

No. 18-1432

In the Supreme Court of the United States

NIDAL KHALID NASRALLAH,

Petitioner,

v.

WILLIAM P. BARR, ATTORNEY GENERAL,

Respondent.

**On Writ of Certiorari to the United States
Court of Appeals for the Eleventh Circuit**

JOINT APPENDIX

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Relevant Docket Entries

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

NIDAL KHALID NASRALLAH,
Petitioner,

v.

WILLIAM P. BARR, ATTORNEY GENERAL,
Respondent

No. 17-13105

| <u>DATE</u> | <u>DESCRIPTION</u> |
|-------------|--|
| 07/11/2017 | IMMIGRATION CASE DOCKETED. * * * |
| 07/25/2017 | IMMIGRATION RECORD FILED. * * * |
| 09/26/2017 | STAY OF REMOVAL GRANTED. * * * |
| 10/05/2017 | APPELLANT'S BRIEF FILED. * * * |
| 12/06/2017 | APPELLEE'S BRIEF FILED. * * * |
| 11/09/2018 | ORAL ARGUMENT HELD. |

* * *

02/14/2019

UNPUBLISHED OPINION
FILED.

02/14/2019

JUDGMENT ENTERED AND
FILED.

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

| | | |
|---------------------------------|---|------------------------------|
| UNITED STATES OF AMERICA |) | DOCKET NO. |
| |) | |
| v. |) | <u>BILL OF INDICTMENT</u> |
| |) | |
| NIDAL KHALED NASRALLAH |) | Violation: 18 U.S.C §2315 |
| |) | 18 U.S.C §21 |
| a/k/a “MIKE NASRALLAH” _____ |) | |

THE GRAND JURY CHARGES:

INTRODUCTION

1. Beginning no later than December 9., 2010, and continuing to the present, -in Mecklenburg Country, in the Western District of North Carolina and elsewhere, NIDAL KHALED NASRALLAH, defendant herein, did, receive at least two-hundred and seventy-three (273) cases of a combination of Native and Philip Morris cigarettes he believed to have been stolen and taken by fraud by persons in the state of New York and Virginia, but who, unknown to the defendant, were in fact undercover law enforcement officers (hereinafter “UCs”). The defendant purchased the cigarettes at prices far below their wholesale price. The defendant paid the UCs over \$387,600 dollars in cash for the purportedly stolen cigarettes, which such prices were far below their wholesale price.

2. Native cigarettes are manufactured at the Mohawk Nation Territory in the State of New York. Philip Morris manufactures its cigarettes in Virginia. Once

produced, the individual cigarettes are packaged into packs of twenty cigarettes” each. Ten packs are then added together to make a carton of cigarettes. The cartons are then packaged into cases of sixty cartons each, which are referred to as a case of cigarettes.

3. Cigarette wholesalers obtain cigarettes from warehouses. Retailers purchase their cigarettes from wholesalers.

4. In and around November 2010; federal law enforcement authorities learned that NASRALLAH was interested in purchasing cigarettes at prices far below market wholesale value for resale in local stores in and around North Carolina. In 2010, the illegal sale of cigarettes was a recognized law enforcement problem because criminal organizations were known to obtain cigarettes by theft and fraud, including hijacking tractor trailer loads of cigarettes. The stolen cigarettes would then be sold to retailers at a considerable discount and then sold to consumers for huge profits.

5. In December 2010, a UC told NASRALLAH that he could sell him eight cases of stolen cigarettes for \$8,640. The UC explained to NASRALLAH that he acquired the cigarettes by “ripping” them – meaning stealing them from trucks in New York. NASRALLAH understood that the cigarettes stolen from New York would be transported across state lines into North into North Carolina.

6. On or about December 9, 2010, the UCs sold NASRALLAH eight cases of “stolen” Native cigarettes in Pineville, North Carolina, for \$8,640 in cash, which is 80% of the market wholesale price of the cigarettes. NASRALLAH asked the UC whether he would be able to get more cigarettes the next time.

7. On or about December 28, 2010, the UC sold NASRALLAH ten cases of “stolen” Native cigarettes in Charlotte, North Carolina, for \$10,800 in cash, which is 80% of the market wholesale price of the cigarettes. The UC told NASRALLAH that the cigarettes he was purchasing were stolen from New York, NASRALLAH asked about purchasing Marlboro (Philip Morris) cigarettes which were also in the van but not sold to NASRALLAH. The UC told NASRALLAH that he would sell a case of “stolen” Phillip Morris cigarettes for \$1,500. NASRALLAH indicated that he would purchase the cigarettes if the UC could obtain more.

8. On or about January 13, 2011, the UC sold NASRALLAH twelve cases of “stolen” cigarettes in Pineville, North Carolina, for \$13,800 in cash, which is approximately a little less than 50% of the market wholesale price of the cigarettes. The UC told NASRALLAH that the five cases of Native Full Flavor King Soft and five cases of Native Full Flavor 100 Soft cigarettes he was purchasing were stolen from New York. The UC told NASRALLAH that the two Marlboro Gold cases were stolen from Virginia. After the deal, NASRALLAH advised that he could purchase thirty to forty cases of cigarettes in future deals.

9. On or about January 21; 2011, the UC advised NASRALLAH in a phone conversation that they “hit” (meaning robbed) a truck carrying cigarettes in Virginia and were going to let the shipment sit for a week or so to “cool off”. The UC told NASRALLAH it would take probably two weeks until they would be able to get the truck down to North Carolina and break down the load. The UC told NASRALLAH that he should have at least a pallet of Philip Morris cigarettes for him and maybe a little more.

10. On or about February 4, 2011, the UC sold NASRALLAH forty-one cases of “stolen” cigarettes in Charlotte, North Carolina, for \$58,980 in cash. The cases included six cases of Native cigarettes and 35 cases of Philip Morris cigarettes. After NASRALLAH provided the payment to the UC, the UC told NASRALLAH that they caught a little “heat” up in Virginia and that these cigarettes were stolen from a truck in Virginia. NASRALLAH advised that he could purchase fifty cases at a time.

11. On or about February 9, 2011, the UC advised NASRALLAH in a phone conversation that he did not have any product available this week. The UC told NASRALLAH that it would be a couple of weeks before product became available because they were going to try to hit a large truck and steal a couple hundred cases out of Virginia. The UC stated that he would call NASRALLAH when he had product to sell.

12. On or about March 2, 2011; the UC told NASRALLAH in a phone conversation that he got a good “lick” and got about four hundred cases of Phillip Morris cigarettes on a tuck. The UC told NASRALLAH he was willing to sell him half of the cigarettes, NASRALLAH said he would check with his people and call the UC in a couple of days.

13. On or about March 11, 2011, the UC sold to NASRALLAH nine cases of “stolen” Native cigarettes in Pineville, NC, for \$9,720 in cash. After the deal, NASRALLAH told the UC that he could purchase sixty-seven cases of cigarettes. The parties agreed to a deal for sixty-seven cases of cigarettes later in the month.

14. On or about April 7, 2011, the UC sold to NASRALLAH sixty-seven cases of “stolen” Philip Morris cigarettes in Pineville, North Carolina, for \$100,500 in cash, which is approximately 62.846% of the market wholesale price of the cigarettes. During the deal, the UC told NASRALLAH that when they “hit” a truck they do not know how many cigarettes are going to be in there. The UC also provided NASRALLAH with a 32-inch flat screen HDTV. The UC told NASRALLAH that they do not just get cigarettes and that his “boys” also hit a UPS truck. The UC advised NASRALLAH not to pawn the HDTV.

15. On or about July 29, 2011, the UC sold to NASRALLAH one-hundred and two cases of “stolen” Philip Morris cigarettes in Pineville, NC, for \$149,000 in cash. During the deal, the UC told NASRALLAH that he and his crew had some trouble in Virginia when they broke into a storage facility to steal the cigarettes and a security guard shot at them. The UC explained that he reduced the price of two of the cases since they were damaged by bullet holes. The UC told NASRALLAH that ten to twelve cases were damaged by bullets in total, but that NASRALLAH would only receive two damaged cases. The UC stated to NASRALLAH that they also stole a truck carrying cigarettes in Virginia, but they had to leave it there because they felt they were being watched. The UC told NASRALLAH he was holding an extra twenty cases of “stolen” cigarettes to sell tot NASRALLAH early next week.

16. On or about August 3, 2011, the UC sold to NASRALLAH twenty-four cases of “stolen” Philip Morris cigarettes in Charlotte, NC, for \$36,000 in cash. That day, the UC told NASRALLAH that they were

getting too much “heat” in Virginia and were going to get cigarettes from another State.

COUNTS ONE through EIGHT

17. Paragraphs 1 through 16 of the Introduction to this Bill of Indictment are hereby realleged and incorporated into Counts One through Eight by reference herein.

18. On or about the dates listed below for each of Counts One through Eight, in the Western District of North Carolina and elsewhere, the defendant,

**NIDAL KHALED NASRALLAH,
a/k/a “MIKE NASRALLAH,”**

did receive, possess, conceal, store, barter, sell, and dispose of certain goods he then believed to have been stolen based on the representation of an undercover law enforcement agent, that is Native and/or Philip Morris cigarettes, of a value of \$5,000 or more which goods they believed had crossed a State boundary after having been represented as stolen, said goods represented as being in or near the Mohawk Nation Territory in the State of New York or Richmond, Virginia on a date preceding the date alleged in each of Counts One through Eight and subsequently brought into the State of North Carolina, believing the same to have been stolen.

| COUNTS | Date Received | LOCATION RECEIVED | No. of CASES | Wholesale Value |
|--------|---------------|-------------------|------------------------------|------------------------|
| ONE | 12/9/2010 | Pineville, NC | Native 8 | \$10,800 |
| TWO | 12/28/2010 | Charlotte, NC | Native 108 | \$13,500 |
| THREE | 1/13/2011 | Pineville, NC | Naive 10 Phillip Morris 2 | \$13,500 \$4,540.80 |

| | | | | |
|-------|-----------|------------------|---------------------------------|---------------------|
| FOUR | 2/4/2011 | Charlotte, NC | Naive 6 Phillip Morris 35 | \$8,100 \$79,464 |
| FIVE | 3/11/2011 | Charlotte, NC | Native 9 | \$12,150 |
| SIX | 4/7/2011 | Pineville, NC | Phillip Morris 67 | \$152,116.80 |
| SEVEN | 7/29/2011 | Pineville, NC | Phillip Morris 102 | \$237,088.80 |
| EIGHT | 8/3/2011 | Pineville, NC | Phillip Morris 24 | \$55,785.60 |

All in violation of Title 18, United States Code, Sections 2315 and 21.

**NOTICE OF FORFEITURE AND FINDING OF
PROBABLE CAUSE**

1. Notice is hereby given of the provisions of 18 U.S.C. §§ 981 and 982, 21 U.S.C § 853, and 28 U.S.C. § 2461(c). Under section 2641, criminal forfeiture is applicable to any offenses for which forfeiture is authorized by any other statute, including but not limited to 18 U.S.C. § 981 and all specified unlawful activities listed or referenced in 18 U.S.C. § 1956(c)(7), which are incorporated as to proceeds by section 981(a)(1)(C). The defendants have or had a possessory or legal interest in the following property that is subject to forfeiture in accordance with sections 981, 982, 853, and/or 2461(c):

- a. all property which constitutes or is derived from proceeds traceable to the violations alleged in this Bill of Indictment;
- b. all property involved in the violations alleged in this Bill of Indictment;

- c. all property used or intended to be used commit the violations alleged in this Bill of Indictment;
- d. in the event that any property described in (a), (b), or (c) cannot be located or recovered or has been substantially, diminished in value or has been commingled with other property which cannot be divided without difficulty, all other property of the defendants, to the extent of the value of the property described in (a), (b), and (c).

2. The Grand Jury finds probable cause to believe that the following properties are subject to forfeiture on one or more of the grounds Stated above:

- a. all currency and monetary instruments constituting or derived from proceeds traceable to the offenses alleged in this Bill of Indictment, including but not limited to the sum of approximately \$587,096 as a forfeiture money judgment; and
- b. \$49,340 attributable to the purchase of 45 cases of cigarettes.

A TRUE BILL:

ANNE M. TOMPKINS
UNITED STATES ATTORNEY

[handwritten signature]
JENNIFER LYNN DILLON
ASSISTANT UNITED STATES ATTORNEY

UNITED STATES DISTRICT COURT
Western District of North Carolina

| | |
|-----------------------------|--------------------------------|
| UNITED STATES OF AMERICA | JUDGMENT IN A CRIMINAL CASE |
| |) (For Offenses Commit- |
| v. |) ted On or After Novem- |
| |) ber 1, 1987) |
| |) |
| Nidal Khaled Nasrallah |) Case Number: |
| | DNCW311CR00358-001 |
| |) USM Number: 26882- |
| | 058 |
| |) |
| |) Eben T Rawls III |
| |) Defendant's Attorney |

THE DEFENDANT:

- Plead guilty to count(s) 6 & 7.
- Plead nolo contendere to count(s) which was accepted by the court.
- Was found guilty on count(s) after a plea of not guilty.

ACCORDINGLY, the court has adjudicated that the defendant is guilty of the following offense(s):

| Title and Section | Nature of Offense | Date Offense Concluded | Counts |
|----------------------|--|------------------------------|--------|
| 18:2315 and 18:21 | Receiving Property Stolen in Interstate Commerce | 04/07/2011 | 6 |
| 18:2315 and 18:21 | Receiving Property Stolen in Interstate Commerce | 07/29/2011 | 7 |

The Defendant is sentenced as provided in pages 2 through 6 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984, United States v. Booker, 125 Ct. 738 (2005), and 18 U.S.C. § 3553(a).

- The defendant has been found not guilty on count(s).
- Count(s) 1 – 5 & 8 (is)(are) dismissed on the motion of the United States.

IT IS ORDERED that the Defendant shall 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 monetary penalties, the defendant shall notify the court and United States attorney of any material change in the defendant's economic circumstances.

Date of Imposition of Sentence: 7/20/2013

[handwritten signature]

Frank D. Whitney
Chief United States District Judge

Date: August 12, 2013

I hereby certify that this record of conviction was received electronically from the court's record repository.

| | |
|--------------------------------|----------------|
| <u>[handwritten signature]</u> | <u>6-16-15</u> |
| Name, Title | Date |

Defendant Nidal Khaled Nasrallah
Case Number: DNCW311CR00358-001

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of Counts 6 & 7: TWELVE (12) MONTHS each count to run concurrently.

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

- Participation in any available educational and vocational opportunities.
- Placed in a facility as close to Charlotte, NC as possible, consistent with the needs of BOP.

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

The Defendant shall surrender to the United States Marshal for this District:

As notified by the United States Marshal.

At_ on_

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

As notified by the United States Marshal.

Before 2 p.m. on 6/30/2014 but not before 6/01/2014.

As notified by the Probation 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 Marshal

Defendant Nidal Khaled Nasrallah
Case Number: DNCW311CR00358-001

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of Counts 6 & 7: ONE (1) YEAR each count to run concurrently.

The condition for mandatory drug testing is suspended based on the court's determination that the defendant poses a low risk of future substance abuse.

STANDARD CONDITIONS OF SUPERVISION

The defendant shall comply with the standard conditions that have been adopted by this court and any additional conditions ordered.

1. The defendant shall not commit another federal, state, or local crime.
2. The defendant shall refrain from possessing a firearm, destructive device, or other dangerous weapon.
3. The defendant shall pay any financial obligation imposed by this judgment remaining unpaid as of the commencement of the sentence of probation or the term of supervised release on a schedule to be established by the Court.
4. The defendant shall provide access to any personal or business-financial information as requested by the probation officer.
5. The defendant shall not acquire any new lines of credit unless authorized to do so in advance by the probation officer.
6. The defendant shall not leave the Western District of North Carolina without the permission of the Court or probation officer.

7. The defendant shall report to the probation officer in a manner and frequency directed by the court or probation officer.
8. A defendant on supervised release shall report in person to the probation officer in the district to which he or she is released within 72 hours of release from custody of the Bureau of Prisons.
9. The defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer.
10. The defendant shall support his or her dependents and meet other family responsibilities.
11. The defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other activities authorized by the probation officer.
12. The defendant shall notify the probation officer within 72 hours of any change in residence or employment.
13. The defendant shall refrain from excessive use of alcohol and shall not unlawfully purchase, possess, use, distribute or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as duly prescribed by a licensed physician.
14. The defendant shall participate in a program of testing and treatment of both substance abuse if directed to do so by the probation officer, until such time as the defendant is released from the program by the probation officer; provided, however, that defendant shall submit to drug test within 15 days of release on probation or supervised release and at least two periodic drug tests thereafter for use of any controlled substance, subject to the provisions of 18:3563(a)(5) or 18:3583(d), respectively, The de-

fendant shall refrain from obstructing or attempting to obstruct in any fashion, with the efficiency and accuracy of any prohibited substance testing or monitoring which is (are) required as a condition of supervision.

15. The defendant shall not frequent places where controlled substances are illegally sold, Used, distributed, or administered.
16. 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.
17. The defendant shall submit his person, residence, office, vehicle and/or any computer system, including computer data storage media, or any electronic device capable of storing, retrieving, and/or accessing data to which they have access or control, to a search, from time to time, conducted by any U.S. Probation Officer and such other law enforcement personnel as the probation officer may deem advisable, without a warrant. The defendant shall warn other residents or occupants that such premises or vehicle may be subject to searches pursuant to this condition.
18. 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 by the probation officer.
19. The defendant shall notify the probation officer within 72 hours of defendants being arrested or questioned by a law enforcement officer.
20. 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.

21. 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.
22. If the instant offense was committed on or after 4/24/96, the defendant shall notify the probation officer of any material changes in defendant's economic circumstances which may affect the defendant's ability to pay any monetary penalty.
23. If home confinement (home detention, home incarceration or curfew) is included you may be required to pay all or part of the cost of the electronic monitoring or other location verification system program based upon your ability to pay as determined by the probation officer.
24. The defendant shall cooperate in the collection of DNA as directed by the probation officer.
25. The defendant shall participate in transitional support services under the guidance and supervision of the U.S. Probation Officer. The defendant shall remain in the services until satisfactorily discharged by the service provider and/or with the approval of the U.S. Probation Officer.

ADDITIONAL CONDITIONS:

28. The defendant shall surrender to a duly authorized immigration official for deportation.
27. If ordered deported the defendant shall remain outside the U.S.

Defendant Nidal Khaled Nasrallah
Case Number: DNCW311CR00358-001

CRIMINAL MONETARY PENALTIES

The defendant shall pay the following total criminal monetary penalties in accordance with the Schedule of Payments.

| ASSESSMENT | FINE | RESTITUTION |
|------------|--------|-------------|
| \$200.00 | \$0.00 | \$0.00 |

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

FINE

The defendant shall pay interest on any fine or restitution of more than \$2,500.00, unless the fine or restitution is paid in full before the fifteenth day after the date of judgment, pursuant to 18 U.S.C. § 3812(f). All of the payment options on the Schedule of Payments may be subject to penalties for default and delinquency pursuant to 18 U.S.C. § 3612(g).

- The court has determined that the defendant does not have the ability to pay interest and it is ordered that:
- The interest requirement is waived.
- The interest requirement is modified as follows:

COURT APPOINTED COUNSEL FEES

- The defendant shall pay court appointed counsel fees.
- The defendant shall pay \$0.00 towards court appointed fees.

Defendant Nidal Khaled Nasrallah
Case Number: DNCW311CR00358-001

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties shall be due as follows:

- A Lump sum payment of \$0.00 due immediately, balance due
 Not later than _____
 In accordance (C), (D) below; or
- B Payment to begin immediately (may be combined with (C), (D) below; or
- C Payment in equal Monthly (E.g. weekly, monthly, quarterly) installments of \$50.00 to commence 60 (E.g. 30 or 60) days after the date of this judgment; or
- D Payment in equal Monthly (E.g. weekly, monthly, quarterly) installments of \$50.00 to commence 60 (E.g. 30 or 60) days after release from imprisonment to a term of supervision. In the event the entire amount of criminal monetary penalties imposed if not paid Prior to the commencement of supervision, the U.S. Probation Officer shall pursue collection of the amount due, and may request the court to establish or modify a payment schedule if appropriate 18 U.S.C. § 3572.

Special instructions regarding the payment of criminal monetary penalties:

- The defendant shall pay the cost of prosecution.
- The defendant shall pay the following court costs:

The defendant shall forfeit the defendant's interest in the following property to the United States as set forth in the Consent Order document #19 entered 9/12/2012.

Unless the court has expressly ordered otherwise in the special instructions above, if this judgment imposes a period of imprisonment payment of criminal monetary penalties shall be due during the period of imprisonment. All criminal monetary penalty payments are to be made to the United States District Court Clerk, 401 West Trade Street, Room 210, Charlotte, NC 28202, except those payments made through the Bureau of Prisons' Inmate Financial Responsibility Program. All criminal monetary penalty payments are to be made as directed by the court.

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.

Defendant Nidal Khaled Nasrallah
Case Number: DNCW311CR00358-001

STATEMENT OF ACKNOWLEDGEMENT

I understand that my term of supervision for a period of _____ months, commencing on _____.

Upon a finding of a violation of probation or supervised release, I Understand that the court may (1) revoke supervision, (2) extend the term of supervision, and/or (3) modify the conditions of supervision.

I understand that revocation of probation and supervised release is mandatory for possession of a controlled substance, possession of a firearm and/or refusal to comply with drug testing.

These conditions have been read to me. I fully understand the conditions and have been provided a copy of them.

(Signed) _____ Date: _____
Defendant

(Signed) _____ Date: _____
U.S. Probation Office
/Designated Witness

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:15-cv-351-FDW
(3:11-cr-358-FDW-1)

NIDAL KHALED
NASRALLAH,)
)
 Petitioner,)
)
 v.) ORDER
)
 UNITED STATES OF)
 AMERICA,)
)
 Respondent,)
 _____)

THIS MATTER is before the Court on Petitioner’s Motion to Vacate, Set Aside, or Correct Sentence filed under 28 U.S.C. § 2255. (Doc. No. 1). Petitioner informs the Court that the Government does not oppose the motion to vacate and the Government farther concedes that Petitioner is entitled to the relief as requested in the motion to vacate.

IT IS THEREFORE ORDERED that:

- (1) Petitioner’s Motion to Vacate is hereby GRANTED, and the Judgment’s hereby amended, nunc pro tunc, to sentence Petitioner to 364 days of imprisonment on each of Counts 6 and 7, with each count to run concurrently. All other terms of the original judgment shall remain intact.

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Signed: August 5, 2015

[handwritten signature]
Frank D. Whitney
Chief United States District
Judge

U.S. Department of Homeland Security **Additional Charges of Inadmissibility /Deportability**
Immigration and Customs Enforcement

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

Deportation proceedings commenced prior to April 1, 1997 under former section 242 of the Immigration and Nationality Act

In the Matter of:

Alien/Respondent: Nidal Khalid Nasrallah

File No: A 089 427 907 Address: Stewart Detention Center, 146 CCA Road, Lumpkin, Georgia, 31815

- 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.

There is submitted the following factual allegation(s) in addition to in lieu of those set forth in the original charging document:

1. You are not a citizen or national of the United States;
2. You are a native of Lebanon and a citizen of Lebanon;
3. You were admitted to the United States at Atlanta, Georgia on or about July 24, 2006 as a temporary for pleasure (B-2);

4. Your status was adjusted to that of a lawful permanent resident (IR-7) on July 19, 2007 under section 245 of the Act;
5. You were, on July 30, 2013, convicted in the United States District Court, Western District of North Carolina for the offense Receiving Property Stolen in Interstate Commerce, an offense that concluded on April 7, 2011, in violation of 18 USC 2315 and 18 USC 21.
6. You were, on July 30, 2013, convicted in the United States District Court, Western District of North Carolina for the offense Receiving Property Stolen in Interstate Commerce, an offense that concluded on July 29, 2011, in violation of 18 USC 2315 and 18 USC 21.
7. For each of those offenses, you were sentenced to imprisonment for 364 days, to run concurrently.

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)(i) of the Immigration and Nationality Act, as amended, in that you have been convicted of a crime involving moral turpitude committed within five years after admission for which a sentence of one year or longer may be imposed.

Date September 4, 2015 [handwritten signature]
(Signature of ICE Counsel)

Notice to Respondent

Warning: Any statement you make may be used against you in removal proceedings.

Alien registration: This copy of the Notice to Appear served upon you is evidence of your alien registration while you are under removal proceedings. You are required to carry it with you at all times.

Representation: If you so choose, you may be represented in this proceeding, at no expense to the Government, by an attorney or other individual authorized and qualified to represent persons before the Executive Office for Immigration. Unless you so request, no hearing will be scheduled earlier than ten days from the date of this notice, to allow you sufficient time to secure counsel. A list of qualified attorneys and organizations who may be available to represent you of no cost will be provided with this Notice.

Conduct of the hearing: At the time of your hearing, you should bring with you any affidavits or other documents which you desire to have considered in connection with your case. If any document is in a foreign language, you must bring the original and a certified English translation of the document. If you wish to have the testimony of any witnesses considered, you should arrange to have such witnesses present at the hearing.

At your hearing you will be given the opportunity to admit or deny any or all of the allegations in the Notice to Appear and that you are inadmissible or deportable on the charges contained in the Notice to Appear. You will have the opportunity to present evidence on your behalf, to examine any evidence presented by the Government, to object, on proper legal grounds, to the

receipt of evidence and to cross examine any witnesses presented by the Government.

You will be advised by the immigration judge before whom you appear, of any relief from removal for which you may appear eligible including the privilege of departing voluntarily. You will be given a reasonable opportunity to make any such application to the immigration judge.

Failure to appear: You are required to provide the INS, in writing, with your full mailing address and telephone number. You must notify the Immigration Court immediately by using Form EOIR-33 whenever you change your address or telephone number during the course of this proceeding. You will be provided with a copy of this form. Notices of hearing will be mailed to this address. If you do not submit Form EOIR-33 and do not otherwise provide an address at which you may be reached during proceedings, then the government shall not be required to provide you with written notice of your hearing. If you fail to attend the hearing at the time and place designated on this notice, or any date and time later directed by the Immigration Court, a removal order may be made by the immigration judge in your absence, and you may be arrested and detained by the INS.

Certificate of Service

This charging document was served on the respondent's counsel by me, on September 4, 2015 in the following manner and in compliance with section 239(a)(1)(F) of the Act:

in person by certified mail, return receipt requested by regular mail

to: Helen Parsonage AT 426 Old Salem Road Winston-Salem, NC 27101

The alien was provided oral notice in the _____ language of the time and place of his or her hearing and of the consequences of failure to appear as provided in section 240(b)(7) of the Act.

(Signature of Respondent if Personally Served)

[handwritten signature]
(Signature and Title of Officer)

September 10, 2015

To whom it may concern

On August 8, 2005, Nidal and I went hiking in one of El Shouf mountains, while hiking up the mountain who those people are which is "Huzbullah" so we took off running away from them, they follow us and kept threatening of shooting us, till we reached a mountain cliff, so we had 2 choices fall of 50m cliff, or get kidnapped by them, the first choice was the easiest compared to being kidnapped by them. Nidal lost conscience and broke his neck, I ended up with 2 broken legs and my right arm. I still till this day say thank god they didn't catch us, because we would've been disappeared for a long time.

Sincerely yours

Saad Abdel samad

**UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
OFFICE OF THE IMMIGRATION JUDGE
STEWART, GEORGIA**

In the Matter of:)
Nidal Khalid Nasrallah) **A# 089 427 907**
)

DECLARATION OF NIDAL KHALID NASRALLAH

I, Nidal Khalid Nasrallah, A# 089 427 907, declare under penalty of perjury, pursuant to 18 U.S.C. sec. 1546, that the following is true and correct to the best of my knowledge.

1. My name is Nidal Khalid Nasrallah and I was born on July 10, 1989 in Lebanon. I am the only child of Khaled Nasrallah and Fida Abou Chakra, both of Charlotte, North Carolina.

2. I first came to the United States in 2006 and became a permanent resident in 2007.

3. I and my family are all members of the Druze in Lebanon. Druze is a religion, and like other religions in the Middle East, it doesn't matter if you are practicing or not, you are identified as part of that cultural group and it is listed on your ID card.

4. I am not a particularly religious person, but I am by birth and by culture a Druze.

5. There has been religious conflict between the Druze and the Muslims in Lebanon for as long as I can remember growing up. The militant group, Hezbollah, has always been hostile to us.

6. I come from a part of Lebanon, called El-Chouf, or the Chouf District. It is the center of the Druze community in Lebanon. It is where our leader, Walid Jumblatt lives. Hezbollah has been trying to take control of the area, and knows that most of the people of Druze. They call us infidels.

7. To be Druze, you must be born into a Druze family. It's like being Jewish. It is part of your social and cultural life, not just religion. If a member of the Druze community marries a non-Druze person the spouse does not become Druze.

8. In August 2005, when I was still a teenager, I was out walking with a friend of mine. We saw a group of Hezbollah soldiers. They were wearing uniforms, so I knew who it was, and they were carrying guns. They yelled at us to "Come here and stop," but we were afraid. We knew that Hezbollah harms Druze and we were in an area where they knew we were Druze. We tried to walk away.

9. The soldiers followed us, shooting into the air and shouting at us to stop and come to them but we were very afraid to do that. We ran and they chased us.

10. After a while, we came to a cliff about 40 ft in the air, with no way down. We couldn't go back and the soldiers were still coming with their guns.

11. We did the only thing we could – we jumped.

12. I was seriously hurt and broke my back. A passer-by called for help and I woke up in the hospital.

13. It was not long after that that I left Lebanon because of that happened to me, and all my family is here.

14. I am afraid to go back because Hezbollah is still there and strong. They would do harm to me as a

member of the Druze community, and because they will know that I have been in the United States with my family.

15. Residents and citizens of the United States are often kidnapped and killed by Hezbollah because they are seen as pro-American and 'the enemy'. If I return after eight years, they will think I am a spy or pro-American.

16. Since I left, there is a new threat from ISIS, who have come very close to Lebanon who have captured and killed people who are not the same religion as they are. I am afraid of them and of Hezbollah.

17. The Lebanese government doesn't seem to be able to do anything about Hezbollah who have a lot of guns and power in my country. Isis is strong too.

18. When I was in the United States I worked many hours in college and saved up money to start a business or maybe go to graduate school. An acquaintance who owned a distribution center told me his employees could get me some cigarettes at wholesale price that I could sell and make a profit quicker than working at Papa Johns or selling cars.

19. I made about 50% profit on the cigarettes, which I did not know were illegal. Instead of spending the money I asked him if I could buy more. Several times I did this, each time I turned right round and put the money back in as an investment.

20. At some point he introduced me to some other guys who could get me bigger quantities. They did say they were stolen, but I didn't listen. I was hooked on the easy money and was looking forward to using it to go to graduate school, open a business or buy a house. I was as stupid as you can be. I threw away all my ad-

vantages, my college degree and the respect of my family.

21. Not once did I use any of the money to get involved in terrorism. I know people look at a young Lebanese man and think he must be helping to fund Hezbollah, Isis or other Islamic groups. As a Druze, I would never do that. They would rather kill me.

22. Sometimes a young man who does something really stupid is just that – really stupid.

Date: October 14, 2015

[handwritten signature]

Nidal Khalid Nasrallah

U.S. Department of Justice
Executive Office for Immigration Review
United States Immigration Court

In the Matter of

File: A089-427-907

| | | |
|--------------|---|-----------------------|
| NIDAL KHALID |) | |
| NASRALLAH |) | IN REMOVAL |
| |) | PROCEEDINGS |
| RESPONDENT |) | Transcript of Hearing |

Before SAUNDRA D. ARRINGTON DEMPSEY,
Immigration Judge

Date: December 9, 2015

Place: LUMPKIN, GEORGIA

Transcribed by FREE STATE REPORTING, Inc.-2

Official Interpreter:

Language:

Appearances:

For the Respondent: HELEN PARSONAGE

For the DHS: ANTHONY M. CACAVIO

Government, any objections?

MR. CACAVIO TO JUDGE

No, ma'am.

JUDGE TO MR. CACAVIO

All right.

JUDGE TO MS. PARSONAGE

Then we're ready to proceed. Ms. Parsonage, the burden of proof is on your client. You may begin at any time.

MS. PARSONAGE TO JUDGE

Okay. My client will be testifying from his --

JUDGE TO MS. PARSONAGE

He can testify right there. And the more he testifies and the less you talk, the better it is.

MS. PARSONAGE TO JUDGE

I'll try not to take that personally.

JUDGE TO MS. PARSONAGE

No, don't worry about him testifying in the narrative.

MS. PARSONAGE TO JUDGE

All right.

JUDGE TO MS. PARSONAGE

I would prefer that [indiscernible].

MS. PARSONAGE TO MR. KHALID NASRALLAH

Nidal, could you introduce yourself by your full name for the Court?

MR. KHALID NASRALLAH TO MS. PARSONAGE

My name is Nidal Nasrallah.

MS. PARSONAGE TO MR. KHALID NASRALLAH

And how old are you?

MR. KHALID NASRALLAH TO MS. PARSONAGE

Twenty-six.

MS. PARSONAGE TO MR. KHALID NASRALLAH

Okay. And where were you born?

MR. KHALID NASRALLAH TO MS. PARSONAGE

Lebanon.

MS. PARSONAGE TO MR. KHALID NASRALLAH

And whereabouts in Lebanon did you grow up?

MR. KHALID NASRALLAH TO MS. PARSONAGE

In Shufe [phonetic sp.]

MS. PARSONAGE TO MR. KHALID NASRALLAH

Okay. And can you explain further to the Court what, what the Shufe is?

MR. KHALID NASRALLAH TO MS. PARSONAGE

It's kind of in the mountains of Lebanon and the majority that live there is Druze and Christians.

MS. PARSONAGE TO MR. KHALID NASRALLAH

And did -- I'm sorry, I --

MR. KHALID NASRALLAH TO MS. PARSONAGE

[Indiscernible] fighters were at.

MS. PARSONAGE TO MR. KHALID NASRALLAH

Is that where your extended family lived?

MR. KHALID NASRALLAH TO MS. PARSONAGE

Yes.

MS. PARSONAGE TO MR. KHALID NASRALLAH

And you said that this is an area where Druze and Christians live.

MR. KHALID NASRALLAH TO MS. PARSONAGE

Yes.

MS. PARSONAGE TO MR. KHALID NASRALLAH

Do you identify as either Druze or Christian yourself?

MR. KHALID NASRALLAH TO MS. PARSONAGE

Yes, I'm -- I'm not a really religious person, but I was just born in a Druze family. The Druze religion is closed, so in our family, you were automatically Christian, and it's written on your birth certificate or your ID. You can see it's the original Druze.

MS. PARSONAGE TO MR. KHALID NASRALLAH

Druze. Okay. You said Christian. Did you mis-speak?

MR. KHALID NASRALLAH TO MS. PARSONAGE

No, I said Druze.

MS. PARSONAGE TO MR. KHALID NASRALLAH

Druze. Okay. Is Druze listed on your birth certificate?

MR. KHALID NASRALLAH TO MS. PARSONAGE

Yes.

MS. PARSONAGE TO MR. KHALID NASRALLAH

Is it on your Lebanese ID?

MR. KHALID NASRALLAH TO MS. PARSONAGE

Yes.

MS. PARSONAGE TO MR. KHALID NASRALLAH

Is that something that you didn't have any choice in or could change if you wanted to?

MR. KHALID NASRALLAH TO MS. PARSONAGE

No.

MS. PARSONAGE TO MR. KHALID NASRALLAH

Okay. All right. What does it mean to you to say that you are Druze?

MR. KHALID NASRALLAH TO MS. PARSONAGE

It's the culture is when family and [indiscernible] that we were born in, raised in, and you know Druze is a closed, closed religion where you can't, you can't join

it because it's a minority, and that's why it's a minority because it's a closed religion.

MS. PARSONAGE TO MR. KHALID NASRALLAH

And in order to be identified as Druze, do you have to be a church-going person of any kind?

MR. KHALID NASRALLAH TO MS. PARSONAGE

Not really. But if you are older you will only go to the, like, the Church of God and a temple, you have to be in the religion, like you [indiscernible] religious person.

MS. PARSONAGE TO MR. KHALID NASRALLAH

Okay. Do you consider yourself a religious person?

MR. KHALID NASRALLAH TO MS. PARSONAGE

No.

MS. PARSONAGE TO MR. KHALID NASRALLAH

Okay. Would you consider yourself Druze?

MR. KHALID NASRALLAH TO MS. PARSONAGE

Yes.

MS. PARSONAGE TO MR. KHALID NASRALLAH

Okay. When you were growing up in the Shufe area of Lebanon, what kind of school did you go to?

MR. KHALID NASRALLAH TO MS. PARSONAGE

I was in an evangelical school.

MS. PARSONAGE TO MR. KHALID NASRALLAH

And what were the, who were the other students in that school?

MR. KHALID NASRALLAH TO MS. PARSONAGE

It was the Druze and the Christians.

MS. PARSONAGE TO MR. KHALID NASRALLAH

Were there any Muslims in that school?

MR. KHALID NASRALLAH TO MS. PARSONAGE

No, no.

MS. PARSONAGE TO MR. KHALID NASRALLAH

Did you [indiscernible] play with Muslim children when you were growing up?

MR. KHALID NASRALLAH TO MS. PARSONAGE

No.

MS. PARSONAGE TO MR. KHALID NASRALLAH

Did you -- did your mother ever or your family ever talk to you about the situation in Lebanon on politics or religion in Lebanon when you were growing up?

MR. KHALID NASRALLAH TO MS. PARSONAGE

Yes, of course. They used to tell us never, never to really go far, because you never know if something might happen, they might kidnap you or take you away, because it is dangerous to go far, you have to stay really close to the house.

MS. PARSONAGE TO MR. KHALID NASRALLAH

Okay. Now you used the term they several times. For the Court, can you explain who you mean by they?

MR. KHALID NASRALLAH TO MS. PARSONAGE

Hezbollah.

MS. PARSONAGE TO MR. KHALID NASRALLAH

Okay. And did your mother specifically tell you about Hezbollah?

MR. KHALID NASRALLAH TO MS. PARSONAGE

Yes.

MS. PARSONAGE TO MR. KHALID NASRALLAH

And how, how long did you live in the Shufe area?

MR. KHALID NASRALLAH TO MS. PARSONAGE

I used to 2006 when I came in. I used to come here since I was a little kid; I used to come visit my family and go back.

MS. PARSONAGE TO MR. KHALID NASRALLAH

So you traveled back and forth?

MR. KHALID NASRALLAH TO MS. PARSONAGE

Yes.

MS. PARSONAGE TO MR. KHALID NASRALLAH

Okay. And you said that in 2006 you came to the United States --

JUDGE TO MS. PARSONAGE

Counsel--

MS. PARSONAGE TO JUDGE

I'm sorry.

JUDGE TO MS. PARSONAGE

-- you are leading him like crazy. Why don't you just let him talk to me? You are suggesting the answers with every question. Why don't you just let him tell me why he can't go to Lebanon?

MS. PARSONAGE TO MR. KHALID NASRALLAH

Why did you leave Lebanon?

MR. KHALID NASRALLAH TO MS. PARSONAGE

I had, I had an incident in August 7, 2005. I was hiking with a friend of mine and we were climbing up the mountain and two, two people from Hezbollah they saw us and they start screaming for us to stop and stop, and they started shooting in the air. So me and my friend we started running up and we got, and we got to the end, it was like a cliff. And we couldn't do nothing, so it was like push us on the bottom. We had ended up jumping. And I passed, I passed out when I was jumping and I landed in the bushes and I broke

my back. Even my friend he, he broke his arm and rib. And while we were falling down there was, there was a car and shooting and screaming. And when they saw when we landed, the car was passing through and it was an old, old guy, he picked us and took us to the hospital. That's why I didn't -- I had surgery on my back and I had a 90-something percent that I'll be paralyzed and wouldn't walk no more. And I had, they had to put for me two pins and four screws. Then I had to do another surgery in February 2006. And after that, I finished my school year and I came here on a --

JUDGE TO MR. KHALID NASRALLAH

How did you come here?

MR. KHALID NASRALLAH

-- on student visa, regular visa, tourist visa.

JUDGE TO MR. KHALID NASRALLAH

Okay. And how long were you here before you left? Did you go back?

MR. KHALID NASRALLAH TO JUDGE

It was about from 2009 -- from 2008 for a couple of weeks, I had a death, funeral.

JUDGE TO MR. KHALID NASRALLAH

Why did you go back?

MR. KHALID NASRALLAH TO JUDGE

Because my uncle died and we had a funeral in the family for that.

JUDGE TO MS. PARSONAGE

Pick up from there please. Let him, let him talk to me. Okay? Your questions are not testimony, your questions are leading --

MS. PARSONAGE TO JUDGE

I understand.

JUDGE TO MS. PARSONAGE

-- but they're not testimony. I want to hear from him.

MS. PARSONAGE TO MR. KHALID NASRALLAH

The individuals that chase you that you just described, you said they were Hezbollah. Can you tell the Court why you thought, what, what led you to believe they were Hezbollah and why you thought that they were chasing you?

MR. KHALID NASRALLAH TO MS. PARSONAGE

Because they were wearing uniforms with, it's like an army [indiscernible] things, but it's kind of yellowish. And they had the beards where the army, the regular army don't have no beards. They have to have a military cut. That's why I know they're Hezbollah.

MS. PARSONAGE TO MR. KHALID NASRALLAH

And why did you think they were chasing you?

MR. KHALID NASRALLAH TO MS. PARSONAGE

They try to kidnap. You never know what's in their mind. They try to kidnap you, try to ask for money, try to torture you because you don't believe the same way they believe. You never know what clicks in their head.

MS. PARSONAGE TO MR. KHALID NASRALLAH

And what, what makes you say that they were, you were not the same religion as them?

MR. KHALID NASRALLAH TO MS. PARSONAGE

Because, I mean, [indiscernible] that's where the majority of the Christians and Lebanese live in the Shufe, and they know who you are right away. That's why they were calling to stop, to see who you are.

MS. PARSONAGE TO MR. KHALID NASRALLAH

When you went, when you went back in 2008, how long did you go for?

MR. KHALID NASRALLAH TO MS. PARSONAGE

A couple of weeks.

MS. PARSONAGE TO MR. KHALID NASRALLAH

And tell the Court what you did and what happened during those two weeks.

MR. KHALID NASRALLAH TO MS. PARSONAGE

I just went straight from the airport to the house, to my family's house as well as extended family's house for the funeral and a couple of weeks with the family and left straight back.

MS. PARSONAGE TO MR. KHALID NASRALLAH

Did you leave the Shute area?

MR. KHALID NASRALLAH TO MS. PARSONAGE

No. I didn't want to leave, I was just around the house, that was it.

MS. PARSONAGE TO MR. KHALID NASRALLAH

You have filed an application with the Court saying that you are afraid to return to Lebanon.

MR. KHALID NASRALLAH TO MS. PARSONAGE

Yes, ma'am.

MS. PARSONAGE TO MR. KHALID NASRALLAH

Tell the Court why this many years later you are afraid to return to Lebanon?

MR. KHALID NASRALLAH TO MS. PARSONAGE

First of all, because of what happened to me. Second, my family is [indiscernible] and there's a lot of incidents happening with Druze, they kidnap them, they take their cars, they take their money, they sometimes kill them, sometimes torture them, sometimes they take your stuff and they ask you for money to get it back. And they know my family has been in America and most of my family is here so they know that if they can kidnap me, they can ask for money. And plus, what

happened it was scary for me and I can't live there because if I have to stay in the Shufe area I can't go back and forth, I can't work, I can't -- I have a degree and there's no jobs for me, no companies, nothing over there.

MS. PARSONAGE TO MR. KHALID NASRALLAH

Why could --

MR. KHALID NASRALLAH TO MS. PARSONAGE

I can't stay there.

MS. PARSONAGE TO MR. KHALID NASRALLAH

Why could you not go back and settle in a different part of Lebanon, say Beirut where there might be work?

MR. KHALID NASRALLAH TO MS. PARSONAGE

Because they, because Hezbollah is everywhere and the government they got -- they are the government in Lebanon. They control.

MS. PARSONAGE TO MR. KHALID NASRALLAH

Is Hezbollah the only group that you fear?

MR. KHALID NASRALLAH TO MS. PARSONAGE

There's Hezbollah and now there's a group that they call theirselves [sic] ISIS. They're bombing -- I don't know if you heard, a couple of weeks and they just bombed in Beirut. That's, that's why I can't go. If you don't believe like they believe, they will do whatever they can do.

MS. PARSONAGE TO MR. KHALID NASRALLAH

So what do you think would happen to you, tell the Court what you think would happen to you if you returned to Lebanon?

MR. KHALID NASRALLAH TO MS. PARSONAGE

My life is at full risk. I might, I might get kidnapped, I might get killed, I might get tortured be-

cause, I don't know what exactly will happen. My life, I will put my life at risk if I go back.

MS. PARSONAGE TO MR. KHALID NASRALLAH

And from whom exactly would you be at risk?

MR. KHALID NASRALLAH TO MS. PARSONAGE

From Hezbollah.

MS. PARSONAGE TO MR. KHALID NASRALLAH

And --

MR. KHALID NASRALLAH TO MS. PARSONAGE

Especially, especially as a Druze because like the majority have a lot, a lot of people, a lot of Druze in Israel, so they always will think that we cooperate with the Israelis. That's why they don't like us too because that's what they think and we don't believe the same way they believe.

MS. PARSONAGE TO MR. KHALID NASRALLAH

When you came to the United States, what did you do?

MR. KHALID NASRALLAH TO MS. PARSONAGE

When I arrived here, first of all I lived and I worked and went to school. I never got in trouble, this is the first time.

MS. PARSONAGE TO JUDGE

Your Honor, I will take the Court's guidance as to how much you want me [indiscernible] hearing about the criminal matter. That's pretty well covered in the paperwork.

JUDGE TO MS. PARSONAGE

You may, I mean I think that I'm pretty, you may want to go there because the Court, what the Court has seen so far as is a person who didn't need the money, but wanted the money and got himself involved in something that was rather serious. Now I'll let you

that wherever you want to take it. I would also note to you in the State Department reports that Druze are not a religious minority, they're one of 18 officially recognized religious groups, including four Muslim groups. There are 12 Christian groups, the Druze, and the members of the Jewish faith. So it's not a minority, it's a recognized group of people in Lebanon. The Court has notably noted that when it was going through documents before. They're concentrated in the rural mountainous areas east and south of Beirut. So you may want to be dealing with that somewhat.

MS. PARSONAGE TO JUDGE

But, Your Honor, it's not our position that the Lebanese government is a direct persecutor of the Druze, but rather that Hezbollah, a lawless and uncontrolled terrorist organization, is the persecutor of the Druze. The Hezbollah are not the legitimate government in Lebanon, Your Honor.

JUDGE TO MS. PARSONAGE

But they are the government in Lebanon. They are the government, correct?

MS. PARSONAGE TO JUDGE

They are a de facto --

JUDGE TO MS. PARSONAGE

They are the government, correct?

MS. PARSONAGE TO JUDGE

No, Your Honor.

MR. KHALID NASRALLAH TO JUDGE

Hezbollah? No.

MS. PARSONAGE TO JUDGE

No.

JUDGE TO MS. PARSONAGE

Ma'am, please don't interrupt the Court.

JUDGE TO MR. CACAVIO

Mr. Cacavio, they have a great deal of control --

MR. CACAVIO TO JUDGE

Hezbollah --

JUDGE TO MS. CACAVIO

Who is the government, according to --

MR. CACAVIO TO JUDGE

According to this, the government is elected --

MS. PARSONAGE TO JUDGE

Duly elected --

MR. CACAVIO TO JUDGE

Duly elected, but Hezbollah --

JUDGE TO MS. PARSONAGE

So is it the position of -- given, Ms. Parsonage, that the government cannot or will not control them?

MS. PARSONAGE TO JUDGE

That is correct.

JUDGE TO MS. PARSONAGE

All right.

MS. PARSONAGE TO JUDGE

And certainly the documents back that up.

JUDGE TO MS. PARSONAGE

That's what I'm asking. What is exactly your position?

MS. PARSONAGE TO JUDGE

Our, our position is that Hezbollah has outlaw, lawless control of large sections of Lebanon and that they are beyond the control of the Lebanese government. And although Druze is recognized by the Lebanese government as a, as one of the religions, they're still a minority in the sense that they are numerically a minority.

JUDGE TO MS. PARSONAGE

Um-hum.

MS. PARSONAGE TO JUDGE

I, I, I'm not sure what -- how recognition plays into that, but certainly they are a numerical ranked small minority, and they are trying to fight Hezbollah and increasingly the fighters of ISIS who are making incursions into Lebanon as there are, unfortunately, so many.

JUDGE TO MS. PARSONAGE

All right, we're clear. Keep going.

MS. PARSONAGE TO MR. KHALID NASRALLAH

You said that you went to college here, but your college was interrupted, wasn't it?

MR. KHALID NASRALLAH TO MS. PARSONAGE

Yes.

MS. PARSONAGE TO MR. KHALID NASRALLAH

Okay. Tell the Court what happened, why -- the Court wants to know why you got yourself in that situation, what your motivation was and what happened. Speak to the Court to that.

JUDGE TO MR. KHALID NASRALLAH

And let me tell you it's very important that you tell me the truth completely.

MR. KHALID NASRALLAH TO JUDGE

Completely the truth.

JUDGE TO MR. KHALID NASRALLAH

And, you know, I don't want to hear you were with bad people because you were the bad people. So just talk to me straight.

MR. KHALID NASRALLAH TO JUDGE

I had a cousin of mine he used to work in a company, in a cigarette company, and they used to buy from the distribution center that in Georgia, South Carolina, North Carolina distribution center. They used to buy from them and he, he used to work them. And, and he told me about the distribution center. He's like if you go, if you go talk to them and he can sell us some stuff, we can buy from him and I can sell it because I, I know all the, the retail places that they sell it and we can buy from them and we can make money. Motive is money. He was like there's good money in it. And I was like okay I'll go talk to that guy. And I went to the guy, immediately spoke to him and everything was supposed to be legal. And I talked to him like buy, purchase from him and stuff. And he said now I've got enough customers, but if I have anything open I will let you know, just leave me your number. And after like six, five, six months I received a call from, from that person, the owner of the distribution, and he said if you're still interested. I said yes I'm still interested. He goes, he told me that okay he's going to send me his employees and I deal with his employees and I can buy from them. And I told him okay sound -- so his employees they call me and they set up, we set up an appointment, we met with them and I purchased from them the first time. Then, then they started saying those were stolen and those were all --

JUDGE TO MR. KHALID NASRALLAH

Who is they?

MR. KHALID NASRALLAH TO JUDGE

The undercover agents. So basically -- I think those were his employees and they were, that was, that was the undercover agents. And I start buying from them. I saw the money in it and I purchase it and gave it to my

cousin, and he sell it to the people that he sell to and that's the way it grew. And all the money was put in back, back into it just to get [indiscernible] rich. It was greed, being greedy. We were young and stupid [indiscernible], but -- excuse my language --

JUDGE TO MR. KHALID NASRALLAH

It's okay, I've heard worse.

MR. KHALID NASRALLAH TO JUDGE

That's, that's, that's the only thing until the last time where they set up an appointment. I went there with all the money and it was, it was --

JUDGE TO MR. KHALID NASRALLAH

It was a lot of money.

MR. KHALID NASRALLAH TO JUDGE

It was 150 something.

JUDGE TO MR. KHALID NASRALLAH

Thousand.

MR. KHALID NASRALLAH TO JUDGE

Thousand -- \$155,000 --

JUDGE TO MR. KHALID NASRALLAH

Well, I don't know about you, but I \$154,000 is a lot of money.

MR. KHALID NASRALLAH TO JUDGE

Of course, it's a lot of money too. Of course, it's a lot of money. And that's where they, that I got arrested and they took it and, and I went to -- and after five days I got to court and they gave me, the judge gave me bond. My dad had to sign signature bond, I got out. I was still working with my uncle and I was going to, I was going to school. I started doing school full time, taking all the credits. And after I got, I got, like after a year and a half I was on pretrial probation, I went to get sentenced and my sentencing hearing, the judge

gave me a sentence and he told me when do you graduate. And I told him I graduate May 2014. He was like, okay, I'm going to give you until May 2014, you go finish your degree, I don't want to interrupt it for you. You finish it, then you self-surrender to prison. So [indiscernible] pretrial probation, no problems. And I got out, finished my school, graduated in, in May 2014 with a bachelor in finance, concentration in accounting with a GPA of 3.6 with all, all the stress I've been going through for the past three, four years, me and my family. And then they send me a letter to self-surrender to prison, which I did self-surrender and did my time, never got in trouble [indiscernible] and came here, same thing, never got in trouble [indiscernible]. And --

JUDGE TO MR. KHALID NASRALLAH

What did you tell your family when you got arrested, what did you say to your family?

MR. KHALID NASRALLAH TO JUDGE

It was, it was really tough to let them know the truth because they didn't know what I, what I did. They, they got mad at me, they got really upset at me, but I just thank them for all their support, they still stand beside me and supported me and it just breaks my heart to pieces when I, when I see tears in their eyes coming down. And I apologize to them, and you know, put them in this situation and brought shame to them.

JUDGE TO MR. KHALID NASRALLAH

What did your dad say?

MR. KHALID NASRALLAH TO JUDGE

He got really upset at me. He always tell me if you do anything wrong and if you got locked up for anything, I'm not your dad and I don't know you no more. But thankfully, he, I kind of asked him for forgiveness and that's what happened.

JUDGE TO MR. KHALID NASRALLAH

What did your mom say?

MR. KHALID NASRALLAH TO JUDGE

She was really, really, really upset. My whole family, my mom, my dad, my godfather, my uncles, my aunts, they all were, they all were upset me, they -- it was a shock to them, it was really a shock to them.

JUDGE TO MR. KHALID NASRALLAH

Okay.

JUDGE TO MS. PARSONAGE

Ms. Parsonage?

MS. PARSONAGE TO JUDGE

That's all the questions I have for Nidal at this time.

JUDGE TO MS. PARSONAGE

Okay.

JUDGE TO MR. CACAVIO

Mr. Cacavio, what's your opinion so far? Do you want to cross?

MR. CACAVIO TO JUDGE

No, ma'am.

JUDGE TO MS. PARSONAGE

Ms. Parsonage, do you want to submit this case on the documents that are in the file?

MS. PARSONAGE TO JUDGE

Your Honor, if I may --

JUDGE TO MS. PARSONAGE

Ms. Parsonage, do you want to submit this case on the documents that are in the file?

MS. PARSONAGE TO JUDGE

May I have a moment with my client to explain that to him?

JUDGE TO MS. PARSONAGE

Do you want to submit this case on the documents that are in the file?

MS. PARSONAGE TO JUDGE

Yes.

JUDGE TO MS. PARSONAGE

Let's bring in the witnesses please. This is a grant of deferral.

MS. PARSONAGE TO JUDGE

Your Honor, may I, before we leave, whether it's on the record or not, I would like a moment to introduce the family --

JUDGE TO MS. PARSONAGE

Sure.

MS. PARSONAGE TO JUDGE

-- who have come so far. And I have a list of their names.

JUDGE TO MS. PARSONAGE

I am going to explain to them what has happened. This is a grant, he is not going to be deported. But he's in a lot of trouble.

MS. PARSONAGE TO JUDGE

Could you repeat that? My client did not hear what you said, Your Honor.

JUDGE TO MS. PARSONAGE

All right. Ms. Parsonage, based on what's in the record and what's before the Court, are you prepared to offer this Court, offer this, rather it's your position that he cannot be returned to Lebanon based on the situation in Lebanon and Syria and with ISIS, that it's not a safe place for him to be because the government either cannot or will not control Hezbollah?

MS. PARSONAGE TO JUDGE

That's our position yes, Your Honor.

JUDGE TO MS. MR. CACAVIO

Government, your position is that he can be returned because there is a safe place for him to relocate to and --

MR. CACAVIO TO JUDGE

Your Honor, not only that. You know, he hasn't really established a particularized set of events that shows that he's going to be tortured, and that is what is required in the Eleventh Circuit. And I don't think he's, and I don't think his family can help in that because he needs to be the one that, you know, experienced -- and he's testified about what his experience was, he came and he hasn't been back. And I don't, I don't think he's met -- and it may be a terrible situation in Lebanon, but that's not the basis, you know, that might be the basis of if you had the authority to grant him TPS or something like that, but that's not the basis for granting --

JUDGE TO MR. CACAVIO

Deferral.

MR. CACAVIO TO JUDGE

-- deferral.

JUDGE TO MS. PARSONAGE

Well, I have the Government's position, I have your position. We pretty well both know what's going to happen. When I sign the written decision, then the appeal will have 30 days from the date of my signature. All right?

JUDGE FOR THE RECORD

So we are adjourned.

MS. PARSONAGE TO JUDGE

[Indiscernible].

JUDGE TO MS. PARSONAGE

Would you want --

MS. PARSONAGE TO JUDGE

No. I wanted to introduce them, but probably off the record.

JUDGE TO MS. PARSONAGE

Oh, that can be off the record.

JUDGE FOR THE RECORD

Off the record.

HEARING CONTINUED

U.S. Department of Justice
Executive Office for Immigration Review
United States Immigration Court

| | | |
|------------------|---|-----------------------|
| In the Matter of | | File: A089-427-907 |
| |) | |
| NIDAL KHALID |) | IN REMOVAL |
| NASRALLAH |) | PROCEEDINGS |
| |) | |
| RESPONDENT |) | Transcript of Hearing |

Before SAUNDRA D. ARRINGTON DEMPSEY
Immigration Judge

Date: July 27, 2016 Place: LUMPKIN, GEORGIA

Transcribed by FREE STATE REPORTING, Inc.-2

Official Interpreter:

Language:

Appearances:

For the Respondent: HELEN PARSONAGE

For the DHS: CASSANDRA BLY

JUDGE FOR THE RECORD

This is Judge Dempsey at the Stewart detention facility in Lumpkin, Georgia. Today is the 27th day of July 2016. This is a Master Calendar for Mr. Khalid, 089-427-907.

JUDGE TO MS. PARSONAGE

Counsel for respondent, please state your appearance for the record.

MS. PARSONAGE TO JUDGE

Helen Parsonage for the respondent.

JUDGE TO MS. BLY

And for the Government?

MS. BLY TO JUDGE

Cassandra Bly for the Government, Your Honor.

JUDGE TO MS. PARSONAGE AND MS. BLY

All right. Ms. Parsonage and Government, the Court has a very long decision. It would take me approximately an hour to read it. The bottom line on this is that the Court is granting deferral only. Now it's going to be up to the, well, both of you. If either of you wants to appeal that decision, I'll reset this to give it time to read the entire decision. It's very long and very complicated. But that's where the Court came out, that's the only relief the Court is willing to grant based on his, what the Court deems to be totally ridiculous behavior in this nation. And the Court –

JUDGE TO MS. PARSONAGE

I know, Ms. Parsonage, that you have argued against this being a terroristic activity. I believe in this case it was not, the Government was unable to establish material support, but the difference between this Court finding that he had provided or was providing material support to a terrorist organization was simply minuscule on that decision based on the lack of evi-

dence from the Government. However, based on country conditions, the Court will grant withholding under deferral.

JUDGE TO MS. BLY

Now, Ms. Bly, you understand that either you or the Court can reopen this based on changed country conditions. So if you see changed country conditions or if the Court sees it --

JUDGE TO MR. KHALID NASRALLAH

I can sua sponte reopen this case at any time, sir, anytime. There is no time limit. Do you understand?

MR. KHALID NASRALLAH TO JUDGE

[No audible response.]

JUDGE TO MR. KHALID NASRALLAH

All this does is say that you cannot be deported today. You're going to be ordered removed and then the Court is going to tell the Government to defer that removal. People can stay here forever with that, people can also be removed with that. And you're going to know that if you spit on the sidewalk, you're going to see me again. Not a good idea.

JUDGE TO MS. BLY

For the Government?

MS. BLY TO JUDGE

Your Honor, I'd like to reserve in this case as I wasn't the attorney at the last hearing.

JUDGE TO MS. BLY

All right.

JUDGE TO MS. PARSONAGE AND MS. BLY

And so what I'm going to do is, I need to set this --

JUDGE TO MS. PARSONAGE

Ms. Parsonage, are you going to reserve on this?

MS. PARSONAGE TO JUDGE

If the Government, then the respondent will also reserve.

JUDGE TO MS. PARSONAGE

All right. I don't quite understand that logic. Would you like to explain why you would reserve just because the Government did?

MS. PARSONAGE TO JUDGE

There had been some discussions between myself and the Government as to an agreement both to waive appeal. Apparently the Government is not interested in that resolution, so there is no advantage to respondent in not cross-appealing. So we will reserve appeal.

JUDGE TO MS. PARSONAGE

All right.

JUDGE TO MS. PARSONAGE AND MS. BLY

Then I'm going to set this for a hearing where I can read the entire decision into the record. As I said, it's quite lengthy and complicated and I don't want to do that, I have a courtroom full of people. So this Court will set this for the reading of the decision. If the two of you can come to some sort of agreement, then you can file a joint motion. But I will not sign it unless signatures from both counsel are on the document. This is set for September the 6th, at 1:00.

JUDGE TO CLERK

We're going to code it 17.

JUDGE TO MS. PARSONAGE AND MS. BLY

All right, so if the two of you can come to some sort of agreement before that time, file a joint motion.

JUDGE TO MS. PARSONAGE

Ms. Parsonage, a telephonic is granted to you.

MS. PARSONAGE TO JUDGE

Thank you, Your Honor.

JUDGE TO MS. PARSONAGE AND MS. BLY

If you can come to a decision, then I will just, you'll be the only thing set that afternoon, which will give me all of the time that it's going to take to read this decision.

MS. PARSONAGE TO JUDGE

Your Honor, at this time given the decision of the Court and, or what the Court has indicated its decision is and given the length of time that my client has been subjected to what the Board has now called mandatory detention, I would ask the Court at this time to consider the factors enumerated in Sopo v. United States and--

JUDGE TO MS. PARSONAGE

Counsel, save me the time. I've read Sopo. Sopo doesn't say that he gets a bond. Sopo just says that he can have a bond hearing. If you would like to have a bond hearing, feel free to file it. I have read Sopo. Okay?

HEARING CONTINUED