UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FORT WORTH, TEXAS DIVISION

ERFAN QANEEI FARD,	§	
[redacted]	§	
Petitioner,	§	
v.	§	
	§	**Civil Action No.4:25-cv-00731-O**
	§	
JOSH JOHNSON, ICE Dallas Field	§	
Office Director;	§	
WARDEN OF PRAIRIELAND	§	
DETENTION CENTER,	§	
Respondents.	§	

FIRST AMENDED PETITION FOR WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241 AND REQUEST FOR IMMEDIATE RELEASE FROM UNLAWFUL DETENTION

TO THE HONORABLE JUDGE OF SAID COURT:

Notice to the Court and Respondents

This Amended Petition for Writ of Habeas Corpus is identical in all respects to the Original Petition, with the sole exception of the inclusion of Exhibit 4, which substantiates the statement made in Paragraph 14 of the Original Petition.

I. JURISDICTION AND VENUE

1. This Court has jurisdiction under 28 U.S.C. § 2241, as Petitioner is currently detained within this District and seeks relief from unlawful

federal immigration custody.

2. Venue is proper in the Northern District of Texas, Fort Worth Division under 28 U.S.C. § 1391(e) because Petitioner is detained at Prairieland Detention Center in Alvarado, Texas (Johnson County), which lies within this Division.

II. PARTIES

3. **Petitioner**, ERFAN QANEEI FARD, is a native and citizen of Iran currently in the physical custody of ICE at Prairieland Detention Center.

4. **Respondent**, HON. JOSH JOHNSON is the Field Office Director for the ICE Dallas Field Office and is Petitioner's immediate custodian.

5. **Respondent**, WARDEN, PRAIRIELAND DETENTION CENTER is the official responsible for the operation of the detention facility where Petitioner is currently held.

III. FACTUAL BACKGROUND

6. Petitioner is a citizen of Iran and has resided in the United States since at least 2013.

7. A Final Order of Removal was issued against him on October 15, 2018. **Exhibit 1.**

8. He was first detained from March 6, 2017 to June 20, 2020, after which he was released under an Order of Supervision ("OSUP"). **Exhibit 2.**

9. For nearly five years, Petitioner complied fully with the OSUP, regularly reporting to ICE and committing no violations or criminal acts.

10. In 2025, Petitioner requested permission to relocate from Los Angeles, California to Dallas, Texas to pursue a career in academia. ICE approved his request and instructed him to report to the Dallas Field Office on March 28, 2025, for assignment to a new supervising officer.

11. On March 28, 2025, Petitioner appeared as instructed but was re-detained without explanation or any change in circumstances.

12. Petitioner has remained in ICE custody since that date.

13. Iran will not accept Petitioner's removal without a valid passport. His passport has expired and cannot be renewed while in ICE custody, making removal practically impossible at this time.

14. On May 20, 2025, Petitioner received a Notice of File Custody Review (NOFR) indicating a scheduled custody review for June 26, 2025. As of the filing of this Petition, no custody determination has been issued, in violation of 8 C.F.R. § 241.4. **Exhibit 4.**

15. ICE has made no documented effort to obtain travel documents, initiate removal procedures, or seek cooperation from Petitioner.

16. On July 8, 2025, Petitioner sought a bond hearing in Immigration Court. The Court declined jurisdiction and allowed Petitioner to withdraw his

request. **Exhibit 3.**

17. Petitioner has now been detained for over 100 days post-order, in addition to a prior 39-month period of detention, without any showing that removal is likely in the reasonably foreseeable future.

18. Petitioner remains indefinitely detained without evidence that removal is likely in the reasonably foreseeable future.

IV. CLAIM FOR RELIEF

22. Under *Zadvydas v. Davis*, 533 U.S. 678 (2001), continued post-order detention under 8 U.S.C. § 1231(a)(6) is unconstitutional beyond six months unless removal is significantly likely in the reasonably foreseeable future.

23. Petitioner has been detained post-order for over 100 days and previously for over 39 months, without evidence that removal is likely in the reasonably foreseeable future.

24. ICE has not complied with post-order custody review procedures under 8 C.F.R. §§ 241.4 and 241.13.

25. Continued detention violates Petitioner's rights under the Due Process Clause of the Fifth Amendment and the standards set forth in *Zadvydas*.

V. PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Honorable

Court:

1. Issue a Writ of Habeas Corpus ordering Petitioner's immediate release under supervision;

2. Declare that Petitioner's continued detention violates the Due Process Clause;

3. Grant any other relief the Court deems just and proper.

Dated: July 28, 2025

Respectfully submitted,
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CERTIFICATE OF SERVICE

I certify that on this 28th day of July, 2025, a true and correct copy of the foregoing document was served upon the following by email.

Ms. Ann Cruce-Haag; Ann.Hagg@usdoj.gov
Assistant United States Attorney
United States Attorney's Office
1205 Texas Avenue, Suite 700
Lubbock, Texas 79413

/s/ Michael D. Payma
MICHAEL D. PAYMA
Attorney for Petitioner

EXHIBIT
1

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
8915 MONTANA AVENUE
EL PASO, TEXAS 79925

IN THE MATTER OF:	)	**IN REMOVAL PROCEEDINGS**
	)	
Erfan Qaneei FARD,	)	**FILE NO:** A[redacted]
	)	
Respondent	)	**DATE:** October 22, 2018
	)	

CHARGE: Immigration and Nationality Act § 212(a)(7)(A)(i)(I): Applicant for admission who, at the time of application, is not in possession of proper documents

APPLICATIONS: Asylum; Withholding of Removal; Convention Against Torture

On Behalf of the Respondent:
Michael Payma, Esq.
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1126 N. Zang Blvd.
Dallas, Texas 75203

On Behalf of the Department:
Assistant Chief Counsel
Department of Homeland Security
11541 Montana Ave., Suite O
El Paso, TX 79936

DECISION AND ORDER OF THE COURT

I. Procedural History

The Department of Homeland Security (DHS or Department) filed and served a Notice to Appear (NTA) on March 23, 2017 alleging that the respondent was a native and citizen of Iran who was inadmissible under Immigration and Nationality Act (INA or Act) § 212(a)(7)(A)(i)(I) as an intending immigrant who applied for admission to the United States but who, at the time of the application, did not have the proper documents. At a master calendar hearing before a previous immigration judge, the respondent, appearing with legal counsel, admitted all the factual allegations in the NTA and conceded the charge of removability. The Court designated Iran for removal if removal became necessary.

The respondent expressed a fear of return to Iran. Before the previous immigration judge, the respondent attempted to file form I-589 but the immigration judge declined to accept it without supporting evidence. After granting multiple continuances the immigration judge concluded that the respondent had abandoned his asylum application and ordered the respondent removed to Iran. The respondent filed a motion to reopen to allow him to file his asylum application. The immigration judge denied the motion to reopen and the respondent appealed this denial to the Board. The Board sustained the respondent's appeal and remanded the case to allow the respondent to file his asylum application.

Before this Court, the respondent filed an application for asylum, withholding of removal, and protection under the United Nations Convention Against Torture (CAT) and voluminous supporting documents. The Department filed documentary evidence as well. The Court held a hearing on the respondent's application on July 23, August 15, and September 10, 2018 and, at the end of the hearing, invited the parties to submit proposed findings of fact and conclusions of law. The parties have filed their submissions and the Court now renders its decision and order in the case.

II. Statement of Applicable Law

A. Burden of Proof and Credibility

Because the applicant initially filed his Form I-589 after May 11, 2005, the REAL ID Act of 2005, Div. B, Pub. L. No. 109 13, 119 Stat. 231, 305 (codified in pertinent parts at 8 U.S.C. § 1229a(c), INA § 240(c) (forms of relief other than asylum) and 8 U.S.C. § 1158(b), INA § 208(b) (asylum)) (the REAL ID Act), governs these proceedings. *Matter of J Y C* , 24 I&N Dec. 260, 262 (BIA 2007), *Matter of S-B-*, 24 I&N Dec. 42, 45 (BIA 2006). The applicant has the burden of proof on the applications for relief. INA §§ 240(c)(4)(A), 208(b)(1)(B)(ii). Consequently, the applicant's credibility may, standing alone, determine the outcome. The applicant must testify in detail, plausibly, and consistently. INA §§ 240(c)(4)(C), 208(b)(1)(B)(iii). The applicant should satisfactorily explain any material discrepancies or omissions. INA §§ 240(c)(4)(C), 208(b)(1)(B)(iii). The Board has consistently applied the REAL ID Act's credibility provisions, noting that they "were chosen because they were identified in case law and therefore would help establish a uniform standard for credibility." *Matter of J-Y-C-*, 24 I&N Dec. at 262, 263-64 (citation and internal quotation marks omitted).

The Court may grant an application solely on the basis of credible testimony, without further corroboration. INA §§ 240(c)(4)(C), 208(b)(1)(B)(iii). But the Court will do this only if it is satisfied that the applicant's "testimony is credible, is persuasive, and refers to specific facts sufficient to demonstrate" that the applicant is eligible for the relief sought. INA §§ 240(c)(4)(B), 208(b)(1)(B)(ii). In determining whether the applicant has met the burden of proof, the Court "may weigh credible testimony along with other evidence of record." INA §§ 240(c)(4)(B), 208(b)(1)(B)(ii). When the Court determines that the applicant should provide evidence that corroborates otherwise credible testimony, "such evidence must be provided unless the [applicant] does not have that evidence and cannot reasonably obtain that evidence." INA §§ 240(c)(4)(B), 208(b)(1)(B)(ii).

In making credibility determinations, the Court must consider the totality of the circumstances and all relevant factors. INA §§ 240(c)(4)(C), 208(b)(3)(iii). The Court "may base a credibility determination on demeanor, candor, or responsiveness of the applicant or witness, the inherent plausibility of the applicant's or witness's account." INA §§ 240(c)(4)(C), 208(b)(3)(iii).

> [The Court may also consider] the consistency between the applicant's or witness's written and oral statements (whenever made and whether or not under oath, and considering the circumstances under which the statements were made), the internal consistency of each such statement, the consistency of such statements with other

> evidence of record (including the reports of the Department of State on country conditions), and any inaccuracies or falsehoods in such statements, without regard to whether an inconsistency, inaccuracy, or falsehood goes to the heart of the applicant's claim.

INA §§ 240(c)(4)(C), 208(b)(3)(iii). The Court may also consider any other factor relevant to credibility. INA §§ 240(c)(4)(C), 208(b)(1)(B)(iii).

B. Asylum under Section 208 of the Act

In order to qualify as a refugee, an applicant must demonstrate past persecution or a well founded fear of persecution on account of one of the five statutory reasons, which include race, religion, nationality, membership in a particular social group, or political opinion. Section 101(a)(42) of the Act, 8 C.F.R. § 1208.13(b)(1). The persecution or fear of persecution may be the result of one reason or from a combination. Office of the United Nations High Commissioner for Refugees, Handbook on Procedures and Criteria for Determining Refugee Status ¶ 66 (1992) (hereinafter Handbook); *see also Girma v. INS*, 283 F.3d 664, 667 (5th Cir. 2002) ("The evidence presented, however, must compel a reasonable fact-finder to conclude that the harm suffered by an applicant was motivated, at least in part by, a protected ground") (citing *Borja v. INS*, 175 F.3d 732, 736 (9th Cir. 1999) (en banc)).

The applicant must provide some evidence, direct or circumstantial, that the persecutor was or would be motivated to persecute him because of the victim's actual or imputed status or belief (not the persecutor's). *INS v. Elias-Zacarias*, 502 U.S. 478 (1992); *Girma*, 283 F.3d at 667. However, for applications filed on or after May 11, 2005, the REAL ID act applies and an applicant must prove that at least one of the five statutorily protected grounds was "at least one central reason" for the fear of persecution. Section 208(b)(1)(B)(i) of the Act; *Matter of J-B-N-*, 24 I&N Dec. 208 (BIA 2007).

An alien may qualify as a refugee either because he has suffered past persecution or because he has a well-founded fear of future persecution. 8 C.F.R. § 1208.13(b). The source of the persecution must be the government or forces that the government is unwilling or unable to control. *Adebisi v. INS*, 952 F.2d 910, 914 (5th Cir. 1992).

There is no universally accepted definition of "persecution." However, it is clear that it is more than mere discrimination. *See Tesfamichael v. Gonzales*, 469 F.3d 109, 119 (5th Cir. 2006). The 1951 Convention Relating to the Status of Refugees suggests that a threat to life or freedom on account of race, religion, nationality, political opinion, or membership in a particular social group would constitute persecution. A similar approach was adopted by the Board, which defined "persecution" as "either a threat to the life or freedom of, or the infliction of suffering or harm upon, those who differ in a way regarded as offensive." *Matter of Acosta*, 19 I&N Dec. 211, 222 (BIA 1985), overruled on other grounds by *Matter of Mogharrabi*, 19 I&N Dec. 439 (BIA 1987).

In addition, "'persecution' as used in section 101(a)(42)(A) [of the Act] clearly contemplates that harm or suffering must be inflicted upon an individual in order to punish him for possessing a belief or characteristic a persecutor seeks to overcome." Id. at 223. Persecution would also include other serious violations of human rights based on one of the five reasons. Handbook ¶ 51. An asylum applicant may be subjected to acts which individually would not amount to persecution; however, the combination of factors may establish persecution based on a cumulative ground. Id. ¶ 52. An applicant may qualify as a refugee either because he has suffered past persecution or because he has a well-founded fear of future persecution. 8 C.F.R. § 1208.13(b).

The harm or suffering resulting from persecution does not have to be physical, but can take other forms "such as the deliberate imposition of severe economic disadvantage or the deprivation of liberty, food, housing, employment or other essentials of life." *Abdel-Masieh v. INS*, 73 F.3d 579, 583 (5th Cir. 1996) (quoting *Matter of Laipenieks*, 18 I&N Dec. 433, 456–57 (BIA 1983)). However, persecution does not include all treatment that is considered unfair, unjust, unlawful, or unconstitutional in our society. *Majd v. Gonzales*, 446 F.3d 590, 595 (5th Cir. 2006).

Various forms of physical violence, including rape, torture, assault, and beatings, amount to persecution. *Matter of D-V-*, 21 I&N Dec. 71 (BIA 1993); *Matter of B-*, 21 I&N Dec. 66 (BIA 1995); *Matter of N-M-A*, 22 I&N Dec. 312 (BIA 1998). However, physical harm is not always a requirement for asylum. *Tamara-Gomez v. Gonzales*, 447 F.3d 343, 349 n.8 (5th Cir. 2006). Additionally, detention and confinement may constitute persecution if "excessive or arbitrary." *Abdel-Masieh*, 73 F.3d at 584 (finding that the applicant's two arrests and two detentions did not amount to past persecution because the applicant did not demonstrate that his detentions were "excessive or arbitrary" and that he was singled out because of his religious or political affiliations).

However, fear of general conditions of violence within a country is not persecution, *Matter of Mogharrabi*, 19 I&N Dec. 439, 447 (BIA 1987); *Eduard v. Ashcroft*, 379 F.3d 182, 190 (5th Cir. 2004), nor is fear of military recruitment. *Matter of Vigil*, 19 I&N Dec. 572 (BIA 1988). Likewise, general economic deprivation does not constitute persecution. *Youssefinia v. INS*, 784 F.2d 1254, 1262 (5th Cir. 1986).

An applicant may establish refugee status based on past persecution if he can establish that he has previously suffered persecution in his country of nationality, on account of one of the five statutory reasons: race, religion, nationality, membership in a particular social group, or political opinion. Section 101(a)(42)(A) of the Act; 8 C.F.R. § 1208.13(b)(1). In order to establish past persecution, an applicant must show "harm inflicted . . . on account of a statutorily enumerated ground by the government or forces that a government is unable or unwilling to control." *Tesfamichael*, 469 F.3d at 113. Once an applicant establishes past persecution, he will be presumed to have a well-founded fear of future persecution, unless the fear of future persecution is unrelated to the past persecution. 8 C.F.R. § 1208.13(b)(1). In every case a specific finding must be made as to whether an asylum applicant has proven past persecution. *Matter of D-I-M-*, 24 I&N Dec. 448 (BIA 2008).

The presumption of a well-founded fear based on past persecution is rebuttable. Id. at 450. If the applicant establishes that he has been persecuted for one of the five statutory reasons, then the burden shifts to the DHS to show that there is little likelihood of persecution in the country of nationality. *Matter of Chen*, 20 I&N Dec. 16, 18 (BIA 1989); 8 C.F.R. § 1208.13(b)(1)(i). The

DHS could satisfy this burden by proving that if there has been a fundamental change in circumstances in the applicant's country of nationality, such that he no longer has a well-founded fear of persecution based on one of five statutory reasons. 8 C.F.R. § 1208.13(b)(1)(i)(A); *see also Matter of N-M-A,* 22 I&N Dec. at 313 (the government need only prove that the applicant no longer has a well-founded fear of persecution from his original persecutors). Furthermore, the presumption of future persecution may be rebutted if the applicant could avoid such persecution by relocating to another part of his country of nationality and, given the circumstances, it would be reasonable to expect the applicant to do so. 8 C.F.R. § 1208.13(b)(1)(i)(B).

Even if an applicant for asylum cannot show past persecution, he may still be eligible for asylum based on a fear of future persecution. Generally, in order to demonstrate a "well-founded fear" of persecution, an applicant must demonstrate: (1) a subjectively genuine fear of returning to the country; and (2) that a reasonable person under the circumstances would fear persecution. *Matter of Mogharrabi*, 19 I&N Dec. at 445 (BIA 1987), *overruled on other grounds by Pitcherskaia v. INS*, 118 F.3d 641, 648 (9th Cir. 1997); *Eduard*, 379 F.3d at 189. The subjective component is satisfied by a showing that the applicant's fear is genuine. *See Chen v. Gonzales*, 470 F.3d 1131, 1135 (5th Cir. 2006). The objective component of "well-founded fear" requires a showing that persecution is a reasonable possibility. *Eduard*, 379 F.3d at 189 (citing *Mikhael v. INS*, 115 F.3d 299, 305 (5th Cir. 1997)). A ten percent possibility of persecution is sufficient. *INS v. Cardoza-Fonseca*, 480 U.S. 421, 440 (1987).

The Board set forth a four-pronged test for identifying a "well-founded" fear of persecution in *Matter of Acosta*, 19 I&N Dec. 211, modified in *Matter of Mogharrabi*, 19 I&N Dec. at 439. An applicant may be deemed to have a well-founded fear of persecution if the following four elements are established: (1) the applicant possesses a belief or characteristic that the persecutor seeks to overcome in others by a means of punishment; (2) the persecutor is aware, or could become aware, that the applicant possesses this belief or characteristic; (3) the persecutor has the capability of punishing the applicant; and (4) the persecutor has the inclination to punish the applicant. *Matter of Mogharrabi*, 19 I&N Dec. at 446 (citing *Matter of Acosta*, 19 I&N Dec. at 226).

Even assuming that an applicant is statutorily eligible for a grant of asylum under section 208(a) of the Act, he must still prove that he merits a grant of this relief in the exercise of discretion. *Mikhael*, 115 F.3d at 303. However, an aggravated felony conviction is considered to be a particularly serious crime that bars the alien from being eligible for asylum. Sections 208(b)(2)(A)(ii), (b)(2)(B)(i) of the Act. Finally, an applicant for asylum must prove by clear and convincing evidence that he applied for asylum within one year of his last arrival in the United States or on or after April 1, 1997, whichever is later, unless he can prove that a specific exception to this filing deadline exists in his case. See 8 C.F.R. § 1208.4(a)(2).

C. Withholding Under Section 241(b)(3) of the Act

An applicant for withholding must show that his "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." Section 241(b)(3)(A) of the Act. This requires the applicant to demonstrate that "it is more likely than not" he would be subject to persecution if required to return to his native land, a more stringent standard than the "well founded fear" standard required for asylum. *INS v. Stevic*, 467 U.S. 407, 429–30 (1984). This standard of proof is harder to meet than the "well-founded fear" requirement for asylum. *INS v. Cardoza-Fonseca*, 480 U.S. at 448–50. If the Immigration Judge grants withholding of removal, the applicant may not be returned to the country where he would suffer persecution. Section 241(b)(3)(A) of the Act. Unlike asylum, once an alien establishes that he qualifies for withholding of removal, relief is mandatory. *Shaikh v. Holder*, 588 F.3d 861, 864 (5th Cir. 2009).

An alien convicted of a "particularly serious crime" is ineligible for withholding of removal. Section 241(b)(3)(B)(ii) of the Act. An individual is deemed ineligible for asylum if they committed an aggravated felony. Section 208(b)(2)(B)(i). However, for purposes of withholding eligibility under section 241 of the Act, a conviction for a crime that qualifies as an aggravated felony and for which a sentence of at least five (5) years imprisonment was imposed constitutes a "particularly serious crime" rendering an alien ineligible for withholding. Section 241(b)(3)(B) of the Act.

D. Withholding and Deferral of Removal under the Convention Against Torture

Article III of the Convention Against Torture (hereinafter "CAT") forbids an agent of the United States government to remove an alien to a country where it is "more likely than not" that he would be tortured. 8 C.F.R. § 1208.16(c)(4); United Nations Convention Against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment, adopted and opened for signature Dec. 10, 1984, G.A. Res. 39/46, Annex, 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).

Unlike an applicant for asylum or withholding of removal under section 241(b)(3) of the Act, an applicant for protection under the CAT is not required to demonstrate that he or she would be tortured on account of race, religion, nationality, membership in a particular social group, or political opinion. *Matter of S-V*, 22 I&N Dec. at 1311; *Matter of J-E-*, 23 I&N Dec. 291.

An applicant who establishes that he or she is entitled to CAT protection shall be granted withholding of removal unless he or she is subject to mandatory denial of that relief, in which case he or she shall be granted deferral of removal. 8 C.F.R. §§ 1208.16(c)(4), 1208.17(a). An applicant is subject to mandatory denial of withholding of removal under CAT if he or she participated in the persecution of others, if he or she was convicted of a particularly serious crime, if there are serious reasons to believe he or she committed a serious nonpolitical crime outside of the United States, or if there are reasonable grounds to believe he or she is a danger to the security of the United States. Id. § 1208.16(d)(2); see also section 241(b)(3)(B) of the Act. Yet, an alien's criminal convictions, no matter how serious, are not a bar to deferral of removal under the CAT. *See* 8 C.F.R. § 1208.17(a); *Matter of G-A-*, 23 I&N Dec. at 368.

If an Immigration Judge determines that the alien is subject to a ground of "mandatory denial" set forth in section 241(b)(3)(B) of the Act, then the alien's application for withholding of removal pursuant to the CAT shall be denied. 8 C.F.R. §§ 1208.16(d)(2) & (3). If the evidence indicates the applicability of one or more of the grounds for denial of withholding of removal enumerated in the Act, the applicant shall have the burden of proving by the preponderance of the evidence that such grounds do not apply. Id. § 1208.16(d)(2).

Deferral of removal offers only limited relief. If the Court grants deferral, the DHS may not remove the applicant to a country in which it is more likely than not that he would be tortured. The DHS may, however, at any time, file a motion to schedule a hearing to consider whether deferral should be terminated. Id. § 1208.17(d). The Court shall reopen the proceedings if the DHS presents relevant evidence that was not presented at the previous hearing. Id. Upon reopening, the Court shall conduct a hearing and make a de novo determination of the alien's eligibility for deferral. Id. In addition, deferral may be terminated, at any time, based on diplomatic assurances forwarded by the Secretary of State. Id. § 1208.17(f).

To be protected under the CAT, the applicant must demonstrate that, if removed, it is more likely than not he would be tortured by, or with the acquiescence of, government officials acting under the color of law in the country of removal. *Hakim v. Holder*, 628 F.3d 151, 155 (5th Cir. 2010) (citing 8 C.F.R. § 208.16(c)(2)). Thus, in evaluating CAT claims, the Court must examine whether the applicant established:

(1) He or she will be tortured;
(2) By, or with the acquiescence of government officials;
(3) Acting under the color of law;
(4) It is more likely than not that the applicant will face harm based on the aforementioned elements.

See 8 C.F.R. § 1208.16(c). The Court must first examine the probability of each of the first three factors listed to determine whether the applicant established the "more likely than not" threshold required to demonstrate CAT eligibility.

1. Torture

Torture is defined as "any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person." 8 C.F.R. § 1208.16(c). In order to constitute torture, mental pain or suffering must be "prolonged." Id. § 1208.18(a)(4). It also must be caused by or resulting from intentional or threatened infliction of severe physical pain or suffering, threatened or actual administration or application of mind altering substances or similar procedures, or threatened imminent death. Id. These causes or results can be directed towards the applicant or another. Id. Torture is an "extreme form of cruel and inhuman treatment" and does not include pain or suffering arising from lawful sanctions. Id. § 1208.18(a)(2), (3). Lawful sanctions do not include any sanctions which defeat the object and purpose of the CAT. Id. § 1208.18(a)(3).

In order to qualify as torture, an act "must be specifically intended to inflict harm." *Matter of J-E-*, 23 I&N Dec. 291, 298 (BIA 2002). Intentional acts leading to a foreseeable harm as a likely but unintended consequence are insufficient to constitute torture. Id. The torture must be inflicted for one of the following purposes: (1) obtaining information or a confession; (2) punishing for an act committed or suspected of having been committed; (3) intimidating or coercing; or (4) "any reason based on discrimination of any kind." 8 C.F.R. § 1208.18(a)(1).

2. "Willful Acquiescence" of the Government

The Convention Against Torture "requires 'a public official' or 'person acting in a public capacity' to 'inflict,' 'acquiesce,' or 'give consent' to the torture." *Tamara-Gomez v. Gonzales*, 447 F.3d 343, 350 (5th Cir. 2006). For an act of torture to give rise to a cognizable CAT claim, the torturous "act must be directed against a person in the offender's custody or physical control." *Id.* §1208.18(a)(6). Additionally, the torturous act must 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. *Ontunez-Tursios v. Ashcroft*, 303 F.3d 341, 353–54 (5th Cir. 2002); 8 C.F.R. § 1208.18(a)(1). A public official's "acquiescence" to torture "requires that the public official, prior to the activity constituting torture, have awareness of such activity and thereafter breach his or her legal responsibility to intervene to prevent such activity." 8 C.F.R. § 1208.18(a)(7).

The Fifth Circuit addressed the meaning of "acquiescence" in *Ontunez-Tursios*, 303 F.3d at 341. It found that the proper inquiry for "acquiescence" is "willful blindness" or whether public officials "would turn a blind eye to torture." Id. at 354–55. The requisite "acquiescence" is satisfied by a government's willful blindness of torturous activity. Hakim, 628 F.3d at 155 (citing *Ontunez-Tursios*, 303 F.3d at 354). Willful blindness occurs when "the government look[s] the other way" and is "at least complicit in whatever happened to [the applicant] . . . and perhaps then whatever would happen to [the applicant] that might be seen as torture if the government were aware of the penalties being meted out and took no action to protect the applicant." *Id.* at 156 (citing *Chen v. Gonzales*, 470 F.3d 1131, 1141–42 (5th Cir. 2006)).

3. Under the Color of Law

In *Matter of Y-L-, A-G- & R-S-R-*, the Attorney General interpreted the phrase "acting in an official capacity" to mean "under color of law." 23 I&N Dec. 270, 285 (A.G. 2002). The Attorney General explained that "relief is available only if the torture would 'occur[] in the context of governmental authority,' not 'as a wholly private act.'" *Id.* at 283 (alteration in original) (citing *Ali v. Reno*, 237 F.3d 591, 597 (6th Cir. 2001)). Therefore, "evidence of isolated rogue agents engaging in extrajudicial acts of brutality, which are not only in contravention of the jurisdiction's laws and policies, but are committed despite authorities' best efforts to root out such misconduct" is insufficient. Id.

Thus, under the Attorney General's interpretation, "a public official" means "an authoritative government official." *Id.* Authoritative government officials are those acting with official authorization or government sanction. *See id.* To determine whether an act has official authorization, its scope may be evidenced by laws, policies, and implementing actions. Acts outside the scope of official authorization are, necessarily, not within the scope. Hence, "wholly private acts" refer to conduct falling outside the ambit of governmental authority. *Id.* at 283. Acts not within the bounds of government authority are not government sanctioned and thus are acts motivated by personal reasons and carried out in a personal capacity. Hence, under *Matter of Y-L-*, such persons are "rogue agents," and their actions cannot be said to have been committed "under color of law." *Id.* at 283.

4. The Applicant's Burden

An applicant for protection under the CAT must establish that it is more likely than not that he or she would be tortured if returned to the proposed country of removal. 8 C.F.R. § 1208.16(c)(2); *Matter of J-E-*, 23 I&N Dec. at 302. In assessing whether an applicant has satisfied the burden of proof, the Court must consider all evidence relevant to the possibility of future torture, including: evidence of past torture inflicted upon the applicant; evidence that the applicant could relocate to a part of the country of removal where he or she is not likely to be tortured; evidence of gross, flagrant, or mass violations of human rights within the country of removal; and other relevant information regarding conditions in the country of removal. 8 C.F.R. § 1208.16(c)(3); *Matter of G-A-*, 23 I&N Dec. 366 (BIA 2002).

However, a pattern of human rights violations alone is not sufficient to show that a particular person would be in danger of being subjected to torture upon his return to that country; specific grounds must exist to indicate that the applicant will be personally at risk of torture. *Matter of S-V-*, 22 I&N Dec. at 1313. To meet his burden of proof, an applicant for CAT relief must establish that someone in his particular alleged circumstances is more likely than not to be tortured in the country designated for removal. *Matter of J-E-*, 23 I&N Dec. at 303-304; *Matter of G-A-*, 23 I&N Dec. at 371-72; *Matter of M-B-A-*, 23 I&N Dec. 474, 478-79 (BIA 2002). Eligibility for CAT relief cannot be established by stringing together a series of suppositions to show that torture is more likely than not to occur unless the evidence shows that each step in the hypothetical chain of events is more likely than not to happen. *Matter of J-F-F-*, 23 I&N Dec. 912, 917-918 (A.G. 2006).

Unlike an applicant for asylum or withholding of removal under § 241(b)(3) of the Act, an applicant for protection under the CAT is not required to demonstrate that he or she would be tortured on account of race, religion, nationality, membership in a particular social group, or political opinion. *Matter of S-V-*, 22 I&N Dec. at 1311; *Matter of J-E-*, 23 I&N Dec. 291.

An applicant who establishes that he or she is entitled to CAT protection shall be granted withholding of removal unless he or she is subject to mandatory denial of that relief, in which case he or she shall be granted deferral of removal. 8 C.F.R. §§ 1208.16(c)(4), 1208.17(a). An applicant is subject to mandatory denial of withholding of removal under CAT if he or she participated in the persecution of others, if he or she was convicted of a particularly serious crime, if there are serious reasons to believe he or she committed a serious nonpolitical crime outside of the United States, or if there are reasonable grounds to believe he or she is a danger to the security of the United States. Id. § 1208.16(d)(2); *see also* INA § 241(b)(3)(B). Yet, an alien's criminal convictions, no matter how serious, are not a bar to deferral of removal under the CAT. See 8 C.F.R. § 1208.17(a); *Matter of G-A-*, 23 I&N Dec. at 368.

If an Immigration Judge determines that the alien is subject to a ground of "mandatory denial" set forth in § 241(b)(3)(B) of the Act, then the alien's application for withholding of removal pursuant to the CAT shall be denied. 8 C.F.R. §§ 1208.16(d)(2) & (3). If the evidence indicates the applicability of one or more of the grounds for denial of withholding of removal enumerated in the Act, the applicant shall have the burden of proving by the preponderance of the evidence that such grounds do not apply. Id. § 1208.16(d)(2).

Deferral of removal offers only limited relief. If the Court grants deferral, the DHS may not remove the applicant to a country in which it is more likely than not that he would be tortured. The DHS may, however, at any time, file a motion to schedule a hearing to consider whether deferral should be terminated. Id. § 1208.17(d). The Court shall reopen the proceedings if the DHS presents relevant evidence that was not presented at the previous hearing. Id. Upon reopening, the Court shall conduct a hearing and make a de novo determination of the alien's eligibility for deferral. Id. In addition, deferral may be terminated, at any time, based on diplomatic assurances forwarded by the Secretary of State. Id. § 1208.17(f).

III. Evidence Considered

A. Documentary Evidence

The Court carefully considered the following exhibits in the record:

Exhibit 1:	The NTA and Form I-870, Record of Determination/Credible Fear Worksheet;
Exhibit 2:	The respondent's I-589 application and declaration;
Exhibit 3:	A group exhibit submitted by the respondent, consisting of supporting documents;
Exhibit 4:	A group exhibit submitted by the respondent, consisting of additional supporting documents;
Exhibit 5:	A group exhibit submitted by the Department (First Submission), consisting of documents pertaining to the respondent and country condition information;
Exhibit 6:	An exhibit submitted by the Department (Second Submission), consisting of an un-translated and a translated copy of the respondent's personal notebook;
Exhibit 7:	A group exhibit submitted by the Department, consisting of various FBI documents pertaining to the respondent;
Exhibit 8:	A document submitted by the respondent describing the Democratic Party of Iranian Kurdistan;
Exhibit 9:	Privacy waiver for Shahin Nezhad;
Exhibit 10:	Privacy waiver for Ali Saleh;
Exhibit 11:	Letter from Randall Stewart, UCLA, submitted by the respondent;
Exhibit 12:	Copy of the respondent's hotel key card;
Exhibit 13:	Copy of the respondent's resume;
Exhibit 14:	Letter from Ketab Corporation, submitted by the respondent;
Exhibit 15:	U.S. Department of State Terrorist Organizations List;
Exhibit 16:	Iranian Human Rights Activist Groups in EU and North America;
Exhibits 17-17B:	Photographs of various officials;
Exhibit 18:	Internet article, "Erfan Qaneei Fard escapes the danger of deportation from United States," dated April 13, 2018, from www.iranshahrnewsagency.com with certificate of translation;

Exhibit 19:	Article from Voice of American (VOA), "Iran Executes 3 Kurdish Activists, Sources Say," dated September 8, 2018, from www.voanews.com;
Exhibits 20-20D:	Text of emails from or pertaining to the respondent;
Exhibit 20E:	Photographs of selected members of the KKR Global Institute board of directors and biography of General (Ret.) David Petraeus;
Exhibits 20F-20I:	Text of emails from or pertaining to the respondent.

B. Testimonial Evidence

The respondent, represented by counsel, testified, was cross-examined by DHS, and questioned by the Court. In addition, Shahin Nezhad and Ali Saleh testified, were cross-examined by DHS, and questioned by the Court. The Court carefully considered their testimony.

IV. Findings of the Court Regarding Credibility

Before determining whether the respondent meets the statutory criteria for the requested relief, the Court will address the credibility of the respondent. *Chun v. INS*, 40 F.3d 76, 79 (5th Cir. 1994). With respect to the testimony of Mssrs. Nezhad and Saleh, the Court finds their testimony generally credible but of marginal relevance. However, for the reasons discussed below in **Section VII** below, the Court finds the respondent's testimony not credible and makes an adverse credibility determination.

V. Conclusions of the Court Regarding Removability

Based on the admissions of the respondent and the documentary evidence of record, the Court concludes that the respondent is removable as charged under INA §§ 212(a)(7)(A)(i)(I).

VI. Factual Findings

The respondent is 42-year-old a native and citizen of Iran. He was born in the Kurdistan region of Iran. He is Kurdish. He is single and has no children. His parents and his two siblings live in Kurdistan, Iran. He has a bachelor's degree in English literature from Kurdistan University. He has a master's degree in linguistics from Oslo University and a master's degree in international security studies from London University. The respondent was pursuing a Ph.D. at UCLA before he was detained by DHS. He is fluent in Kurdish, Farsi and English. He has a working knowledge of Arabic. He has written several books and articles and has translated several books, primarily about Iran, Iraq and the Middle East.

He entered the United States in 2012 and 2014 as a B1/B2 nonimmigrant. The respondent applied for asylum in the United States in 2012 and 2018. Both times when he applied for asylum he was interviewed by an asylum officer. The 2013 asylum interview was conducted in Farsi. The 2017 asylum interview was conducted in English. The respondent wrote declarations in support of both of his asylum applications.

The respondent has left Iran and returned several times—he returned in 2005, 2012, 2014 and 2016.

He applied for admission to the Unites States in 2017 at the Paso del Norte port of entry in downtown El Paso. He claimed fear of returning to Iran.

VII. Analysis & Conclusions of Law

A. Adverse Credibility

In two sworn interviews before asylum officers and a sworn declaration, the respondent gave starkly conflicting testimony regarding several matters, all of which were central to his claim. The respondent filed asylum applications in 2012 and 2018. He was interviewed by asylum officers at or near the time he filed each application. In his 2013 asylum interview he testified with the aid of a Farsi interpreter. In his 2017 asylum interview he testified in English. He submitted a declaration in English as part of his current asylum application to which he was sworn. At his request, the respondent testified at his asylum hearing before the Court in English. Based on his multiple degrees requiring English fluency (including a degree in English literature, a master's degree from London University, his Ph.D. work at UCLA, and the Court's observation of the respondent in court), the Court is satisfied that the respondent's command of English is excellent.[1]

The respondent claims he was incarcerated in Iran's Evin prison beginning in July 2012. With respect to the issue of whether he was physically harmed while in prison, he testified in the 2013 asylum interview "nobody beat me." In the same interview, in response to the question "During the 45 days, they never beat or tortured you?" he answered "No.' He was also asked "Were you harmed in any way during your imprisonment?" to which he responded "No." In response to the question "Nobody beat you or hit you?" he responded "Just there was one time yelling." In his 2017 asylum interview, he testified "they actually never physically harmed me." However, in the declaration he submitted as part of his current asylum application, he stated that in Evin prison he was "subjected to physical and psychological torture, including solitary confinement, beatings and was hung from the ceiling from my neck and shoulders."

With respect to being interrogated at Evin prison, the respondent testified in the 2013 asylum interview "When I was in prison, the 12 interrogations I went through each one of them was 2-3 hours . . . " In his 2017 asylum interview, when asked how many times he was interviewed, he testified that "It was only one time." In the declaration he submitted as part of his current asylum application, he stated "During the time I was in prison, I was interrogated Twelve (12) separate times, each time lasting between 2-3 hours."

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[1] The inconsistencies discussed below cannot be explained away by pointing to language or interpretation issues, as the respondent's testimony in some respects is consistent between his 2013 interview, which was conducted in Farsi, and his 2017 interview, which was conducted in English. In addition, the declaration that the respondent wrote in connection with his 2012 asylum application is consistent with his testimony in his 2013 asylum interview. Notably, consistently with his 2013 asylum interview, the 2012 declaration makes no mention of any physical harm in prison.

With respect to whether he saw a judge while he was in prison, in response to the question in the 2013 asylum interview, "Did you ever see a court or judge during this arrest?" he answered "No, never." In response to the question "Did you ever see a court [or] judge because of any issues?" he answered "No." In his 2017 asylum interview, he testified that "When they took me to Evin Prison, there was a Judge there, Naseer Poor [sic]. He told me based on the prior judgment in the Islamic Revolutionary Court, you have been sentenced for a year . . . ." In the declaration he submitted as part of the current asylum application, he stated that in Evin prison "they then took me to a Courtroom and I saw a judge by the name of Judge Nassirpour."

With respect to his sentence of imprisonment, he testified in his 2013 asylum interview that he was informed that his sentence was one year; he wrote in his 2012 declaration that he was informed his sentence was one-and-a-half years. In his 2017 asylum interview he testified that he was told his sentence was three years. In his 2017 declaration he wrote that he was informed his sentence was 18 months.

The Court notes that, in evaluating an applicant's credibility, it may consider

> the consistency between the applicant's or witness's written and oral statements (whenever made and whether or not under oath, and considering the circumstances under which the statements were made), the internal consistency of each such statement, the consistency of such statements with other evidence of record (including the reports of the Department of State on country conditions), and any inaccuracies or falsehoods in such statements, without regard to whether an inconsistency, inaccuracy, or falsehood goes to the heart of the applicant's claim.

INA §§ 240(c)(4)(C), 208(b)(3)(iii). The inconsistencies noted above pertain to highly relevant and important aspects of the respondent's claim. The respondent claims to have experienced past persecution in Iran and central to that claim is his alleged imprisonment in Iran in 2012. The Court concludes that the wildly inconsistent testimony about issues as important as whether or not the respondent was physically harmed or tortured while in prison, how many times he was interrogated, whether he saw a judge during his incarceration, and the length of the sentence he received renders the respondent an incredible witness. The Court finds highly significant that the respondent drastically altered his account of his imprisonment in his 2017 asylum application. The fact that he now claims that he was tortured (subjected to multiple beatings and hung from the ceiling from his neck and shoulders) after denying that he experienced any physical harm whatsoever in his two prior asylum interviews and not even mentioning any physical harm in his prior asylum declaration is a strong indicator of fabrication.

The Court also notes the following. The Court invited the parties to submit proposed findings of fact and conclusions of law following the completion of the individual hearing. Both parties filed submissions and, significantly, the respondent filed a rebuttal to the Department's submission. The Department's submission highlighted the inconsistent testimony discussed above (and raised other credibility issues). However, the respondent, although attempting to rebut several of the Department's proposed factual findings on collateral issues, completely ignored the credibility issues discussed above. The Court finds very telling that the respondent did not even attempt to address his irreconcilably inconsistent testimony about issues that go to the heart of his claim. This failure convinces the Court that the respondent cannot explain the inconsistencies discussed here and solidifies the Court's conclusion that that the respondent provided incredible testimony.

B. Asylum

Because the Court concludes that the respondent has provided testimony that is not credible, it concludes that he has failed to establish past persecution or a well-founded fear of future persecution, and the Court will therefore **deny** his claim for asylum.

C. Withholding of Removal under Section 241(b)(3) of the Act

For the reasons previously discussed with respect to the respondent's failure to establish entitlement to asylum, he has necessarily failed to meet the higher evidentiary burden to establish eligibility for withholding.

Therefore, the Court will **deny** the application for withholding of removal.

D. Relief Pursuant to the Convention Against Torture

Because the Court concludes that the respondent is not credible, the Court will **deny** the respondent's applications for withholding and deferral of removal under the CAT.

Based on the foregoing, the following orders will be entered:

IT IS ORDERED THAT the respondent's application for asylum pursuant to INA § 208 be, and it is hereby, **DENIED.**

IT IS FURTHER ORDERED THAT the respondent's application for withholding of removal pursuant to INA § 241(b)(3) be, and it is hereby, **DENIED.**

IT IS FURTHER ORDERED THAT the respondent's applications for withholding and deferral of removal pursuant to the Convention Against Torture be, and they are hereby, **DENIED.**

IT IS FURTHER ORDERED THAT the respondent be **REMOVED** from the United States to **IRAN.**

10/22/18
Date

Michael Pleters
U.S. Immigration Judge

APPEAL: Either party has 30 days from the date this decision and order is mailed to file an appeal with the Board of Immigration Appeals.

EXHIBIT 2

DEPARTMENT OF HOMELAND SECURITY
U.S. Immigration and Customs Enforcement

ORDER OF SUPERVISION

File No [redacted]

Name: QANEEI FARD, ERFAN Date: May 29, 2024

On October 22, 2018 (Date of Final Order), you were ordered:

☐ Excluded or deported pursuant to proceedings commenced prior to April 1, 1997.

☒ Removed pursuant to proceedings commenced on or after April 1, 1997.

Because the agency has not effected your deportation or removal during the period prescribed by law, it is ordered that you be placed under supervision and permitted to be at large under the following conditions:

☒ That you appear in person at the time and place specified, upon each and every request of the agency, for identification and for deportation or removal.

☐ That upon request of the agency, you appear for medical or psychiatric examination at the expense of the United States Government.

☒ That you provide information under oath about your nationality, circumstances, habits, associations and activities and such other information as the agency considers appropriate.

☒ That you do not travel outside CALIFORNIA (Specify geographic limits, if any) for more than 48 hours without first having notified this agency office of the dates and places, and obtaining approval from this agency office of such proposed travel.

☒ That you furnish written notice to this agency office of any change of residence or employment 48 hours prior to such change.

☐ That you report in person on ____________ (Date/Time) to this agency office at:

____________ (Reporting Address)

☒ That you assist U.S. Immigration and Customs Enforcement in obtaining any necessary travel documents.

☒ Other: *Your release is contingent upon your enrollment and successful participation in an Alternatives to Detention (ATD) program as designated by the U.S. Department of Homeland Security. As part of the ATD program, you will be subject to electronic monitoring and may be subject to a curfew. Failure to comply with the requirements of the ATD program will result in a redetermination of your release conditions or your arrest and detention.*

If fitted with a U.S. Immigration and Customs Enforcement GPS tracking ankle bracelet, do not tamper with or remove the device. Under federal law, it is a crime to willfully damage or attempt to damage property of the United States. Damaging or attempting to damage the GPS tracking ankle bracelet or any of its associated equipment (including, but not limited to, the charging station, batteries, power cords, etc.) may result in your arrest, detention, and prosecution under 18 U.S.C. § 1361 and/or 18 U.S.C. § 641, each punishable by a fine, up to ten years imprisonment, or both.

☐ See attached sheet containing other specified conditions (Continue on separate sheet if required)

(Signature of ICE Official) — For ROJAS, MICHAEL (Print Name and Title of ICE Official)

Alien's Acknowledgement of Conditions of Release under an Order of Supervision

I hereby acknowledge that I have (read) (had interpreted and explained to me in the ENGLISH language) the contents of this order, a copy of which has been given to me. I understand that failure to comply with the terms of this order may subject me to a fine, detention, or prosecution.

(Signature of ICE Official Serving Order) — Erfan Fard (Signature of Alien)

05/29/2024
(Date)

ICE Form I-220B (10/20)

DHS 18

DEPARTMENT OF HOMELAND SECURITY
U.S. Immigration and Customs Enforcement

ORDER OF SUPERVISION (CONTINUATION PAGE)

Alien Name
QANEEI FARD, ERFAN

File Number
[redacted]

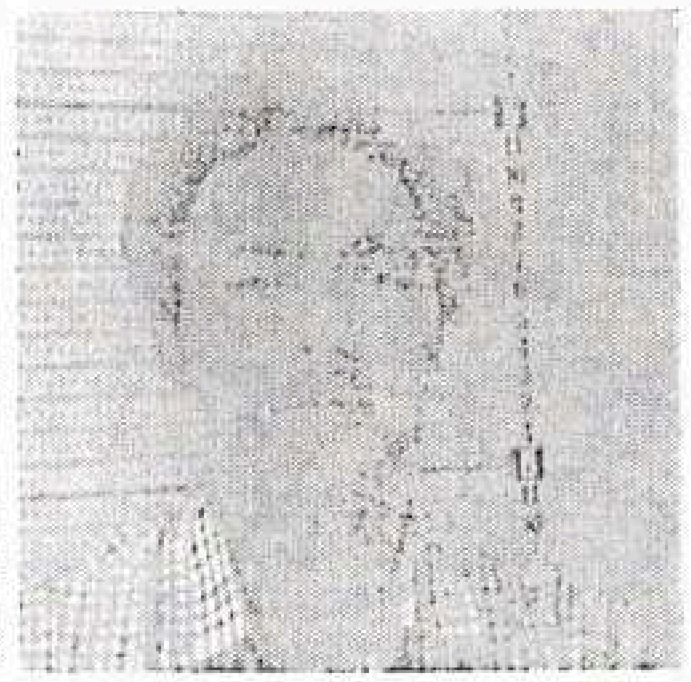
Date
May 29, 2024

Alien's Signature
Erfan Fard

Alien's Telephone Number (if any)
[redacted]

Alien's Address
[redacted] CALIFORNIA 90212

Picture



Right Index Print

PERSONAL REPORT RECORD

Date	Officer	Comment/Changes
05/29/24	BL	REPORT ON 04/02/2025 @ 8AM

Signature
LEYVA, B 9894

Title
DO

DEPARTMENT OF HOMELAND SECURITY
U.S. Immigration and Customs Enforcement

ORDER OF SUPERVISION (ADDENDUM)

File No.: [redacted]

Name: QANEEI FARD, ERFAN

Date: May 29, 2024

- [x] That you do not associate with know gang members, criminal associates, or be associated with any such activity.
- [ ] That you register in a substance abuse program within 14 days and provide ICE with written proof of such within 30 days. The proof must include the name, address, duration, and objectives of the program as well as the name of a counselor.
- [ ] That you register in a sexual deviancy counseling program within 14 days and provide ICE with written proof of such within 30 days. You must provide ICE with the name of the program, the address of the program, duration and objectives of the program as well as the name of a counselor.
- [ ] That you register as a sex offender, if applicable, within 7 days of being released, with the appropriate agency(s) and provide ICE with written proof of such within 10 days.
- [x] That you do not commit any crimes while on this Order of Supervision.
- [ ] That you report to any parole or probation officer as required within 5 business days and provide ICE with written verification of the officer's name, address, telephone number, and reporting requirements.
- [ ] That you continue to follow any prescribed doctor's orders whether medical or psychological including taking prescribed medication.
- [x] That you provide ICE with written copies of requests to Embassies or Consulates requesting the issuance of a travel document.
- [x] That you provide ICE with written responses from the Embassy or Consulate regarding your request.
- [x] Any violation of the above conditions will result in revocation of your employment authorization document.
- [x] Any violation of these conditions may result in you being taken into Service custody and you being criminally prosecuted.
- [ ] Other:

X Erfan Fard
Alien's Signature

EXHIBIT
3

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
PORT ISABEL IMMIGRATION COURT

Respondent Name:
QANEEI FARD, ERFAN

To:
Payma, Michael Darya
Payma Law Center
1126 N. Zang Blvd.
Dallas, TX 75203

[redacted]
Riders:
In Custody Redetermination Proceedings

Date:
07/08/2025

ORDER OF THE IMMIGRATION JUDGE

The respondent requested a custody redetermination pursuant to 8 C.F.R. § 1236. After full consideration of the evidence presented, the respondent's request for a change in custody status is hereby ordered:

☐ Denied, because

☐ Granted. It is ordered that Respondent be:
- ☐ released from custody on his own recognizance.
- ☐ released from custody under bond of $
- ☐ other:

☑ Other:
The bond application is withdrawn to allow counsel to explore whether MATTER OF M-S and MATTER OF Q. LI bar jurisdiction and whether the respondent has an administratively final removal order divesting the Court of jurisdiction in the absence of active removal proceedings.

Immigration Judge: MACGREGOR, MARGARET 07/08/2025

Appeal: Department of Homeland Security: ☐ waived ☐ reserved
Respondent: ☐ waived ☐ reserved
Appeal Due:

Certificate of Service

This document was served:
Via: [M] Mail | [P] Personal Service | [E] Electronic Service | [U] Address Unavailable
To: [ ] Noncitizen | [P] Noncitizen c/o custodial officer | [E] Noncitizen's atty/rep. | [E] DHS
Respondent Name : QANEEI FARD, ERFAN | A-Number : [redacted]
Riders:
Date: 07/08/2025 By: GALVAN, EDGAR, Court Staff

EXHIBIT
4

Enforcement and Removal Operations

U.S. Department of Homeland Security
Dallas Field Office
8101 N. Stemmons Frwy.
Dallas, TX 75247

U.S. Immigration and Customs Enforcement

Qaneei Fard, Erfan
c/o Immigration and Customs Enforcement
Dallas Field Office

A[redacted]

Notice to Alien of File Custody Review

You are detained in the custody of U.S. Immigration and Customs Enforcement (ICE) and you are required to cooperate with ICE in effecting your removal from the United States. If ICE 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 ICE custody with a final order of removal, deportation or exclusion, or 2) the date of any final order you receive while you are in ICE custody), ICE's Deciding Official will review your case for consideration of release on an Order of Supervision. Release, however, is dependent on your demonstrating to the satisfaction of the Attorney General that you will not pose a danger to the community and will not present a flight risk.

Your custody status will be reviewed on or about June 26, 2025. The Deciding Official may consider, but is not limited to considering the following:

1. Criminal convictions and criminal conduct;
2. Other criminal and immigration 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. Cooperation in obtaining your travel document.
10. Any available mental health reports.

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. The deciding official will notify you of the decision in your case. Attached to this notice is a list of free or low cost legal representatives who may be able to provide assistance to you in preparing your case.