

Waad Salam Alkhafaji

NAME

PRISON NUMBER

Imperial Regional Detention Facility

PLACE OF CONFINEMENT

1572 Gateway Road, Calexico, CA 92231

ADDRESS

FILED

APR 09 2026

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY _____ DEPUTY

**United States District Court
Southern District Of California**

Waad Salam Alkhafaji

(FULL NAME OF PETITIONER)

Petitioner

v.

Mark Wayne Mullen, Jeremy Casey

(NAME OF WARDEN, SUPERINTENDENT, JAILOR, OR AUTHORIZED
PERSON HAVING CUSTODY OF PETITIONER, E.G. PAROLE OFFICER)

Respondent

and

The Attorney General of the State of
California, Additional Respondent.

Civil No.

'26CV2262 RBM BJW

(TO BE FILLED IN BY CLERK OF U.S. DISTRICT COURT)

PETITION FOR WRIT OF HABEAS CORPUS

UNDER 28 U.S.C. § 2241

1. 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: _____

(b) Docket or case number (if you know): _____

(c) Date of sentencing: _____

☒ Being held on immigration charge

☐ Other (explain): _____

2. Are you currently being held on orders by:
☒ Federal authorities ☐ State authorities ☐ Other - explain: _____
3. What are you challenging in this petition:
☐ How your sentence is being carried out, calculated, or credited by prison or parole authorities
☐ Pretrial detention
☒ Immigration detention
☐ Detainer
☐ The validity of your conviction or sentence as imposed
☐ Disciplinary proceedings
☐ Other (specify): _____
4. Provide more information about the decision or action you are challenging:
- (a) Name and location of the court or agency: _____
Clerk of US District Court Southern District of California
- (b) Case number, docket number or opinion number (if you know): _____
- (c) Decision or action you are challenging (for disciplinary proceedings, specify the penalties imposed): _____

- (d) Date of the decision or action: _____
5. Did you appeal the decision, file a grievance or seek an administrative remedy?
☐ Yes ☒ No
- (a) If your answer to 5 was "Yes," give the following information:
- (1) Name of court, agency or authority: _____
- (2) Date of filing: _____
- (3) Case number, docket number or opinion number: _____
- (4) Result: _____
- (5) Date of result: _____
- (6) Issues raised: _____

(b) If your answer to 5 was "No," explain why you did not appeal: _____

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

☐ Yes ☒ No

(a) If your answer to 6 was "Yes," give the following information:

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

(2) Date of filing: _____

(3) Case number, docket number or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If your answer to 5 was "No," explain why you did not appeal: _____

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

☐ Yes ☒ No

(a) If your answer to 7 was "Yes," give the following information:

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

(2) Date of filing: _____

(3) Case number, docket number or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If your answer to 7 was "No," explain why you did not appeal: _____

8. State *concisely* every ground on which you claim that you are being held in violation of the constitution, law or treaties of the United States. Summarize *briefly* the facts supporting each ground. If necessary, you may attach pages stating additional grounds and facts supporting same.

CAUTION: In order to proceed in the federal court, you must ordinarily first exhaust your available court remedies as to each ground on which you request action by the federal court. Moreover, if you fail to set forth all grounds in this petition, you may be barred from presenting additional grounds at a later date.

You should *raise in this petition all available grounds* on which you base your allegations that you are being held in custody unlawfully.

GROUND ONE: I have been granted Deferral of Removal under CAT, and the likelihood of my removal in the near foreseeable future is low. ICE has not provided any justification for my continued custody, even after my Court proceedings were over and the appeal deadlines is past.

(a) **Supporting FACTS** (state *briefly* without citing cases or law) _____

There's no significant likelihood that I'll be removed in the reasonable foreseeable future. I was granted Deferral of Removal under Article 3 of the Convention Against Torture. No alternative country was designated in this Removal Order. My Deferral of Removal status prevents me from being deported to my country of origin, which is the Iraq. Deferral of Removal had not been terminated, and ICE had taken no steps forward effectuating my removal. Even after detaining me for over 5 months ICE still failed to produce evidence of pre-detention determination. ICE have not identified any factual change in circumstance that makes my removal significantly likely in the reasonable foreseeable future. The only permissible avenue for the government to deport me is a removal to a third country, which is historically rare and will more than likely take a significant amount of time. As remedy, I request for my immediate release, an injunction restricting ICE' ability to re-detain and remove me in the future.

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

☐ Yes ☒ No

GROUND TWO: I had entered the country legally and remained in the United States in lawful status the entire time

(a) **Supporting FACTS** (state *briefly* without citing cases or law): _____

I had entered the country legally in March 1993 at the age of 2 with my parents and we were granted
refugee status in August of 1993. I had remained in the country legally and have had maintained the legal
permanent status until its revocation in January 2026, when I was already in custody.

In November 2025 I was pulled over by the Glendale police and taken to Glendale County Jail on the
charges of violating a protective order; charges were dismissed on the same date at the request of my fiancée I
have come into ICE custody from Glendale county jail through an ICE detainer. Soon after Ice initiated the
revocation process for my permanent resident status due to my prior criminal convictions.

I have served the time, completed community supervision and stayed crime-free and employed, stayed out of
prison 3 years and have redeemed myself to the public, and do not present a danger to the community.

On 02/24/2026 the Immigration court has granted my request for CAT- Deferred Action, on the
grounds of my conversion to Christianity and my sexual orientation, which means that I might be admitted
into the country and remain here. Additionally, the likelihood of my removal in the foreseeable future is low.
However, I had remained in ICE custody, even though the government has not appealed the court's decision
and has not provided any further justification for my continued custody.

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

☐ Yes ☐ No

GROUND THREE: My family needs me, and my continued custody is having negative effects on my physical and mental health

(a) **Supporting FACTS** (state *briefly* without citing cases or law): _____

Prior to my detention, my fiancée Dinalee was a stay-at-home mom and was able to take care of our 4 kids while I worked and provided for the entire family. Now she has to work 2 jobs in order to be able to afford rent, bills, food, clothes, schools supplies, and other living expenses on her own for herself and our kids. My oldest son [REDACTED] had to stop attending regular high school and switch to online school in order to be able to babysit his younger sister, our daughter [REDACTED] because their mother has to be at work.

Furthermore, I have asthma and require an access to an inhaler at all times, which the facility medical staff have refused to provide, and only allow it during certain hour. This has already led to a few episodes of emergency, which the facility failed to address immediately. In addition to that, remaining in custody has taken a significant toll on my mental health, leading to a sleep disorder and depression.

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

☐ Yes ☐ No

GROUND FOUR: _____

(a) Supporting FACTS (state *briefly* without citing cases or law): _____

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

☐ Yes ☐ No

9. If any of the grounds listed in 4A, B, C, and D were not previously presented in any other court, state or federal, state briefly what grounds were not presented, and give your reasons for not presenting them:

n/a

10. Do you have any petition or appeal now pending in any court, either state or federal, as to the execution of sentence under attack?

☐ Yes ☒ No

11. Give the name and address, if known, of each attorney who represented you in the following stages of the execution of sentence attacked herein:

(a) In any post-conviction proceeding n/a

(b) On appeal from any adverse ruling in a post-conviction proceeding n/a

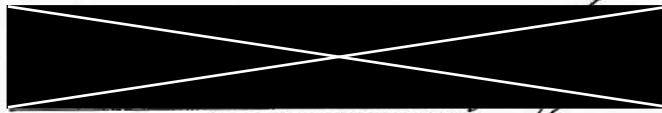
Wherefore, petitioner prays that the Court grant petitioner relief to which he may be entitled in this proceeding.

SIGNATURE OF ATTORNEY (IF ANY)

I declare under penalty of perjury that the foregoing is true and correct. Executed on

4-1-2026

(DATE)



SIGNATURE OF PETITIONER

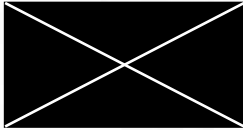


UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMPERIAL IMMIGRATION COURT

Respondent Name:

ALKHAFAJI, WAAD

To:



A-Number:



Riders:

In Removal Proceedings

Initiated by the Department of Homeland Security

Date:

02/24/2026

☐ Unable to forward - no address provided.

- ☒ Attached is a copy of the **decision of the Immigration Judge**. This decision is final unless an appeal is filed with the Board of Immigration Appeals within 30 calendar days of the date of the mailing of this written decision. See the enclosed forms and instructions for properly preparing your appeal. Your notice of appeal, attached documents, and fee or fee waiver request must be mailed to:

Board of Immigration Appeals
Office of the Clerk
P.O. Box 8530
Falls Church, VA 22041

- ☐ Attached is a copy of the decision of the immigration judge as the result of your Failure to Appear at your scheduled deportation or removal hearing. This decision is final unless a Motion to Reopen is filed in accordance with Section 242B(c)(3) of the Immigration and Nationality Act, 8 U.S.C. § 1252B(c)(3) in deportation proceedings or section 240(b)(5)(c), 8 U.S.C. § 1229a(b)(5)(c) in removal proceedings. If you file a motion to reopen, your motion must be filed with this court:

Immigration Court

- ☐ Attached is a copy of the decision of the immigration judge relating to a Reasonable Fear Review. Pursuant to 8 C.F.R. § 1208.31(g)(1), no administrative appeal is available.
- ☐ Attached is a copy of the decision of the immigration judge relating to a **Credible Fear Review**. This is a final order. No appeal is available.
- ☐ Other:

Date: 02/24/2026



Immigration Judge: Nishiyama, Drew 02/24/2026

Certificate of Service

This document was served:

Via: ☐ M] Mail | ☐ P] Personal Service | ☐ E] Electronic Service | ☐ U] Address Unavailable

To: ☐] Alien | ☐] Alien c/o custodial officer | ☐ E] Alien atty/rep. | ☐ E] DHS

Respondent Name : ALKHAFAJI, WAAD | A-Number 

Riders:

Date: 02/24/2026 By: Beltran, Vanessa, Court Staff

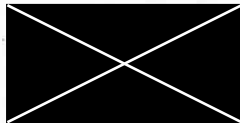


UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMPERIAL IMMIGRATION COURT

Respondent Name:

ALKHAFJI, WAAD

To:



A-Number:



Riders:

In Removal Proceedings

Initiated by the Department of Homeland Security

Date:

02/24/2026

ORDER OF THE IMMIGRATION JUDGE

- ☒ This is a summary of the oral decision entered on 02/24/2026. The oral decision in this case is the official opinion, and the immigration court issued this summary for the convenience of the parties.
- ☐ Both parties waived the issuance of a formal oral decision in this proceeding.

I. Removability

The immigration court found Respondent ☒ removable ☐ inadmissible under the following Section(s) of the Immigration and Nationality Act (INA or Act): as charged in the Notice to Appear.

The immigration court found Respondent ☐ not removable ☐ not inadmissible under the following Section(s) of the Act:

II. Applications for Relief

Respondent's application for:

A. Asylum/Withholding/Convention Against Torture

- ☒ Asylum was ☐ granted ☐ denied ☒ withdrawn with prejudice ☐ withdrawn without prejudice
- ☒ Withholding of Removal under INA § 241(b)(3) was ☐ granted ☐ denied ☒ withdrawn with prejudice ☐ withdrawn without prejudice
- ☒ Withholding of Removal under the Convention Against Torture was ☐ granted ☐ denied ☒ withdrawn with prejudice ☐ withdrawn without prejudice
- ☒ Deferral of Removal under the Convention Against Torture was ☒ granted ☐ denied ☐ withdrawn with prejudice ☐ withdrawn without prejudice
- ☐ Respondent knowingly filed a frivolous application for asylum after notice of the consequences. *See* INA § 208(d)(6); 8 C.F.R. §1208.20

B. Cancellation of Removal

- ☐ Cancellation of Removal for Lawful Permanent Residents under INA § 240A(a) was ☐ granted ☐ denied ☐ withdrawn with prejudice ☐ withdrawn without prejudice
- ☐ Cancellation of Removal for Nonpermanent Residents under INA § 240A(b)(1) was ☐ granted ☐ denied ☐ withdrawn with prejudice ☐ withdrawn without prejudice
- ☐ Special Rule Cancellation of Removal under INA § 240A(b)(2) was ☐ granted ☐ denied ☐ withdrawn with prejudice ☐ withdrawn without prejudice

C. Waiver

- ☐ A waiver under INA § was ☐ granted ☐ denied ☐ withdrawn with prejudice ☐ withdrawn without prejudice

D. Adjustment of Status

- ☐ Adjustment of Status under INA § was ☐ granted ☐ denied ☐ withdrawn with prejudice ☐ withdrawn without prejudice

E. Other

III. Voluntary Departure

- ☐ Respondent's application for ☐ pre-conclusion voluntary departure under INA § 240B(a) ☐ post-conclusion voluntary departure under INA § 240B(b) was ☐ denied.
- ☐ Respondent's application for ☐ pre-conclusion voluntary departure under INA § 240B(a) ☐ post-conclusion voluntary departure under INA § 240B(b) was ☐ granted, and Respondent is ordered to depart by . The respondent must post a \$ bond with DHS within five business days of this order. Failure to post the bond as required or to depart by the required date will result in an alternate order of removal to taking effect immediately.
- ☐ The respondent is subject to the following conditions to ensure his or her timely departure from the United States:
- ☐ Further information regarding voluntary departure has been added to the record.
- ☐ Respondent was advised of the limitation on discretionary relief, the consequences for failure to depart as ordered, the bond posting requirements, and the consequences of filing a post-order motion to reopen or reconsider:

If Respondent fails to voluntarily depart within the time specified or any extensions granted by the DHS, Respondent shall be subject to a civil monetary penalty as provided by relevant statute, regulation, and policy. *See* INA § 240B(d)(1). The immigration court has set

☐ the presumptive civil monetary penalty amount of \$3,000.00 USD

☐ \$ USD instead of the presumptive amount.

If Respondent fails to voluntarily depart within the time specified, the alternate order of removal shall automatically take effect, and Respondent shall be ineligible, for a period of

10 years, for voluntary departure or for relief under sections 240A, 245, 248, and 249 of the Act, to include cancellation of removal, adjustment of status, registry, or change of nonimmigrant status. *Id.* If Respondent files a motion to reopen or reconsider prior to the expiration of the voluntary departure period set forth above, the grant of voluntary departure is automatically terminated; the period allowed for voluntary departure is not stayed, tolled, or extended. If the grant of voluntary departure is automatically terminated upon the filing of such a motion, the penalties for failure to depart under section 240B(d) of the Act shall not apply.

If Respondent appeals this decision, Respondent must provide to the Board of Immigration Appeals (Board), within 30 days of filing an appeal, sufficient proof of having posted the voluntary departure bond. The Board will not reinstate the voluntary departure period in its final order if Respondent does not submit timely proof to the Board that the voluntary departure bond has been posted.

In the case of conversion to a removal order where the alternate order of removal immediately takes effect, where Respondent willfully fails or refuses (1) to depart from the United States pursuant to the immigration court's order, (2) to make timely application in good faith for travel or other documents necessary to depart the United States, (3) to present themselves at the time and place required for removal by the DHS, or (4) conspires to or takes any action designed to prevent or hamper their departure pursuant to the order of removal, Respondent shall be subject to a civil monetary penalty for each day Respondent is in violation, pursuant to INA § 274D and 8 C.F.R. § 280.53(b)(14). If Respondent is removable pursuant to INA § 237(a), then Respondent shall be further fined and/or imprisoned for up to 10 years. See INA § 243(a)(1). Further, any Respondent that has been denied admission to, removed from, or has departed the United States while an order of exclusion, deportation, or removal is outstanding and thereafter enters, attempts to enter, or is at any time found in the United States shall be fined or imprisoned not more than two years, or both. 8 U.S.C. § 1326(a).

IV. Removal

- ☒ Respondent was ordered removed to Iraq
- ☐ In the alternative, Respondent was ordered removed to
- ☐ Respondent was advised of the penalties for failure to depart pursuant to the removal order:

If Respondent is subject to a final order of removal and willfully fails or refuses (1) to depart from the United States pursuant to the immigration court's order, (2) to make timely application in good faith for travel or other documents necessary to depart the United States, (3) to present themselves at the time and place required for removal by the DHS, or (4) conspires to or takes any action designed to prevent or hamper their departure pursuant to the order of removal, Respondent shall be subject to a civil monetary penalty for each day Respondent is in violation, pursuant to INA § 274D and 8 C.F.R. § 280.53(b)(14). If Respondent is removable pursuant to INA § 237(a), then Respondent shall be further fined and/or imprisoned for up to 10 years. See INA § 243(a)(1). Further, any Respondent that has been denied admission to, removed from, or has departed the United States while an order of exclusion, deportation, or removal is outstanding and thereafter enters, attempts to enter, or is at any time found in the United States shall be fined or imprisoned not more than two years, or both. 8 U.S.C. § 1326(a).

V. Other

- ☐ Proceedings were ☐ dismissed ☐ terminated with prejudice
☐ terminated without prejudice ☐ administratively closed.
☐ Respondent's status was rescinded under INA § 246.
☐ Other:

Drew Nishiyama

Immigration Judge: Nishiyama, Drew 02/24/2026

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

Appeal Due: 03/26/2026

Certificate of Service

This document was served:

Via: [M] Mail | [P] Personal Service | [E] Electronic Service | [U] Address Unavailable

To: [] Alien | [] Alien c/o custodial officer | [E] Alien atty/rep. | [E] DHS

Respondent Name : ALKHAFAJI, WAAD | A-Number : 

Riders:

Date: 02/24/2026 By: Beltran, Vanessa, Court Staff

DEPARTMENT OF HOMELAND SECURITY
NOTICE TO APPEAR

DOB: [REDACTED]

Event No: [REDACTED]

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

Subject ID: [REDACTED]

FINS: [REDACTED]

File No: [REDACTED]

In the Matter of:

Respondent: WAAD ALKHAFAJI

currently residing at:

[REDACTED]
(Number, street, city, state and ZIP code)

[REDACTED]
(Area code and phone number)

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

The Department of Homeland Security alleges that you:

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 as a refugee at New York City, NY on or about March 3, 1993;
4. Your status was adjusted to that of a lawful permanent resident (RES) on August 18, 1993;
5. You were, on July 26, 2021, convicted in the Superior Court of Arizona, Maricopa See Continuation Page Made a Part Hereof

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:

See Continuation Page Made a Part Hereof

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

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

3260 N PINAL PKWY AVE, FLORENCE, ARIZONA 85132. FLORENCE, ARIZONA

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

on December 8, 2025 at 8:30 am to show why you should not be removed from the United States based on the
(Date) (Time)

charge(s) set forth above.

KENNETH ESTEPA - SDDO

(Signature and Title of Issuing Officer)

Date: November 25, 2025

FLORENCE, ARIZONA

(City and State)

U.S. Department of Homeland Security

Continuation Page for Form I-862

Alien's Name ALKHAFAJI, WAAD	File Number XXXXXXXXXX	Date 11/10/2025
Event No: XXXXXXXXXX		

THE SERVICE ALLEGES THAT YOU:

County, for the offense of Narcotic Drug Possess for Sale (Case No. CR2020-001511, Count 1), to wit: fentanyl, a felony, in violation of A.R.S. 13-3408(a)(2);

6. You were, on July 26, 2021, convicted in the Superior Court of Arizona, Maricopa County, for the offense of Fraudulent Schemes/Artifices (Case ~~XXXXXXXXXX~~, Count 1 (as amended)), a felony, in violation of A.R.S. 13-2310(a);

7. You were, on July 26, 2021, convicted in the Superior Court of Arizona, Maricopa County, for the offense of Narcotic Drug-Possess/Use (Case ~~XXXXXXXXXX~~, Count 3), to wit: cocaine base or crack cocaine, a felony, in violation of A.R.S. 13-3408(a)(1);

8. You were, on July 26, 2021, convicted in the Superior Court of Arizona, Maricopa County, for the offense of Aggravated Assault-Deadly Wpn/Dang Inst (Case No. ~~XXXXXXXXXX~~, Count 1 (as amended)), a felony, in violation of A.R.S. 13-1204(a)(2);

9. The crimes alleged in allegations 5, 6, and 8 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)(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)(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, a law 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.

Signature
KENNETH ESTEPA

Title
SDDO

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