	Total	Criminal ²	Non- Criminal
All countries	69,588	36,203	33,385	114,292	49,768	64,524	172,547	55,489	117,058
Europe	1,052	450	602	1,640	543	1,097	1,928	699	1,229
Albania	13	5	8	48	4	44	74	6	68
Andorra	-	-	-	-	-	-	-	-	-
Austria	10	2	8	5	2	3	9	4	5
Belgium	9	5	4	6	3	3	12	3	9
Bulgaria	27	4	23	44	5	39	79	9	70
Czechoslovakia, former	14	4	10	77	6	71	166	19	147
Czech Republic	-	-	-	3	-	3	4	1	3
Slovak Republic	1	-	1	12	1	11	10	2	8
Unknown republic	13	4	9	62	5	57	152	16	136
Denmark	5	2	3	9	2	7	8	1	7
Estonia	1	1	-	6	1	5	5	2	3
Finland	3	1	2	2	1	1	5	4	1
France	55	21	34	72	19	53	77	24	53
Germany	116	45	71	111	40	71	148	61	87
Greece	21	15	6	38	25	13	28	13	15
Hungary	11	5	6	32	4	28	38	14	24
Iceland	2	1	1	1	1	-	4	2	2
Ireland	20	8	12	41	11	30	45	17	28
Italy	71	29	42	117	49	68	98	44	54
Latvia	2	1	1	2	-	2	3	1	2
Lithuania	5	1	4	8	3	5	14	4	10
Luxembourg	1	1	-	1	1	-	-	-	-
Malta	-	-	-	-	-	-	-	-	-
Monaco	-	-	-	-	-	-	1	1	-
Netherlands	36	19	17	34	13	21	38	21	17
Norway	2	1	1	11	5	6	9	2	7
Poland	81	21	60	151	35	116	163	42	121
Portugal	45	37	8	69	49	20	94	79	15
Romania	36	7	29	94	15	79	94	18	76
Soviet Union, former	78	23	55	156	40	116	190	46	144
Armenia	10	1	9	11	2	9	36	4	32
Azerbaijan	1	1	-	-	-	-	-	-	-
Belarus	-	-	-	-	-	-	2	-	2
Georgia	-	-	-	5	1	4	5	-	5
Kazakhstan	2	1	1	5	-	5	-	-	-
Kyrgyzstan	-	-	-	-	-	-	2	1	1
Moldova	-	-	-	4	-	4	-	-	-
Russia	37	9	28	80	24	56	93	29	64
Ukraine	11	5	6	38	8	30	35	3	32
Uzbekistan	2	-	2	-	-	-	-	-	-
Unknown republic	15	6	9	13	5	8	17	9	8
Spain	42	17	25	51	19	32	61	21	40
Sweden	15	2	13	19	3	16	17	2	15
Switzerland	8	3	5	11	4	7	13	6	7
United Kingdom	280	150	130	345	159	186	367	205	162
Yugoslavia, former	43	19	24	79	24	55	68	28	40
Bosnia-Herzegovina	2	-	2	2	1	1	4	2	2
Croatia	5	3	2	20	1	19	7	5	2
Macedonia	2	-	2	7	1	6	7	1	6
Slovenia	-	-	-	1	-	1	3	-	3
Unknown	34	16	18	49	21	28	47	20	27

See footnotes at end of table.

**TABLE 65. ALIENS REMOVED BY CRIMINAL STATUS AND REGION AND
SELECTED COUNTRY OF NATIONALITY
FISCAL YEARS 1993-98—Continued**

Region and country of nationality ¹	1996			1997			1998		
	Total	Criminal ²	Non- criminal	Total	Criminal ²	Non- criminal	Total	Criminal ²	Non- Criminal
Asia	1,618	396	1,222	2,421	652	1,769	2,847	750	2,097
Afghanistan	14	3	11	9	3	6	16	5	11
Bahrain	-	-	-	-	-	-	1	-	1
Bangladesh	35	5	30	61	8	53	82	12	70
Burma	1	-	1	6	2	4	2	-	2
Cambodia	4	-	4	10	-	10	21	2	19
China, People's Republic	517	43	474	489	45	444	567	78	489
Cyprus	-	-	-	2	1	1	1	-	1
Hong Kong	14	10	4	22	10	12	20	13	7
India	148	20	128	293	32	261	366	52	314
Indonesia	12	3	9	15	7	8	33	2	31
Iran	43	20	23	61	30	31	57	26	31
Iraq	2	2	-	12	-	12	12	4	8
Israel	53	34	19	132	65	67	87	36	51
Japan	40	11	29	93	12	81	53	13	40
Jordan	37	20	17	106	44	62	86	31	55
Korea	79	35	44	124	57	67	180	53	127
Kuwait	8	5	3	7	3	4	10	5	5
Laos	7	-	7	12	2	10	6	1	5
Lebanon	41	20	21	51	26	25	50	25	25
Macau	-	-	-	-	-	-	-	-	-
Malaysia	5	2	3	18	8	10	34	10	24
Maldives	-	-	-	-	-	-	-	-	-
Mongolia	-	-	-	-	-	-	4	1	3
Nepal	4	2	2	3	1	2	8	3	5
Pakistan	166	29	137	271	64	207	386	72	314
Philippines	206	86	120	411	171	240	502	227	275
Qatar	1	1	-	-	-	-	1	-	1
Saudi Arabia	-	-	-	4	2	2	7	5	2
Singapore	13	3	10	4	-	4	7	5	2
Sri Lanka	47	1	46	47	2	45	60	5	55
Syria	17	5	12	16	8	8	28	11	17
Taiwan	17	7	10	25	12	13	24	8	16
Thailand	52	13	39	48	15	33	60	21	39
Turkey	18	8	10	40	13	27	53	14	39
United Arab Emirates	-	-	-	2	1	1	3	1	2
Vietnam	8	3	5	11	3	8	12	7	5
Yemen	9	5	4	16	5	11	8	2	6
Africa	890	487	403	1,183	508	675	1,432	583	849
Algeria	24	6	18	19	4	15	31	7	24
Angola	1	1	-	3	1	2	3	-	3
Benin	9	9	-	12	10	2	7	6	1
Burkina Faso	1	1	-	1	-	1	12	1	11
Burundi	1	1	-	2	-	2	3	1	2
Cameroon	10	3	7	14	4	10	23	4	19
Cape Verde	20	13	7	24	21	3	33	27	6
Central African Republic	-	-	-	2	1	1	1	1	-
Chad	-	-	-	-	-	-	1	-	1
Congo, Democratic Republic ³	8	1	7	21	7	14	14	2	12
Congo, Republic ³	1	1	-	4	-	4	5	1	4
Cote d'Ivoire	17	3	14	26	5	21	49	10	39
Djibouti	-	-	-	1	-	1	1	-	1
Egypt	34	18	16	50	15	35	64	22	42
Equatorial Guinea	-	-	-	-	-	-	1	1	-
Eritrea	1	-	1	-	-	-	2	2	-

See footnotes at end of table.

**TABLE 65. ALIENS REMOVED BY CRIMINAL STATUS AND REGION AND
SELECTED COUNTRY OF NATIONALITY
FISCAL YEARS 1993-98—Continued**

Region and country of nationality ¹	1996			1997			1998		
	Total	Criminal ²	Non- criminal	Total	Criminal ²	Non- criminal	Total	Criminal ²	Non- Criminal
Ethiopia	19	9	10	40	18	22	36	16	20
Gabon	5	2	3	2	1	1	-	-	-
Gambia, The	11	4	7	32	9	23	33	10	23
Ghana	147	47	100	167	44	123	198	56	142
Guinea	12	6	6	20	3	17	57	9	48
Guinea-Bissau	-	-	-	-	-	-	-	-	-
Kenya	16	6	10	19	6	13	21	5	16
Lesotho	1	1	-	-	-	-	-	-	-
Liberia	33	15	18	44	20	24	49	35	14
Libya	1	1	-	3	1	2	3	1	2
Madagascar	1	-	1	1	1	-	-	-	-
Malawi	-	-	-	3	-	3	1	-	1
Mali	11	6	5	17	2	15	28	4	24
Mauritania	1	-	1	2	-	2	2	1	1
Mauritius	-	-	-	-	-	-	1	1	-
Morocco	25	12	13	41	16	25	36	13	23
Mozambique	-	-	-	3	1	2	-	-	-
Namibia	2	1	1	-	-	-	1	-	1
Niger	43	22	21	47	27	20	37	17	20
Nigeria	314	244	70	395	251	144	489	283	206
Rwanda	3	1	2	3	-	3	3	-	3
Sao Tome & Principe	-	-	-	-	-	-	-	-	-
Senegal	17	3	14	42	2	40	55	12	43
Seychelles	2	2	-	-	-	-	-	-	-
Sierra Leone	19	9	10	24	6	18	22	7	15
Somalia	8	1	7	22	2	20	21	1	20
South Africa	32	11	21	25	11	14	35	14	21
Sudan	10	6	4	18	8	10	10	3	7
Swaziland	-	-	-	1	1	-	-	-	-
Tanzania	6	2	4	7	1	6	7	2	5
Togo	12	10	2	11	3	8	7	3	4
Tunisia	2	2	-	5	3	2	11	2	9
Uganda	1	-	1	7	1	6	6	-	6
Zambia	2	1	1	1	1	-	3	1	2
Zimbabwe	7	6	1	2	1	1	10	2	8
Oceania	102	35	67	150	72	78	160	77	83
Australia	14	4	10	17	7	10	37	10	27
Fiji	24	7	17	22	10	12	29	13	16
French Polynesia	11	3	8	19	4	15	5	2	3
Kiribati	-	-	-	-	-	-	-	-	-
Marshall Islands	1	-	1	-	-	-	-	-	-
Micronesia, Federated States	10	6	4	11	7	4	8	7	1
New Zealand	22	2	20	29	8	21	27	6	21
Palau	5	3	2	11	10	1	10	9	1
Papua New Guinea	-	-	-	1	1	-	1	1	-
Samoa ⁴	4	1	3	15	7	8	7	5	2
Tonga	11	9	2	25	18	7	35	24	11
Tuvalu	-	-	-	-	-	-	1	-	1
North America	63,545	33,253	30,292	104,765	45,840	58,925	161,884	51,275	110,609
Canada	594	418	176	704	400	304	889	508	381
Mexico	50,952	27,298	23,654	86,196	37,699	48,497	139,135	42,789	96,346
United States	-	-	-	1	-	1	1	-	1

**TABLE 65. ALIENS REMOVED BY CRIMINAL STATUS AND REGION AND
SELECTED COUNTRY OF NATIONALITY
FISCAL YEARS 1993-98—Continued**

Region and country of nationality ¹	1996			1997			1998		
	Total	Criminal ²	Non- criminal	Total	Criminal ²	Non- criminal	Total	Criminal ²	Non- Criminal
Caribbean	3,952	3,103	849	5,578	3,904	1,674	5,441	3,674	1,767
Anguilla	1	-	1	-	-	-	4	2	2
Antigua-Barbuda	17	15	2	26	18	8	38	27	11
Aruba	2	2	-	3	3	-	3	3	-
Bahamas, The	76	67	9	59	48	11	82	68	14
Barbados	37	33	4	50	43	7	51	45	6
Bermuda	8	7	1	8	5	3	6	3	3
British Virgin Islands	2	1	1	6	3	3	2	1	1
Cayman Islands	1	1	-	2	2	-	2	1	1
Cuba	68	62	6	75	66	9	33	27	6
Dominica	28	16	12	38	23	15	26	17	9
Dominican Republic	1,952	1,475	477	2,689	1,967	722	2,498	1,690	808
Grenada	12	12	-	16	9	7	22	15	7
Guadeloupe	-	-	-	2	2	-	1	-	1
Haiti	330	216	114	486	263	223	486	312	174
Jamaica	1,187	999	188	1,794	1,230	564	1,844	1,216	628
Martinique	2	1	1	1	1	-	1	1	-
Montserrat	3	2	1	-	-	-	1	1	-
Netherlands Antilles	2	2	-	3	1	2	6	4	2
Puerto Rico	-	-	-	-	-	-	-	-	-
St. Kitts-Nevis	13	9	4	22	17	5	20	15	5
St. Lucia	12	12	-	21	13	8	27	22	5
St. Vincent & Grenadines	12	12	-	24	19	5	21	13	8
Trinidad & Tobago	186	158	28	251	170	81	261	186	75
Turks & Caicos Islands	1	1	-	2	1	1	6	5	1
Central America	8,047	2,434	5,613	12,286	3,837	8,449	16,418	4,304	12,114
Belize	106	74	32	129	89	40	181	112	69
Costa Rica	73	31	42	151	38	113	157	41	116
El Salvador	2,491	1,045	1,446	3,884	1,540	2,344	5,315	1,711	3,604
Guatemala	2,105	487	1,618	3,516	798	2,718	5,120	974	4,146
Honduras	2,760	579	2,181	3,869	1,101	2,768	5,105	1,146	3,959
Nicaragua	421	139	282	598	170	428	396	210	186
Panama	91	79	12	139	101	38	144	110	34
South America	2,373	1,578	795	4,128	2,151	1,977	4,279	2,101	2,178
Argentina	31	19	12	67	27	40	71	43	28
Bolivia	54	22	32	153	21	132	187	25	162
Brazil	126	29	97	329	35	294	342	48	294
Chile	62	27	35	101	44	57	111	51	60
Colombia	1,323	1,108	215	2,035	1,509	526	1,793	1,350	443
Ecuador	247	101	146	508	141	367	650	143	507
French Guiana	-	-	-	-	-	-	1	1	-
Guyana	140	73	67	221	125	96	248	143	105
Paraguay	6	-	6	10	1	9	7	1	6
Peru	224	112	112	447	153	294	589	172	417
Suriname	2	-	2	8	3	5	5	2	3
Uruguay	16	12	4	16	12	4	30	11	19
Venezuela	142	75	67	233	80	153	245	111	134
Stateless	2	1	1	1	-	1	1	-	1
Unknown and not reported	6	3	3	4	2	2	16	4	12

¹ Country is defined as nationality for sovereign states and country of birth for dependencies. ² Criminal status includes those cases in which INS has evidence of a conviction. ³ In May 1997 Zaire was formally recognized as the Democratic Republic of the Congo; the Congo is referred to by its conventional name, the Republic of the Congo. ⁴ In August 1997 Western Samoa was formally recognized as Samoa (Independent State).

- Represents zero.

TABLE 64. ALIENS REMOVED BY TYPE OF REMOVAL AND REGION AND COUNTRY OF NATIONALITY
FISCAL YEAR 1998

Region and country of nationality ¹	Total	Deportation ²	Exclusion ²	Inadmissibility ³	Deportability ³
All countries	172,547	16,215	956	125,836	29,540
Europe	1,982	403	40	616	923
Albania	74	5	2	57	10
Austria	9	3	-	3	3
Belgium	12	1	2	-	9
Bulgaria	79	23	-	43	13
Czechoslovakia, former	166	9	-	78	79
Czech Republic	4	1	-	2	1
Slovak Republic	10	1	-	5	4
Unknown republic	152	7	-	71	74
Denmark	8	1	-	1	6
Estonia	5	2	-	1	2
Finland	5	-	-	2	3
France	85	8	6	17	54
Germany	148	26	2	24	96
Greece	28	7	1	9	11
Hungary	38	6	-	21	11
Iceland	4	1	-	1	2
Ireland	45	5	1	2	37
Italy	98	13	1	17	67
Latvia	3	-	-	2	1
Lithuania	14	2	-	6	6
Monaco	1	-	-	-	1
Netherlands	47	9	2	11	25
Norway	9	2	-	-	7
Poland	163	40	1	86	36
Portugal	94	38	-	14	42
Romania	94	37	2	38	17
Soviet Union, former	190	55	2	73	60
Armenia	36	19	-	11	6
Belarus	2	-	-	1	1
Georgia	5	1	-	4	-
Kyrgyzstan	2	1	1	-	-
Russia	93	20	-	38	35
Ukraine	35	8	-	16	11
Unknown republic	17	6	1	3	7
Spain	61	9	-	14	38
Sweden	17	1	-	4	12
Switzerland	13	-	-	2	11
United Kingdom	404	79	12	67	246
Yugoslavia, former	68	21	6	23	18
Bosnia-Herzegovina	4	1	-	1	2
Croatia	7	2	-	2	3
Macedonia	7	2	1	4	-
Slovenia	3	-	-	3	-
Unknown	47	16	5	13	13
Asia	2,831	539	143	1,477	672
Afghanistan	16	4	2	8	2
Bahrain	1	-	-	1	-
Bangladesh	82	24	7	41	10
Burma	2	-	-	1	1
Cambodia	21	1	1	17	2
China, People's Republic	569	57	42	398	72
Cyprus	1	-	-	1	-
Hong Kong	2	-	-	2	-
India	366	73	43	202	48
Indonesia	33	3	-	15	15
Iran	57	17	2	28	10
Iraq	12	2	2	8	-
Israel	87	17	-	40	30

TABLE 64. ALIENS REMOVED BY TYPE OF REMOVAL AND REGION AND SELECTED COUNTRY OF NATIONALITY
FISCAL YEAR 1998—Continued

Region and country of nationality ¹	Total	Deportation ²	Exclusion ²	Inadmissability ³	Deportability ³
Japan	53	4	1	20	28
Jordan	86	30	1	24	31
Korea	180	17	4	70	89
Kuwait	10	2	-	4	4
Laos	6	4	-	1	1
Lebanon	50	20	-	18	12
Malaysia	34	7	-	20	7
Mongolia	4	-	-	-	4
Nepal	8	1	-	7	-
Pakistan	386	48	21	258	59
Philippines	502	153	5	161	183
Qatar	1	1	-	-	-
Saudi Arabia	7	1	-	1	5
Singapore	7	2	-	2	3
Sri Lanka	60	8	9	42	1
Syria	28	13	1	5	9
Taiwan	24	2	1	17	4
Thailand	60	10	-	29	21
Turkey	53	9	1	29	14
United Arab Emirates	3	-	-	1	2
Vietnam	12	2	-	5	5
Yemen	8	7	-	1	-
Africa	1,432	392	67	631	342
Algeria	31	4	1	20	6
Angola	3	-	1	2	-
Benin	7	1	-	5	1
Burkina Faso	12	3	-	5	4
Burundi	3	-	-	2	1
Cameroon	23	11	1	7	4
Cape Verde	33	18	1	1	13
Central African Republic	1	1	-	-	-
Chad	1	-	-	1	-
Congo, Democratic Republic	14	2	-	7	5
Congo, Republic	5	-	-	5	-
Cote d'Ivoire	49	17	3	23	6
Djibouti	1	-	-	1	-
Egypt	64	17	3	28	16
Equatorial Guinea	1	-	-	-	1
Eritrea	2	-	-	1	1
Ethiopia	36	19	-	2	15
Gambia, The	33	12	-	7	14
Ghana	198	40	20	110	28
Guinea	57	5	2	40	10
Kenya	21	5	1	6	9
Liberia	49	22	3	11	13
Libya	3	1	-	2	-
Malawi	1	-	-	-	1
Mali	28	4	1	20	3
Mauritania	2	1	-	1	-
Mauritius	1	-	-	1	-
Morocco	36	11	1	13	11
Namibia	1	-	-	1	-
Niger	37	14	4	11	8
Nigeria	489	148	18	191	132
Rwanda	3	-	-	3	-
Senegal	55	11	-	36	8
Sierra Leone	22	3	1	14	4
Somalia	21	2	3	14	2
South Africa	35	6	1	17	11
Sudan	10	3	-	4	3
Tanzania	7	-	1	3	3

**TABLE 64. ALIENS REMOVED BY TYPE OF REMOVAL AND REGION AND SELECTED COUNTRY OF NATIONALITY
FISCAL YEAR 1998—Continued**

Region and country of nationality ¹	Total	Deportation ²	Exclusion ²	Inadmissability ³	Deportability ³
Togo	7	4	-	2	1
Tunisia	11	3	1	4	3
Uganda	6	1	-	5	-
Zambia	3	-	-	2	1
Zimbabwe	10	3	-	3	4
Oceania	155	41	-	36	78
Australia	37	4	-	12	21
Fiji	29	17	-	3	9
Micronesia, Federated States	8	2	-	-	6
New Zealand	27	2	-	11	14
Palau	10	2	-	2	6
Papua New Guinea	1	1	-	-	-
Samoa	7	3	-	1	3
Tonga	35	10	-	7	18
Tuvalu	1	-	-	-	1
North America	161,852	14,086	614	120,788	26,364
Canada	889	58	23	568	240
Mexico	139,135	9,729	402	108,111	20,893
United States	1	-	-	1	-
Caribbean	5,409	1,580	153	1,925	1,751
Antigua-Barbuda	38	12	-	10	16
Bahamas, The	82	29	1	23	29
Barbados	51	20	-	6	25
Cuba	33	2	16	14	1
Dominica	26	12	1	4	9
Dominican Republic	2,498	692	31	852	923
Grenada	22	7	-	7	8
Haiti	486	126	58	202	100
Jamaica	1,844	567	42	714	521
St. Kitts-Nevis	20	11	1	2	6
St. Lucia	27	9	2	4	12
St. Vincent & Grenadines	21	4	-	11	6
Trinidad & Tobago	261	89	1	76	95
Central America	16,418	2,719	36	10,183	3,480
Belize	181	36	-	86	59
Costa Rica	157	17	-	96	44
El Salvador	5,315	991	10	2,972	1,342
Guatemala	5,120	929	12	3,309	870
Honduras	5,105	598	7	3,495	1,005
Nicaragua	396	102	4	189	101
Panama	144	46	3	36	59
South America	4,278	751	91	2,278	1,158
Argentina	71	12	-	17	42
Bolivia	187	19	2	156	10
Brazil	342	55	3	242	42
Chile	111	19	-	55	37
Colombia	1,793	350	65	695	683
Ecuador	650	87	5	468	90
Guyana	248	69	5	108	66
Paraguay	7	-	1	6	-
Peru	589	104	-	373	112
Suriname	5	1	-	2	2
Uruguay	30	5	-	10	15
Venezuela	245	30	10	146	59
Stateless	1	-	-	1	-
Unknown and not reported	16	3	1	9	3

¹ Country is defined as nationality for sovereign states and country of birth for dependencies.

² Deportations and exclusions are removals charged under provisions of law in effect before April 1, 1997.

³ Inadmissibility and deportability are removals charged under provisions of law in effect after April 1, 1997.

- Represents zero.

EXHIBIT E

In removal proceedings under section 240 of the Immigration and Nationality Act

File No: A27 307 112

In the Matter of:

Respondent: Nhat Duc

TRAN

Reg.#13363-424

c/o USINS, 10 W. Jackson Blvd.
Chicago

IL

60604

(Number, street, city, state and ZIP code)

(Area code and phone number)

- ☐ 1. You are an arriving alien.
☐ 2. You are an alien present in the United States who has not been admitted or paroled.
☒ 3. You have been admitted to the United States, but are deportable for the reasons stated below.

The Service alleges that you:

1. You are not a citizen or national of the United States;
2. You are a native of Vietnam and a citizen of Vietnam;
3. You were admitted to the United States at Seattle, Washington on or about March 20, 1984 as a Refugee;
4. Your status was adjusted to that of a lawful permanent resident on December 13, 1985 under section 245 of the Act;
5. You were, on June 01, 2001, convicted in the United States District Court, Northern District of Illinois Eastern Division, for the offense of Theft Embezzlement by Bank Officer in violation of 18 USC 656; Case #00CR 1036
6. You were, on March 13, 1997, convicted in the Circuit Court of Cook County, Illinois, for the offense of Retail Theft in violation of 720 ILCS 5/16A-3; Case #97-1251667-01
7. These crimes did not arise out of a single scheme of criminal misconduct.

On the basis of the foregoing, it is charged that you are subject to removal from the United States pursuant to the following provision(s) of law:

Section 237(a)(2)(A)(iii) of the Immigration and Nationality Act (Act), as amended, in that, at any time after admission, you have been convicted of an aggravated felony as defined in section 101(a)(43)(M) of the Act, a law relating to Fraud.

Section 237(a)(2)(A)(ii) of the Immigration and Nationality Act, as amended, in that, at any time after admission, you have been convicted of two crimes involving moral turpitude not arising out of a single scheme of criminal misconduct.

☐ This notice is being issued after an asylum officer has found that the respondent has demonstrated a credible fear of persecution.

☐ Section 235(b)(1) order was vacated pursuant to: ☐ 8 CFR 208.30(f)(2) ☐ 8 CFR 235.3(b)(5)(iv)

YOU ARE ORDERED to appear before an immigration judge of the United States Department of Justice at:

55 E. Monroe St., Ste. 1900, Chicago, Illinois

(Complete Address of Immigration Court, Including Room Number, if any)

on _____ to be set _____ at _____ to be set _____ to show why you should not be removed from the United States based on the
(Date) (Time)
charge(s) set forth above.


Acting Assistant District Director, Investigations

(Signature and Title of Issuing Officer)

Date: 11-15-01

Chicago, Illinois

(City and State)

See reverse for important information

EXHIBIT

E (1)

IMMIGRATION COURT
55 EAST MONROE STREET, SUITE 1900
CHICAGO, IL 60603

In the Matter of:

Nhat Du Tran
Respondent

Case A. 27-307-112

IN REMOVAL PROCEEDINGS

ORDER OF THE IMMIGRATION JUDGE

This is a summary of the oral decision entered on 1-8-02. This memorandum is solely for the convenience of the parties. If the proceedings should be appealed or reopened, the oral decision will become the official opinion in the case.

- ☒ The respondent was ordered removed from the United States to Vietnam.
☐ Respondent's application for voluntary departure was denied and respondent was ordered removed to _____ alternative to _____.
☐ Respondent's application for voluntary departure was granted until _____ upon posting a bond in the amount of \$_____ with an alternate order of removal to _____.
☐ Respondent's application for asylum was () granted () denied () withdrawn.
☐ Respondent's application for withholding of removal was () granted () denied () withdrawn.
☐ Respondent's application for cancellation of removal under Section 240A(a) was () granted () denied () withdrawn.
☐ Respondent's application for cancellation of removal under Section 240A(b) was () granted () denied () withdrawn. If granted, it was ordered that the respondent be issued all appropriate documents necessary to give effect to this order.
☐ Respondent's application for a waiver under Section _____ of the INA was () granted () denied () withdrawn () other.
☐ Respondent's application for adjustment of status under Section _____ of the INA was () granted () denied () withdrawn. If granted, it was ordered that respondent be issued all appropriate documents necessary to give effect to this order.
☐ Respondent's status was rescinded under Section 246.
☐ Respondent is admitted to the United States as a _____ until _____.
☐ As a condition of admission, respondent is to post a \$_____ bond.
☐ Respondent knowingly filed a frivolous asylum application after proper notice.
☐ Respondent was advised of the limitation on discretionary relief for failure to appear as ordered in the Immigration Judge's oral decision.
☐ Proceedings were terminated.

☒

Other: Resp's LPR status was terminated

Date: 1-8-02

Appeal ☒ WAIVED ☐ ~~RESERVED~~

Appeal Due By: _____

Robert D. Vinickor
Robert D. Vinickor
Immigration Judge

EXHIBIT

E(2)



U.S. Department of Justice
Immigration and Naturalization Service

10 W. Jackson Blvd
Chicago, IL 60604

Nhat Duc TRAN
C/O Tri-County Jail
1026 Shawnee College
Ullin, IL 62992

A# 27 307 112

Notice to Alien of File Custody Review

You are detained in the custody of the Immigration and Naturalization Service (INS) and you are required to cooperate with the INS in effecting your removal from the United States. If the INS has not removed you from the United States within the removal period as set forth in INA 241(a) (normally 90-days) of either: 1) your entering INS custody with a final order of removal, deportation or exclusion, or 2) the date of any final order you receive while you are in INS custody, the INS District Director will review your case for consideration of release on an Order of Supervision. Release, however, is dependent on your demonstrating by "clear and convincing evidence" that you will not pose a danger to the community and will not be a significant flight risk.

Your custody status will be reviewed on or about: 04/18/2002. The District Director may consider, but is not limited to considering the following:

1. The nature and seriousness of your criminal convictions;
2. Other criminal history;
3. Sentence(s) imposed and time actually served;
4. History of escapes, failures to appear for judicial or other proceedings, and other defaults;
5. Probation history;
6. Disciplinary problems while incarcerated;
7. Evidence of rehabilitative effort or recidivism;
8. Equities in the United States;
9. Prior immigration violations and history; and
10. Cooperation in obtaining your travel document.

You may submit any documentation you wish to be reviewed in support of your release, prior to the date listed above, to the attention of the Officer and address below. English translations must be provided pursuant to 8 CFR 103.2(b)(3). An attorney or other person may submit materials on your behalf.

U.S. Department of Justice
Immigration and Naturalization Service
Attn: (John Koren, Deportation Officer)
10 W. Jackson Blvd.
Chicago, IL 60604

METHOD OF SERVICE

I certify that this form was provided to the alien by : Fedex
() CC: Attorney of Record or Designated Representative
(x) CC: A-file

(Hand)

(Institution Mail)

John Koren
Signature of Officer

John Koren
Print Name of Officer

03/18/02
Date

EXHIBIT F

File No. A25 257 043

Date: 11-9-2001

[Handwritten signature]

To any officer of the Immigration and Naturalization Service delegated authority pursuant to section 287 of the Immigration and Nationality Act:

From evidence submitted to me, it appears that:

Keovongsack

PONGPHRACHANXAY
(Full name of alien)

an alien who entered the United States at or near San Francisco, California (Port)

8-29-1981 (Date) is within the country in violation of the immigration laws and is

therefore liable to being taken into custody as authorized by section 236 of the Immigration and Nationality Act.

By the virtue of the authority vested in me by the immigration laws of the United States and the regulations issued pursuant thereto, I command you to take the above-named alien into custody for proceedings in accordance with the applicable provisions of the immigration laws and regulations.

[Handwritten signature]
(Signature of authorized INS official)

William Riley

(Print name of official)

Acting Assistant District Director, Inv.

(Title)

Certificate of Service

Served by me at Broadview Pk on 11-9-01 at 1:30 PM.
I certify that following such service, the alien was advised concerning his or her right to counsel and was furnished a copy of this warrant.

[Handwritten signature]
(Signature of officer serving warrant)

S. A.
(Title of officer serving warrant)

EXHIBIT

F(1)

IMMIGRATION COURT
E. Monroe Street, Suite 1900
Chicago, Illinois 60603

In the Matter of:

File No: A 75-257-043

KEOVONGSACK PONGPIMACHANTAY

Respondent

IN REMOVAL PROCEEDINGS

On Behalf of the Respondent

On Behalf of the Immigration Service

P. W. Se

E. K. W. P. P., ESO.

ORDER OF THE IMMIGRATION JUDGE

On basis of respondent's admissions, I have determined that the respondent is subject to removal on the charge(s) in the Notice to Appear.

Respondent has made no application for relief from removal.

It is **HEREBY ORDERED** that the respondent be removed from the United States to LAOS on the charge(s) contained in the Notice to Appear.

It is **FURTHER ORDERED** that if the aforementioned country advises the Attorney General that it is unwilling to accept the respondent into its territory, or fails to advise the Attorney General within three months following original inquiry whether it will or will not accept respondent into its territory, respondent shall be removed to N/A.

If you fail to appear for removal at the time and place ordered by the INS, other than because of exceptional circumstances beyond your control (such as serious illness of the alien or death of an immediate relative of the alien, but not including less compelling circumstances), you will not be eligible for the following forms of relief for a period of ten (10) years after the date you were required to appear for removal.

- 1) Voluntary departure as provided for in Section 240B of the Immigration and Nationality Act;
- 2) Cancellation of removal as provided for in Section 240A of the Immigration and Nationality Act;
- 3) Adjustment of status or change of status as provided for in Section 245, 248 or 249 of the Immigration and Nationality Act.

Date: Dec. 20, 2001

Darlene Ann
Immigration Judge

Place: Chicago

APPEAL: ~~Reserved~~ Waived BY: Alien INS Both

APPEAL DUE BY:

EXHIBIT

FC(2)



U.S. Department of Justice
Immigration and Naturalization Service

B-P0

10 W. Jackson Blvd
Chicago, IL 60604

Keovongsack PONGPHRACHANXAY
C/O Tri-County Jail
1026 Shawnee College
Ullin, IL 62992

A# 25 257 043

Notice to Alien of File Custody Review

You are detained in the custody of the Immigration and Naturalization Service (INS) and you are required to cooperate with the INS in effecting your removal from the United States. If the INS has not removed you from the United States within the removal period as set forth in INA 241(a) (normally 90-days) of either: 1) your entering INS custody with a final order of removal, deportation or exclusion, or 2) the date of any final order you receive while you are in INS custody, the INS District Director will review your case for consideration of release on an Order of Supervision. Release, however, is dependent on your demonstrating by "clear and convincing evidence" that you will not pose a danger to the community and will not be a significant flight risk.

Your custody status will be reviewed on or about: (04/18/2002). The District Director may consider, but is not limited to considering the following:

1. The nature and seriousness of your criminal convictions;
2. Other criminal history;
3. Sentence(s) imposed and time actually served;
4. History of escapes, failures to appear for judicial or other proceedings, and other defaults;
5. Probation history;
6. Disciplinary problems while incarcerated;
7. Evidence of rehabilitative effort or recidivism;
8. Equities in the United States;
9. Prior immigration violations and history; and
10. Cooperation in obtaining your travel document.

You may submit any documentation you wish to be reviewed in support of your release, prior to the date listed above, to the attention of the Officer and address below. English translations must be provided pursuant to 8 CFR 103.2(b)(3). An attorney or other person may submit materials on your behalf.

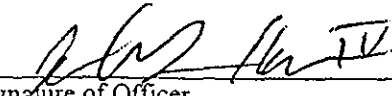
U.S. Department of Justice
Immigration and Naturalization Service
Attn: (John Koren, Deportation Officer)
10 W. Jackson Blvd.
Chicago, IL 60604

METHOD OF SERVICE

I certify that this form was provided to the alien by : Fedex
() CC: Attorney of Record or Designated Representative
(x) CC: A-file

(Hand)

(Institution Mail)


Signature of Officer

John Koren
Print Name of Officer

03/18/02
Date

EXHIBIT
F(3)



U.S. Department of Justice
Immigration and Naturalization Service

HQPDU
Washington, DC 20536

A25 257 043

Keovongsack Pongphrachanxay
1026 Shawnee College Rd
Ullin, IL 62992

We have received your request for review for a custody re-determination. The Immigration and Naturalization Service ("INS") is in the process of reviewing the likelihood of repatriating you to your home country or country where ordered removed pursuant to a final administrative deportation/removal order. You are advised that in accordance with the Supreme Court's instruction in Zadvydas v. Davis, 121 S.Ct. 2491 (2001) and INS regulations, 8 C.F.R. § 241.13 (66 FR 56967, November 14, 2001), you have the burden to show that there is no significant likelihood of repatriating you in the reasonably foreseeable future. In order to undertake the review, in accordance with 8 CFR §241.4 and 8 CFR §241.13, you must provide the following documentation:

- Copies all passports, birth certificates or other nationality documents in your possession
- Copies of correspondence indicating your good faith efforts to obtain a passport from your country of nationality or other country indicated on your Order of Removal.
- Copies of receipts or responses from Embassies, Consulates or other governmental offices responding to your request for a travel document

Upon receipt of the above information, this office will conduct a full review of your case and make a determination of custody. Until such time as you submit the above information, the removal period defined in 8 CFR §§ 241.4 and 241.13 is held in suspense.

You may submit additional evidence if you believe your removal is not possible in the reasonably foreseeable future. You must resubmit evidence previously submitted that your removal is not imminent for reconsideration. You must also prove that you are taking positive measures to facilitate your removal from the United States. You are also advised that the Service may continue to detain you until there has been a determination under 8 CFR §241.13 whether there is a significant likelihood that you can be removed in the reasonably foreseeable future.

All evidence should be sent to the Headquarters Post Order Unit (HQPDU), 801 I St, NW, Washington, DC 20536, Room 800.

EXHIBIT

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F(4)

The HQPDU has chosen not to review your case at this time because of:

- ☐ You are not currently in INS custody.
- ☐ Your immigration case is pending review by the Board of Immigration Appeals and is therefore, not a final order subject to review by the HQPDU.
- ☐ The Removal Period has not yet expired, thus making you ineligible for any review.
- ☐ You have not been in custody with a final order of removal for the statutory period of time.
- ☐ Your case is pending before a Circuit Court of Appeals and you are not eligible for a review of your case.
- ☐ You have a judicially ordered stay of deportation, exclusion or removal.
- ☐ Records indicate that you are statutorily ineligible for a custody review pursuant to 8 CFR 241.13

Once you are eligible for review, the HQPDU will conduct a review of your case and issue a decision.

K.H. 
Signature of HQPDU Director/Designated Representative

5-21-02
Date

EXHIBIT G

U.S. Department of Justice
Immigration and Naturalization Service

Order to Show Cause and Notice of Hearing

ORDER TO SHOW CAUSE AND NOTICE OF HEARING
(ORDEN DE PRESENTAR MOTIVOS JUSTIFICANTES Y AVISO DE AUDIENCIA)

In Deportation Proceedings under section 242 of the Immigration and Nationality Act.
(En los trámites de deportación a tenor de la sección 242 de la Ley de Inmigración y Nacionalidad.)

United States of America:
(Estados Unidos de América:)

File No. _____
(No. de registro)

Dated May 25, 1993
(Fecha)

In the matter of
(En el asunto de) Qhram SON, Den (Respondent)
Address Stateville Correctional Center (Demandado)
(Dirección) P.O. Box 112
Joliet, Illinois 60434

Telephone No. (Area Code) _____
(No. de teléfono y código de área)

Upon inquiry conducted by the Immigration and Naturalization Service, it is alleged that:
(Según las indagaciones realizadas por el Servicio de Inmigración y Naturalización, se alega que:)

- 1) You are not a citizen or national of the United States;
(Ud. no es ciudadano o nacional de los Estados Unidos)
- 2) You are a native of Vietnam and a citizen of Vietnam ;
(Ud. es nativo de) (y ciudadano de) *France Sanjean*
- 3) You entered the United States at or near Seattle, Washington on or about May 23, 1991 ;
(Ud. entró a los Estados Unidos en o cerca de) (el día o hacia esa fecha)
- 4) You entered the United States as an immigrant;
(Ud. entro a los Estados Unidos un inmigrante;)
- 5) You were convicted on January 22, 1992 in the Circuit Court Tenth Judicial at Peoria County, Illinois for the offense of Home Invasion committed on September 9, 1991;
(Ud. resultó convicto el 22 de enero de 1992 en del Diez Tribunal de Circuito Judicial Corte del Condado de Peoria del delito Invasion de Hogar cometido el 9 de septiembre de 1991;)
- 6) For this offense you were sentenced to confinement in Illinois Department of Corrections for a period of twenty (20) years.
(Por este delito, Ud. fue sentenciado a reclusion en el Departamento de Coreccionnes del Estado de Illinois por un plazo de veinte (20) años).

EXHIBIT

tabbies

G(11)

NOTICE OF RIGHTS AND CONSEQUENCES

The Immigration and Naturalization Service believes that you are an alien not lawfully entitled to be in or to remain in the United States. Read this notice carefully and ask questions about anything in this notice you do not understand. This notice identifies your rights as an alien in deportation proceedings, and your obligations and the conditions with which you must comply in order to protect your eligibility to be considered for certain benefits.

Any statement you make before an Immigration Officer may be used against you in any immigration or administrative proceeding.

You may be represented, at no expense to the United States government, by an attorney or other individual who is authorized and qualified to represent persons in these proceedings. You will be given a list of organizations, attorneys and other persons who have indicated their availability to represent aliens in these proceedings. Some of these persons may represent you free of charge or for a nominal fee. You may also be represented by a friend, relative, or other person having a pre-existing relationship with you, provided his or her appearance is permitted by the immigration judge.

You will have a hearing before an immigration judge, scheduled no sooner than 14 days from the date you are served with this Order to Show Cause (unless you request in writing an earlier hearing date). The fourteen-day period is to allow you to seek an attorney or representative, if you desire to be represented. At your hearing, you will be given the opportunity to admit or deny any or all of the allegations in this Order to Show Cause, and whether you are deportable on the charges set forth herein. You will have an opportunity to present evidence and/or witnesses on your own behalf, to examine evidence presented by the government, to object, on proper legal grounds, to the receipt of evidence and to cross examine any witnesses presented by the government. Any document that you present that is in a foreign language must be accompanied by a certified English translation. It is your responsibility to ensure that any witnesses you wish to present on your own behalf be present at the hearing.

The immigration judge will advise you regarding relief from deportation for which you may be eligible. You will be given a reasonable opportunity to make an application for any such relief. If you are not satisfied with the decision of the immigration judge, you have the right to appeal. The immigration judge will provide you with your appeal rights.

AVISO DE DERECHOS Y CONSECUENCIAS

El Servicio de Inmigración y Naturalización opina que Ud. es un extranjero sin derecho legal a estar o permanecer en los Estados Unidos. Lea este aviso cuidadosamente y pregunte acerca de cualquier parte del mismo que no entienda. Este aviso le explica los derechos que tiene como extranjero en los trámites de deportación, y las obligaciones y condiciones que debe cumplir con el fin de proteger su derecho a que se le considere para recibir ciertos beneficios.

Las declaraciones que haga ante un funcionario del Servicio de Inmigración podrán usarse en su contra en cualquier trámite administrativo o de inmigración.

Ud. puede ser representado, sin costo alguno para el gobierno de los Estados Unidos, por un abogado o otra persona autorizada y calificada para representar personas en estos trámites. Ud. recibirá una lista de las entidades, abogados y demás personas dispuestas a representar a extranjeros en estos trámites. Algunas de esas personas pueden representarle gratuitamente o por honorarios nominales. También puede representarle un amigo, familiar o otra persona con la que tenga una relación establecida, siempre que el juez de inmigración permita su comparecencia.

Ud. tendrá una audiencia ante un juez de inmigración, fijada con un mínimo de 14 días a partir de la fecha que se le expidió esta Orden (a menos que Ud. solicite por escrito una audiencia en plazo aún menor). El plazo de catorce días le permitirá conseguir los servicios de un abogado o representante, si lo desea. En la audiencia se le dará la oportunidad de admitir o negar cualquiera de los alegatos de esta Orden o todos ellos, y se le informará si está sujeto a deportación por los cargos expresados en la misma. Ud. tendrá la oportunidad de presentar pruebas y testigos a favor suyo, de examinar las pruebas presentadas por el gobierno, de oponerse, con base en los razonamientos legales pertinentes, a la admisión de pruebas y de interrogar a cualquier testigo del gobierno. Todo documento que presente en un idioma extranjero debe ir acompañado de una traducción certificada al inglés. Será responsabilidad suya asegurarse de que cualquier testigo suyo comparezca a la audiencia.

El juez de inmigración le informará sobre los recursos de deportación a los que tenga derecho y se le dará una oportunidad adecuada para solicitarlos. Si no está de acuerdo con la decisión del juez, puede apelarla. El juez de inmigración le informará acerca de sus derechos de apelación.

U.S. Department of Justice
Immigration and Naturalization Service

Order Show Cause and Notice of Hearing

Continuation Sheet
(Hoja complementaria)

Respondent SON, Den
(Demandado)

Dated May 25, 1993

(Fecha)

File No. _____
(No. de registro)

AND on the basis of the foregoing allegations, it is charged that you are subject to deportation pursuant to the following provision(s) of law:

(Y según los alegatos anteriores, se le acusa de estar sujeto a deportación de acuerdo con la(s) siguiente(s) disposición(es) de la ley:)

and repeat
Section 241(a) (2) (A) (iii) of the Immigration and Nationality Act (Act), as amended, in that, at any time after entry, you have been convicted of an aggravated felony as defined in section 101(a) (43) of the Act, to wit: a crime of violence (as defined in section 16 of title 18, United States Code, not including a purely political offense), for which a term of imprisonment imposed was five years or more. To wit: Home Invasion.

(Sección 241(a) (2) (A) (iii) de la Ley de Inmigración y Nacionalidad (INA), según enmendada, en que, en algún momento después de su entrada, Ud. ha resultado convicto de una felonía agravada, según se define en la sección 101(a) (43) de la INA. a saber: un delito de violencia (según se define en la sección 16 del título 18, Código de los Estados Unidos, que no incluye un delito puramente político), por el cual fue impuesto un término de confinamiento de cinco años o más.) A saber: Invasión de Hogar.

WHEREFORE, YOU ARE ORDERED to appear for a hearing before an Immigration Judge of the Executive Office for Immigration Review of the United States Department of Justice at:

(POR LO CUAL, SE LE ORDENA comparecer ante un juez de inmigración de la Oficina Ejecutiva de Revisión de Inmigración del Departamento de Justicia de los Estados Unidos en:)

TO BE CALENDARED AND NOTICE PROVIDED BY THE OFFICE OF THE IMMIGRATION JUDGE.

Address NOTICE WILL BE MAILED TO THE ADDRESS PROVIDED BY THE RESPONDENT.
(Dirección) (LA OFICINA DEL JUEZ DE INMIGRACION ENVIARA UN AVISO A LA DIRECCION FACILITADA
On POR EL DEMANDADO CON LA FECHA DE LA AUDIENCIA). At _____ .m.
(Fecha) (Hora)

and show cause why you should not be deported from the United States on the charge(s) set forth above.

(y mostrar motivos justificantes por cual no debería ser deportado de los Estados Unidos por los cargos expresados anteriormente.)

Dated May 25, 1993
(Fecha)

Signature of Issuing Officer 
(Firma del funcionario que la expide)

City and State of Issuance CHICAGO, ILLINOIS
(Ciudad y Estado donde se expide)

Title of Issuing Officer ASSISTANT DISTRICT DIRECTOR,
(Título del funcionario que la expide) INVESTIGATIONS

You are required to be present at your deportation hearing prepared to proceed. If you fail to appear at any hearing after having been given written notice of the date, time and location of your hearing, you will be ordered deported *in your absence*, if it is established that you are deportable and you have been provided the appropriate notice of the hearing.

You are required by law to provide immediately in writing an address (and telephone number, if any) where you can be contacted. You are required to provide written notice, within five (5) days, of any change in your address or telephone number to the office of the Immigration Judge listed in this notice. Any notices will be mailed only to the last address provided by you. If you are represented, notice will be sent to your representative. If you fail to appear at the scheduled deportation hearing, you will be ordered deported *in your absence* if it is established that you are deportable and you have been provided the appropriate notice of the hearing.

If you are ordered deported *in your absence*, you cannot seek to have that order rescinded except that: (a) you may file a motion to reopen the hearing within 180 days after the date of the order if you are able to show that your failure to appear was because of exceptional circumstances, or (b) you may file a motion to reopen at any time after the date of the order if you can show that you did not receive written notice of your hearing and you had provided your address and telephone number (or any changes of your address or telephone number) as required, or that you were incarcerated and did not appear at your hearing through no fault of your own. If you choose to seek judicial review of a deportation order entered *in your absence*, you must file the petition for review within 60 days (30 days if you are convicted of an aggravated felony) after the date of the final order, and the review shall be confined to the issues of validity of the notice provided to you, the reasons for your failure to appear at your hearing, and whether the government established that you are deportable.

In addition to the above, if you are ordered deported *in your absence*, you are ineligible for five (5) years from the date of the final order for the following relief from deportation: voluntary departure under section 242 (b) of the Immigration and Nationality Act (INA); suspension of deportation or voluntary departure under section 244 of the INA; and adjustment of status under sections 245, 248, and 249 of the INA.

The copy of this Order to Show Cause served upon you is evidence of your alien registration while you are under deportation proceedings. The law requires that you carry it with you at all times.

Está obligado a asistir a la audiencia de deportación y de estar preparado para ella. Si no asiste a cualquiera de las audiencias después de haber sido notificado por escrito de la fecha, hora y lugar de la audiencia, se ordenará su deportación en su ausencia, si se establece que puede ser deportado y que recibió los avisos correspondientes.

La ley le obliga a informar inmediatamente por escrito de su domicilio (y número de teléfono, de haberlo) donde pueda ser localizado. Tiene la obligación de notificar por escrito, en el plazo de cinco (5) días, cualquier cambio de domicilio o de teléfono a la oficina del juez de inmigración que aparece en este aviso. Los avisos se enviarán solamente a la última dirección facilitada por Ud. Si ha decidido tener un representante, se enviarán los avisos a dicha persona. Si no asiste a cualquiera de las audiencias después de haber sido notificado por escrito de la fecha, hora y lugar de las mismas, se ordenará su deportación en su ausencia, si se establece que puede ser deportado y que recibió el aviso de la audiencia.

Si se ordena su deportación en su ausencia, no podrá solicitar la anulación de esa orden salvo que: a) pueda presentar un pedimento para tener otra audiencia en el plazo de 180 días después de la fecha de la orden si puede demostrar que no compareció debido a circunstancias excepcionales, o b) puede presentar un pedimento para tener otra audiencia en cualquier momento después de la fecha de la orden si puede demostrar que no recibió el aviso de la audiencia por escrito y que había facilitado su dirección y número de teléfono (o notificado los cambios de dirección o número de teléfono) según lo previsto, o que estaba encarcelado y no compareció a la audiencia por motivos ajenos a su voluntad. Si decide solicitar una revisión judicial de la orden de deportación en su ausencia, debe presentar la solicitud de revisión en el plazo de 60 días (30 días si ha sido condenado por un delito grave con agravantes) a partir de la fecha de la orden definitiva, y la revisión se limitará a decidir si el aviso que recibió es válido, las razones por las cuales no compareció a la audiencia y si el gobierno demostró que puede ser deportado.

Además de lo anterior, si se ordena su deportación en su ausencia, no podrá, en el plazo de cinco años después de la fecha de la orden definitiva, tener derecho a los siguientes recursos: salida voluntaria según la sección 242 (b) de la ley de Inmigración y Nacionalidad (INA); suspensión de la deportación o de la salida voluntaria según la sección 244 de la INA, y ajuste de condición según las secciones 245, 248, y 249 de la INA.

Esta copia de la Orden de Presentar Motivos Justificantes que le ha sido notificada constituye la prueba de su registro de extranjero mientras se llevan a cabo los trámites para su deportación. La ley le exige que la lleve consigo en todo momento.

the Immigration Judge of the Executive Office for Immigration Review at the address provided below. You must report any changes of your address or telephone number in writing to this office:

Esta Orden de Presentar Motivos Justificantes será registrada en la Oficina Ejecutiva de Revisión de Inmigración en la siguiente dirección. Debe justificar cualquier cambio de su domicilio o número de teléfono por escrito.

The Office of the Immigration Judge

536 SOUTH CLARK STREET.

CHICAGO, ILLINOIS 60605

Certificate of Translation and Oral Notice

This Order to Show Cause ☐ was ☒ was not read to the named alien in the native language, which is his/her native language or a language which he/she understands.

6-3-93
Date

Signature

Daniel Koral Special Agent
Printed Name and Title of Translator

Address of Translator (if other than INS employee) or office location and division (if INS employee)

(If oral notice was not provided please explain)

Manner of Service	Alien's Right Thumb Print
<input type="checkbox"/> Personal Service to Alien	
<input checked="" type="checkbox"/> Certified Mail - Return Receipt Requested	
<input checked="" type="checkbox"/> Alien	
<input type="checkbox"/> Counsel of Record	

Certificate of Service

This Order to Show Cause was served by me at CHI, IL on 6-3 1993 at 2 p.m.

Daniel Koral Special Agent Chicago, Illinois
Officer's Signature Printed Name Title Office

CERTIFIED MAIL # P 047 759 765

Alien's Signature (acknowledgment/receipt of this form).
(Firma de extranjero/acuse de recibo)

Request for Prompt Hearing and Waiver of 14-Day Minimum Period
(Solicitud de audiencia inmediata y renuncia al plazo mínimo de 14 días)

To expedite determination of my case, I request an immediate hearing, and waive my right to the 14 day notice.
(Para agilizar la decisión sobre mi caso, solicito una audiencia inmediata y renuncio a mi derecho a un plazo mínimo de 14 días.)

Signature of Respondent
(Firma de demandado)

Date
(Fecha)

Notice of Entry of Appearance
as Attorney or Representative

Appearances - An appearance shall be filed on this form by the attorney or representative appearing in each case. Thereafter, substitution may be permitted upon the written withdrawal of the attorney or representative of record or upon notification of the new attorney or representative. When an appearance is made by a person acting in a representative capacity, his personal appearance or signature shall constitute a representation that under the provisions of this chapter he is authorized and qualified to represent. Further proof of authority to act in a representative capacity may be required. Availability of Records - During the time a case is pending, and except as otherwise provided in 8 CFR 103.2(b), a party to a proceeding or his attorney or representative shall be permitted to examine the record of proceeding in a Service office. He may, in conformity with 8 CFR 103.10, obtain copies of Service records or information therefrom and copies of documents or transcripts of evidence furnished by him. Upon request, he/she may, in addition, be loaned a copy of the testimony and exhibits contained in the record of proceeding upon giving his/her receipt for such copies and pledging that it will be surrendered upon final disposition of the case or upon demand. If extra copies of exhibits do not exist, they shall not be furnished free on loan; however, they shall be made available for copying or purchase of copies as provided in 8 CFR 103.10.

In re: DEN SON Date: 04/08/02
File No. 42-523-905

I hereby enter my appearance as attorney for (or representative of), and at the request of the following named person(s):

Name: <u>DEN SON</u>	<input type="checkbox"/> Petitioner	<input type="checkbox"/> Applicant
	<input type="checkbox"/> Beneficiary	
Address: (Apt. No.) (Number & Street) (City) (State) (Zip Code)		
<u>Ozaukee County Jail</u> <u>Port Washington</u> <u>Wisconsin</u> <u>53074</u>		
Name:	<input type="checkbox"/> Petitioner	<input type="checkbox"/> Applicant
	<input type="checkbox"/> Beneficiary	
Address: (Apt. No.) (Number & Street) (City) (State) (Zip Code)		

Check Applicable Item(s) below:

- ☒ 1. I am an attorney and a member in good standing of the bar of the Supreme Court of the United States or of the highest court of the following State, territory, insular possession, or District of Columbia: Illinois Supreme Court and am not under a court or administrative agency order suspending, enjoining, restraining, disbaring, or otherwise restricting me in practicing law. Name of Court
- ☐ 2. I am an accredited representative of the following named religious, charitable, social service, or similar organization established in the United States and which is so recognized by the Board:
- ☐ 3. I am associated with _____ the attorney of record previously filed a notice of appearance in this case and my appearance is at his request. (If you check this item, also check item 1 or 2 whichever is appropriate.)
- ☐ 4. Others (Explain Fully.)

SIGNATURE <u>Anne Relias</u>	COMPLETE ADDRESS <u>TIA/CHICAGO CONNECTIONS</u> <u>208 S. LaSalle St, Suite 1818</u> <u>Chicago, IL 60604</u>
NAME (Type or Print) <u>Anne Relias</u>	TELEPHONE NUMBER <u>312.660.1370</u>

PURSUANT TO THE PRIVACY ACT OF 1974, I HEREBY CONSENT TO THE DISCLOSURE TO THE FOLLOWING NAMED ATTORNEY OR REPRESENTATIVE OF ANY RECORD PERTAINING TO ME WHICH APPEARS IN ANY IMMIGRATION AND NATURALIZATION SERVICE SYSTEM OF RECORDS:

Anne Relias

(Name of Attorney or Representative)

THE ABOVE CONSENT TO DISCLOSURE IS IN CONNECTION WITH THE FOLLOWING MATTER:

Name of Person Consenting <u>Den Son</u>	Signature of Person Consenting <u>Den Son</u>	Date
(NOTE: Execution of this box is required under the Privacy Act of 1974 where the person being represented is a citizen of the United States or an alien lawfully admitted for permanent residence.)		



U.S. Department of Justice
Immigration and Naturalization Service

September 22, 2001

10 West Jackson Blvd.
Chicago, Illinois 60604

SON DEN
C/O WAUKESHA County Jail
Waukesha, WI 53186

A# 42 522 435

Notice to Alien of File Custody Review

You are detained in the custody of the Immigration and Naturalization Service (INS) and you are required to cooperate with the INS in effecting your removal from the United States. If the INS has not removed you from the United States within the removal period as set forth in INA 241 (a) (normally 90 days) of either: 1) your entering INS custody with a final order of removal, deportation, or exclusion, or 2) the date of any final order you receive while you are in INS custody, the District Director will review your case for consideration of release on an Order of Supervision. Release, however, is dependent on your demonstrating by "clear and convincing evidence" that you will not pose a danger to the community and you will not be a significant flight risk.

Your custody status will be reviewed on or about: September 22, 2001. The District Director may consider, but is not limited to considering, the following:

1. The nature and seriousness of your criminal convictions;
2. Other criminal history;
3. Sentence(s) imposed and time actually served;
4. History of escape, failures to appear for judicial or other proceedings, and other defaults;
5. Probation history;
6. Disciplinary problems while incarcerated;
7. Evidence of rehabilitative effort or recidivism;
8. Equities in the United States;
9. Prior immigration violations and history; and
10. Cooperation in obtaining your travel document.

You may submit any documentation you wish to be reviewed in support of your release, prior to the date listed above, to the Officer and address below. English translations must be provided pursuant to 8 CFR 103.2(b)(3). An attorney or any other person may submit materials on your behalf.

U.S. Department of Justice
Immigration and Naturalization Service
Attn: Officer Figueroa
10 West Jackson Blvd.
Chicago, IL 60604

Method of Service

I certify that this form was provided to the alien by:
() CC: Attorney of Record or Designated Representative
() CC: A-file

HAND

INSTITUTION MAIL

Signature of Officer

Anthony Figueroa

Print Name of Officer

09/22/01
Date

EXHIBIT

G(2)



June 28, 2002

Embassy of Vietnam
1233 20th Street, NW, Suite 400
Washington, DC 20036

RE: TRAVEL DOCUMENTS FOR DEN SON

To Whom It May Concern,

I am writing to request travel documents for Den Son, a citizen of Vietnam. Mr. Son was ordered removed to Vietnam on February 22, 1995 and his appeal was dismissed by the Board of Immigration Appeals on August 3, 1995. He has been in INS Custody since June 8, 2001. Therefore, he has been in INS Custody for over a year after a final removal order.

If you cannot issue my client travel documents please respond, in writing, as to why. Please contact me with any questions regarding this case.

Thank you for your immediate attention to this matter.

Sincerely,

Anne Relias

Anne Relias
Staff Attorney
Midwest Immigrant and Human Rights Center
T: (312) 660-1359

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Embassy of Vietnam
1233 20th St NW
Suite 400
Washington, DC
20036

COMPLETE THIS SECTION ON DELIVERY

- A. Received by (Please Print Clearly) *K. NGUYEN* B. Date of Delivery *6/28/02*
- C. Signature *[Signature]* ☐ Agent ☐ Addressee
- D. Is delivery address different from item 1? ☐ Yes ☐ No
If YES, enter delivery address below:

3. Service Type
☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

OFFICIAL U.S. MAIL

Postmark Here

Den Son
6/28/02
Embassy of Vietnam

No. _____
No. _____
ZIP+4 _____

See Reverse

3800, January 2001

Article Number (Copy from service label)

7001 1940 0000 1820 4432

Illinois 60604

EXHIBIT

G(3)



June 28, 2002

Officer Randell
INS-Deportation Branch
10 West Jackson
Chicago, Illinois 60604
RE: RELEASE OF DEN SON A 42-523-905

Dear Officer Randell,

I am writing to request the release of Den Son. Mr. Son was ordered removed on February 22, 1995 and his appeal was dismissed by the Board of Immigration Appeals on August 3, 1995. He has been in INS Custody since June 8, 2001. Therefore, he has been in INS Custody for over a year after a final removal order and to my knowledge he has had no post order custody review. On June 7, 2002 I spoke with Officer Ramos who could not find any file on this individual. I asked why he had not had a review date and Officer Ramos did not. Mr. Son is a citizen of Vietnam and as of now, the United States cannot remove immigrants to Vietnam. Therefore, he should be immediately released under supervision. Please contact me with any questions regarding this case.

Thank you for your immediate attention to this matter.

Sincerely,

Anne Relias
Staff Attorney
Midwest Immigrant and Human Rights Center
T: (312) 660-1359

cc: Deborah Walton, Louie Zamora, Terri Bretz

Providing paths from harm to hope through human services

Midwest Immigrant & Human Rights Center

TIA/Chicago Connections, 208 South LaSalle Street, Suite 1818, Chicago, Illinois 60604

phone 312-660-1300 fax 312-660-1505 website: www.heartland-alliance.org





June 28, 2002

Headquarters Post Order Unit
801 I Street, NW, Room 800
Washington, DC 20536

RE: RELEASE OF DEN SON A 42-523-905 under Zadvydas v. Davis

Dear Officer Rozas,

I am writing to request the release of Den Son. Mr. Son was ordered removed on February 22, 1995 and his appeal was dismissed by the Board of Immigration Appeals on August 3, 1995. He has been in INS Custody since June 8, 2001. Therefore, he has been in INS Custody for over a year after a final removal order and to my knowledge he has had no post order custody review.

Mr. Son is a citizen of Vietnam and as of now, the United States cannot remove immigrants to Vietnam. Therefore, he should be immediately released under the United State Supreme Court decision, Zadvydas v. Davis. Please contact me with any questions regarding this case.

Thank you for your immediate attention to this matter.

Sincerely,

Anne Relias

Anne Relias
Staff Attorney
Midwest Immigrant and Human Rights Center
T: (312) 660-1359

Attached: Letter to the Vietnamese Embassy

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

OFFICIAL USE

2001 1940 0000 1820 0225 4425

Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$

Postmark
Here

Sent To *HQ Den Son 6/28/02*
Street, Apt. No.,
or PO Box No.
City, State, ZIP+ 4

Providing paths from harm to hope through

PS Form 3800, January 2001

Midwest Immigrant & Human Rights Center

TIA/Chicago Connections, 208 South LaSalle Street, Suite 1818, Chicago, Illinois 60604

phone 312-660-1300 fax 312-660-1505 website www.humanrights.org

EXHIBIT

G(5)

#3

JS 44
(Rev. 12/96)

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Jalal Hmaiden et al

DEFENDANTS

John Ashcroft, Brian Perryman, IN

U.S. DISTRICT COURT

JUDGE ZAGEL

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF
(EXCEPT IN U.S. PLAINTIFF CASES)

DOCKETED

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT

(IN U.S. PLAINTIFF CASES ONLY)

JUL 22 2002

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Anne Relias Anne Relias
Midwest Immigrant & Human Rights Center
208 S. La Salle, Ste. 1818 Chicago, IL

ATTORNEYS (IF KNOWN)

MAGISTRATE JUDGE LEVIN

02C 5097

II. BASIS OF JURISDICTION

(PLACE AN "X" IN ONE BOX ONLY)

- ☐ 1 U.S. Government Plaintiff
- ☒ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

V. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 118 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 180 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc <input checked="" type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice Act <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 990 Other Statutory Actions
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 448 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence HABEAS CORPUS: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395f) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7608	

VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY.)

habeas petition

VII. REQUESTED IN COMPLAINT

CHECK IF THIS IS A CLASS ACTION
☐ UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint

JURY DEMAND: ☐ YES ☐ NOVIII. This case ☒ is not a refiling of a previously dismissed action.☐ is a refiling of case number _____, previously dismissed by Judge _____

DATE

7/18/02

SIGNATURE OF ATTORNEY OF RECORD

Anne H. Relias

127

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS**

Eastern Division

DOCKETED

In the Matter of

Jalal Hmaidan, et al

FILED-ED4

JUL 22 2002

vs.
John Ashcroft, Brian Perryman, INS

Case Number: 02 JUL 18 PM 4:25

CLERK
U.S. DISTRICT COURT

APPEARANCES ARE HEREBY FILED BY THE UNDERSIGNED AS ATTORNEY(S) FOR:

Jalal Hmaidan, et al

02C 5097

JUDGE ZAGEL

MAGISTRATE JUDGE LEVIN

(A)	(B)
SIGNATURE <i>Ch. Roth</i>	SIGNATURE
NAME Charles Roth	NAME
FIRM Midwest Immigrant and Human Rights Center	FIRM
STREET ADDRESS 208 South LaSalle, Suite 1818	STREET ADDRESS
CITY/STATE/ZIP Chicago, Illinois	CITY/STATE/ZIP
TELEPHONE NUMBER (312) 435-4550	TELEPHONE NUMBER
IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) n/a	IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE)
MEMBER OF TRIAL BAR? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	MEMBER OF TRIAL BAR? YES <input type="checkbox"/> NO <input type="checkbox"/>
TRIAL ATTORNEY? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	TRIAL ATTORNEY? YES <input type="checkbox"/> NO <input type="checkbox"/>
	DESIGNATED AS LOCAL COUNSEL? YES <input type="checkbox"/> NO <input type="checkbox"/>
(C)	(D)
SIGNATURE <i>Anne Relias</i>	SIGNATURE
NAME Anne Relias	NAME
FIRM Midwest Immigrant and Human Rights Center	FIRM
STREET ADDRESS 208 South LaSalle, Suite 1818	STREET ADDRESS
CITY/STATE/ZIP Chicago, Illinois 60604	CITY/STATE/ZIP
TELEPHONE NUMBER (312) 660-1359	TELEPHONE NUMBER
IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) 6276258	IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE)
MEMBER OF TRIAL BAR? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	MEMBER OF TRIAL BAR? YES <input type="checkbox"/> NO <input type="checkbox"/>
TRIAL ATTORNEY? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	TRIAL ATTORNEY? YES <input type="checkbox"/> NO <input type="checkbox"/>
DESIGNATED AS LOCAL COUNSEL? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	DESIGNATED AS LOCAL COUNSEL? YES <input type="checkbox"/> NO <input type="checkbox"/>