

AO 242 (12/11) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

U.S. DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA

UNITED STATES DISTRICT COURT

for the
Southern District of Georgia

11-9 A 13:43
KCM
S.D. OF GA.

NAJIBULLAH KHAIRUDDIN SHAMSUDDIN)

Petitioner

v.

NIAMATULLAH SAFI, Inmate Brother)

Respondent

(inmate of warden or authorized person having custody of petitioner)

Case No.

5:26 CV 30

(Supplied by Clerk of Court)

PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

Personal Information

- 1. (a) Your full name: NAJIBULLAH KHAIRUDDIN SHAMSUDDIN
- (b) Other names you have used: MOHAMMAD AMIN BASHARDOST
- 2. Place of confinement:
 - (a) Name of institution: D. Ray James Correction Facility
 - (b) Address: 3262 GA-252, Folkston, GA 31537

(c) Your identification number:



- 3. Are you currently being held on orders by:
 - Federal authorities
 - State authorities
 - Other - explain:
DHS, ICE


- 4. Are you currently:
 - A pretrial detainee (waiting for trial on criminal charges)
 - Serving a sentence (incarceration, parole, probation, etc.) after having been convicted of a crime
 - If you are currently serving a sentence, provide:
 - (a) Name and location of court that sentenced you: OTAY Mesa Detention Center Court
Address, 7488 Calzada De La Fuente, San Diego, CA 92154
 - (b) Docket number of criminal case: The Immigration Judge GRANTED INA Withholding
 - (c) Date of sentencing: 05/08/2025

Being held on an immigration charge

Other (explain): According to CPB1 Appointment on 06/13/2024 I entered to the San Diego CA, then I detain and transferred to Otay Mesa Detention Center and Immigration judge granted INA withholding, DHS Appealed case transferred to board of immigration appeal and they Rejected the Judge Decision & case returned to court

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Decision or Action You Are Challenging

5. What are you challenging in this petition:
- How your sentence is being carried out, calculated, or credited by prison or parole authorities (for example, revocation or calculation of good time credits)
 - Pretrial detention
 - Immigration detention
 - Detainer
 - The validity of your conviction or sentence as imposed (for example, sentence beyond the statutory maximum or improperly calculated under the sentencing guidelines)
 - Disciplinary proceedings
 - Other (explain): its been one year I am sick, (my Gums bleeding) (I have severe body skin issue) (because of almost two years in detention my mental health is not okay) inside the detention we don't have properly health facilities and specialist doctor and few times i request to take me out for medical treatment, nobody heard my v
6. Provide more information about the decision or action you are challenging:
- (a) Name and location of the agency or court: Otay Mesa Detention center court, After my case Returned From Board of Immigration Appeal, my case Status is unknown and my court date is not assigned yet.
 - (b) Docket number, case number, or opinion number: 
 - (c) Decision or action you are challenging (for disciplinary proceedings, specify the penalties imposed):
I have concern about my current health situation and not feeling well at all, its been almost 2 years I am spending time in detention, event after the immigration judge granted INA withholding, i do totally respecting the law as - always, because i was the law defender, Kindly Requesting bond release if its possible, i will be more happy to -...
 - (d) Date of the decision or action: 05/08/2025

Your Earlier Challenges of the Decision or Action

7. **First appeal**
- Did you appeal the decision, file a grievance, or seek an administrative remedy?
- Yes
 - No
- (a) If "Yes," provide:
- (1) Name of the authority, agency, or court:
 - (2) Date of filing:
 - (3) Docket number, case number, or opinion number:
 - (4) Result:
 - (5) Date of result:
 - (6) Issues raised:

AO 242 (12/11) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

(b) If you answered "No," explain why you did not appeal: Because I never lost my court, DHS appealed my case and sent to board of immigration.

the Immigration Attorney for my case is Mrs. AREEG AKEL, her phone number: 6193252911

8. **Second appeal**

After the first appeal, did you file a second appeal to a higher authority, agency, or court?

Yes No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court:

(2) Date of filing:

(3) Docket number, case number, or opinion number:

(4) Result:

(5) Date of result:

(6) Issues raised:

(b) If you answered "No," explain why you did not file a second appeal: i never lost my case

9. **Third appeal**

After the second appeal, did you file a third appeal to a higher authority, agency, or court?

Yes No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court:

(2) Date of filing:

(3) Docket number, case number, or opinion number:

(4) Result:

(5) Date of result:

(6) Issues raised:

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(b) If you answered "No," explain why you did not file a third appeal: i never lost my case

10. **Motion under 28 U.S.C. § 2255**

In this petition, are you challenging the validity of your conviction or sentence as imposed?

Yes No

If "Yes," answer the following:

(a) Have you already filed a motion under 28 U.S.C. § 2255 that challenged this conviction or sentence?

Yes No

If "Yes," provide:

- (1) Name of court:
- (2) Case number:
- (3) Date of filing:
- (4) Result:
- (5) Date of result:
- (6) Issues raised:

(b) Have you ever filed a motion in a United States Court of Appeals under 28 U.S.C. § 2244(b)(3)(A), seeking permission to file a second or successive Section 2255 motion to challenge this conviction or sentence?

Yes No

If "Yes," provide:

- (1) Name of court:
- (2) Case number:
- (3) Date of filing:
- (4) Result:
- (5) Date of result:
- (6) Issues raised:

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- (c) Explain why the remedy under 28 U.S.C. § 2255 is inadequate or ineffective to challenge your conviction or sentence:

11. **Appeals of immigration proceedings**

Does this case concern immigration proceedings?


- Yes No

If "Yes," provide:

- (a) Date you were taken into immigration custody: 06/13/2024
(b) Date of the removal or reinstatement order:
(c) Did you file an appeal with the Board of Immigration Appeals?

- Yes No

If "Yes," provide:

- (1) Date of filing: 10/15/2025
(2) Case number: 
(3) Result: Case Returned back to Immigration court
(4) Date of result: 11/26/2025
(5) Issues raised: The Immigration Judge Decision Rejected by board of immigration Appeal.

- (d) Did you appeal the decision to the United States Court of Appeals?

- Yes No

If "Yes," provide:

- (1) Name of court:
(2) Date of filing:
(3) Case number:

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- (4) Result:
- (5) Date of result:
- (6) Issues raised:

12. **Other appeals**

Other than the appeals you listed above, have you filed any other petition, application, or motion about the issues raised in this petition?

Yes No

If "Yes," provide:

- (a) Kind of petition, motion, or application:
- (b) Name of the authority, agency, or court:

- (c) Date of filing:
- (d) Docket number, case number, or opinion number:
- (e) Result:
- (f) Date of result:
- (g) Issues raised:

Grounds for Your Challenge in This Petition

13. State every ground (reason) that supports your claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

GROUND ONE: Petitioner's continued detention serves no legitimate governmental purpose. there is no - future immigration court date assigned, rendering detention indefinite and unconstitutional under -- Zadvydas V. Davis, petitioner also Suffers from serious medical conditions, including, chronic bleeding gums, skin disorders and recently detention nurse saying he lost 50% his eyes vision, no specialists in detention.

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(a) Supporting facts *(Be brief. Do not cite cases or law.):*
brief is in separate letter.

(b) Did you present Ground One in all appeals that were available to you?

Yes No

GROUND TWO:

(a) Supporting facts *(Be brief. Do not cite cases or law.):*

(b) Did you present Ground Two in all appeals that were available to you?

Yes No

GROUND THREE:

(a) Supporting facts *(Be brief. Do not cite cases or law.):*

(b) Did you present Ground Three in all appeals that were available to you?

Yes No

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GROUND FOUR:

(a) Supporting facts *(Be brief. Do not cite cases or law.)*

(b) Did you present Ground Four in all appeals that were available to you?

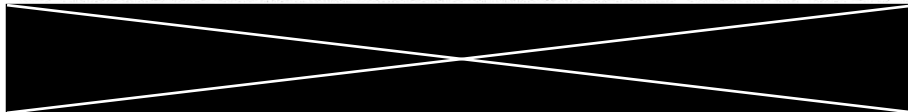
Yes No

14. If there are any grounds that you did not present in all appeals that were available to you, explain why you did not:

Request for Relief

15. State exactly what you want the court to do: I Respectfully Requesting bond release.

For More Information regarding to this case Please feel free to contact me with any further question.



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Declaration Under Penalty Of Perjury

If you are incarcerated, on what date did you place this petition in the prison mail system:

I declare under penalty of perjury that I am the petitioner, I have read this petition or had it read to me, and the information in this petition is true and correct. I understand that a false statement of a material fact may serve as the basis for prosecution for perjury.

Date: 12/29/2025


NAJIBULLAH KHAIRUDDIN SHAMSUDDIN

Signature of Petitioner


NIAMATULLAH SAFI, Inmate Brother

Signature of Attorney or other authorized person, if any

SOUTHERN DISTRICT OF GEORGIA

BRUNSWICK DIVISION

NAJIBULLAH KHAIRUDDIN



PETITION FOR WRIT OF HABEAS CORPUS

(28 U.S.C. § 2241)



I. INTRODUCTION

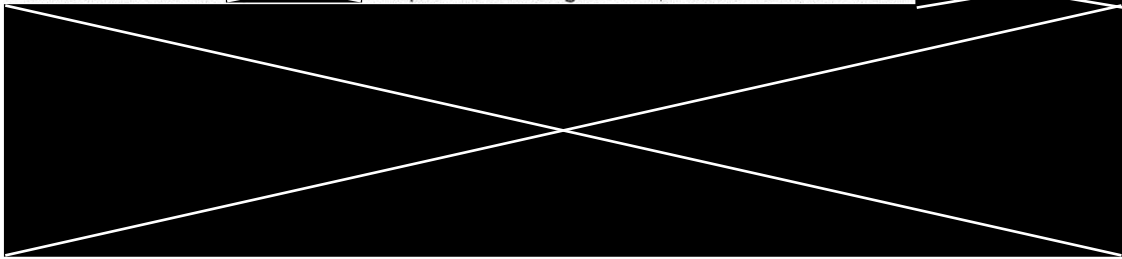
Petitioner Najibullah Khairuddin respectfully petitions this Honorable Court for a Writ of Habeas Corpus challenging his continued and unlawful detention by Immigration and Customs Enforcement (ICE). An Immigration Judge has granted Petitioner **INA Withholding**, formally recognizing that his return to Afghanistan would place his life and freedom in grave danger. Despite this statutory protection, Petitioner remains detained without a lawful purpose, in violation of the Fifth Amendment to the United States Constitution.

1. CUSTODY

Petitioner is currently detained at D. Ray James Correctional Facility, 3026 GA 252 East, Folkston, Georgia 31537, within the jurisdiction of this Court.

III. BACKGROUND

Petitioner was born on  in Kapisa Province, Afghanistan, and later resided in Kabul. 



While in Europe, Petitioner suffered from depression related to trauma, isolation, and prolonged separation from his family. On June 13, 2024, Petitioner lawfully presented himself at the United States border pursuant to CBP One authorization and has fully complied with all immigration requirements.

IV. LEGAL ARGUMENT

Petitioner's continued detention serves no legitimate governmental purpose. There is no future immigration court date assigned, rendering detention indefinite and unconstitutional.

Petitioner also suffers from serious medical conditions, including chronic bleeding gums, vision and skin disorders. Medical care within the facility is inadequate, and access to specialists has been denied.

Petitioner's continued detention serves no legitimate governmental purpose. Because removal is not reasonably foreseeable and an Immigration Judge has granted Petitioner INA Withholding, continued detention is unconstitutional under *Zadvydas v. Davis*. Petitioner poses no danger to the community, is not a flight risk, and has



U.S. Department of Justice


Executive Office for Immigration Review

Board of Immigration Appeals


Office of the Clerk

5107 Leesburg Pike, Suite 2000
Falls Church, Virginia 22041

NAJIBULLAH, KHAIRUDDIN SHAMSU


FOLKSTON ICE PROCESSING CENTE
3026 GA 252 E
FOLKSTON GA 31537

DHS/ICE Office of Chief Counsel - OTM
P.O.Box 438150
San Diego CA 92143

Name: NAJIBULLAH, KHAIRUDDIN SHA A 

Date of this Notice: 11/26/2025

Enclosed is a copy of the Board's decision in the above-referenced case. This copy is being provided to you as a courtesy. Your attorney or representative has been served with this decision pursuant to 8 C.F.R. § 1292.5(a). If the attached decision orders that you be removed from the United States or affirms an Immigration Judge's decision ordering that you be removed, any petition for review of the attached decision must be filed with and received by the appropriate court of appeals within 30 days of the date of the decision.

Sincerely,

Handwritten signature of John Seiler in black ink.

John Seiler
Acting Chief Clerk

Enclosure

Userteam: Docket



U.S. Department of Justice

Executive Office for Immigration Review

*Board of Immigration Appeals
Office of the Clerk*



*5107 Leesburg Pike, Suite 2000
Falls Church, Virginia 22041*

Akel, Areeg
AKEL HOFF LAW & MEDIATION, APC
16769 Bernardo Center Drive, Ste. 1-121
San Diego CA 92128

DHS/ICE Office of Chief Counsel - OTM
P.O.Box 438150
San Diego CA 92143

Name: NAJIBULLAH, KHAIRUDDIN SHA



Date of this Notice: 11/26/2025

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

Sincerely,

John Sciler
Acting Chief Clerk


Enclosure

Userteam: Docket

NOT FOR PUBLICATION

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

MATTER OF:

Khairuddin Shamsuddin NAJIBULLAH, 

Respondent

FILED
Nov 26, 2025

ON BEHALF OF RESPONDENT: Areeg Akel, Esquire

ON BEHALF OF DHS: Matthew Warren, Assistant Chief Counsel

IN REMOVAL PROCEEDINGS




On Appeal from a Decision of the Immigration Court, Otay Mesa, CA

Before: Gemoets, Appellate Immigration Judge

GEMOETS, Appellate Immigration Judge

The Department of Homeland Security (“DHS”) appeals the Immigration Judge’s May 8, 2025, decision granting withholding of removal to the applicant, a native and citizen of Afghanistan, under section 241(b)(3)(A) of the Immigration and Nationality Act (“INA”), 8 U.S.C. § 1231(b)(3)(A). The applicant opposes the appeal. The record will be remanded.

We review the findings of fact, including the determination of credibility, made by the Immigration Judge under the “clearly erroneous” standard. 8 C.F.R. § 1003.1(d)(3)(i). We review all other issues, including issues of law, discretion, or judgment, under the de novo standard. 8 C.F.R. § 1003.1(d)(3)(ii).

The applicant seeks relief from removal based on his imputed political opinion and his membership in a proposed particular social group defined as “former Afghan police officer” (IJ at 7-8). The Immigration Judge found that the applicant had not established past persecution in Afghanistan (IJ at 7). The Immigration Judge concluded that the applicant established   persecute him in the future on account of his imputed political opinion and his cognizable proposed particular social group due to  (IJ at 8-9). Determining that he could not relocate anywhere in the country  country’s de facto government, the Immigration Judge granted the applicant withholding of removal and withdrew without prejudice his application for protection under the Convention Against Torture (“CAT”)¹ (IJ at 9-11).

¹ The Convention Against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment, Dec. 10, 1984, S. Treaty Doc. No. 100-20, 1465 U.N.T.S. 85 (entered into force for United States Nov. 20, 1994). 8 C.F.R. §§ 1208.16(c)-1208.18(a).



On appeal, DHS argues that the Immigration Judge erred by failing to determine whether the applicant was credible (DHS Br. at 6-9). DHS also argues that the Immigration Judge erred in finding the applicant met his burden to show a clear probability of future persecution in Afghanistan on account of his imputed political opinion and proposed particular social group (DHS Br. at 9-11).

We will remand for further proceedings. DHS raised concerns about the applicant's credibility at the hearing and in written closing argument (Tr. at 27, 44-45; Exh. 25 at 6-9). The applicant testified that he used a false identity to leave Afghanistan and obtained refugee status in France by using a false identity and making false claims (Tr. at 116-17, 120, 153-58; Exh. 4 at 3). DHS also submitted evidence that the applicant was biometrically enrolled with two U.S. Government agencies under four different names, used different photographs on English-translated documents than those on the original Dari-language documents, and used a different name on the CBP One app (Tr. at 121-22, 165; Exh. 20 at 2, 20-21; Exh. 14 at 22-23, 28-29, 35-36). Three of the applicant's supporting witnesses either could not "100 percent verify" the applicant was who they met in Afghanistan or had never met him (Tr. at 73, 79, 81, 105-06). DHS also provided evidence that the applicant was convicted of a misdemeanor in Greece, had been deported three times from Greece, had been arrested in Bulgaria for immigration purposes, and had been deported from Mexico (Exh. 20 at 15-16, 22-23). The applicant denied these charges (Tr. at 169-73, 178).

Given the record evidence available to the Immigration Judge, the lack of a credibility finding precludes our appellate review (Tr. at 190). *See Garland v. Ming Dai*, 593 U.S. 357, 367 (2021) ("Reviewing courts have no need for a presumption of credibility one way or the other because they do not make credibility determinations. Instead, courts deferentially review the agency's fact determinations."); *Matter of H-C-R-C-*, 28 I&N Dec. 809, 811 (BIA 2024) (providing that there is no presumption that an applicant is credible in Immigration Court, and an applicant bears the burden of establishing his credibility). The Immigration Judge determined that the applicant's witnesses were credible and afforded full weight to their testimony (IJ at 8). However, while the Immigration Judge may have based her decision on the credible testimony of the applicant's witnesses in the face of the documentary evidence DHS presented (IJ at 8), her determination that the applicant was entitled to withholding of removal relied on his testimony in addition to the testimony of his witnesses and the documentary evidence (IJ at 9).

In light of these issues, we conclude that a remand of the record is appropriate because the Immigration Judge's decision does not contain sufficient factual findings or analysis to allow for meaningful appellate review. *See Matter of S-H-*, 23 I&N Dec. 462 (BIA 2002) (holding that the Board has limited fact-finding ability on appeal, which heightens the need for Immigration Judges to include in their decisions clear and complete findings of fact that are supported by the record and are in compliance with controlling law); *Matter of A-P-*, 22 I&N Dec. 468, 477 (BIA 1999) ("[A]n oral decision must accurately summarize the relevant facts, reflect the Immigration Judge's analysis of the applicable statutes, regulations, and legal precedents, and clearly set forth the Immigration Judge's legal conclusions."); *see also* 8 C.F.R. § 1003.1(d)(3)(iv) (stating that the Board may not engage in fact-finding in deciding appeals except for taking administrative notice of commonly known facts). On remand, the Immigration Judge should make a clear credibility determination considering the applicant's testimony and all the evidence of record. *See*



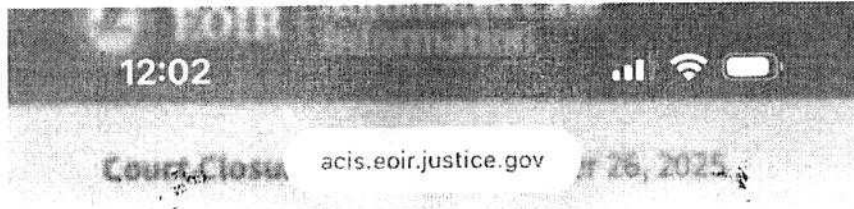
Ren v. Holder, 648 F.3d 1079, 1093 (9th Cir. 2011) (“To begin, the [Immigration Judge] must determine whether an applicant’s credible testimony alone meets the applicant’s burden of proof. If it does, no corroborative evidence is necessary.”).

After making a credibility determination, the Immigration Judge should make specific findings of fact and determine whether there is sufficient evidence, including corroborating documentation, for the applicant to independently meet his burden of proof to show past persecution or a well-founded fear of future persecution on account of a protected ground. See INA § 208(b)(1)(B)(ii), (iii); 8 U.S.C. § 1158(b)(1)(B)(ii), (iii); *Ren*, 648 F.3d at 1093 (“If a credible applicant has not yet met his burden of proof, then the [Immigration Judge] may require corroborative evidence.”); *Parada v. Sessions*, 902 F.3d 901, 909 (9th Cir. 2018) (stating that the source of persecution must be the government or forces the government is unable or unwilling to control and that, to be well-founded, the fear of persecution must be both subjectively genuine and objectively reasonable); *Barajas-Romero v. Lynch*, 846 F.3d 351, 358-60 (9th Cir. 2017) (holding that an applicant for withholding of removal must establish that a protected characteristic provides “a reason” for past or feared persecution).

As the Immigration Judge granted withholding of removal, she did not reach the applicant’s CAT claim. On remand, the Immigration Judge should also address this application under governing legal standards. See 8 C.F.R. §§ 1208.16(c)-1208.18(a); see also *Velasquez-Samayoa v. Garland*, 49 F.4th 1149 (9th Cir. 2022). In remanding, we offer no opinion regarding the ultimate outcome of this case. See *Matter of L-O-G-*, 21 I&N Dec. 413, 422 (BIA 1996).

Accordingly, the following order will be entered.

ORDER: The record is remanded for further proceedings consistent with the foregoing decision and the entry of a new decision.



Please check <https://www.justice.gov/eoir-operational-status> for up to date closures.

Home > NAJIBULLAH, KHAIRUDDIN
SHAMSUDDIN 

Automated Case Information

Name:

NAJIBULLAH, KHAIRUDDIN
SHAMSUDDIN

A-Number: 

Docket Date: 8/15/2024

 Next Hearing Information

*There are no future
hearings for this case.*

acis.eoir.justice.gov



BIA Case Information

No appeal was received for this case.



Court Contact Information

If you require further information regarding your case, or wish to file additional documents, please contact the immigration court.


COURT ADDRESS

180 TED TURNER DR SW, STE 241
ATLANTA, GA 30303


PHONE NUMBER

(404) 653-2140

acis.eoir.justice.gov

 **Next Hearing Information**

*There are no future
hearings for this case.*

 **Court Decision and Motion
Information**

This case is pending.

 **BIA Case Information**

No appeal was received for this
case.

 **Court Contact Information**

If you require further information

Court Decision and Motion Information

The immigration judge **GRANTED**
INA Withholding.

DECISION DATE

May 8, 2025

COURT ADDRESS

7488 CALZADA DE LA FUENTE
SAN DIEGO, CA 92154

BIA Case Information

A case appeal was received on
June 5, 2025. It is currently
pending.

NONCITIZEN BRIEF STATUS

No brief due date exists at this time.

DHS BRIEF STATUS

No brief due date exists at this time.

To whom it may concern,

My name is NIAMATULLAH SAFI and resident at [REDACTED]
[REDACTED] the inmate brother Mr. NAJIBULLAH, For More Information Regarding to
this Case Please Feel Free to contact me with further questions.

I will pay for the Application Fee as well.

Respectfully

NIAMATULLAH SAFI

[REDACTED]