

*Handwritten initials/signature*

UNITED STATES DISTRICT COURT

EASTERN

District of

NEW YORK

UNITED STATES OF AMERICA

V.

JUDGMENT IN A CRIMINAL CASE

**FILED**

IN CLERK'S OFFICE

U.S. DISTRICT COURT E.D.N.Y.

Ahmad Wais Afzali

★ APR 26 2010 ★

Case Number: CR-09-716(FB)

USM Number: 65027-053

Ronald Kuby, Esq., 119 W. 23 Street, Suite 900, New York,  
NY, 10011

BROOKLYN OFFICE

Defendant's Attorney

**THE DEFENDANT:**

pleaded guilty to count(s) ONE OF THE INDICTMENT.

The defendant is adjudicated guilty of these offenses:

<u>Title &amp; Section</u>	<u>Nature of Offense</u>	<u>Offense</u>	<u>Count</u>
T. 8 U.S.C. 1001	FALSE STATEMENT		1

The defendant is sentenced as provided in pages 2 \_\_\_\_\_ of this judgment. The sentence is imposed the Sentencing Reform Act of 1984.

The defendant has been found not guilty on count(s) \_\_\_\_\_

Count(s) ALL OPEN COUNTS  is  are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

APRIL 15, 2010

Date of Imposition of Judgment

s/Frederic Block

Signature of Judge

HONORABLE FREDERIC BLOCK, U.S.D.J.

Name and Title of Judge

Date

*April 23, 2010*

*4/23/10*

*Handwritten initials/signature*

DEFENDANT: Ahmad Wais Afzali  
CASE NUMBER: CR-09-716(FB)

**IMPRISONMENT**

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of:

TIME SERVED.

The court makes the following recommendations to the Bureau of Prisons:

The defendant is remanded to the custody of the United States Marshal.

The defendant shall surrender to the United States Marshal for this district:

at \_\_\_\_\_  a.m.  p.m. on \_\_\_\_\_

as notified by the United States Marshal.

The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

before 2 p.m. on \_\_\_\_\_

as notified by the United States Marshal.

as notified by the Probation or Pretrial Services Office.

**RETURN**

I have executed this judgment as follows:

Defendant delivered on \_\_\_\_\_ to \_\_\_\_\_

at \_\_\_\_\_, with a certified copy of this judgment.

UNITED STATES MARSHAL

By \_\_\_\_\_  
DEPUTY UNITED STATES MARSHAL

DEFENDANT: Ahmad Wais Afzali  
CASE NUMBER: CR-09-716(FB)

### SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of :

ONE (1) YEAR.

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

- The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. (Check, if applicable.)
- The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)
- The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)
- The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

### STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: Ahmad Wais Afzali  
CASE NUMBER: CR-09-716(FB)

### SPECIAL CONDITIONS OF SUPERVISION

1) THE DEFENDANT SHALL COMPLY WITH THE SELF REMOVAL CLAUSE OUTLINED IN HIS PLEA AGREEMENT. SPECIFICALLY IN PARAGRAPH 1 OF HIS PLEA AGREEMENT WITH THE GOVERNMENT, THE DEFENDANT STIPULATED TO THE ENTRY OF A JUDICIAL ORDER OF REMOVAL (ATTACHED), PURSUANT TO SECTION 238(c) OF THE IMMIGRATION AND NATIONALITY ACT OF 1952, AS AMENDED, 8 U.S.C. SECTION 1228(c)(5) (THE INA), AND WAIVES THE RIGHT TO NOTICE AND A HEARING UNDER THE INA WITH REGARD TO HIS REMOVAL FROM THE U.S.. THE DEFENDANT SPECIFICALLY AGREES TO EXECUTE A PLEA STATEMENT IN SUPPORT OF JUDICIAL REMOVAL PROCEEDINGS. THE PARTIES AGREE THAT UPON COMPLETION OF ANY SENTENCE IMPOSED BY THE COURT, HE WILL HAVE 90 DAYS TO SELF EXECUTE THE REMOVAL ORDER BY DEPARTING THE U.S. ON HIS OWN ACCORD AND AT HIS OWN EXPENSES. THE DEFENDANT CONSENTS TO ELECTRONIC MONITORING DURING THE 90 DAY PERIOD, TO PROVIDE AT LEAST ADVANCE NOTICE OF HIS ARRANGEMENTS TO DEPART THE U.S. AND, ON THE DATE OF HIS DEPARTURE, TO BE ESCORTED TO THE AIRPORT AND ONTO HIS DEPARTING FLIGHT BY A GOVERNMENT OFFICIAL. THE DEFENDANT'S BAIL CONDITIONS ARE MODIFIED, WITH THE CONSENT OF THE GOVERNMENT AND PRE-TRIAL SERVICES AS FOLLOW: (1) PRE-TRIAL SERVICES SHALL RETURN THE DEFENDANT'S EXPIRED PASSPORT FROM AFGHANISTAN; (2) THE DEFENDANT IS PERMITTED TO APPLY FOR A NEW PASSPORT, AND THE DEFENDANT IS PERMITTED TO TRAVEL FOR THE PURPOSE OF SECURING A FUTURE RESIDENCE, VISIT FOREIGN CONSULATES AND EMBASSIES TO APPLY FOR VISAS AND A LIKE.

2) THE DEFENDANT SHALL SUBMIT TO ELECTRONIC MONITORING FOR 90 DAYS BY THE PROBATION DEPARTMENT AND SHALL PAY THE COSTS OF SUCH MONITORING, AND

3) THE DEFENDANT SHALL NOT ILLEGALLY RE-ENTER THE U.S., ONCE DEPORTED.

DEFENDANT: Ahmad Wais Afzali  
CASE NUMBER: CR-09-716(FB)

**CRIMINAL MONETARY PENALTIES**

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
<b>TOTALS</b>	\$ 100.00	\$ 00.00	\$ 00.00

The determination of restitution is deferred until \_\_\_\_\_. An *Amended Judgment in a Criminal Case* (AO 245C) will be entered after such determination.

The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
----------------------	--------------------	----------------------------	-------------------------------

<b>TOTALS</b>	\$ _____	\$ _____
---------------	----------	----------

Restitution amount ordered pursuant to plea agreement \$ \_\_\_\_\_

The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

The court determined that the defendant does not have the ability to pay interest and it is ordered that:

the interest requirement is waived for the  fine  restitution.

the interest requirement for the  fine  restitution is modified as follows:

\* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

0  
DTF

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

----- X

UNITED STATES OF AMERICA

- against -

AHMAD WAIS AFZALI,

Defendant.

----- X

ORDER OF JUDICIAL  
REMOVAL

09-CR-716 (FB)

**FILED**  
IN CLERK'S OFFICE  
U.S. DISTRICT COURT E.D.N.Y.  
★ APR 26 2010 ★  
BROOKLYN OFFICE

Upon application of the United States of America, by Berit Berger, Assistant United States Attorney, Eastern District of New York; upon the Factual Allegations in Support of Judicial Removal; upon the consent of Ahmad Wais Afzali ("the defendant"); and upon all prior proceedings and submissions in this matter; and full consideration having been given to the matter set forth herein, the Court finds:

1. The defendant is not a citizen or national of the United States.
2. The defendant is a native and citizen of Afghanistan.
3. The defendant was paroled into the United States on or about May 10, 1981, and on October 2, 1989, his status was adjusted to that of a lawful permanent resident of the United States.
4. On March 16, 1993, the defendant was convicted in the Supreme Court of New York, Queens County, of the offense of attempted sexual abuse in the first degree, in violation of sections 110 and 130.65 of the New York Penal Law.
5. At the time of sentencing in the instant criminal proceeding, the defendant will be convicted in this Court of the offense of knowingly and willfully, in a matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United

States, making a materially false, fictitious, or fraudulent statement, in violation of 18 U.S.C. § 1001.

6. A maximum sentence of five-years imprisonment may be imposed for a violation of this offense.

7. At sentencing, the defendant will be subject to removal under section 237(a)(2)(A)(ii) of the Immigration and Nationality Act of 1952, as amended (“INA”), 8 U.S.C. § 1227(a)(2)(A)(ii), as an alien who, at any time after admission, is convicted of two or more crimes involving moral turpitude, not arising out of a single scheme of misconduct.

8. The defendant has waived his right to notice and a hearing under section 238(c) of the INA, 8 U.S.C. § 1228(c).

9. The defendant has waived the opportunity to pursue any and all forms of relief and protection from removal.

10. The defendant has designated Afghanistan as the country for removal pursuant to section 240(d) of the INA, 8 U.S.C. § 1229a(d).

WHEREFORE, IT IS HEREBY ORDERED that:

1. Pursuant to section 238(c) of the INA, 8 U.S.C. § 1228(c), the defendant shall be removed from the United States to Afghanistan.

2. United States Immigration and Customs Enforcement (“ICE”) shall not take the defendant into its physical custody pursuant to the removal order for a 90-day period beginning upon the date of the completion of the defendant’s criminal sentence.

3. Within the 90-day period beginning upon the date of completion of the defendant’s criminal sentence, the defendant shall self-execute the removal order by departing the United States on his own accord, at his own expense, and to a country of his own choosing.

4. No later than 10 days prior to his intended departure within the 90-day period beginning upon the date of completion of the defendant's criminal sentence, the defendant shall notify ICE, of the date, time, and place of his intended departure from the United States so that an ICE official may be present to witness and document the defendant's departure.

5. The defendant shall be electronically monitored by the United States Department of Probation or the United States Marshals Service ("USMS") during the period beginning upon the date of completion of the defendant's criminal sentence until his departure from the United States within 90 days thereafter. On the date of the defendant's departure, he shall be escorted, by an official of ICE and/or the USMS, to the airport and onto his departing flight.

6. In the event that the defendant does not depart the United States on his own accord and at his own expense within the 90-day period beginning upon the date of completion of the defendant's criminal sentence, ICE shall immediately thereafter take the defendant into its physical custody pursuant to the removal order and remove the defendant from the United States to Afghanistan.

7. In the event that the defendant does not depart the United States on his own accord within the above stated 90-day period, the defendant will provide all necessary travel documents or other documents to obtain travel documents to ICE to effectuate removal to Afghanistan.



8. The defendant's pre-sentence criminal bail will be continued and applied during the 90-day period after completion of his criminal sentence as a condition of his post-sentence supervised release, and ICE may impose further conditions pursuant to its deferred action decision for the defendant during the 90-day period beginning upon completion of his criminal sentencing.

Dated: Brooklyn, New York  
April 15, 2010

s/Frederic Block  
\_\_\_\_\_  
HONORABLE FREDERIC BLOCK  
UNITED STATES DISTRICT JUDGE