

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<b>UNITED STATES OF AMERICA</b>	:	<b>CRIMINAL NO: 04-426</b>	<i>18</i>
<b>v.</b>	:	<b>JOINT MOTION FOR A</b>	
<b>HAYATULLAH DAWARI</b>	:	<b>JUDICIAL ORDER OF REMOVAL</b>	

Defendant Hayatullah Dawari, in his own right and by his counsel, Nino V. Tinari, and the United States of America, by its attorneys, Zane David Memeger, United States Attorney for the Eastern District of Pennsylvania, and Jennifer Arbittier Williams, Assistant United States Attorney, together jointly move for a Judicial Order of Removal, and in support thereof hereby agree and stipulate pursuant to section 238(c)(5) of the Immigration and Nationality Act (INA), 8 U.S.C. §1228(c)(5), to the following:

1. The defendant, after consultation with counsel, knowingly and voluntarily waives his right to the notice and hearing requirements provided for in Section 238(a)(c)(2) of the INA, 8 U.S.C. § 1228(c)(2), and further waives any and all rights to appeal, reopen, reconsider, or otherwise challenge the stipulated removal order entered by this Court.

2. The defendant further understands and knowingly waives his right to a hearing before an immigration judge or any other authority under the INA, on the question of the defendant's removability from the United States. The defendant understands the rights he would possess in a contested removal proceeding and waives these rights, including his right to examine the evidence against him, to present evidence on his behalf, and to cross-examine the witnesses presented by the government.

3. The defendant also understands and knowingly waives his rights to any and all forms of relief or protection from removal, deportation, or exclusion under the INA and related

federal regulations. These rights include, but are not limited to, the ability to apply for asylum; withholding of removal under section 241(b)(3) of the INA, 8 U.S.C. § 1231(b)(3); protection from removal pursuant to Article 3 of the United Nations Convention Against Torture, including withholding or deferral of removal under 8 C.F.R. § 208; or any other possible relief or protection from removal available under the Constitution, laws or treaty obligations of the United States.

4. The defendant and the United States request that this Court enter an order finding the defendant removable from the United States, pursuant to Section 237(a)(2)(A)(iii) of the INA, 8 U.S.C. § 1227(a)(2)(A)(iii), as an alien who, any time after admission, has been convicted of an aggravated felony. The defendant and the United States further request that this Court order the defendant removed to Afghanistan, or to any other country prescribed by the immigration laws and regulations of the United States.

5. The facts in support of this request are as follows:

- a. The defendant is not a citizen or national of the United States.
- b. The defendant is a native and citizen of Afghanistan.
- c. The defendant was admitted to the United States as a lawful permanent resident on or about November 11, 2008.
- d. On or about November 26, 2013, the defendant filed an application for United States citizenship through the submission of the Form N-400, Application for Naturalization, with U.S. Citizenship and Immigration Services.
- e. On his Form N-400, the defendant certified “under penalty of perjury under the laws of the United States of America” that his N-400 application, and the evidence submitted with it, were all true and correct.

f. Despite his certification under penalty of perjury, the defendant provided a materially false, misleading, and fraudulent response to question 8a on his Form N-400, when he failed to disclose his relationship with Hezb-e-Islami Gulbuddin (now known to be an anti-Western insurgent group) when he was a doctor in Afghanistan in 1984-1985.

g. The defendant is entering into these stipulation and submitting this joint motion as a condition of his plea agreement, in which he agrees to plead guilty to violating Title 18, United States Code, Sections 1425(a) (naturalization fraud) and 1546(a) (fraud in an immigration document). As part of his plea agreement and this joint motion, the defendant further agrees to be sentenced to a 24-month suspended term of imprisonment.

h. At the time of sentencing in the instant criminal proceeding, the defendant concedes he will be subject to removal from the United States pursuant to Section 237(a)(2)(A)(iii) of the INA, 8 U.S.C. § 1227(a)(2)(A)(iii), as an alien convicted of an aggravated felony. Specifically, the defendant admits his conviction in violation of Title 18, United States Code, § 1546(a) constitutes an aggravated felony, as defined under Section 101(a)(43)(P) of the INA, 8 U.S.C. §1101(a)(43)(P), relating to document fraud.

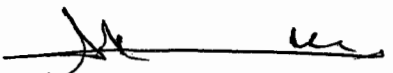
i. The defendant understands and acknowledges that upon this Court's issuance of an order of removal, he will no longer retain his status as a lawful permanent resident.

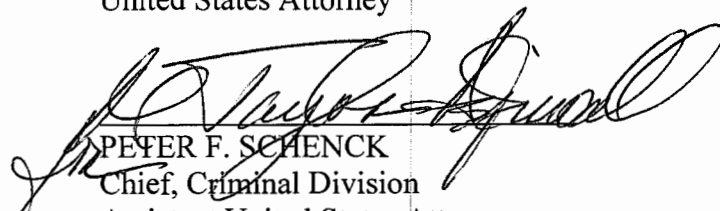
j. The defendant knowingly admits that he has not been persecuted in, and has no present fear of persecution in, Afghanistan on account of his race, religion, nationality, membership in a particular social group, or political opinion. Similarly, the defendant knowingly admits that he has not been tortured in, and has no present fear of torture in Afghanistan.

6. Accordingly, the defendant and the United States jointly request that the Court, after imposing a sentence, order the defendant removed from the United States to Afghanistan, or to any other country prescribed by the immigration laws and regulations of the United States. Upon the defendant's satisfaction of his sentence, U.S. Immigration and Customs Enforcement will execute the order of removal in accordance with applicable laws and regulations.


7. The defendant and his counsel have read the instant Joint Motion for a Judicial Order of Removal in its entirety and have carefully discussed the information contained herein. Counsel has clearly advised the defendant of his rights, possible defenses, and the immigration consequences of entering into this motion. The defendant is satisfied with the representation of his counsel in this matter. And the defendant knowingly and voluntarily agrees to the terms of this motion.

ZANE DAVID MEMEGER  
United States Attorney

  
HAYATULLAH DAWARI  
Defendant

  
PETER F. SCHENCK  
Chief, Criminal Division  
Assistant United States Attorney

  
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JENNIFER ARBITTIER WILLIAMS  
Assistant United States Attorney

Date: 9-18-14