Appendix A-

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

OMER AL OBAIDY, Plaintiff, vs. KIRSTJEN NIELSON, Secretary of Homeland Security, et al., Defendants.	)	Case No. 18-00404-CV-W-ODS

ORDER (1) DENYING PLAINTIFF'S MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS, AND (2) DISMISSING MATTER WITHOUT PREJUDICE

Pending is Plaintiff's Motion for Leave to Proceed *In Forma Pauperis*. Doc. #1. For the reasons below, the Court denies Plaintiff's motion, and the matter is dismissed without prejudice.

I. STANDARDS

By moving to proceed *in forma pauperis*, Plaintiff subjects his complaint to review under the standards set forth in 28 U.S.C. § 1915(e)(2)(B). The Court must review the complaint to ensure it is not frivolous, malicious, fails to state a claim upon which relief can be granted, or seeks monetary relief against a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2)(B). The Court must also review the complaint to confirm it has jurisdiction because federal courts are courts of limited jurisdiction. *Ark. Blue Cross & Blue Shield v. Little Rock Cardiology Clinic, P.A.*, 551 F.3d 812, 816 (8th Cir. 2009). In reviewing a pro se complaint under section 1915(e)(2)(B), the Court must give the complaint the benefit of a liberal construction. *Haines v. Kerner,* 404 U.S. 519, 520 (1972).

Rule 8 of the Federal Rules of Civil Procedure requires a complaint contain "a short and plain statement of the grounds for the court's jurisdiction," "a short and plain statement of the claim showing that [the plaintiff] is entitled to relief," and "a demand for

the relief sought." Fed. R. Civ. P. 8(a)(1)-(3). "Each allegation must be simple, concise, and direct." Fed. R. Civ. P. 8(d). To state a claim for relief, a claim must be plausible on its face. "A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). While a pro se complaint should be given liberal construction, the essence of an allegation must be discernible, and the complaint should state a claim as a matter of law. *See Solomon v. Petray*, 795 F.3d 777, 787 (8th Cir. 2015) (citation omitted); *Guy v. Swift & Co.*, 612 F.2d 383, 385 (8th Cir. 1980) (citation omitted).

Rule 9(b) of the Federal Rules of Civil Procedure imposes a heightened pleading requirement on allegations of fraud or mistake. Fed. R. Civ. P. 9(b) ("In alleging fraud of mistake, a party must state with particularity the circumstances constituting fraud or mistake. Malice, intent, knowledge, and other conditions of a person's mind may be alleged generally"). This requires a pleading specify the time, place, and contents of false representations or acts, and facts such as the "who, what, when, where, and how surrounding the alleged fraud" should be included. *OmegaGenesis Corp. v. Mayo Found. for Med. Educ. & Research*, 851 F.3d 800, 804 (8th Cir. 2017) (internal quotations and citations omitted).

II. DISCUSSION

Plaintiff submitted voluminous papers with his application. While the Court generally understands Plaintiff's allegations to be based on wrongful deportation in 2003 and/or a more recent denial of an application for a visa, the Court concludes the complaint fails to state a claim upon which relief can be granted. To the extent Plaintiff alleges "fraud, forgery, fraudulently concealed evidence, false arrest and imprisonment," Plaintiff's voluminous filings fail to state a claim under Federal Rules of Civil Procedure 8 or 9(b).

Plaintiff's proposed complaint states he lives in Buckinghamshire County in the United Kingdom. Doc. #1-1. Although Plaintiff states he was targeted for deportation, and was deported in 2002 or 2003 because of his national origin and race as Iraqi (Doc. #1-4), other parts of the record submitted by Plaintiff indicate he is a citizen of Italy with

a passport issued by Italian authorities. Doc. #1-5, at 3, 5. Although Plaintiff submits an apparent marriage certificate from the Italian Consulate in Dubai, United Arab Emirates (Doc. #1-6, at 8-9), the Court does not find a reference to family located in the United States or other reasons why Plaintiff may be seeking to re-enter the United States some fifteen years after he was deported.

Plaintiff refers to a number of statutes, regulations, and Federal Rules of Civil Procedure in asking this Court to exercise discretion to review his case and/or exercise jurisdiction.[1] The Court notes simply setting forth legal conclusions, or in this case, legal terminology, does not state a plausible claim for relief. *Braden v. Wal-Mart Stores, Inc.*, 588 F.3d 585, 594 (8th Cir. 2009) (finding "legal conclusions or formulaic recitation of the elements of a cause of action" may be set aside) (citation and internal quotation omitted). The civil cover sheet identifies the nature of the suit as based on deportation (Doc. #1-2), but how this Court has jurisdiction to review a 2003 deportation decision or what the claim may be is not adequately explained. Records submitted by Plaintiff indicate he was deported in 2003 after he remained in the United States after his nonimmigrant visitor visa expired. Doc. #1-5, at 3-5, 65-67. But Plaintiff does not explain what authority allows this Court to review that decision, much less, review that decision more than fifteen years later.

References and explanation of other claims are similarly lacking. From what the Court can discern, Plaintiff applied for a visa in 2014 from United States consulates or embassies in Ukraine, perhaps where he was previously living, and/or in the United Kingdom, but his application(s) were denied. Plaintiff's civil cover sheet cites two statutes, 8 U.S.C. § 1182(a)(9) (inadmissible aliens previously removed), and 8 U.S.C. § 1227 (deportable aliens), but the Court does not understand these statutes to give rise to a private right of action that may be first brought, if at all, in this Federal District Court.

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[1] Plaintiff's proposed complaint names United States Secretary of Homeland Security Kirstjen Nielson, United States Attorney General Jeff Sessions, Acting Director of United States Immigration and Customs Enforcement Thomas D. Homan, Acting Deputy Director of the United States Office of Immigration and Customs Enforcement Peter T. Edge, Director of the Federal Bureau of Investigations Christopher Wray, and Darrin E. Jones, a Special Agent in Charge of the Federal Bureau of Investigation's Kansas City, Missouri division, as Defendants. Plaintiff seeks to certify a class action, and seeks nearly fourteen million dollars in damages. Doc. #1-2.

To the extent such rights exist, Plaintiff has not adequately identified those rights nor provided the Court with a factual basis to understand his claims based on those rights. The civil cover sheet also lists section 236, presumably referencing part of the Immigration and Nationality Act related to apprehension and detention of aliens. However, Plaintiff's application does not state he is currently in the process of being apprehended or deported such that this section may potentially be applicable.

In his proposed complaint, Plaintiff alleges, from what the Court can decipher, that the United States consulate in Kiev, Ukraine violated Federal Rule of Civil Procedure 37. Doc. #1-1, at 9-10. Rule 37 pertains to failure to make disclosures or to cooperate in discovery, but that rule is not applicable here because no discovery has commenced.

To the extent Plaintiff alleges fraud, forgery, concealed evidence, or false arrest and imprisonment, the Court cannot decipher the factual bases for these claims. That is, the proposed complaint does not set forth the "who, what, when, and where" of this conduct. Thus, the Court finds these allegations insufficient to state a claim upon which relief can be granted. For the above reasons, the Court finds Plaintiff's proposed complaint fails to state a claim upon which relief can be granted. Accordingly, the Court denies Plaintiff leave to proceed *in forma pauperis*.

The Court also questions whether jurisdiction is proper. Judicial review of orders of removal are governed by 8 U.S.C. § 1252. Plaintiff has provided no facts indicating he exhausted his remedies by pursuing relief in an immigration court or review by the Board of Immigration Appeals, and has not demonstrated this Court has jurisdiction to review a deportation order that is more than fifteen years old. Furthermore, Plaintiff makes reference to "non-reviewability" of a visa denial (Doc. #1-1, at 10), and has not suggested the Court has jurisdiction to review this matter. Finding Plaintiff has not established this Court's jurisdiction to hear this matter, the Court denies Plaintiff leave to proceed *in forma pauperis* for this additional reason.

III. CONCLUSION

The Court finds Plaintiff's proposed complaint fails to state a claim upon which relief can be granted. Additionally, the Court finds Plaintiff's proposed complaint fails to

establish this Court has jurisdiction to hear this matter. Accordingly, the Court denies Plaintiff's motion for leave to proceed *in forma pauperis*, and dismisses this matter without prejudice.

IT IS SO ORDERED.

DATE: May 31, 2018

/s/ Ortrie D. Smith
ORTRIE D. SMITH, SENIOR JUDGE
UNITED STATES DISTRICT COURT

PART I

Forms in Group (1)

Visa Waiver Pilot Program violators proceed non-hearing removal (which I am not as explained above) therefore cannot attend any hearing before an immigration judge. Exception will be made only for alien requesting asylum when proceeding under form I-863 see section *8 CFR 217.4 (b)(1), (2).*

The main reason to issue the forms below for two reasons 1) to officially confirm that I was detained under ICE custody on 04/10/2003 and not on 04/11/2003 which is an attempt to falsify the apprehension date [as shown on form I-826]and 2) to falsely and deliberately proceed removal as Criminal Alien under section 236 without tangible evidence nor judicial review by imposing mandatory detention

- *Form I-200 (Warrant of arrest of An Alien):* In general, upon service of Notice to Appear or to the time removal proceeding completed. The respondent may be arrested and taken into custody under authority of form I-200. A warrant of arrest will be issued only by those immigration officers who listed under *287.5(e)(2)* of this chapter and may be served only by those immigration officers listed in *287.5(e)(3)* of the chapter.as indicated and explained under *8 CFR 1236.1(a)(b).* if after the issuance of warrant of arrest, a determination made not to serve it, any officer authorized to issue such warrant may authorized its cancelation as mentioned under *8 CFR 1236.1(b)(2).(see Page 3, Exhibit B)*
- *Form I-826 (Notice of Rights and Request Disposition)* [this form issued to aliens who are taking in to the custody of ICE/INS. The main purpose to have an alien select the relief desired based on total of three options. This form cannot be initiated to VWP as they proceed non-hearing removal if found in violation of residency in the U.S. the main reason to issue this form to confirm officially that I was in custody on the. 04/10/2003 shown on the form time and date which not true as I was in custody on 04/11/2004 this explain why no option selected. The signature appeared was mine and I have signed under fear.] (see page 22 Exhibit B)
- *Form I- 286 (Notice of Custody Determination):* not-Authenticated or completed without results of custody) [this form issued to aliens who are not described under section 236(c)(1), (2). This form issued to all aliens excluding the one who are proceeding as criminal aliens and who are on Transaction Period Custody Rules-TPCR. The bond set minimum $1,500 by U.S. Attorney General. This form cannot be issued to me since there are no criminal offence ever committed and no violation to any immigration law and cannot issued to VWP visa type as they proceed non-hearing removal.] (see page 4 Exhibit B.)
- *Form I-265 (Notice to Appear, Bond, and custody proceeding sheet):* [While in Custody of INC/ICE I-265 issued and used to obtain supervisory approval to move forward with charging documents. Alien chose to obtain hearing will be submitted with I-265(Proceeding sheet) then Notice to Appear I-862 to be completed, issued and served. The Form contained three false statements (1) I operate business according to rules and regulations and authorizations of the state and legal regulations (2) false claim of violation to VWP 2nd time I have been admitted to the U.S. on Oct 10, 2000 valid tell Jan 9, 2001. Due to holiday season no flight was available, so I have been forced to depart on Jan 23, 2001 delay of 14 days. According to the rules overstay cannot be confirmed unless exceeds 180 days of which I didn't commit nether first nor second time. If this true

statement then the U.S.CBP officer will decalin admission due to previous overstay when I have been admitted second and last time on Sept 5, 2002 see page 35 NRC report. (3) claim falsely there are no equity was wrong assumption I had franchise investment and form another company under American Cleaning Center LLC not to mention equipment's and other expenses.] (see page 18 Exhibit B)

- *Form I-862 (Notice to Appear) (Not-issued)* [this form contains information of the alien including Biographical Information, Nature of proceeding, Factual allegation and charges of removability. Its mandatory to issue this form if other four forms are submitted which not issued to me since as they claim falsely I was in violation of VWP of which didn't exceeds 180 days to be considered removable offence. VWP violators cannot be issued form I-862 as they proceed non-hearing removal.]

Forms in Group 2

Form I-216 (Record of Person and property transfer) Page 11: the purpose of this form to record the movement of an alien from the day openhanded into ICE custody to the day officially order removal or relief before an immigration judge. this form appeared as non-signed nor authorized by the officer in charge of removal. the reasons for such an act as following (1) to hide the facilities where I have been held for removal (2) to claim that the incidence of removal against me never exist within U.S. border as the movement of an alien not recorded and (3) to hide any elements of booking as officer claim deliberately and falsely I have trespass or seek illegal entry to the U.S. Border as will be explained in other forms. (4) fraudulently concealed all evidence and links to transferring related to Mandatory Detention as claimed falsely as criminal under Section 236 to hide elements of illegal transfer. Elements of arrest as discussed below it doesn't apply to my case since there are no Probable cause. I possess clear record of any criminal act . therefore, illegal transfer premeditated and orchestrated between ICE and FBI-KCMO to impose falls arrest and imprisonment. (see page 11 Exhibit B)

There are other forms must be initiated by the officer in charge of removal to submit form I-216 which none of them issued to complete the transportation of an alien as following:

- *G-391 (Official Details) (Not Issued)*: A detainee may not be removed from any facility, including Field Office detention area, without form G-391that authorized the detail. The G-391 must properly have signed and shall clearly indicate the name of detainee, the place or places to be escorted, the purpose of trip and other necessary information to efficiently carry the information. In an SPC or CDF, the Supervisory Immigration Agent (SIEA) or authorized ICE Official shall check record of the Alien if has criminal History, is dangerous or has escape record, medical condition including any information of an adverse nature shall be clearly indicated on the G-391.Escorting officer shall be warned to take the necessary precautions.
- *I-203 (Order to Detaine or Release Alien) (issued and fraudulently concealed):* This form to be issued for Alien in detainee out-process which began when processing receives the form I-203 it will be officially made when form signed by authorized official. I-203 show when the Alien admitted to facility including the date and time. this form will be discussed in greater depth in other section and provide burden of proof for reasons not to include this form in FOIA /PA report.
- *I-205 (Warrant of Removal) (not-issued):* under *section 241.2* which is based upon the final administrative removal for alien. the case handled by Officer who specified and authorized under *section 8 CFR 287.5(e)(3).* The officer in charge exercise the cost and duration of removal this form issued only to Criminal Alien proceeding removal who are served time

of one year or over in federal jail or who have been found under section 236 of criminal proceeding.

- *I-385 (Alien Booking Record) (not-issued)*: or booking card contains blocks in which the processing Officer will enter information during the admission process. In some circumstances, the arresting or delivering officer will entre biographical information, including name, sex, age, date of birth, birthplace, country of citizenship, alien A- number, medical alert, date apprehended, booking officer, date of transfer, and place involve in transfer (from which to which).

not issuing the forms mentioned above which is necessary to complete form I-216 indicate that my life well-being was under high risk. If wouldn't be for the Italian Embassy prompt reply to clear me out of this situation I don't know how my fate will be now.

Forms in Group (3)

The flowing forms show that on false claim of the Immigration officer in charge that I attempted to enter or pass the U.S. Border illegally and count this as a criminal issue for the following reasons: (1) to find a reason not to change the location where alien apprehended by ICE. This is the main reason NOT submitting form I-216 as ICE claim falsely transfer happens on the border NOT within the U.S. within state of Missouri and without stating exact location (2) to take away any link to find the truth of removal by changing the apprehension date.

- *Form I-213 (Record of Deportable Alien) pages 19- 21 Exhibit B*

  [There are Two forms appear on file page 19, 21. It show the Two forms contradicts in term of information provided about me and/or Alien information. On page 21 hand written indicate the apprehension date was wrong on 04/10/2003 as shown at 2:00 PM. on the same page under narrative it shows the time was at 4:30 PM which as well contradicts with form I-826 where is written on 4:10 PM on 04/10/2003.Information regarding the (length of time illegally in the U.S) as written deliberately wrong from (1 Month to 1 Year) this statement cannot be legally accurate. the fact Shaw it was only 150 days. The occupation mentioned as franchise owner on the other form it indicates its laborer there is huge difference between both. apprehension date and time was entered under two different dates page 19. regardless of many conidiation between both forms they agreed upon one statement which was allegedly made to fame me and expose my reputation to grate danger.
  As written on narrative section *(outline particulars under which alien located /apprehended include details not shown above regarding time, place and manner of last entry and elements which establish administrative and or criminal violation indicating means and route of travel to interiors) Alien has been advised of communication privileges pursuant to 8 CFR 236.1(e).* The statement above is not correct as explained in detail the element of entry has been established. On September 5, 2002 admission to the U.S. has been granted before U.S.CBP officer as shown in NRC report page 59.

- *Form 213/826 (Record of Deportable/ Inadmissible Alien)*

INS Officer who is listed on section 287.5(e)(2), (3), impose" Mandatory Detention" by Allegedly accusing me of criminal act by adding form I-213/826 .It has been proven have NO identifiable record in the NCIC interstate identification Index (III) by adding unsigned form by officers who described on section above is to have liability protections in case the case will be widely open or reopen .**to initiate this form must be supported by other three forms before the final issue of form I- 213/826 including criminal history of an Alien which has NOT been issued as following: (see page 27 Exhibit B)**

A. Form I-851 (Notice of Intend to Issue a Final Administrative Removal Order)
This form is charging documents contains allegation of facts and conclusion of law. Rights of Alien to advice an alien of right of an attorney, rights to inspect evidence, rights to request withholding of removal to particular country in fear of prosecution or torture. the notice served to the noncitizen or his attorney. After service, the noncitizen may rebut the charges within ten calendar days or thirteen days if notice sent by mail.

B. Form I-851A (Final Administrative removal)
Form I-851A (final Administrative Removal order-FARO) An authorized DHS officer issued Final Administrative Removal Order (FARO).

C. Form I-871 (Notice of Notice to intend /Dissension to reinstate prior Order)
DHS prepares this form for individuals who it alleges are subject of reinstatement of removal order 241(a)(5).

- *Form FD-249 (Criminal Card) (not authorized or signed)*

As stated on Section *OI 105.9(a)* This form known as FD-249 or Criminal Card supplied by the FBI. used to fingerprint Alien 14 years of age or older. Apply for alien taking to Custody without warrant of arrest as stated under section *8 CFR 287* or under warrant as stated on section *8 CFR 245* service of this from will include (1) crewman in violation of section 252(b) (2) alien found violating status of crewman (3) served with order to show cause in deportation proceeding;(4)taken into the custody for deportation as crewmen under section 252(b) of the act or (5) excluded from U.S.(8 CFR 236.6).

As stated above according to the law form FD-249 issued to criminal aliens wanted by the FBI for criminal questioning. The FBI must show the Burdon of proof that I have criminal record to issue this form. Form FD-249 are not officially initiated where almost all blocks are missing with wrongful information where the ground of deportability contradicts with the ICE deportability grounds. Additionally, I request the court to compile the FBI to revel all information regarding my fingerprints and the reasons to commit such an act

The FBI deliberately hide more information as cited on *OI-105.9(b)* [*The A number of the individual fingerprinted must be placed on the "MISCELLANEOUS NO. MNU" block*]. The FBI officer use the fingerprint number appeared on INS file as FINS:13377188 and not the (CJIS) A number

none of these forms mentioned above issued in support of form I-213/826. Which made it falls accusations to impose Mandatory Detention as criminal alien. However, my clear record speaks for itself I have never committed any criminal act or whatsoever.
The form not only unauthorized but as well contains fingerprints of which I don't recall that I ever provide my parents to submit this form. Thus, I request the court to Compile Criminal Justice Information Service (CJIS) to conduct Forensic Biometrics Test to determine if the fingerprints in

form I-213/826 belong to me or to other person and his criminal record. (See pages 24, 25 Exhibit B)

Forms in Group (4)

- *Form I-170 (Deportation Case Check Sheet) (Not signed or authenticated)*

Instructions on ICE Detention and Deportation manual suggest the purpose form I-170 will be issued for alien who are not included with hearing removal. The manual emphasizes on section (b) under Removal Process: Non-Hearing Removal case chapter 14, processing forms. Do not, under any circumstances issue the following forms in conjunction with non-hearing removal case. Notice to Appear, form I-862, Notice of Custody determination, form I-286 and Notice of Rights and Request for Disposition Form I-826. Place form I-170, Deportation Case Check Sheet, on the right side of the file to track case progress, in the same manner as regular hearing case. some action not required in non-hearing case. These blocks should be marked N/A and initialed by the officer. Additional forms are discussed in the appropriate subsections for each type of case.

As instructed by ICE deportation manual this form cannot be initiated or authenticated for two reasons (1) it contradicts with forms on *group 1* where cannot be issued (2) the overstayed time cannot be removable offence since it doesn't exceed 180 days (3) it came against the false claim that I have entered or seek entry to the U.S. border illegally as they plan. Therefore, this form is non -valid. (see page 9 Exhibit B)

Group (5)

- *Memorandum of Flight -Risk Page 16*

As stated on *8 U.S.C. 1357 (a)(2) [the officer or the employee of the service has the power to arrest any alien in the United States if he has (Reason to Believe) that this alien so arrested in the United State in Violation of any such law or regulation and is likely to (Escape) before a warrant obtained for his arrest, but the alien shall be taken without unnecessary delay for (Examination) before an officer of the service (having authority to examine an aliens as there rights to enter and remain in the United State).]*

To consider an alien as who is in violation of any such laws or regulation and who is likely to escape before warrant can be obtained will not be only granted according to the officer conclusion of (Reason to Believe) and therefore consider an alien to be (Flight-Risk) who likely going to escape before warrant obtained

To consider an alien flight- risk the following elements must be present

1. Criminal alien must have appeared before a judge of an offence committed to issue an ordered pending trial where an alien temporary detained to permit revocation of conditional release, deportation as stated under *18 U.S.C. 3142(a)(3).* Removal pending under section 236 was made falsely since there are no judicial review nor any criminal act ever committed and clear record of Criminal Act as my personal record suggests.
2. Alien who included under flight-risk must have served deportable sentence to a term of imprisonment of at least 1 year under section 1227(a)(2)(i) as stated under *8 U.S.C. 1226(c)(1)(C).* I have never served any sentence or committed any criminal act within or during my lengthy residency in the U.S. ICE-KCMO agree on this conclusion as they

stated on NRC report page 6 that the removal was under non-offence category of 237(A)(1)(B) of what they claim wrongfully was an overstaying the visa.

3. If proven that alien when released of detention will impose risk to community or may flee as stated under *18 U.S.C. 3142(d)(2).* There is no such incidence where I have been under criminal conviction rendered risk to community as I have clear record.
4. The government must show burden beyond reasonable doubt that individual alien is flight risk where cannot be released of custody by convincing evidence see *Singh v. Holder* 638 F.3d. 1196, 1205 (9th Cir. 2011). The ninth Circuit recognize that not all criminal violations considered a flight risk Singh who has been charged of many criminal grounds has not been found to be flight risk if released. therefore, the ninth circuit has held that past criminal record should only be considered to the extent it shows the individual will be dangerous in the future. In addition, the court observed [not all criminal convictions conclusively establish that an alien presents a danger to the community, even where the crimes are serious enough to render the alien removable] discussing *Matter of Guerra.*

Therefore, the matter has been fabricated to impose mandatory detention by Fraud and forgery of government forms and impose false accusations of crime never committed which violate my rights under the Fifth Amendment. Thus, the assumption that I am a flight-risk is false and nonvalid. (see page 16 Exhibit B & personal record Exhibit E)

- *Regional Emergency Communications Coordinator (RECC) Page 15 ICFO report*

The RECC as mandated by congress in the department of Homeland Security (DHS) Appropriations To have RECC implemented Alien must involve background check on local, reginal, state and federal level. Alien have his information checked as indicated of the following:

A. IDENT (Automated Biometric Identification System)

is database system using automated fingerprint identification system (AFIS) as part of the programs supervised by the U.S. Department of Homeland Security that intend to thwart illegal entry to the United States by criminal aliens.

B. NAILS (National Automated Immigration Lookout System)

is centralized database and computing system used by entry inspectors to identify aliens not eligible for admission. NAILS (and the updated Version, NAILS II) allows inspectors to quickly retrieve and review biographical or historical case data designed to facilitated of entrant status.

C. CIS (Central Index System)

is the INS/ICE main automated information system, INS/ICE benefits and law enforcement function. The CIS contains data on lawful permanent residence, naturalized citizens, violators of immigration law, aliens with employment authorization document information and others for whom the ICE has opened files or in whom it has special interest.

D. DACA (Deportable Alien Control System)

captures deportable alien data; tracks aliens who are arrested, or formally removed from the country; produces deportation forms and reports; and makes the information accessible online to ICE/INS deportation officer and other ICE/INS users.

E. NCIC (National Crime Information Center)

is the Unites States central database for tracking crime-related information. The NCIC has been an information sharing tool since 1967. It is maintained by the Criminal Justice Information Service Division (CJIS) of the Federal Bureau of Investigation. The NCIC

database under former director J. Edgar Hoover. The purpose of the system was to create a centralized information flow between the numerous law enforcement branches.

This form was initiated in support of flight risk assessment to include me as criminal alien in removal process. The NRC report pages 33-43 on 04/10/2003 start background check at 17:45:05 and end at 17:50:47 which include name check, criminal check, Number of entry to the U.S., legal residential status and N.C.I.C including Interstate Identification Index (III) all came as NO identifiable record found.

Therefore, we would like to understand the reasons to include me as a criminal alien in DACA where no crime committed or has been made officially, CIS which include all information of citizen and noncitizen status however we don't know what my status under CIS are, NAILS to identify aliens not eligible for admission and IDENT which is fingerprints identification system to track down any illegal entry to the U.S. by criminal aliens.

I am very concerns of the fingerprints on my record reserved under Criminal Justice Information Service (CJIS) if the fingerprints in file are belong to me or NOT. will be discussed in short under the FBI File Number or UCN section and I request the court to obtain the non-electronic record to determine the truth.

Thus, I have a reason to believe that statement appeared on pages 5-8 under NAILS Lookout inquiry and DACS on page 10 it doesn't rely on any truthful information and it was meant to create removal allegedly and deliberately for Reason is not clear to me. (see Page 15 Exhibit B)

Forms in Group (6)

- *I-296 (Notice to Alien Ordered Removal/ Departure Verification)*

The form appeared on Page 1 on ICE report this form consists of Two parts
(1) Alien name and A-File No. include the allegation of removability, obtains permission of admission during band and warning of attempting Illegal entry during the band as shown on *8 U.S. Code 1326* .in addition shown Immigration Officer who serve the Notice
(2) Verification of Removal which consists date of departure, manor of departure, port as well signature of Officer in Charge. it shows photograph of alien as well right index fingerprints.

After analyzing Form, I-296 the following facts has been found

- The Alien copy of I-296 I kept since removal the (Verification of removal) has not been signed or initiated, while the same copy on page 1 where it should be Identical to the one handed to me by the authorized officer indicate the (Verification of removal) been filled and signed and kept in ICE file.

- Page 2 of ICE report form I-296 appeared as (File Copy) without photo and verification of removal unauthorized by the officer in charge. Analyzing further both copies appeared on ICE report are not identical. Further the copy handed over to me of which (Verification of removal) not signed or authorized came as identical to form I-296 on page 1 of ICE report. It is obvious that copy 1 of form I-296 (verification of Removal) has been completed after they hand over alien copy of I-296.

I request to court to check if Alien Copy I have identical to what appeared on page 1 of form I-296

As shown in alien copy of I-296 and the two copies exist on pages 1,2 of ICE report the name is misspelled from (Omer Al Obaidy) as appeared on passport to (Omar ALOBAIDY) in addition they attempt to made hand forgery to my name as appeared on page 1. The same document of I-296 of alien copy and the two copies of the same document information included are not the same as following

1- Alien copy it doesn't have removal verification signed, initiated by the immigration officer and served to alien
2- Copy page 1 on ICE report which identical to alien copy (Verification of removal) completed
3- Copy page2 of ICE report verification of removal incomplete and missing photo. All forms appeared carried my personal signature where I signed without presents of my Attorney and I was willing to leave as fast as I can of detention. This act is obvious fraud and forgery in government forms.
4- On the first section where Alien name, file No and four choices of band period where box 2 has been selected with 10 years band of reentry to proceed as criminal Alien under section 236 which it doesn't rely on any conclusion of the law.
5- At the top of section one stated (*In accordance with the provisions of section 212(a)(9) you are prohibited from entering, attempted to enter, or being in the United State*). The form did not state under which subparagraph of the law I was found inadmissible which make the form not only vague but as well incomplete and illegally drafted.
6- As proven by evidence if the (Verification of Removal) not properly submitted as it contradicts among the three copies of the same form Therefore, it concluded by law on federal statue 8 U.S.C. 1326 (b) (1,2 and 3) without showing what criminal act committed to cause removal therefore, removal is void and NOT valid. The main purpose not to submit this section properly according to rules and procedures, was to claim falsely the incidence of removal happens within the U.S. border and deny the real location in Kansas City, MO area.

Among other violations found concerning the procedures of recording removal on the alien passport according to Inspector Filed Manual of which ICE-KCMO violated as following

- In preparation procedures to remove of an alien and with accordance of *chapter 17.2*(cancel the aliens visa or border crossing card, if appropriate and complete and distribute form I-275). This form has not been issued indicating cancelation of visa or whether or not it will be applicable for VWP holders.
- As per *IFM Chapter 17.6(c)(2)* must write in alien passport A-file No., action taken, removal date and the branch of INS office. As it appeared on passport the following (Visa Waiver I-296, A-97319371, 04/11/2003). This act it doesn't match the standard procedures as it stated on IFM the date entered was the apprehension date not the removal/departure date which is 05/01/2003. They admit there is no grounds of inadmissibility found. In addition, they rely on form I-296 of which approves it was made by forgery and fraud which made the removal Illegally made to clear me out of the United States for no logical or legal evidence. *See Exhibit B & C*, I

PART II

FBI-UCN 958484AC9 (see Exhibit I)

- After Reviewing my personal record which indicate nothing under criminal charges I came across the FBI file No or Universal Control Number 958484AC9. I contacted the FBI Central Record System and officially submitted the form to request the FBI file. The answer came back as NO file found at record under this Number or responsive to FOIA request and suggested to appeal to Office of Information Policy. The Office replied that there are no record suggesting this file was at record. Therefore, they suggested to contact Criminal Justice Information Service (CJIS). submitting all information requested including forms FD-258 (Application of fingerprints) form I-783 and form I-786 to process my request with Criminal Justice Information Service (CJIS). Waiting almost four months before I have received the Universal Control Number 958484AC9. (see exhibit E)

analyzing the content of the UCN the following has been found:

1. NCIC Number: the immigration violator case recorded by the FBI must include NCIC which has not been included.
2. As per USCIS /FOIA report No. NRC2015043635 on page 43 indicated that NCIC and Interstate Index(III) came clear of any charges.
3. If no identifiable record found or recorded. Then under which consideration I will be arrested and fingerprinted? *View USCIS FOIA*
4. As stated on personal record show there are NO Criminal Record to be found in 14 years living in the U.S. view record
5. The Universal Control Number /FBI file No. 958484AC9 cannot be issued since there are no criminal offence and/or criminal record
6. All immigration violations cases considered by law as Civil Matter including criminal aliens as quasi- criminal as stated on supreme court decision *See INS v. Lopesz-Mendoza,* 468 U.S. 1032(1984). Therefore, the FBI must show beyond reasonable debut that 237(A)(1)(B) is Criminal Offence.
7. Under Immigration Violator information must record not only the offence but as well the action taken related to this offence by the Court none of this has been shown.
8. The report under MTC E2017234000000098619 Supplied to Criminal Offender CANNOT apply to my case for Two reasons (1) there are no criminal offences ever committed by me in 14 years living in the U.S. (2) there are no immigration Violations has been recorded.
9. On the same report under Court () must show the Criminal Event and court order and sentence of the Criminal offender. The FBI Deliberately and illegally show a court order considering 237(A)(1)(B) criminal offence
10. The UNC record suggested another fingerprints number of the FBI as stated *(Fingerprints Information BSI/2000067992353 printed date/2003/04/10).* Which mean that my fingerprints according to statement above has been recorded in the FBI field office of KC,

MO. The fact is I was only attending an interview of which known as (Iraq Initiative) and NO fingerprints has been taken by the FBI. Therefore, you must check your record of how, where and when this Number has been initiated and why?

11. The UCN must accompanied with the Rap-Sheet the find out the charges and conclusion of the law, sentences and many more of which has not been issued which made the UCN incomplete. ***Accordingly, I request to have the non-electronic report of UCN 958484AC9 to determine all the missing facts including the fingerprints on the UCN accompanied by Forensic Biometrics Test by Criminal Justice Information Service (CJIS) to determine if fingerprints appeared on UCN belong to me including fingerprints on*** **ICE-FOIA particularly page 27**

The main purpose UCN issued was to BYPASS the local and state authorities to hold an alien under warrantless arrest for 48 business hours where an alien will be taken to custody under power of Form I-247 (Immigration Detainer-Notice of Action). Additionally, held an alien will be under the local and state authority's discretions. Since the absent of probable cause and Exigent circumstances, State and Local authority will decline ICE request. Thus, the FBI in collaboration with ICE-KCMO issued fraudulently the Universal control number which issued to Criminal Individuals to impose arrest without tangible evidence suggesting any criminal violations to make false arrest and imprisonment against the law and United States Constitution by illegally issued the UCN.

- *Form I-247 (Immigration Detainer- Notice of Action) (not Issued):* it's a tool used by ICE and other officers with in the Department of Homeland Security (DHS) when agency identifies potentially deportable individual who are held on jails or prisoner nationwide. Detainer form issued by an authorized immigration officer or local Police Office designated to act as an immigration official under section 287(g). Detainer instruct federal, state or Local Enforcement Agencies (LEA) to held individual up to 48 business hours beyond the time they otherwise would have been released.

- Detainer will be issued to individual when 1) charges has been disposed of through a finding of guilty or innocent, 2) charges has been drooped, 3) bail has been secured, 4) convicted individual have served out their sentence. Stating the facts above I cannot be under any category for ICE to issue Detainer Form However, it is mandatory if as ICE claim deliberately that I am proceeding removal as Criminal Alien under Section 236.

- Detainer not only issued by ICE agency or other federal agencies under DHS but as will can be issued by local enforcement agencies (LEA), the local Enforcement has discretion to decide which detainer to honor and under which circumstances. ICE or other eligible agencies cannot issue detainer unless there are probable cause that the individual is deportable of which cannot apply to me since I never valuate any immigration law nor any criminal law.

The FBI used a trick that when this file will be found, and an individual will request the file from the Central Record System it show the file NOT in record to identify any information under FOIA. Thus, the first assumption will come out that the file is under FOIA exemptions as stated under *5 U.S.C. 552(b)(2)* but it doesn't show that the individual information has NOT been recorded with CRS which will create safety-net to the FBI incase if UCN found. ***Therefore, and according to evidence brought forward that the UCN initiated by fraud, forgery and fraudulently concealed since it is NOT on its normal location with the FBI Central Record System.***

- As per USCIS report NRC201543635-FOIA pages 33-43 show all record and previous visa status, name check, entries to the U.S., Criminal Check under NCIC and III all came clear.

- as stated under the same report and pages shown above on the right upper corner the Date of the search on 04/10/03 and time when search started at 17: 45: 05 see page 33 End at 17:50: 47 on page 43 on the same date.

- As per page 43 appeared on NRC201543635 NCIC/NLETS – View Massages on 04/10/2003 at 17:50:47. The massages indicate that information received from Justice on 04/10/2003 17: 50: 41 JNCIC 0304102081 17: 58: 11.. 04/10/03 [..] NO Identifiable record in NCIC Interstate Identification Index (III) for Nam/AL Obaidy, Omer. DOB 19680727. SEX/M. RAC/W.PUR/C. END

- As massage shown above under **NCIC/NLETS the National Law Enforcement Telecommunication System (NLETS)** Is an information sharing network. It is an interface to search each state's criminal and driver records and the License Plate Reader (LPR) back one-year maintained by the U.S. Customs and Border Protection (CBP). The NLETS helps a law enforcement agency in one state to search for someone's criminal and driver records in another state. NTLETS potentially serves as a better tool to search for minor misdemeanors and traffic violations that would not be in the National Crime Information Center. (see page 43 Exhibit A)

- as shown above there are no criminal information related to my record found on NCIC nor misdemeanor or minor violation of driver record on NLETS not shown on NCIC.

- As standard practice to Issue UCN 958484AC9 the NCIC and Interstate Identification Index (III) including NLETS must be included. In unusual circumstances where an individual without prior record will be requested for questioning in any crime stated under 18 U.S.C of crime and procedures if found with evidence beyond reasonable doubt. The individual must appear for questions related to any criminal purpose on 18 U.S.C. by issuing UCN.

- As result using the authority of the FBI the UCN issued without stating the reasons to believe of the Officer in charge neither stating under which criminal category the FBI initiate the Number. Effective as if 04/10/2003 at 17: 58: 11 has been actively initiated on date and time shown.

PART III

Shawnee County Correction Facilities Topeka, KS Booking Report (see Exhibit F)

After analyzing the Booking report initiated by Shawnee County and ICE, KCMO five elements has been found as following:

A. *Changing Apprehension Date*

As stated and explained in detail I wasn't admitted to Shawnee Correction Facilities on

04/10/2003 at 18:10. The date has been changed from 04/11/2003 which indicate that Jail Software System has been penetrated to make such change. Further below will show That the real date was 04/11/2003. In addition, there are another timing of admission as Mentioned on Booking Profile page as 19:10 dated on 04/10/2003 both date and times Incorrect as will prove further below.

B. Impose Falls Charges

The charges are (Civil & Criminal Penalties Exist For Misuse & Unlawful Dissemination) This statement based upon falls accusations with absent of probable cause since it's not Supported by Evidence, investigation report, statement by me to support such allegations, Conclusion of the office in charge of the investigation nor Judicial Review supporting Such incidence ever happens that causes arrest.

C. Missing Form I-203 (Order To Detain Or Release Alien) on ICE-FOIA report

This one-page form consists of 19 blocks all elements are falsified with few exceptions as Following:

- The name and title of person in charge of facility has not entered and as stated (Booking Officer).
- If ICE office present, they may use the booking information to make decision about whom to interview and whether to issue a detainer.
- In case where ICE agent not physically present, they may use the booking information about a person, local officer may contact ICE with information about persons they believe to be foreign- born, based on booking information and other criteria.
- If the jail has a 287(g) agreement with ICE, deputized local law enforcement work with ICE to interview arrestees and issue detainer.
- As evidence of arrest suggested where the removal was based upon falls imprisonment and accusations the arrest officer NOT willing to take any legal liabilities. Therefore, neither his name nor his signature appeared which is mandatory to officially submit the form.
- The blocks where name of facility I have been held mentioned (Shawnee County Juvenile Detention Center). my age as stated where I have been held under removal proceedings was 34 on DOB 07/27/68. This is not a simple mistake it was planned for to hide further my file as NO Juvenile information under age of 18 can be obtained without court order and CANNOT be found under Detainee Locater System to hide all file without trace or presume removal NEVER EXIST. As result they deliberately falsify all information related to detention facility. I have used the official ICE website and make search on Detainee Locater System using the A-File No A97319371 with adding 0 front as suggested no result came out which indicate they have done that allegedly.
- As the form suggested the apprehension date was on 04/11/2003 without mentioning the time admitted it was correct not as stated on the Booking Report as admission to the facility was on the 04/10/2003. Therefore, my assumption was correct as proven above. form I-216 (Record of Person and Property Transferred) has not been officially initiated and authenticated by the Officer in charge of removal. Thus, it will be very hard to trace the official apprehension date, as result the booking File was (Fraudulently Canceled) along with UCN 958484AC9 issued by the FBI to impose Falls Arrest, accusations, imprisonment and hide the official apprehending date.

D. impose illegal immigration Bond.

- As stated on the booking report the bond that has been imposed was $9,999,999 of Which is illegal and against the law. As set by the U.S. Attorney general the minimum Is $1,500 no alien described in *section 236(c)(1)* of the act may release from custody during removal proceeding except pursuant to *section 236(c)(2).* There are no evidence suggesting, I have committed any act described on section above as stated the amount of $9,999,999 of bond and mentioned twice in the Booking Report. Therefore, it is NOT computer error since, its mentioned on the same report in different page that Bond was $00. Consequently, the amount entered was made deliberately to secure mandatory detention without eligibility of Bond hearing. since I cannot attend any hearing as I proceed under non-hearing removal. However, I possess the right to attend hearing before an immigration judge if removal made under criminal section 236 of which as they claim falsely to proceed removal as criminal alien without showing any probable cause of criminal act.

E. Releasing Date of ICE Custody

- Form I-296 (Notice to Alien Ordered Removal/Deportation Verification) the date of Departure was set on May 1, 2003. The Booking Report of Shawnee County Suggested I have been released off custody on the 04/30/2003 at 07:15 which I believe it was true. The report didn't state where I have been transferred and to which facility. As I recall I was Transferred to Plat County Jail in Missouri. Since form I-216 (transfer of an alien) has not Been correctly initiated then there is no record of me while proceeding removal Under ICE custody which expose my life wellbeing to danger as the transfer has not been Recorded.

I contacted by phone Shawnee county Facilities in Topeka, KS to confirm the location of facility I held under removal proceedings and request the Booking Report. The answer was there are NO record portend to be for A-file No. 97319371. Therefore, I contacted Maj. Timothy Phelps Director of Adult Facilities at Shawnee County Jail. Maj. Phelps find the missing report where the location of the file wasn't on the Storage Area Facilities as he describes it as (Unusual Possibility). Thus, I concluded that the file was concealed since it's not on the right location. Maj. Phelps E-mail his observation including the missing Booking file.

As indicated on NRC report page 43 that the NCIC and III has been submitted to initiate the issuance of UCN at 17: 58: 11 allowing two minutes only before the official working hours over for the day on 04/10/2003. Booking time was according to Shawnee report I have been admitted at 18:10 on 04/10/2003 it gives only 12 minutes to have me transfer from Kansas City, MO and ICE field office and go through many paper legal form preparation, traveling almost 80 Miles to Shawnee County Topeka, KS all in the same day and only within 12 minutes. Therefore, it shows by evidence beyond reasonable Doubt that I wasn't in Shawnee Correction Facilities nor ICE custody as they claim falsely on 04/10/2003 at 18:10. Thus, the apprehension date has been falsified.

List of Violations Committed by the Officers of the FBI & ICE-KCMO

A. Falls Arrest and imprisonment By the FBI & ICE-KCMO
Arrest can be defined as following

Arrest define as *[using legal authority to deprive a person of his or her freedom of movement.]*

There are elements stated by law in consideration of Arrest as following

An arrest maybe without a warrant if (Probable Cause) and (Exigent Circumstances) are present at the time of arrest:

There is no probable case has been recorded under section 236 concerning Criminal Aliens. as stated in many sections above ICE didn't mentioned under which category the crime recorder. Additionally, supported by my personal record which indicate there are no crimes ever committed for the past 14 years living in the United States. Exigent Circumstances may also occur when police when the police are in hot pursuit of a suspect who is possibly involved in criminal activities and in process of fleeing.

FOIA-ICE report page 26 stated under comment section that I was attending an interview by the FBI KCMO under (Iraq Initiative) , as evidence suggest there are no force or resistance has been made or recorded as I attended the interview based upon appointment made a week before 04/11/2003 with the FBI of which I attended voluntarily and based upon my understanding I have nothing to hide and the officer of the law gave me promises that the interview it would take maximum 15 to 20 minutes and I will be in my way out.

Therefore, there are no elements of probable cause nor Exigent Circumstance recorded. Thus, warrantless arrest was illegal unless it was accomplished under one (Exigent) circumstances set by law of which there is NONE.

(Probable Cause) is a reasonable belief of the police office in the guilt of the suspect, based on the facts and information prior to arrest. For instance, a warrantless arrest may be legitimate in situation where the police officer/ Law Enforcement agent has reasonable belief that the suspect has either committed a crime or is about to commit a crime:

Record show there are no prior arrest ever made of any criminal act nor there are any crimes committed under Section 236 to render removal. There are no resistance nor gestures, or words has been made when taken to custody. Giving the circumstance there are (falls imprisonment) as elements are not visible in support of this act.

The police officer/ Law Enforcement agent might also arrest the suspect to prevent the suspect's escape or to preserve the evidence. A warrantless arrest may be invalid through, if the police office/ Law Enforcement agent failed to demonstrate exigent circumstances and probable cause.

the factors of burden of proof rely on the shoulder of the officer. it must determine by the Law Enforcement office when arresting the suspect to warrant a reasonable belief that the suspect had committed or was coming a crime. The following facts must be considered:

1. Examine the Probable Cause exist to determine if the law enforcement office has facts and circumstances within their knowledge sufficient to warrant a reasonable believe that the suspect had committed or was committing a crime.
2. Examine exigent at least ONE circumstance is present at the time of arrest

There are neither probable case nor Exigent facts apparent at the time of arrest made. after the Interview with the FBI-KCMO there are no criminal act registered under any criminal offence or resistance nor attempting to escape from authority. the fact is including me under Section 236 was deliberately made to issue removal as criminal alien without any tangible evidence nor reasonable believe of committing any criminal act nor was committing any crime render removal.

The right to make warrantless arrests are commonly defined and limited by statues subject to the due process guaranty of the U.S. Constitution.

Stated under *42 U.S.C. 1983* of falls imprisonment where an individual as stated and refer as (Every Person) without stating his/her nationality can defend his/her status of falls imprisonment if the following elements available:

1. *The Comment law elements for falls imprisonment.*

   a. Intend to Confine: falls accusation of criminal act under section 236 was attentionally made to impose Mandatory Detention as Criminal alien without any probable cause nor judicial review where I have been confined at Shawnee County Jail and regardless of clear record.
   b. Acts result resulting in confinement: confinement as define under Black's Law Dictionary [maybe by either moral or a physical restrain, by threats of violence with a present force, or by physical restrain of a person.]. the elements suggested are highly appeared to my case as I have been physically restrained under falls elements and imprisonment as VWP violator of which I didn't violate, and as criminal alien proceeding removal without judicial review stating under which section the crime accord as stated under section 236. Therefore, the elements of physical restrain resulting to falls imprisonment are visible.
   c. consciousness of the plaintiff of confinement or resulting harm: when attending FBI interview, it came through facts that I have nothing to hide giving my clear record. as been taken to custody handcuffed of no crime committed it result to Harm emotionally, mentally and financially as I was investing of franchise in the Kansas City Area where I have lost during the period of removal

2. The imprisonment resulted in a violation of a plaintiff's Fourth Amendment:
   When reviewing the removal case there are few elements under the Fourth Amendment Must be considered:
   - *There are Unreasonable search and seizure*: taking me to custody as criminal alien without court review, attempted to enter my property without court order all made under falls accusations which violate my rights under the Fourth amendments
   - *Unlawful dentation:* I have been taken to custody handcuffed to Shawnee county jail which was subject to any length of time, where I have been deprived of my physical liberty. There is no criminal act committed nor any immigration violation recorded. 150 Day overstaying is non-deportable offence as not exceeding 180 Days to issue reentry band.

- *Malicious Arrest:* is an arrest made without probable cause and for an improper purpose. Malicious arrest can become grounds for action for abuse of process, falls imprisonment or malicious prosecution. Given the elements explained the absent of probable case, violating Removal process (explained Below) and violating all due right process set forward under the U.S. Constitution all are supportive elements to Malicious arrest. Which has been based upon false claim of criminal act under section 236 without showing the criminal accusations or other elements of committing any criminal act as showing my record came clear of any crime which indicate they made falls accusations of crime to have me removed from the United States against the well of the law.

The suspect arrested without a warrant is entitled prompt judicial determination generally made in 48 hours.

The Arrest made after the interview with the FBI-KCMO was rely falsely upon crimes under Section 236 of which never committed. therefore, as standard practice Form I-247(Detainer-Notice of Action) must be issued by local or state Authority for determination of criminal act of which has not been made. However, as evidence suggested the FBI and ICE-KCMO (Omits) the state and local Enforcement authority in the state of Missouri where the arrest made. Since there are no probable cause of arrest available at the time most likely detinner cannot be issued by neither local nor state authority due to lock of probable cause.

See El Badrawi v. Dept of Homeland Sec., 579 F. Supp. 2d 249, 275-76 (D. Conn. 2008) (treading arrest pursuant to administrative warrant as warrantless arrest under Connecticut tort law and federal constitution law for purpose of falls arrest claim). *See also Morales v. Chadbourne, No. 12-0301 (D. R.I. Filed February 12, 2014)* (in this case, a finding of probable cause would require specific facts and circumstances to warrant a prudent [person] in believing that Ms. Morales was a non-citizen who was subject to detention or removal).

As result the FBI-KCMO issued UCN 958484AC9 which issued to criminal individual as a substitute of I-247 to BYPASS the state authority, in addition, ICE/INS- KCMO issued form I-200 which came in coordination of the UCN issued by the FBI as there are Criminal Alien proceed removal without any probable cause nor judicial review supporting their false claim.

according to evidence set forward the Federal Agencies of the FBI and ICE-KCMO are in violation of the (Tenth Amendment) of the U.S. constitution as stated (*reserve power. The power not delegated to the United States by the constitution, nor prohibited by it to the states, are reserved to the state respectively, or to the people*).

Miranda Warning: *explanation of rights that must be given before any custodial interrogation stemming largely from the Fifth Amendment privilege against self-incrimination. The person detained and interrogated must be made aware of rights to remain silent, the right to consult with an attorney and have the attorney present during questioning, and to have an attorney appointed indigent.*

the flowing has done while taking to custody of ICE-KCMO

- I have not giving explanation of my rights of the nature of arrest made the officers didn't state there are Criminal elements been found to rendered arrest or any other violations.
- As stated on page 5 of NRC report show I have been assigned an attorney of which he didn't show up while interrogated and transferred to ICE custody

- After carefully evaluating form G-28. My name misspelled from Omer Al Obaidy to Omar ALOBAIDY, marked as applicant not as petitioner, the form it doesn't contain the attorney signature only his name printed, the form signed by me on 04/11/2003 under my signature, the form expiration date shows its past almost three years and expired on 09/26/2000 which is not valid.
- As stated on page 5 in NRC 2015043635 Attorney Jeffery Bell who was assigned my case with ICE-KCMO, it is not clearly show if he was under pressure of ICE not to appear in person while I was in Custody or there is violation of Client Attorney Privilege and/or fiduciary Duties. I request the court to exercise discretion on this matter to find the truth of removal.
- Signing all removal forms by fear and shuck without present of my attorney, which causes removal as criminal Alien under section 236 without understanding the nature of the forms and the reason to sign.

As stated under arrest manors and legal procedures. shows that removal in general cannot be made since its been found to be in violations of constitutional rights.

B. Discrimination Based upon Race and National Origin

The act of discrimination by ICE and the FBI mentioned clearly on ICE-FOIA report do motioned this fact clearly in two incidences of the report as following.

As stated on page 26 of ICE-FOIA *(Subject was encountered after interviewing with the FBI in Kansas City, MO. Subject was targeted to be interviewed under the Iraq initiative. Taken into Custody on 04/10/2003).*

In analyzing the mentioned above statement the following must be considered.

1. The comment didn't mention any facts regarding the interest of the FBI-KCMO with regard of the interview if it is political view, suspicious of act might be undesirable to the U.S. government or other
2. Removal made as VWP violate as Italian National which proven I have no link to Iraq
3. The comment didn't mention any reason to be targeted for an interview with the FBI-KCMO in regard of Iraq Initiative.
4. Given the fact I do carry middle eastern name which can be linked to Iraq initiative. Rely upon the national origin and race to link me to country that I didn't carry any citizenship with. I am Italian national born in Italy of parents who are Iraqi national. Therefore, ICE and the FBI agreed that the main reason for targeting me for an interview based solely upon my race and national origin which cause removal as act of retaliation of the war with Iraq this is what the statement mentioned the purpose of the interview as (Iraq Initiative). We don't know if there are other reasons for the FBI interview and interest as the investigation will revile the truth.
5. The FBI didn't rely on any reliable information of my record and nationality only my national origin. Even though there are none truthful information made to the attention of the FBI for any reason. once I have attended the interview according to the time and date agreed upon and nothing shown no criminal nor security concerns or attempted to show any signs of sympathy during the war, then I should have been released immediately rather I have been taken through this discriminating process and removal for no reason.

Page 19 ICE-FOIA report NAILS Lookout Comments Inquiry *(subj Apprehended by[..] Parent are Citizen/National of Iraq. Subj Italian by Birth. Parents living in Dubai, UAE, Subj Visa Waiver Violator. Subj Pend FBI Interview.)*

The statement above it is an obvious clear discrimination based on race and national origin for the following reasons:

1. There are no logical reasons to mention my parent's nationality. My parents are not legal residence or neutralized citizens of the U.S. the main reason was to link me to Iraq. Even though I am not national citizen of Iraq the attempt was to justify removal based solely upon national origin as Iraqi Origin. There are no statute indicating that any legal residence or neutralized citizen will be subject to his parent nationality.
2. Authority of immigration are limited to the geographic jurisdiction granted by the constitution. Therefore, claiming that I am Italian By Birth it is not matter of concerns to ICE or the FBI. the fact is I am Italian Citizen and European national with full privilege and authority by the Italian Government. Thus, stating the fact, I am Italian by Birth is the ICE attempt to weaken the ties between me and my country Italy to justify removal based upon national origin which is strict violation to my rights and beyond ICE and the FBI authorities.

I want to draw the court attention that I had an Iraqi passport before for the following reasons:

As explained applicant Iraqi origin of an Iraqi parents. applicant did carry an Iraqi Passport ONLY but never issued any Iraqi Citizenship due to the following facts

- *The Italian laws and regulation regarding neutralizing and citizenship for non-Italian, individual who born in Italy must reach age of 18 years to apply for his/her rights for citizenship.*
- *During that time applicant been issued Iraqi passport on October 4th, 1976 issued in Dubai United Arab Emirates Passport No F 035113/14. As written on page 7 of the passport mentioned and translated from Arabic to English (This passport issued according to his mother Dr. Samira Abdulhamid passport No 43405 E/12 issued from Iraqi Embassy -Rome on 12/29/1973 where the name of individual mentioned has been taken from his mother passport).*
- *On 1986 when reached age of 18 I applied for Italian citizenship as my rights of birth of which has been granted*
- *On 1987 I have received an admission to Kansas State University – Manhattan Kansas to continue my education. Since the processing of Italian Citizenship must be completed for full Italian nationality would take reasonable time of 12 to 18 months. I applied to F-1 visa to the U.S. using ONLY Iraqi passport.*
- *On 1990 I applied for F-1 Visa using Italian passport and never used any Iraqi passport since rights to apply for Iraqi Citizenship has been expired and I did explain that to the consular officer who approved my visa entry to the U.S. using Italian passport*
- *As stated on page 57 of NRC report. I have granted visa entry to Iraq of which it is proof that I never carried an Iraqi valid passport nor citizenship. My last trip to Iraq on July 2001 was the first and the last of a life time.*

As result of statement mentioned in ICE-FOIA I conclude that ICE and the FBI use only my link as national origin of Iraq to impose removal based on falls arrest and imprisonment as criminal alien

without judicial review. These elements suggested there are discrimination attempt proven by the statement written by ICE and the FBI.

Following below the list of laws concerning discrimination which has been violated by the officers in charge. *The statement mentioned in ICE-FOIA indicate that ICE and the FBI use only my link as national origin of Iraq to impose removal based on falls arrest and imprisonment as criminal alien without judicial review. The suggested there are discrimination based on national origin. the Federal agencies used excessive force illegally in retaliation of Iraq invasion to deport me without valid reasons and violate the law mentioned below*

- *NO-FEAR act (Is the United States Federal law that seek to discourage federal managers and supervisors from engaging in unlawful discrimination and retaliation. It is popularly called No-FEAR Act* and known as *public law 107-174.*)

ICE-FOIA report, Shawnee County Booking Report and the FBI UCN all are indication of falsifying statement, fraud and forgery appeared in all legal forms false accusations of criminal act never committed and changing the apprehension date the legal description of (falsely Make) with attention to harm is obvious as stated below.

- *8 U.S. Code 1324c (f) for the purpose of this section the term (falsely make) means to prepare or provide an application or documents, with knowledge or in reckless disregards of the fact that the application or documents contains a false, fictitious, or fraudulent statement or material representation, or has no basis in law or fact, or otherwise fails to state a fact which is material to the purpose for which it was submitted.*

I have deprived my rights under the U.S. Constitution when injury has been made deliberately and attentionally targeting my race and national origin without any respect to the constitutional rights regardless of 14 years living in the U.S.

C. Illegal Transfer from the FBI Field Office to ICE-KCMO

- Transfer made in interstate from Missouri to Kansas without showing evidence supporting such transfer.
- Impose confinement without legal authority
- The matter of interstate transfer has been planned for prior of the false arrest. The officers in charge of removal in collaboration with the FBI-KCMO they didn't authenticate form I-216(record of person and property transferred) page 11. As they knowingly and deliberately understand to transfer person passing the interstate by imposing falls arrest and falls imprisonment it is an illegal act.
- Hide any link to location of the facility ranging of (Fraudulently Concealed) Shawnee County booking report to changing the apprehension date from 04/11/2003 to 04/10/2003 by penetrating Jail Software System.

- The FBI-KCMO share the same responsibility when they issued and concealed UCN issuing which issued to criminal individuals. the report on 04/10/2003 a day before the actual meeting
- Changing the date without any record of the incidence of arrest which it should be recorded on form I-216 and supported by four other forms to give Safety -net to both agency by assuming the date of the actual incidence never happened and UCN issued as standard procedures on 04/10/2003 to hide the place of transfer
- To hide further any link to location of the form recording falsely and allegedly the facility I was held under it is Shawnee Juvenile jail at age 34 to hide further my file under detainee locater system where no information can be obtained without court order.
- Three important elements must exist to file case of kidnaping (the incidence date, location and place of transfer) all three elements have been falsified and concealed. I am not accusing the FBI or ICE-KCMO of any criminal act however, the elements concerning the transfer and hiding location suggested this matter do exist.
- Transport made forcefully while handcuffed and without appearance of my attorney, reading my rights stating charges and reasons for arrest by given Miranda warning
- Impose falls imprisonment as criminal alien proceed removal under section 236 without stating the nature of crime committed nor discussed before a judicial review
- ICE-KCMO issued three forms illegally produced for VWP violators I-826, I-286 and I-265 who proceed non-hearing removal as stated under 8 CFR 217.4(b)(1),(2) by changing the apprehension date from 04/11/2003 to 04/10/2003 to give falls proof that I have been held under ICE custody on 04/10/2003 at 4:10 PM. date where form I-203 mentioned that I was in custody on 04/11/2003 was true and the timing has been falsified.
- False arrest and imprisonment motive. As stated on page 7 of ICE-FOIA report (NAILS lookout Comments Inquiry) date: 05/28/2003 time 14:40:12. *(Subj Apprehended By[..] Parents are national/Citizen of Iraq. Subj Italian by birth. Parents living in Dubai, UAE. Subj Visa Waiver Violator).* Analyzing this statement further giving the apprehension date 04/11/2003. the commit mentioned more my nationality as Iraqi then Italian national as stated (Italian by birth). What my parents position on removal process they are not residence in the United State for ICE to be concerned about parent's legal statues or nationality. the matter not concerning my parents rather it concerns me, I am an Italian national under full privilege in Italy and in all European countries.
- As result of the mentioned above where the falls arrest date was on 04/11/2003 the United States Troops was officially liberating Iraq on 04/09/2003 which show the (Motive) of such an act.
- As stated on page 26 of ICE-FOIA *(Subject was encountered after interviewing with the FBI in Kansas City, MO. Subject was targeted to be interviewed under the Iraq initiative. Taken into Custody on 04/10/2003).* Thus, the reason to impose illegal arrest was an act of retaliation targeting me as an Iraqi decent as stated interview made for purpose was (Under Iraq Initiative). The amount of bond has been entered as $9,999,999 we cannot understand if it is ransom, reward or other. Request the court to compel the FBI and ICE to initiate investigation to determine the reason of the officer to do so passing their scope of employment limits.
- Use elements of decoy, inveigle, unlawful seizure all are elements used to preform operations (Similar to Kidnap) where excluding force. The elements are obvious used with motive of which targeting me based upon Race and national origin as an Iraqi.
- As explained above Arrest cannot be implemented due to lack of probable cause. However, according to evidence stated forward the elements of kidnap clearer then false arrest and imprisonment. If the FBI and ICE-KCMO has a reason to believe that alien committing

any criminal act they can use Decoy under court of jurisdiction to serve process ONLY. Thus, reason to believe I have committed any criminal act it does not exist.

- Attempted to made pass the interstate transfer another element concern kidnap and not false arrest only. There was unreasonable search and seizure committed by the officer while conducting removal as explained in this report.
- stated under *18 U.S.C 1201(a) [Whenever unlawful seizer, confines, inveigle, decoy, kidnaps, abducts or carried a way and holds for ransom or reward or otherwise any person, except in the case of a minor by the parent thereof]*. The elements used it tailored to fit the description under statue above verses the actual evidence and incidence occurred 14 years ago. The amount of immigration bond mentioned on concealed Shawnee report of $9,999,999 suggested using huge lamp sum would associate with (Reward, Ransom or otherwise any person). we cannot understand the reason of such an act.
- stated on *18 U.S.C. 1201(b)* if failure to release the victim with in twenty-four hours as been taken by kidnaping as stated on subsection (a)(1). And transported in interstate or foreign. The transport made pass the interstate to Kansas where ICE hide all elements of transport and assume incidence of removal never exist.
- **There is no attempt to harass or accuse the federal agency of such attempt. However, I will request the court discretion based on both evidence and discovery rule to determine the truth. based upon my due diligent and excessive research I have reach to this conclusion I am not an attorney at record. however, evidence is very clearly show that Elements Used is Similar to Kidnap to impose false arrest and imprisonment.**

D. Abuse and violating Removal procedures under the laws and regulations of the United States.

Applicant argue there are an abused to removal proceedings. The most commonly used statuses of which alien removed under are 8 U.S.C. 1225(b), 1226(a), and 1231(a). Since the removal made illegally by fraud and forgery, none of the statues applied for applicant removal as explained below.

Based upon ICE and USCIS FOIA/PA report See Index () the following observations noted:

1. There are three forms appeared on ICE report are not- signed or authenticated Form I-216(record of person and property transferred), Form I-170 (Deportation Case Check Sheet), Form I-213/826 (Record of Deportable/Inadmissible Alien) and Form I-296 (Notice to alien ordered Removed/ Departure Verification). The Two parts form it doesn't state the Departure Verification has not been completed and made by Forgery.

2. As stated on *8 U.S. Code 1231(a)(1)(B)(i) the removal period begins when the date the order of removal becomes administratively final.* As mentioned above the forms are not completed nor authorized therefore removal administratively incomplete. in addition, investigation to removal reveled there are fraudulently concealed evidence which are the FBI file and Shawnee County correction facility report done by ICE, Director of Shawnee County Jail e mail suggested this fact. Moreover, applicant contacted officially Criminal Justice Information Service (CJIS) to revel information of the FBI file. The FBI file No or UCN 958484AC9 came back as incomplete as stated above. Additionally, the location of the file wasn't under the FBI Central Record System which suggests the FBI deliberately

an allegedly concealed this file of further review. Therefore, considering evidence the removal is neither final nor completed according to the Law mentioned above.

3. Section *8 U.S. Code 1231(a)(1)(B)(ii) if the removal order is judicially reviewed and if the court orders stay of removal of the alien, the date of the court's if final.* Even though applicant has been admitted and paroled on VWP in his last entry, the fact remain that applicant poses rights under the Fifth and Fourteenth Amendments of the U.S. constitution giving his pervious lengthy time in the U.S. of 14 years on F-1 visa and clear record which cannot be neglected or omitted of the applicant history. Therefore, the immigration officer and / or the Immigration court must exercise discretion in favor of applicant of which the immigration officers didn't take the case for judicial review . Additionally, there are no indication as stated by section 212(a)(9)(B)(ii) the overstayed period was 150 it doesn't exceed 180 to 364 days where alien will be subject to voluntary departure and three years band. as stated on

4. *Section (iii) the removal period begins if the alien is detained or confined (except under an immigration process), the date alien is released from detention or confinement.* There are facts to be considered (1) ICE has committed fraud by changing apprehension date from 04/11/2003 to 04/10/2003 by penetrating Jail Software System at Shawnee County Correction facility. Therefore, the date not visibly shown (2) assume falls accusations based upon criminal grounds which It doesn't exist to detain applicant under ICE custody.

5. Section *8 U.S. Code 1231(a)(2) during the removal period, the attorney general under no circumstances during the removal period shall the attorney general release an alien who have been found inadmissible under section 1182(a)(2) or 1182(a)(4)(B) of the title or deportable under section 1227(a)(2) or 1227(a)(4)(B) of this title.* There are no grounds found on applicant committing any criminal nor security violation. ICE agreed on this conclusion as stated on NRC report Page 6 the deportable ground was under 237(a)(1)(B) of which its non-violent offence.
6. Moreover, as stated on *8 U.S. Code 1231(a)(4)(B)(II)* the *removal is appropriate and in the best interest of the state.* The government must show substantial evidence in support of this section of the law.
7. Section 8 *U.S. Code 1231(a)(3) Supervision after 90-Days period. If the alien dose not leave or is not removed within the removal period, the alien pending, shall be subject to under regulations prescribed by the Attorney General.* The regulations required the alien. (A) Appeared before an immigration judge. (B) submit medical and psychiatric examination at the expanse of the United Sates Government. (D) to obey reasonable written restriction on the aliens, conduct or activities that the attorney general prescription for the alien. ICE find it will be in their better interest to expedite removal in record time of 21 days before it can be reported to Attorney General Office. Most of Aliens complaining that they been held for period exceed 90 days. I left detention with record time so ICE officer wont report to the U.S.A.G office
8. As stated on *8 U.S.C. 1231(a)(3)(C) give information under oath about the alien nationality, circumstances, habits, associations, and activities, and other information the attorney general considered appropriate.* Evidence suggested that ICE and the FBI who orchestrate the removal beyond and above the law cannot submit this type of information as they declared deliberately that I am national of IRAQ not ITALY and the circumstances

of arrest it doesn't rely on any sufficient probable cause of criminal act where elements of arrest it doesn't exist due to luck of probable cause ICE and the FBI-KCMO impose process like Kidnaping and make it more like apprehension of an alien in violation of visa status and fraudulently concealed all elements of removal . Therefore, the FBI and ICE wear very much willing to expedited removal since it must be regularly reported if exceed 90 -Day as stated under subparagraph A-D. Thus, removal made within only 19 days before it can go further then ICE or the FBI control and it will be obvious violations of law and the constitution. The purpose of expedited release where ICE avoid giving or providing any statement under OATH.

9. Stated on *8 U.S.C. 1231(a)(6)* an alien ordered removed who inadmissible under section 1182 of the title , removable under section *1227(a)(1)(C), 1227(a)(2), or 1227(a)(4)* of this title or who has been determined by the attorney general to be risk to the community or unlikely to comply with the order of removal, may be detained beyond the removal period and, if released, shall be subject to the terms of supervision in paragraph (3). As stated on NRC report page 6 removal made under section *237(a)(1)(B)* of which in non-offence violation. However, removal proceed under Section 236 as criminal Alien without stating under which section found under due to clear record and absent of Probable- Cause and missing Exigent Circumstances which made arrest legality not valid. Therefore, removal under warrantless was unlawfully made.

10. Additionally, there are no tangible evidence recorded that I have committed any criminal act prior of removal as stated under *8 U.S.C. 1226(c)(1)(C)* where alien must have been sentence to term of imprisonment of at least 1 year. Consequently, due to clear record I cannot be considered flight-risk as explained above nor danger to community as stated under the law shown above. I conclude based on evidence gathered imposing removal under Section 236 was fabricated to have the maximum band of reentry to the U.S. made allegedly without Judicial Review.
11. Section 1226 (c) impose mandatory detention on individuals who are (deportable)or (inadmissible) due to their criminal history while their cases pending before IJ or BIA. Such individuals are not entitled to an IJ bond hearing at the outset of their cases. Instead the only review they may request is a hearing under *In Re Joseph*, 22 I. & N. Dec. 799(BIA 1999), and *8 C.F.R 1003.19(h)(2)(ii)* to determine if they are (properly included) under the terms of the statue.

12. Mandatory Detention imposed upon alien under two conditions if alien committed offence covered under 1187(a)(2) or deportable of offence covered in section 1227(a)(2)(A)(ii), (A), (iii),(B), (C) or (D) or deportable under 1227(a)(2)(i) based on offence of which alien has been sentence to term of imprisonment of at least 1 year. Alien inadmissible under section 1182(a)(3)(B) of this title or deportable under section 1227(a)(4)(B). none of the mentioned above grounds applicable to applicant due to his clear record. Therefore, Immigration Officer accused applicant deliberately as entry to the U.S. Border Illegally to impose Expedited Removal as Mandatory Detention by adding form I-213/826. None of that exist as applicant been admitted and paroled on VWP.
13. Form I-213/826 is supplied by ICE to Criminal Aliens who served imprisonment time and have no credible fear going back to their native land. Applicant who lived in the United States for period of 14 years since 1987 never committed any civil nor criminal act or had any political opinion might considered undesirable to U.S. authorities which has been

proven from his clear personal record. record suggests I have been inspected and paroled before U.S.CBP officer as stated under *8 U.S.C. 1225(a)(3),* see NRC report page 59 of my passport as I have been admitted and inspected at the port of entry and granted 90 days entry.

14. Stated on *8 U.S. Code 1231(b)(2)(F) when united states at war and the Attorney General decided that it is impracticable, inadvisable, inconvenient, or impossible to remove an alien under this subsection because of war.* If proven to the Attorney General that alien can travel to country of citizen with no political issues or to country when can any other country admit alien as recognized government see subsection (i), (ii).
15. Immigration and Customs Enforcement (ICE)- Kansas City, MO. (1) Considered applicant as Iraqi during war time on April 9, 2003 officially United States liberated Iraq. there is no tangible evidence suggested that Applicant is an Iraqi national only his race and national origin, applicant is national and native citizen of Italy where he was born. therefore, cannot be removed as Iraqi where the U.S. was at war with Iraq as stated on section above. (2) consider an applicant in violation of VWP as Italian, evidence suggest applicant didn't violate terms and condition of VWP since it doesn't exceed 180 to be considered confirmed violation punishable by removal and band. (3) since there are no suitable evidence suggested removal from the U.S. of which orchestrated by the FBI and ICE- Kansas City as they accused applicant allegedly and deliberately on section 236 as criminal alien without any evidence. NCIC, personal record in the U.S. and Citizen record from prosecutor office in Italy suggested applicant never committed any criminal act.
16. removal in accordance with *8 U.S. Code 1231(b)(2)(E)* to country of birth and citizen as stated on subparagraph (i), (iv), (v) and (vi). As result the removal occurs on May 1st, 2003 is illegal since applicant in part considered Iraqi national during war time which is NOT and considered in a part VWP violator as Italian National where the overstaying time of 150 day was for good and reasons which is NOT deportable violation since it doesn't exceed 180 days. Applicant request the Court dismissal removal off applicant record and considered financial remedies of damages done by U.S. Federal Agents since it doesn't match U.S. Federal Code.
17. As mentioned on this report there are no criminal or security violations has been found on applicant while in detention process of which has been fabricated to impose Mandatory Detention as stated on *8 U.S. Code 1225(a)(B)(IV)* which will be granted to Criminal Aliens if found no Credible Fear. There are NO administrative Remedies been Offered while in detention since removal based on fraud and forgery. Applicant has deprived his rights for judicial review for Stay of Removal as stated on *8 U.S. Code 1231(2)(A)(i)* the Attorney General may stay the removal of an alien under this subsection if attorney General decided that (i) immediate removal is not practicable or proper. The entry of removal order was fundamentally unfair since the removal made illegally and in obvious violations of Immigration and Neutralization Act INA title 8.

As result removal made deliberately by falls accusations without showing under which category of criminal offences under section 236 as well proven by personal record there are no criminal offence every committed. Therefore, I have the right to challenge removal under paragraph (d).

- *8 U.S.C 1326(d)(1): the alien exhausted any administrative remedies that may have been available to seek relief against the order.* I have in many attempts demonstrate to the officer that I have lengthy stay in the U.S. and I have not committed any crimes. I have been band of any remedies including exercise of discretions by the officer in charge. During the time

I was held on removal procedures I hired an attorney while proceeding removal whose name mentioned on form G-28 page 5 NRC report try explained my points officially to ICE officer to seek remedies his request has been declined.

- *8 U.S.C 1326(d)(2): the deportation proceeding at which the order was issued improperly deprived the alien of opportunity for judicial review.* Even though the last entry made upon VWP which cannot be under the immigration court jurisdiction as stated under 8 CFR 217.4(b)(1), (2) However, giving the allegations and accusations of falls arrest, imprisonment and not exist criminal act render to removal. According to removal procedures concerning Criminal Alien who have been issued form I-200, it is mandatory as stated above on forms in Group 1 that alien who committed criminal act must attend a fair tail before an immigration court under power of Form I-862 (Notice to Appear) of which not happens. Only if alien convicted in court of law and no fear or danger associated with alien safety to travel back to his country of origin then removal procedures as Criminal Alien will happen. Evidence suggested that these elements has not been taken or considered to proceed removal as criminal alien due to lack of probable cause and clear record which suggested that removal done deliberately and allegedly against the Constitution of the United States.

- *8 U.S.C 1326(d)(3): The entry of the order was fundamentally unfair.* As explained above and more elements will be discussed below the falsifications of legal government forms and falls accusations of crime never exist or explained under section 236 it is an example of unfair order which I have explained in detail.

As stated on *8 CFR 1240.8(a) [A respondent charged with deportability shall found to be removable if the service proves by clear and convincing evidence that the respondent is deportable as charged*]. Based upon facts stated forwards ICE failed to give any proof of removal as stated on the statue above. Rather ICE and the FBI-KCMO manage to impose false removal based upon fraud and forgery.

E. Abuse of Prosecutorial Discretion

Prosecutorial Discretion its widely used under Immigration courts as well in enforcement process through the deportation process. In 2011 *Morton Memo* encourage use of discretion in all stages of the removal process as stated (the concept of Prosecutorial Discretionary generally refer to agency's determination of whether or not immigration laws should be enforced against particular individual or group of people. The stages of immigration enforcement will be including and not limited to integration, arrest, charging, detention, removal proceedings, appeal or after removal order has become final.

The above-mentioned factors are as well encouraged by (Meissner Memorandum) Nov 17, 2000 (Stating that *Service officer are not only authorized by law but expected to exercise discretion in a judicious manner at all stages of the enforcement process).*

The purpose of prosecutorial Discretion has Two principals (1) resources are limited to target any person against whom legally charges exist (2) removal not always appropriate for those with (strong equities or related humanitarian factors, but who otherwise lack a formal remedy under the law to prevent removal.

The prosecutorial discretions cannot be understood as form of relief nor insure any favorable answer to illegal states it is term used to describe the decision making of ICE to allocate resources in the best possible.

ICE employee must determine whether the case is (Low Priority) based upon prosecutorial discretionary. Any person facing deportation proceedings can ask ICE to use prosecutorial discretionary to halt the proceeding. In determining whether alien eligible to exercise favorable discretion. there are 19 factors appeared in (Morton Memo) ICE employee can allocate factors that eligible for alien case.

Factors considered when review Alien in removal proceedings in accordance with *Morten Memo* apply to my case are as following:

- *Length of person's presence in the United States with consideration given to presence in lawful status*. I have lived in the U.S. period of 14 years maintaining student status.
- *Pursuit of education in the United States*. I held B.S in Business Administration from William Jewell College Class of 1999.
- *Criminal History*. In my long years living in the U.S. no violation to law has been recorded against me whether Minor or Major including Civil cases.
- *Immigration History*. There are no prior violations on any immigration laws. the removal made against me by ICE, USCIS and the FBI was hate crime targeting me based upon national origin, Believe and race. the fact remains and proven by law the removal CANNOT be taken against me since overstaying was 150 days didn't exceed 180 day to be punishable by voluntary departure and 3 years' band. Therefore, there are NO violation can be deducted and recorded. The fact is I have been band of entry 10 years by adding form 213/826 which issued for Aliens under administrative removal (Criminal Aliens) not signed or authorized by Immigration officer accusing me wrongfully of criminal act under section 236 of the law. There is no evidence I have ever committed any criminal act cause removal and long band of entry during 14 years living in the U.S.
- *National Security or public safety concerns*. There was no ground of security impose danger to public safety found.
- *Ties and contribution to the community*. I have strong ties giving lengthy time to the community and willingness to contribute. I have founded business establishment creating Jobs and pay taxes show willingness to integrate in the U.S. society.

The prosecutorial Discretionary practice of U.S. Immigration has been approved by the Supreme court of the U.S and discussed widely in the case of Arizona v. United State

The U.S. Supreme Court *Arizona v. United State* "[d]iscrestion in the enforcement of immigration law embrace immediate human concerns. Unauthorized workers trying to support their families, for example, likely pose less danger then alien smugglers or aliens who committed serious crimes. The equity of an individual case may turn on many factors, including whether the alien has children born in the United State, long ties to the community [...]" 132 S.Ct. 2492, 2499 (2012).

The case discuses mainly alien eligibility of Due process rights under exercise discretion review by the Immigration Officer. The fact remain that must of Alien who either paroled and admitted before U.S.CBP officer and overstayed time permitted by the Immigration or Alien who trans pass the U.S. Border illegally, aliens imposing insignificant financial threat or security danger to the average citizen as they accept minimum wages in the labor market it's not of an interest to the U.S. citizen.

The purpose of arriving to the U.S. was to have education which I have successfully accomplished. One of the other reasons was to establish small business, crate jobs and contribute to the community which indicate the minimal risk of taking U.S. Citizen and/ or authorized lawfully permitted residence not exist.

The fact show I have long ties to the community and show no risk impose any danger in return I have depraved my constitutional rights by the reckless act of the federal agents who used fraud and forgery to clear me out of the U.S. based upon Race and national origin

The exercise of prosecutorial discretion by DHS has been approved by both federal courts and the immigration court system. *See Reno v. American- Arab Anti- Discrimination comm.,*525 U.S. 471, 489- 92 (1999) (finding that the INS retains inherent prosecutorial discretion as to whether to bring removal proceedings). *Matter of Yauri,* 25 I &N Dec.103, 110 (BIA 2009) (*noting that DHS has prosecutorial discretion over deferred action and citing cases*).

It is ICE decision of whether to grant prosecutorial discretion is not a decision that (IJ) or the (Bored of Immigration Review) may review. There is no change to individual's Immigration status, which mean the person remains unauthorized to stay in the United States, but they will not be forced to leave immediately. This leave the immigrant in an unauthorized, yet authorized, stay in the United States if they offered the discretion.

Removal made not only targeting me but as well there are abuse to prosecutorial discretion and loss of substantial Due rights process as indicated by law under section *28 C.F.R 16.5(d)(1)(iii)* .the removal contains Fraud ,forgery of government documents to frame me as well give maximum band of 10 years by falsifying legal documents, falls accusations, expose my life wellbeing to danger wile in ICE custody. The unpleasant experience I had with the U.S. federal agencies by far non-human. there was an attack of my rights as Human. This act targeting me simply because of my national origin.

As appeared on page 26 of ICE report (Subject was Encountered after interviewing with FBI-Kansas City MO. Subject was targeted to be interviewed under Iraqi initiative. Taken into Custody on 04/10/2003). That was written on comment section the apprehension date appears made on 04/11/2003 of which contradicts with the comment section. The time show it was 12:45:53 entered using RAPART system which is true. I was in that date and time in INS Kansas City. the apprehension date 04/11/2003 mentioned on NRC report page 3. It shown by evidence I was attending an interview, later I understand it was under (Iraq Initiative). The other fact added is I am NOT Iraqi citizen nor born or have any ties toward Iraq. My parents came from Iraq as it the FBI Interview seems it was targeting my Race and national Origin. I don't see any valid reasons to attend the interview. In addition, the time overstayed mentioned in time illegally in the U.S. it was (1 month to 1 year) without giving the exact time overstayed which is 150 days which is NOT SUBJECT TO REMOVAL.

According to *8 CFR 1236.1(b)(2)* issuance of arrest made by officers described under *287.5(e)(3)* are responsible of its cancelation of which they chose deliberately not to do so and impose falls arrest and imprisonment. Therefore, It is ICE decision of whether to grant prosecutorial discretion is not a decision that (IJ) or the (Bored of Immigration Review) may review. There is no change to individual's Immigration status, which mean the person remains unauthorized to stay in the United States, but they will not be forced to leave immediately. This leave the immigrant in an unauthorized, yet authorized, stay in the United States if they offered the discretion.

F. Abuse Scope of Employment of the Immigration Officer under 8 CFR 287.8 and 287.9

8 CFR 287.8 standards for enforcement activities ***[the following standards for enforcement activities contained in this section must be adhered to by every immigration officer involved in enforcement activities. Any violations to this section shall be reported to the office of Inspector General or such other entity as may be provided for in 8 CFR 287.10].***

8 CFR 287.8(b)(1) [interrogation is questioning designed to elicit specific information. An immigration officer, like any other person, has the right to ask questions of anyone as long as the immigration officer dose not restrain the freedom of an individual, not under arrest, to walk away].

- The matter to detained me to ICE custody can be very much avoidable. The interview with the FBI-KCMO has been set on 04/11/2003 at 7:30 AM I cooperate to answer all the questioned asked, it was my basic understanding that I am safe and secured in the federal government office and my understanding that I have lived legally in the U.S. for almost 14 years as student then I have nothing to fear of specially I was in process of conducting and operating business in Kansas City. the same should apply to the immigration officer where he may ask any questions and if found no security nor criminal issues then alien can walk away.in addition to clear immigration violations record then I must be allowed to leave. None of this happens where I have been taken to custody illegally by crime of kidnaping to proceed removal as criminal alien of crim never committed.

8 CFR 287.8(b)(2) [if the immigration officer has reasonable suspicion, based on specific articulable facts, then the person being questioned or, is attempting to be, engaged in an offense against the United States or is an alien illegally in the United States, the immigration officer may briefly detain the person for questioning].

- Analyzing the statement mentioned above. The officer cannot rely upon suspicion only to impose arrest the questions done by the officers of law is to prevent any attempt of wrong doing that might bring harm to the U.S. people. If these elements not proven or recorded and the officer find there are no grounds of suspicion, then exercise discretion must follow. The immigration officer has the right to raise suspicion as my name is Arab origin. During the time I was in Kansas City the government conducts high level of scrutiny upon individuals who happens to be from countries of predominantly Arab and Muslims majority due to official military operations in Iraq on 04/09/2003.
- Even if that was the main reason of the interview as stated on page 26 of ICE-FOIA as (Iraq Initiative) there are legal procedures where the offices must follow where innocent person like me won't be targeted and harmed for no reason. the interview with the FBI was illegally made since I am not national citizen of Iraq nor any other Arab countries I am national citizen of Italy where I was born. Therefore, giving my Race and National Origin from Iraq reason for suspicion is available. However, if I have arrived without any legal representation and found nothing trigger any suspicion, then I should have walked away of the FBI office. Sadly, and tragically, I found myself in a big plan of retaliation conducted, managed and orchestrated by the FBI and ICE-KCMO made by fraud and forgery in government forms and violate the constitutional rights and principals by imposing falls arrest and imprisonment.

8 CFR 287.8(b)(3) [information obtained from the questioning may provide the basis for subsequent arrest, which must be affected only by designated immigration officer, as listed in 8 CFR 287.5(c)].

- During the interview with the FBI-KCMO there was nothing been found on record nor suspicion made as elements of arrest not exist of any criminal act where can be recorded nor security grounds nor immigration violation. Therefore, there was no reasons to proceed further with any steps.

8 CFR 287.8(c)(2)(i) if officer have reason to believe that an alien can be arrested has committed an offence against the United States or an alien illegally in the United States.
8 CFR 287.8(c)(2)(ii) A warrant of arrest shall be obtained except when the designated immigration officer has a reason to believe that the person is likely to escape before warrant of arrest can be obtained.
8 CFR 287.8(c)(2)(iii)(A) the immigration officer identify himself as an immigration officer who is authorized to execute an arrest, and
8 CFR 287.8(c)(2)(iii)(B) State that the person under arrest and reasons for arrest.

- Since the laws mentioned above are closely related to elements of arrest of which has been discussed under many previous sections.
    1. The officer didn't state under which category I have been found with respect to criminal charges against me. Thus, elements where Reason to Believe has not been established concerning criminal chargers nor offence against the United states.
    2. The likelihood of escape while imposing arrest wasn't available to preserve evidence that might be testimonial in court of law. I have attended the FBI interview voluntarily then transferred to ICE custody illegally.
    3. I have been approached by the immigration officers who identified themselves as immigration officers while in the FBI-KCMO filed Office. The date and time of the interview has been recorded on the (Guest Book) stated on 04/11/2003.
    4. The reason of arrest has not been discussed by the officers in charge. Arrest has been made without any discussion to any cause nor criminal issues

8 CFR 287.8(c)(2)(iv) [with respect to an alien arrest and administratively charged with being in the United States in violation of law, the arresting officer adhere to the procedures set forth in 8 CFR 237.3 if the arrest made without warrant].

- As set forward on section 287.3 there are missing elements which led to violation of scope of employment of the immigration officers in charge of unconstitutional removal following below will demonstrate to the court such violations.
    1. Examination of evidence where to consider me criminal alien by the examining officer who issued form I-200 who assume false identity of a judge. since form I-200 must be issued as final step when Criminal Alien indicted BEFORE a judgment of criminal act and AFTER and alien served with Notice to Appear for judicial review to consider the evidence gathered and reviewed by the examining officer and discussed in court of law. None of these steps has been done
    2. As per rules and procedures concerning alien who is found committing criminal act must serve Notice to Appear then when alien found in violations of Section 236 will be issued form I-200 which has not been administered by the officer.
    3. The officer who issued form I-200 he is not assigned to do as suggested under 8 CFR 287.5(c). additionally, since form I-200 MUST issue after judicial review in a court of law under power of Notice to Appear which must be produced only if reasonable suspicion of criminal act established in a court of law regardless of

entry as VWP. Thus, the officer who is the District Director assume illegally the power of a judge by false identity as it is NOT in the Director jurisdiction to do so without a court order and clear indictment of criminal act nor authority under his compacity to issue form I-200.

4. The prima facie evidence must be satisfactory and reviewed according to laws and regulations where the evidence is indictable in court of law by the examining officer. Proceed removal as criminal alien has not found nor recorded which made it illegal accusations and attempted to falsifying government forms to impose removal.
5. VWP are NOT subject to Expedited Removal as stated under *235.3(b)(10).* Form I-296 state this fact as proceeding removal under any section of the act not included in *235(b)(1) or 240.* If alien not subject to Expedited removal, then as stated and explained above, I will be subject to proceed under 240 of the act which has been written where box 2 has been selected in violation of the law as stated under 8 CFR 287.3(c). Alien will be advised to proceed with legal representation at no expense to the government if warrantless arrest administered of which has been done deliberately by ICE-KCMO to have me signed all forms.
6. This would explain the reason the attorney assigned the case whose name mentioned on page 5 of the NRC report where my name has been misspelled from (Omer Al Obaidy to Omar ALOBAIDY) applicant marked instead of petitioner the case if under section 236 must petitioned before Court of Jurisdiction. We don't know yet that attorney assigned had misunderstanding with ICE-KCMO or NOT. However, he didn't arrive to ICE-KCMO office when I have signed all forms under state of fear and shock. Analyzing further form G-28 it shows the form signed by me and came from attorney office by fax on 04/11/2003 at 11:04 without his signature. The form G-28 expired on (09/26/00). As per laws and regulation if from expired then it is legally insignificant which shows it has been expired almost three years.
7. Custody determination must be assigned based upon 48 business hours to determine if there are evidence to proceed further in court of law under section 236. After the 48 hours I should been released and awaiting court hearing to determine if there are criminal charges if any as stated under 8 CFR 237.3(d) and 240 unless voluntary departure has been granted.

8 CFR 287.8(c)(2)(iv) [with respect to a person arrested and charged with criminal violation of the laws of the United States, the arresting officer shall advice the person of the appropriate rights as required by law at the time of arrest. Or as soon thereafter as practicable. It is the duty of the immigration officer to assure that the warnings are given in a language the subject understands, and the subject acknowledges that the warnings are understood. The fact that a person has been advised of his or her rights shall be documented on appropriate Department forms and made a part of the arrest record].

Following below analyze the section of the law mentioned

1. When taken to ICE-KCMO custody I have not been advised of my rights under the law
2. There are no criminal charges imposed or explained by the officer in charge of the illegal arrest. Overstay visa is not criminal issue.
3. Form I-200 has been issued illegally without stating under which criminal category found on section 236.
4. Rights under the law has not been initiated or advised
5. No warnings issued in English language or any other languages.

8 CFR 287.8(c)(2)(v) [Every person arrested and charged with a criminal violation of the law of the United States shall be brought without unnecessary delay before a United sates magistrate judge, a united states district judge or, if necessary, a judicial officer empowered in accordance with 18 U.S.C. 3041 to commit person charged with such crimes. Accordingly, the immigration officer shall contact an assistant United States Attorney to arrange for an initial appearance].

1. As stated the main cause of removal was criminal charges under section 236 which must be reviewed before magistrate judge or district judge of which has been not done.
2. Section 236 didn't mention any category of criminal charges involved
3. The immigration officer didn't initiate any contact with Assistant U.S. Attorney General for purpose of appearance. Since removal made on Section 236 based upon false accusations meant to initiate removal allegedly with grater band.
4. As stated on previous sections the time overstayed was 150 days not enough to considered as removable offence which it must reach over 180 days of which it didn't.
5. Stated under *8 CFR 214.2(e)(17) (I,II,III)* supervisory duties as permissible by law and under VWP. Under the visa category of VWP permitted to seek entry for Business or pleasure. There are no elements attended to stay or overstay the visa or simply use business as a reason to overstay. It is understood that VWP cannot be extendable or exchangeable nor cannot be permitted to adjust the statues for any immigration benefit. however, I was applying for E-2 visa and I have no attention or whatsoever to have any residency more then E-2 visa where I was in preparation to do so to permit me travel without restrictions
6. The franchise was in early stage where it required extensive supervision which made me overstay the time granted by the immigration.
7. The charges under section 236 it doesn't rely upon any facts of any crime committed which supported by my clear record during lengthy legal residency in the U.S. of 14 years. Thus, band of 10 years is not valid as well form I-296.

8 CFR 287.9(a) [A search warrant should be obtained prior to conducting a search in a criminal investigation unless a specific exception to the warrant requirement is authorized by statute or recognized by the court. Such exceptions may include, for example, the consent of the person to be searched, exigent circumstances, searches indicate to a lawful arrest, and border searches. The Commissioner of CBP and the assistant Secretary of ICE shall promulgate guidelines governing officers conduct relating to search and seizure].

- As stated on statue above there are no exigent circumstance available for the officer to preserve evidence nor attempted to escape, or border searches. After the interview with the FBI-KCMO I have been escorted out by two officers handcuffed then taken briefly to my apartment. The officers attempted entry to my apartment and did unlawful search and seizure without court warrant obtained. To proof further that this incidence happens the NRC report copies pages 62-80 show many business card, name of individuals and friends. I didn't attend the FBI office with all these information, I have been told by the FBI officer it will be brief interview and I will be out of the FBI office. This is an indication that my apartment been searched while I was there unlawfully and without a court order. The officers take all information exhibited on NRC report plus few changes in a bag. After almost 14 years living in the U.S. I have been insulted and dehumanized.

G. Violation of Scope of Employment of the State Department by the Consular Section U.S. Embassy-Kyiv (see Exhibit D)

Per yellow Form presented by the consular officer at the end of the interview to initiate Administrative Processing. On instruction to applicant as mentioned (if you take an action

requested within 12 months, you will not be required to pay a new visa application fee. For petition-based visa only: if you fail to take action requested within one year following visa denial under section 221(g) of the Immigration and Nationality Act, your petition will be permanently terminated under INA Section 203(g).)

Even though the embassy Consular section has limited authorities to manage the case due to luck of jurisdiction, however the Consular Section can exercise discretion to find out the proper way to manage pending visa as explained under the law. I have corresponded with the embassy in many occasions the answer came back as pending review and case will take from one week to one year to submit based on Further Administrative Processing. It has been approved by court that one week to one year its meaningless process. Additionally, the insult by the Consular officer without any reasons as stated below. Based upon my experience the embassy has law level of performance to provide any remedy under the law

Applicant who according to rules and regulation apply for visa application the consular officer will either issue or refuse the visa. federal laws concerning refusal procedures where Alien/ Applicant will be viewed under 22 CFR 41.121- refusal of individual visa

I- Valuating Refusal Procedures

A) 22 CFR 41.121(b)(1)

when consular office has (Reason to Believe) that applicant is ineligible and refuse visa. The following must be done.

1- Consular office must inform Alien of Ground(s) of ineligibility (unless disclosure barred under INA 212(b)(2) or (3)).
2- Inform if there are in law or regulation a mechanism (such us waiver) to overcome refusal.
3- The officer shall note the reason of refusal on applicant
4- The officer upon refusal of nonimmigrant visa shall retain the original of each document, as well as each document indicating a possible ground of ineligibility, and should return all other documents supplied by the applicant

B) 22 CFR 41.121(b)(2)

If alien who not filed application seek advice from a consular officer who believe that alien ineligible to receive on grounds which cannot overcome by the presentation of additional evidence. the officer should do the following

1- The office shall inform applicant of provision of law and regulations upon which the refusal of visa if applied would be based
2- If applicable the officer should request the alien to execute nonimmigrant visa to make official refusal
3- If alien failed to excuse visa, then office treat the mater as visa been issued and refusal been done and create record

C) 22 CFR 41.121(c)

1- If evidence cannot overcome by additional evidence will be the same as discussed above
2- If officer believe additional evidence can overcome by presentation of additional evidence

review of refusal maybe differed not more than 120 days. Then re- adjudicated the case

3- In subparagraph(d) if no available information needed to determine the final decision then the Consular officer requested to have Advisory Opinion to submit his decision

II- Federal Rule of civil Procedure Rule 37(a)(1)

provide generally for sanction against parties or person unjustifiably resisting discovery. Petitioner contacted the U.S. Consular Section- Kyiv via e mail to provide (Additional Evidence) and discover of removal elements in good will in support of visa refusal under Administrative Processing of which pending since Nov 10, 2014. Per Federal Law concerning pending Visa under administrative processing. arrival of Evidence and/ or discoveries to overcome visa delay it is standard practice under Federal Law INA 221(g), 22 CFR 41.121

III- Foreign Manual Affair 9 FAM 40.6 N4.1(a)

where Alien / applicant can Overcome delays and refusal by providing evidence and discoveries in an assigned interview. The removal causes based upon (Discovery Rule) of concealed evidence based on fraud and forgery by ICE former INS and the FBI.

- Applicant request for an interview has been declined for reason of continues administrative processing. The consular section denial came in conjunction of both the federal law and Rule 37(a)(1). Additionally, under Rule 37(b)(2) the Consular Section -Kyiv demonstrate under Rule 37 (Willfulness) and (Refusal) as a major failure to afford discovery. Therefore, there decision not only deprive my rights as applicant and Due Process rights under the constitution for fair dealing, which violate the federal laws and regulations in this matter.
- investigate insult incidence made by Consular Officer on September 3, 2014 Application No. *AA004DFK4A* applicant apply second time upon Italian Embassy Suggestions to find out the Reasons of approval then denial of the first interview. 40 seconds only consular hand over 214(b) denials as he claims seeking admission to the U.S. to obtain illegal work. Doctrine of non-reviewability give the counsel officer immunity protection to his decision of approving or denying visa entry ONLY, but it doesn't protect him from abusing or insulting an applicant and use power of the Doctrine to apply false information of which an attempted abuse of Procedural Due Rights Process.

The following statues under Civil Rights has been Violated to proceed false removal:

1. *42 U.S.C. 1981(a), (b), (c) I have the right under this provision of the law to make and enforce contract and have the right to sue to make, performance, modification and termination of contract and enjoyment of all benefits of contractual relationship and have the rights of protection.* The main purpose of last entry was to make contractual agreement of janitorial franchise which is permissible activities under VWP has been terminated by the prompt act of government to impose illegal removal of which violet my rights and cause the contract breaching and losing the benefits and enjoyment of contractual relationship.

2. *18 U.S.C 242 (whenever under color of law, statue, ordinance, regulation, or custom, willfully subject any person in any state, territory, commonwealth, possession, or district to the deprivation of any rights, privileges, or immunities secured or protected by the constitution or laws of the United States, or to different punishment, pains, or penalties, on account of such person being alien, or by reason of his color, or race, then are prescribed for the punishment of citizens, shall be fined under this title or imprisoned not more than a year, or both, and if bodily injury results from the acts committed in violation of this section of if such an act[...]or if such acts including kidnaping or attempt kidnap,[...] shall be fined under this title, or imprisoned for any term of years or for any or for life, or both , or maybe sentenced to death).* The law is very clearly stated that any (person) which include Officers who contributes to such an act of discrimination based upon color and national origin will be punished where there is no immunity granted to them. As an alien of protected class and prior lengthy residency I am entitled of full protection and privileges under the U.S. constitution. After almost 14 years since the tragic incidence or removal we cannot predict if they are an employee of the agency. However, since the officer at the time perform their duties under color of law the federal agency the FBI and ICE take the full responsibilities of charges brought forward under the court and juries discretion as the agency found to be in violation of the law by their officers at the time when removal occurs including the methods of illegal transfer using elements of Kidnap.
3. *The Civil Rights Act 1968 enacted 18 U.S.C 245(b)(2) which permits federal prosecution of anyone who willingly injures intimidates or interferes with another person, or attempts to do so, by force because of the other person's race, color, religion or national origin.* as stated, and proved my evidence beyond reasonable doubt that false arrest and imprisonment made solely according to my Race and national Origin by the FBI who issued illegally the Universal Control Number and ICE-KCMO who continue removal proceedings by false arrest and falsifications of all legal documents. there are no other reasons suggesting removal based upon overstaying nor criminal act.
4. *18 U.S. Code 241* as stated *(If two or more Persons conspire to injure, oppress, threaten, or intimidate any person in any state, territory, commonwealth. Possession, or distract in the free exercise or enjoyment of any right or privileges secured to him by the constitution or law of the United States*). As per statue above the word (person) mentioned which reflect that any person with force can inflect injury on other person rights and privilege secured to him under the constitution, as well the ward (Person) it doesn't give any immunity to any individual without exception including the officers of law. They shall be fined under this title or imprisoned not more the ten years or both, and if death results from the acts committed in violation of this section or if such acts including (Kidnaping) or attempted to (kidnap). As the ward person mentioned it means it doesn't give any immunity to the officer of law who can be included in this act while preforming their duties. Additionally, the elements of illegal transfer take shape and form of kidnaping. The act of the officers who preforming their duties they (deprived) my rights under the constitution. As the matter and the unfortunate incidence of false arrest, imprisonment and removal happens in the Field office of the FBI-KCMO we don't know if the officers in charge of removal including the FBI agent continue as employment under the agency. Therefore, the FBI and ICE-KCMO take the direct responsibilities of such injury that caused me removal without any tangible evidence and false accusations.
5. *Civil Rights Act of 1964 the act prohibits any kind of discrimination based upon race, color, religion or national origin.* As illegal removal shows and proven by evidence there are an obvious discrimination has been committed against me by the federal agencies based upon race and national origin.

6. *Section 1981 Title 42 (Equal Rights Under the Law): protect individuals from discrimination based on race and making and enforcing, participating in lawsuits, and giving evidence.*
   As statements mentioned on ICE-FOIA record clearly the action taking by the Federal Agencies are based mainly upon my Race and national origin, there are no assumption made by me as the record speak for itself. Removal based upon Criminal Act under section 236 it doesn't rely on any truth nor judicial review as my record came clear of any criminal or misdemeanor violations as per lengthy residency of 14 years in United States. Imposing security grounds violation as stated on Shawnee County Booking Report to impose falls imprisonment.

Federal Tort Claim Act

Federal agency to determine conclusion of removal against applicant, proven beyond reasonable doubt has been made by fraud and forgery to impose (Mandatory Detention). The federal agents committed this act within scope of employment.

As stated on *28 U.S.C 1346(b) [for injury or loss of property, or personal injury or death caused by the negligence or wrongful act or omission of any employee of the government while acting within the scope of his office or employment, under circumstances where the United States, if a privet person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred.]*

Based on negligence done by the employee of the government applicant has lost two companies, reputation, omission of lengthy residency in the United States where strong relations to the community exist by targeting national origin as the only reasons for removal.

The FTCA provide limited waiver of government sovereign immunity when its employee is negligent within the scope of their employment.

As stated on *28 U.S.C 2680(h) [any claim arising out of assault, battery, false imprisonment, false arrest, malicious prosecution, abuse of process, libel, slander, misrepresentation, deceit, or interference contract rights: Provided, That, with regard to acts or omission of investigative or law enforcement officers of the United States Government, the provisions of this chapter and section 1346(b) of this title shall apply to any claim arising, on or after the date of the enactment of this proviso, out of assault, battery, false imprisonment, false arrest, abuse of process or malicious prosecution. For the purpose of this subsection "investigation or law enforcement officer" means any officer of the United States who is empowered by law to execute searches, to seize evidence, or to make arrest for violation of federal law].*

The factors as appeared on my case under Federal Tort Claim Act and section 28 USC 2680(h) the following factors found in removal proceeding of wrong doing by the officer while preforming duties within the scope of employment:

Falls imprisonment: Applicant has been period of 21 days imprisonment accusations under section 236 which is accusation of criminal act, but it doesn't show any probable cause. Applicant record show clear of any criminal or immigration grounds including security grounds (See record Exhibit)

Falls Arrest: after attending interview with the FBI-Kansas City, MO of what appeared to be of (Iraqi Initiatives) even though applicant an Italian national and proven have no links to Iraq. the FBI have released me to Immigration and Customs enforcement while in Field Office of the FBI.

Charges was overstaying Visa Waiver Program, appeared later applicant wasn't in violations of his visa waiver where it can be deportable offence from 181-364 days.

Abuse of Process: as shown by evidence removal made against the standard procedures of alien removal ranging from falsifying legal forms to false accusations by fraud and forgery.

Malicious Prosecution: is a common law intentional tort, while like the tort of abuse process, its elements include (1) intentionally (and maliciously) instituting and pursuing (or causing to be instituted or pursued) a legal action (Civil or Criminal) that is (2) brought without probable cause and (3) dismissed in favor of the victim of the malicious prosecution. As stated in chapters on the hiding report of Shawnee County Correction Facility the charges are (Civil & Criminal Penalties Exist For Misuse & Unlawfully Disseminating Information). These charges don't have any legal grounds. the elements of the charges don't have the probable cause. It was brought up to fabricate removal process illegally and intentionally targeting my race and national origin. Therefore, it is obvious that applicant was victim of abuse by the government officers to be framed then removed using both their unlimited power and impose falls information during preforming their duties within scope of employment. There is no judicial review offered to determine removal However, The FBI and ICE-KCMO assumed Judicial pawer under two occasions (1) assume falls removal under Section 236 of which is mandatory to be reviewed before a court of jurisdiction which not happens (2) the FBI in UCN report assume judicial review made in violation of section 237(a)(1)(B). There are no court order or judgement has been entered. The FBI and ICE-KCMO assumed wrongfully and deliberately the power of a Court therefore, suggested by the evidence brought forward there is Malicious Prosecution done unlawfully

Seize Information or make arrest in violation of federal law: the falls arrest made while in the FBI field office as a Criminal Alien of which it doesn't have any proof. The arrest made wrongfully and deliberately after the interview based upon overstaying visa. After investigating the matter further, it been proven that overstaying of 150 days cannot be deportable offence.

Scope of Review Under 5 U.S.C. 706(2) (A, B, C, D)
(A) removal made in abuse of discretion, arbitrary and capricious and not according with all as it appeared in all forms, concealed report of Shawnee county and the FBI file number.

(B) *contrary to constitutional right, power, privilege or immunity.* all bill of rights has been Violated 14th,5th, 4th, and 8th Amendments and no immunity offered regardless of 14 years living in good legal standing in the U.S.

(C) *the removal made was in excess of statuary jurisdiction, authority or limitation* the FBI and ICE assume higher authority to impose wrongful removal.

(D) *without observance of procedure required by law-* removal made it doesn't comply with removal procedures as stated under 8 U.S.C. 1225(b),1226(a) and 1231(a) as its done by falsifying immigration forms. Issuance of FBI file Number which doesn't appeal to me since I have no criminal recorded or ever committed any misconduct violations in 14 years living in the U.S.

Right of Fair Trail Under International Law

The elements of fair trail are recognized international including the United states have recognized the factors of fair trail and judgment. With respect to the international law such as Universal

Declaration of Human Rights (UDHR) the Sixth Amendment of the United Sates Constitution and article 6,7,8 and 11 of the European Convention of Human Rights stated

(Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charges against him).

Plaintiff emphasize that he didn't get fair review with district court nor have the right to defend his position when was under detention in custody of ICE-KCMO of removal as criminal alien without fair review. After almost 15 years since the tragic incidence occurs plaintiff discovered that the A-File No has not been registered officially which made removal illegally made and done or never exist. Additionally, the insult and dehumanizing associated with removal as criminal alien without fair review to find out the causes associated with any criminal ground.

Arbitrary Detention under the United States and international Law.

The United States recognized arbitrary detention which recognized by the international law as standard practice in decision making coded under the U.S. Code as it is its cruel and inhuman practice
Stated under **22 U.S.C. S262d(a)(1)** (stating U.S. policy to withhold international assistance to those countries that violates internationally recognized human rights including Cruel, inhuman, or degrading treatment) see also **22 U.S.C. 2304(d)(1)** (defining internationally human rights including cruel, inhuman, or degrading treatment.

The government condemned use of inhuman treatment cruelty on the international arena while the officer of law who contribute to this inhuman removal did their act under color of law within the United States Boundary without respect to Human rights nor to the constitution to remove the plaintiff under any cost using fraud and forgery and false accusations.

The international standard of human rights has been recognized in the court system of the U.S. *see J. H. Burgers Fort v. Suarez-Mason, 672 F. Supp. 1531 N.D. Cal. 1987.modified by 694 F. Supp 707 (N.D. Cal. 1988)* (the duty of federal judge in defining and applying the evolving international norm of cruel, inhuman, or degrading treatment is comparable to applying the flexible, evolving standard of cruel and unusual punishment under the Eighth Amendment of the United States Constitution). *See. e.g... wells v. Franzen, 777 F.2d 1258 (7th Cir. 1985); Medcalf v. Kansas 626 E. Supp. 1179 (D. Kan. 1986)*

Plaintiff add that he was interrogated, arrested, detained, incarcerated falsely then removed without any respect to the United States Constitution nor the international laws and regulations. According to the eighth amendment it prohibits excessive bond of $9,999,999, as stated on Shawnee Concealed Booking report. Plaintiff argue that his rights has been violated under the constitution and international laws.

Plaintiff argue that the Eighth Amendment of the constitution has been violated. The elements of arrest which has been disused in greater depth in the argument it doesn't fit the arresting criteria by the FBI and ICE-KCMO, there are no probable causes has been recorded and plaintiff posses clear record of any criminal act giving his lengthy years living, educated and conducted lawful business in Kansas City, MO. And no evidence suggesting that plaintiff impose security grounds to render removal where the FBI and ICE-KCMO cannot proof

The plaintiff emphasizes since the elements of arrest it doesn't apply the FBI and ICE-KCMO fail to state the reasons of arrest. Thus, there was illegal transfer from the FBI office to ICE-KCMO

office with elements like kidnaping as the place of detention has not been recorded and all legal forms has been falsified including the A-File No has not been registered in the system.

To detain any person in legal custody for period exceed 48 working hours without stating any lawful accusation by restrain plaintiff physical movement for period of 19 days then detained without stating the real causes it violates the eighth amendment and the minimal standard of fair treatment under the international law. With respect to detainee and prisoners, both the eighth amendment of the U.S. Constitution and the Standard Minimal Rules for the treatment of prisoner adopted *July 31, 1957, E.S.C. Rec.6683C, 24 U.N. ESCOR Supp (No.1) AT 11, U.N. Doc. E/3048 (1957), amended E.S.C. Res. 2076,62 U.N. ESCOR Supp. (No.1) at 35, U.N. Doc. E/5988 (1977)(adding article 95),* provide U.S. Courts with guidelines to assist in applying the principle of cruel, inhuman, or degrading treatment in particular case.

Plaintiff argue that impose false imprisonment and arrest not only violate his constitutional rights but as well the international standard as the FBI and ICE-KCMO fail to provide the minimal standard obligations, *See. e.g., Lareau v. Manson, 507 F. Supp. 1117 (D. Conn. 1980). Modified on other grounds, 651 F.2d (2nd Cir, 1981)* (finding Standard Minimal Rules as significant expression of obligations to prisoner under international law). *See also Estella v. Gamble, 429 U.S. 97, 10304 (1976)* (by reason of deprivation of liberty, state has obligations and duty to provide adequate and human care to confined person). Plaintiff when was under detention proceedings his life wellbeing was under constant danger while under Shawnee County Jail. The false grounds imposed on plaintiff was fabricated as security grounds during a war time which might influence the guards to retaliation even though nothing happens during plaintiff detention due to the prompt reply of the Italian Embassy to clear me out of the imprisonment, but it was possibility since the apprehension time and date has been changed and no trace or what so ever can be found which indicated that plaintiff was detained under ICE-KCMO custody. Giving the circumstances I request the court to establish an investigation with Shawnee County Jail to understand the reason for such issues and the reason plaintiff has been admitted to the Shawnee County Jail without official standard procedures. The county jail has the right to deny admission of an alien if found there are no probable cause recorded.

There wasn't enough evidence at the time to hold plaintiff for any reason. plaintiff he is not citizen national of Iraq nor know to have any previous criminal record nor showing any sympathy during war with Iraq. Based upon the fact plaintiff attended the interview to what known to be FBI interview and reveled as (Iraq Initiative) with facts that he is not willing to hide any reasons nor plans, giving his lengthy time living in the United States that he will be safe and secure as he entered the Federal office of the FBI.

Plaintiff want to inform according to evidence the FBI and ICE-KCMO did plan and premeditated false arrest based on fabricated reasons to illegally and allegedly remove plaintiff unlawfully of which is condemned under United Nation and Universal Declarations of Human Rights. *See. e.g. Hostoses case, 1980, I.C.J. 3, at pare. 91* ["wrongfully to deprive human being of their freedom and subject them to physical constrain in condition of hardship is in itself manifestly incompatible with the principles of the charter of the United Nation, as well the fundamental principles enunciated in the universal declaration of human rights"]. As evidence proven by rights under the United Sates Constitution removal was arbitrary and unlawful. *See Winterwerp case, 33Eur. Ct. Hum, Rts., (ser. A), at pare 39 (1979) [no* detention that is Arbitrary can ever be regarded as lawful].

The 4th amendment of the United States Constitution prohibits any kind of "Unlawful Search and Seizure". Plaintiff rights under the 4th amendment has been violated when two officers of ICE-

KCMO has entered his property located on Parkville, KCMO without search warrant while performing their duties under color of law after interview with the FBI-KCMO. This matter proven by NRC report exhibited on section where business cards and phone number lists has been scanned and stored on NRC report. Plaintiff emphasized that the FBI-KCMO didn't state clearly the subject matter and/or the purpose of the interview.

As explained by the FBI-KCMO that the interview will take only 20 to 30 minutes and there is reason for any fear therefore, plaintiff has no reasons to bring to the FBI-KCMO any proof or lists of business cards and phone records. Additionally, the methods of transfer from the FBI-KCMO to ICE-KCMO take shape and form of kidnaping.

The FBI-KCMO and ICE-KCMO demonstrate failure to show causes of the interview of which must be done by sending official mail to last known address stating the cause of the interview with the FBI including clearly stated subject matter and the rights of the plaintiff to be presented by an attorney during the interview in written signed bind letter issued by the FBI-KCMO head letter including the name and position of the officer in charge, sadly and tragically this necessary steps has not been followed as standard procedures.

The international law, human rights in the U.S. foreign policy and the Fourth amendment agreed upon this conclusion. *See Derian, Human Rights in the United States foreign- the executive prospective in international Human rights law and practice 183, (J Tuttle, ed 1978)*. Assistance Secretary of state for Human Rights and Humanitarian affairs, Patricia M. Derian, describing U.S. human Rights policy ("as seeking to greater observation of all governments of the rights of the person including freedom from torture and cruel inhuman treatment, freedom from fear of security force breaking down doors and kidnaping citizens from their homes, and freedom from arbitrary detention"). *Fraser, Human rights and the United States Foreign policy -the congressional prospective, in International Human rights Law and practice 173, 176 (J. Tuttle, ed. 1978).*

Prohibition against arbitrary detention is universal. Numerous international agreement prohibits arbitrary detention. Moreover, international judicial decisions and unequivocal statements endorsed by nearly all of the states in the international community accept the norm of customary international law concerning arbitrary detention.

8 U.S.C. 1324c

The documents provided on official record contained falsely made and cannot be honored as legal **see 8 U.S.C. 1324c(f)** [falsely made means to prepare or provide an application or documents, with knowledge...disregard to the facts ... that application or documents contained a false, fictitious, or fraudulent statement or material ...has no bases of the law or fact ... to state a fact which is material to the purpose for which it was submitted]. There is no doubt that material found some 15 years after the unconstitutional removal was falsified and counterfeited

As stated under **8 U.S.C. 1324c (a)** it is unlawful for any person or entity knowingly to forger documents to obtain benefits or use and attempt to use documents by means of falsely making with attention to harm. The fact provided that this attempted act has been used by both the FBI and ICE-KCMO with attention to harm petitioner by impose false removal without any evidence suggested that there was overstaying render removal nor criminal act done by petitioner.

As stated under **8 U.S.C. 1324c(d)(1)** the court shall have the authority to investigate and hearing under this subsection immigration officer and a judge can examine evidence of any person

investigate, compile by subpoena of attendance of witness and production of evidence before and after filing a complaint; see subparagraph (A-C of the same statue above). Petitioner request the court to examine and investigate recorded provided with ICE and the FBI-KCMO of the validity of the record rendered to removal of petitioner.

To make a review of hearing against a person or entity for violations of subsection (a) it will be the duty of Administrative Judge as stated under **8 U.S.C. 1324c(d)(2)(A)**. the jurisdiction of Administrative Judge will be conducting hearing and issue and order providing analyzing evidence as stated under subsection (C, D of the statue).

Since the case has been dismissed without prejudice by Western Missouri District where the case appealed to appropriate circuit court to review the order, petitioner has mentioned the fact of falsification of Immigration record with proof of evidence by ICE-KCMO. The FBI-KCMO knowingly and deliberately issuance of UCN 958484AC9 made by the FBI-KCMO to proceed removal as criminal alien regardless of his clear record to include petitioner within (Secure Community) program targeting Criminal Aliens without any tangible evidence using the facts that VWP aliens possess no rights which cannot be applicable to this case since petitioner has lengthy residency of fourteen years prior of entry under VWP where execution of waiver of rights cannot take fourteen years of legal residency under F-1 visa since 1987- 2000 and due right process may exist. Thus, the appropriate Court of Appeal of Circuit Eight has the jurisdiction to make judicial Review as stated under **8 U.S.C. 1324c(d)(5),** if proven to court that there is wrongdoing in falsification of immigration record by ICE-KCMO and fraudulently issued the FBI-UCN the officers who done this act knowingly and willfully fails to disclose, conceals or cover up facts on behalf of any person then it will be subject of review under **8 U.S.C. 1324c(e)(1),(2)**

8 U.S.C. 1229a

record shall be of all testimony and evidence produced at the proceeding. See **8 U.S.C. 1229a(b)(4)(A), (B), (C).**

In evaluating the statue mentioned above the process and procedures where petitioner has been taken to custody on 04/11/2003 and proceeding removal on 05/01/2003 the following facts must be considered

i) Petitioner has been presented by immigration attorney Jeffery Bell on 04/11/2003. The attorney didn't show up while petitioner been held under the custody of ICE-KCMO, during this time petitioner forced to sign document not aware of nor understand the nature of such documents as he signed without present of his attorney while petitioner was under stress, psychological devastation and fear caused by the sudden arrest. petitioner argue that when arrested some fifteen years ago his knowledge of removal and immigration proceedings was very limited not tell almost twelve years since the tragic incidence has been discovered that removal proceedings made almost fifteen years ago was in violation of U.S. immigration deportation proceeding by his due-diligence of discovery Rule,

ii) petitioner agree that the forms appeared on ICE-FOIA file carried his signature and fingerprints as following I-296 pages 1,2, I-200 which produced to criminal alien after convicted in court of jurisdiction of criminal act, I-286 issued to alien who might be released on immigration bond which cannot for two facts 1) if proved by tangible evidence that alien arrested based upon criminal act and who have been indicted of criminal act before the juries in court of jurisdiction Attorney General deny alien request to be released on band 2) aliens who found on VWP violation and no criminal record proceed non-hearing removal and exempt of both immigration bond and review

before an Immigration judge both conclusions where wrong as explained legally since the overstayed period under VWP cannot legally rendered removal and knowingly and deliberately petitioner proceed removal as criminal alien regardless of his clear record . form I-826 this form issued to alien who seeking relief before an immigration judge based upon three choices where alien must select one of the options, as it appears the form show petitioner signature and NONE of the choice been selected. Usually and formally this form issued to alien who proceed hearing before an immigration judge snice as claimed illegally that petitioner found on violating VWP aliens who are included in VWP proceed non-hearing removal therefore, this form has been issued illegally to confirm illegally petitioner was under ICE-KCMO custody on 04/10/2004 while the Shawnee County Jail Booking report reviled that Petitioner was in custody on the 04/11/2003 as stated on form I-203 which must appeared on ICE-FOIA report but it was concealed along with booking report. Additionally, in analyzing all forms which has been submitted to Western Missouri Court and to the Eighth Circuit form I-213/826 initiated only to criminal aliens show fingerprints that petitioner believe it doesn't belong to him thus, petitioner request forensic biometric test to examine and reexamine all fingerprints appeared on his record. petitioner has contacted Criminal Justice Information Service where they have no authority to conduct such test without higher authority of court of jurisdiction,

iii) on 04/11/2003 at 11:04 from office of Allen H. Bell & Associates ICE-KCMO received on petitioner behalf Form G-28 notice of entry of appearance an attorney or representative signed under Attorney Jeffry Bell who assigned the case as it appears the name spalling has been changed from (Omer Al Obaidy) as it appeared on petitioner passport to (Omar Alobaidy), as description to alien on custody (applicant) has been selected and not (petitioner) which will explain more the involvement of the attorney in case of proceeding removal. G-28 has been signed by petitioner however after reviewing the form it has been found that form G-28 has been expired on 26/09/00 which made it legally insignificant as it has been signed and dated by me on 04/11/2003. However, and if the Immigration officers in charge of removal proceedings have used the time to sign Forms petitioner not aware of while using his temporary psychological, mantel and emotional stress led by the trauma of sudden arrest where been found later time by the attorney, he can declare removal as illegal and dismissal of removal will follow. If he cannot do so with ICE-KCMO then the attorney assigned the case can initiate (Stay of Removal) filed within appropriate District Court to determine the proper course of action of which he didn't although he have the right to examine all record as stated under **8 CFR 103.10** and instructed under the form that attorney in charge of representation can obtained all record and transcript involved in removal and signed by both petitioner and immigration officer in charge of removal,

iv) in criminal proceeding concerning aliens who found in both criminal act and in violations of visa statues under any circumstances of which petitioner has been recorded under fraudulently and deliberately made by both the FBI and ICE-KCMO. The agency must provide complete record shall kept of all testimony and evidence produced at the proceeding as stated under **8 U.S.C. 1229a(b)(4)(C).** attorney Jeffery Bell was assigned the case to preform his duty in evaluation and analyzing the process and procedures of the removal proceeding which he didn't perform which has cause removal.

In criminal and/or immigration removal proceedings Alien has the right of an attorney if alien cannot afford an attorney the Government will hire an attorney for an alien (at no expense). Petitioner argue that he has been depraved his constitutional rights of legal representation which has been found under two occasions 1) the agencies of the FBI and ICE-KCMO didn't hire any counsel at the government expanse to examine record and forms signed by petitioner while was under trauma of arrest. 2) petitioner hire attorney Jeffery Bell and form G-28 has been signed to perform his duties while petitioner was under detention or custody of ICE-KCMO. Counsel retainer

can be made either through family or friends during detention time which secure his legal efforts of which he didn't do. Attorney who assigned the case he didn't perform his fiduciary duties and as result he found in breaching Client- Attorney privilege where he didn't attend his client while in detention and demonstrate failure in examining his client record. Additionally, he provides form G-28 expired on 26/09/00 while the form signed by petitioner on 04/11/2003 which made form G-28 legally insignificant since the form expired more than three years before removal occurred which prevent petitioner to hire another counsel during the proceeding for reasons remain vague to the present day after almost 15 years since the incidence of tragic removal.

During the process of removal new law has been introduced banding releases of detainee information under **8 CFR 236.6** introduced on April 17, 2002 which has been made to delay releasing of an alien under ICE custody for security purposes. However, this law cannot be applicable to petitioner since he has previous residency and clear record and no proof of any criminal misconducts the statue has been narrowed by the Department of Justice to exempt information of detainee after their release

Petitioner emphasize that regardless of execution of waiver of I-94W under VWP to seek admission to the U.S. after an absent of 19 months, the temporary absent cannot waive petitioner rights of lengthy legal residency of 14 years under F-1 visa and due right process under the U.S. constitution may exist. Thus, petitioner possess the full privileges secured to him under the constitution of which has been violated and drained see **28 CFR 16.5(d)(1)(iii).**

8 U.S.C. 1229b

VWP violators are exempt of any review before an immigration Judge nor relief as stated under **8 U.S.C. 1229b(c)(1)** however petitioner emphasize that he is not exempt of relief due to the following facts 1) the overstayed period was 150 days which cannot be removable offence under VWP and as stated under 212(a)(9)(B)(i)(I) accordingly must the overstayed pried recorded over 180-364 days to render only "voluntary departure" and 3 years band of entry.2) falsifying removal 2) based upon previous admission and legal residency of 14 years under F-1 visa petitioner cannot be exempt of due right process and constitutional rights regardless of exciting waiver upon entry on arrive /departure Form I-94W. therefore, due right process may exist regardless of temporary absent.

Petitioner argue that the option of issue voluntary departure was available under ICE-KCMO although the overstayed period didn't exceed 180-364 days. As stated on **8 U.S.C. 1229c(a)(1)** the Attorney General allow voluntary departure at alien's own expense if proven by tangible evidence that alien not committed any criminal act covered under section 1227(a)(2)(A)(iii) or section 1227(a)(4)(B). petitioner record suggested that he had no prior convection nor has been removed based upon the mentioned above sections. Giving the lengthy residency of petitioner within the United Sates it is simple to obtain record of portioner of which they did so a day before the interview as USCIS-FOIA record suggested.

To proceed voluntary departure alien will be granted period not exceeding 120 days as stated under **8 U.S.C. 1229c(a)(2)(A).** The 120 days will be granted to VWP aliens who overstayed their period. See **8 U.S.C. 1229c(a)(2)(B).** waiver may be granted only upon request submitted by service district office (ICE-KCMO) to service headquarter. See **8 U.S.C. 1229c (a)(2)(C)(i).** The Attorney General require to post a voluntary departure bond to be surrounded upon proof that alien has departed the United Sates within the time specified. See **8 U.S.C. 1229c(a)(3).** Petitioner argue if the purpose set of removal regardless of the period overstayed then it was legal option provided to

ICE-KCMO and the FBI-KCMO that might be able to use without going through process of fraud, forgery and fraudulently concealed information to have petitioner removed as Criminal Alien included under (Secure Community) program without proof of convections.

Immigration Customs Enforcement (ICE)-KCMO ware having the option of providing "satisfactory departure" as explained previously petitioner overstayed 150 days didn't exceed 180 Days to consider recorded overstay therefore, according with situation petitioner was under at that time to manage and supervise his new establishment where the supervisory tasks are mandatory see
8 U.S.C. 1101(a)(15)(E)(ii) and not within petitioner command then it will be included as an emergency that prevent petitioner to depart the U.S. by 90 days specially there are "irrevocably committed" investment, the USCIS may provide "Satisfactory Departure" see **8 CFR 217.3(a)**

8 U.S.C. 1326 and 8 U.S.C. 1226

Thus, the government doesn't posses the burden of proof that there was reentry after removal. As stated under form I-296 warning if removed alien attempts to entry or found in the United States he can be prosecuted for felony under **8 U.S.C. 1326**. The government doesn't have proof of evidence beyond reasonable doubt that Petitioner found or attempted illegal entry as he paroled before an officer at the bored of entry and provided 90 days on VWP dated on Sept 5, 2002 [in prosecution for illegal reentry under 8 U.S.C. 1326, the government must prove. Intra alia, that defendant was previously denied admission, excluded, deported or removed or has been departed the United States while order of exclusion, deportation, or removal [wa]s outstanding. 8 U.S.C. 1326(a)(1)]. *See United States v. Lopez F.3d (9th Cir. April 2. 2014) quoting United States v. Gonzalez-Villalobos, 724 F.3d 1125, 1129 (9th Cir. 2013) see also 9 Cir. Model Crim. Jury Instr.9.8(2010).*

Department of Justice in analyzing 8 U.S.C. 1326 as stated on (a) subsection related to alien who has been (denied admission, excluded, deported, or removed, or has depart the United States while an order or exclusion, deportation or removal is outstanding .subsection 1326 (b)(1) and (b)(2), relating to alien with prior criminal conviction, refer only to alien whose removal was subsequent to convection. Therefore, term removal which appeared on (b)(1) and (b)(2) has not been identified under (a)(1) including denied admission which create uncertainty if criminal alien can argue he is deportable ant removable where he/she cannot be punishable for crime committed.

to close this gap related to petitioner unconstitutional deportation form I-200 has been initiated which issued to Criminal Alien as stated that petitioner found in violation of section 236 coded as 8 U.S.C 1226 which must show proof of convection committed by petitioner as tangible evidence to render removal of criminal alien.

To confirm that petitioner found as criminal alien must be detained as criminal alien as stated under **8 U.S.C. 1226(b)** inadmissible for offence covered under 1182(a)(2), deportable of offence covered under 1227(a)(2)(A)(ii), (A), (iii), (B), (C) or (D), deportable under section 1227(a)(2)(A)(i) which is sentenced for term in imprisonment of 1 year inadmissible / deportable under 1182(a)(3)(B)/1227(a)(4)(B). defendant must show evidence beyond reasonable doubt that petitioner who possess clear record can fit under one or more of the mentioned categories.

Due to petitioner clear record as no prior conviction nor misdemeanor charges found in record based upon 14 years residency under nonimmigrant visa prior to last entry under VWP, ICE-KCMO and the FBI have no tangible proof of any convection found that render removal of portioner as covered under INA 238(b) coded as 8 U.S.C. 1228. In criminal alien process and process as

suggested under **8 U.S.C. 1226(d)(1)** to provide system to make available investigation resources on 24 hours bases with state, local and federal authorities to determine if individual arrested is alien, trained officer of the service will serve as liaison with local, state and court with respect to arrest and conviction of released alien charged with aggravated felony, maintain computer record of an alien who have been convicted of aggravated felony and indicated those who have been removed.

Stated under **8 U.S.C. 1226(d)(1)(C)** inputs all information of previously removed alien on border patrol for immediate identification of removed alien, and to official of the department of the state for use in its automated visa lookout system.

ICE-KCMO and the FBI deliberately and without evidence included petitioner as Criminal Alien of aggravated felony. As record and investigation suggested the FBI issued UCN No.958484AC9 which issued to criminal individuals wanted for investigation under aggravated felony, while ICE-KCMO to confirm the matter they did two illegal steps 1) considered petitioner as Flight-Risk which cannot be done unless proven by tangible evidence beyond reasonable doubt that petitioner did serve imprisonment of 1 year and if relapsed will impose community danger. 2) initiate form I-213 (Record of Deportable/ inadmissible Alien) which issued to aggravated felony committed by an alien.

Analyzing both elements which obtained from ICE-FOIA and the FBI-UCN indicated that portioner due to his clear record and no prior conviction nor imprisonment Flight-Risk form cannot be issued. Form I-213(Deportable/ inadmissible) appeared to be not authenticated and found to be illegally issued since it must be issued in support of other forms Form I-851 (Notice of Intend to Issue a Final Administrative Removal Order), Form I-851A (Final Administrative removal), Form I-871 (Notice of Notice to intend /Dissension to reinstate prior Order) issued for reinstatement of removal. According to the law aggravated felony will be under the power of form I-851 this form not be found on File nor been initiated which made form I-213 insignificant and illegally issued. Petitioner request Forensic Biometric Test to fingerprints appeared as he doesn't recall provide his fingerprints to initiate the form. Thus, removal made under Aggravated felony is fabricated, [There was no efforts made to authenticate the I-213, so it may have been inadmissible had a proper objection been raised]. *See Robles v. Ashcroft, 94 Fed. Appx 618(9th Cir. 2004)*

ICE-KCMO including the FBI must provide an assistance to the State court in identification of an alien unlawfully present in the United state and upon request of the Governor or chief executive officer of any state. See 8 U.S.C. 1226(d)(3). ICE-KCMO and the FBI demonstrate failure in recording conviction as stated under 8 U.S.C. 1229a(c)(3)(B) as well proof of electronic record must be recorded and sent from the state court where the incidence of "aggravated Felony" situated see 8 U.S.C. 1229a(c)(3)(C) and show proof of receiving such electronic notice.

since the matter fabricated where NO evidence suggesting that petitioner committed or about to commit any act giving his lengthy residency prior to last entry to the U.S. under VWP which both agencies have no information to relay upon based on any criminal violation as they claim has been committed by petitioner therefore, the service cannot show upon request any evidence suggesting there was criminal act committed by petitioner. Thus, the mater of removal of petitioner will trigger another concern regarding the Tenth Amendment of the constitution which indicate the right of the people to know and to prosecute any individual citizen or noncitizen in court of jurisdiction within the state where the criminal act occurred. Therefore, unless the service provide evidence beyond reasonable doubt that criminal act has been committed by petitioner and so dose the process of removal was made according to the law and the constitution of the united states. The court of appeal of circuit eight who inherit exclusive jurisdiction of review the case willing to do the same by not granting any opinion in rehearing even if unfavorable to petitioner.

To establish matter of removal based upon "aggravated felony" as the FBI and ICE-KCMO claimed falsely and deliberately has to be covered under **8 U.S.C. 1101(a)(43).** To proceed with process under "administrative Removal" must be covered under **section 238(b)** of the INA as the procedures must be followed: reasonable notice and opportunity to inspect evidence and rebut charges, Privilege of represented by an attorney, determination for the record that the individual upon whom Notice of Intend to issue administrative removal is served, in fact the alien named on NOI, a record maintained in the event of judicial review and the decision to issue Final Administrative Removal Order not by the person who issue NOI.

The procedures has not been followed to convict with evidence beyond reasonable doubt that petitioner committed act of crime rendered removal. the report of ICE-FOIA suggested there are three forms kept in record which are I-200 (Warrant of Arrest of Alien), I-213(record of deportable/ Inadmissible Alien) and Flight-Risk form. None of these form relay upon any truth nor supported by evidence. Form I-200 signed by petitioner without understanding the nature of form and without present of an attorney at the time petitioner under ICE-KCMO custody, after understanding the functionality of form I-200 it appears to be provided as testifying against myself of criminal act that has not been reviewed by neutral decision maker which most likely will be under court of jurisdiction in state of Missouri where the Criminal Act occurs if any. The form produced usually after serving Notice to Appear form I-862 which cannot be produced for VWP since cannot reviewed by Immigration Judge the only exception made if petitioner prove there are fear of torcher found if deported from the U.S. to country of citizen or residence.

There are as well three issues involved in from I-200 i) if VWP proved by evidence that he/she committed any criminal act covered under 8 U.S.C. 1101(a)(43) it must show that in State Court where proof if convection has been made and so electronic record has been initiated and sent to the service see 8 U.S.C. 1229a(c)(3)(B) and 8 U.S.C. 1229a(c)(3)(C).ii) it is the state right to make record available for review by the governor of the state or the state chief executive officer see 8 U.S.C. 1226(d)(3) of which the service has to prove this fact including the FBI-KCMO in fraudulently issued UCN 958484AC9 by tangible evidence that petitioner found as guilty as charged in Court of law where can be produced to the State officials where the crime has committed if any iii) signing form 1-200 it is unconstitutional and voulate the Fifth Amendment of the United State Constitutional right of petitioner as the fifth amendment prohibit testifying of individual against himself, the fourteenth amendment which applies to State by virtue of the fifth amendment, provide that ([n}o person ... shall be compelled in any crime case to witness against himself) *see Malloy v. Hogan, 378 U.S. 1,6 (1964)*. The BIA has held, however, that evidence obtained through a particularity "egregious" search could be inadmissible under the Fifth Amendment's guarantee of due process. *See Matter of Toro, 17 I&N. Dec. 340 (BIA 1980)*

To issue from of Flight-Risk must be reviewed by court of jurisdiction to determine if first flight-risk is valid which the service has to show evidence that petitioner served imprisonment of 1 year as stated under **8 U.S.C. 1226(c)(1)(C)** and when released petitioner will be danger on community and second NOT all crime committed be considered flight-risk even if crime is serious enough to render imprisonment or removal see *Singh v. Holder* 638 F.3d. *1196, 1205 (9th Cir. 2011).*

Therefore, the service including the FBI-KCMO must show with evidence that crime has been committed by petitioner rendered removal and /or imprisonment was recorded and discussed in court of jurisdiction. Additionally, the service has disseminated wrongful information to CLASS system, IDENT, NAIS, CIS and DACA including issuing of the FBI-UCN 958484AC9 which violate petitioner constitutional rights giving his Clear Record and violate **Privacy Act 1974** which prohibit disseminating any wrongful information of the individual. The matter has been done as act

of retaliation in invasion/ liberation of Iraq targeting petitioner race and national origin as they stated in official record of as the purpose of the interview with the FBI-KCMO was for (Iraq Initiative) which violate **NO-FEAR Act**. The government must prove with evidence that petitioner who had been removed 15 years a go that it was valued as legal and complying with petitioner due rights process.

The forms as it appeared on ICE-FOIA report are not authenticated some are not signed by the immigration officer in charge, other forms missing to complete the removal according to laws and regulation of removal process. All the forms appeared on ICE file are not recorded on an official way where it matches the standard practice of an immigration officer in charge of removal and stated on Inspector Field Manual. see *Espinoza v. INS, 45 F.3d 308, 309-10 (9th Cir. 1995)* (holding that immigration forms must be authenticated). See *Merrick v. Farmers Ins. Group, 892 F.2d 1434, 1440 (9th Cir. 1990)* (holding that objection on grounds of relevance dose not preserve an objection for luck of authentication). All the cases have been discussed in Circuit 9 emphasize the fact that all forms of immigration must be authenticated. the fact remains there are NO authentication ever made in all immigration forms responsible of the removal. See *Iran v. INS, 656 F.2d 469,472 (9th Cir. 1981)* (immigration forms can be authenticated through some recognized procedure, such as those required by INS regulations or the federal rules. In this case the government failed to introduce any proof from which the immigration judge could infer that the form was a true document).

According to Circuit 9 judgment in case of United States v. Lopez regarding Verification of Removal found on Form I-296 cannot be testimonial evidence under the confrontation clause of Lopez found in the U.S. after removal. it is on the government shoulder to proof elements of the charges on 8 U.S.C 1326 that petitioner has been removed or departed the United states some times before May 1, 2003 on the (notice to Alien Ordered Removal/Departure Verification) I-296 and that had been in Aline's A-file and support by evidence when the A-file portend to be for petitioner has been initiated. Thus, the government must proof physical removal from the United Sates as an element of crime under 8 U.S.C. 1326. *See Bahena-Cardenas, 411 F.3d at 1074.* in petitioner case the elements of previous removal must be established physically, and petitioner found on 04/11/2003 and removed on 05/01/2003 on second violation of removal to be considered as criminal act under **8 U.S.C 1326(a)(2).** which the Government cannot bring forward this proof

To obtain conviction of the petitioner as a departed alien found in the United States the government had to show either that 1) "the petitioner was removed" or departed or absent this, that 2) that the defendant had "departed" the country while an order of removal "was outstanding". Either case petitioner has left the country to Country of Citizen Italy and officers of the service did remove petitioner of which discovered later as Administrative Removal and not as they claim to be overstaying on VWP which cannot be removable offence which create cloud of uncertainty of an outstanding removal or administrative removal.

Using the farm work of Circuit 9 in analyzing if form I-296 can or can't be testimonial of petitioner case. The court did the following in Lopez case and which can be applicable under Petitioner case with regards to different circumstances.
Not prepared for litigation: Lopez case who is an alien found after previous removal by the authority and cannot based only upon verification of removal itself convict a person of criminal act. The petitioner case it was based deliberately as criminal proceeding removal under forms of I-200, I-213(Deportable/inadmissible alien) and Flight-risk statement. Since it is permissible under section INA 238(b) to examine or reexamine evidence of criminal act and to find out under which category of title 18 found therefore, form I-296 prepared for litigation.

Ministerial purpose: as described by Circuit 9 [A] verification of removal is simply a routine, objective, cataloging of unambiguous factual matter. Verification removal contain information that alien has been removed from the United States alien name, photograph, fingerprints of right index, port of departure and manor of departure, alien signature and "verifying officer".
Record show Two forms of appeared on ICE-FOIA report one fully shows the information of an alien while the second one show only the Right index and signature of petitioner additionally the name is not identical to name of petitioner on passport. Due to these facts and for purpose of investigation of removal as service claimed to be administrative removal then form I-296 is testimonial to find out the reasons of falsifying the form.
Reliability: the warrant of removal inherits the same reliability as it should be on alien A-file record and show the movement of an alien. This fact not applicable to Petitioner case as the movement of petitioner from the date taken to custody to date has been removed of the U.S. not has been registered. Form I-216 (record of alien transferred) has not been authenticated by an officer nor show the detention facilities. As result reliability cannot be found on Verification of removal nor on the form in general. If the movement of an alien not recorded, then verification of removal cannot be valid and subject to review since it has been made deliberately to hide information. Thus, the form I-296 it is testimonial evidence since the elements that produce factual incidence been falsified.
Necessity: it is important for government to record aliens who have been removed under any circumstances including expedited removal and maintain aliens record on A-file. Petitioner understand according to his investigation the A-file has not been recorded with the service record system. Petitioner tried to appeal for his record which can be filed any time the response came back that appeal cannot be made since it exceeds 60 days from the date, I have received my record. during the investigation of record petitioner contacted immigration executive court in Kansas City and they didn't find any record of petitioner A-file number. Finally after many attempt to appeal for my record I contacted ICE-KCMO and it has been found there but it seems it has not been recorded the same applied to the FBI-UCN 958484AC9 which has not been found under the FBI record system all these facts has been included as evidence that record belong to petitioner has not been disseminated of the regular channels .thus, petitioner concluded there no record ever been found in system of records. _Due to factors mentioned above form I-296 can be testimonial evidence.
the first part of form I-296 mentioned there are band of 10 years has been initiated as stated under title 18 covered under **8 U.S.C. 1326(b)(1), (2)** the service not only attempted removal based on 10 years band but as well tried to include the matter as "aggravated Felony" on 20 years band of which they couldn't and this can be shown on unauthenticated form I-213 since it require evidence and court order to initiate form I-851 where the final from issued and served to alien under administrative removal will be served on form I-213 this is the reason that from I-213 has not been authenticated.

The service deliberately included petitioner under this section of band based upon criminal act never committed nor proved by neutral decision maker which make it as attempt fraud and forgery and impose detention without tangible evidence required by the service to render removal as criminal alien. *See Matter of Pichardo, 21 I&N. 330 (BIA 1996) (en banc) ("*in fact, this conviction may support a finding of deportability ... but only if there are record contains clear, unequivocal proof).

In criminal proceeding to record criminal act elements of arrest must been present at the time where individual arrest by law enforcement arrest elements are 1) if probable cause or exigent circumstance are present at the time of arrest or when probable cause based upon officer believe that suspect commit crime or about to commit criminal act based on prior information, 2) officer may arrest a suspect to prevent him of escape or to preserve evidence 3)the suspect arrest without

warrant is entitled prompt judicial determination generally 48 hours 4) person under arrest be given Miranda Warning.

Petitioner who have attended the FBI-KCMO interview was made upon his believe that he has nothing might render arrest nor removal as he possesses rights in a country which guided by set of laws and procedures prevent any abused to individual rights. what appeared to be simple interview requested by the FBI-KCMO it was a plan to harm petitioner and not only violating his constitutional rights but as well violating the Arrest process and procedures set forward by law.

Fed. R. C. P. 4 and 41

As per record and investigation done by petitioner to reexamine removal occurs some 15 years ago it show clear and unequivocal evidence that arrest made on fabricated criminal offence by issuing the FBI-UCN 958484AC9 to impose illegal arrest on federal level. The FBI-KCMO must follow the rules set forward on **Fed. R. Crim. P (4)** and **Fed. R. Crim. P (41)** to support the legality of the arrest and search and seizure protected under the Fourth Amendment of the United Sates Constitution of which they fail do so, the rules as set forward as following.

Fed. R. Crim. P (4)(a) probable cause must exist that offence committed, and that petitioner commit such offence where the judge must issue arrest warrant to officer authorized to execute it. At the request of the of an attorney of the government the judge might issue a summons, instead of warrant to a person authorized to serve. **Fed. R. Crim. P (4)(b)(1)** specifying the content of the warrant; defendant name (in this case petitioner), if known discerption of identity, describe the charge in complain, commend of arrest without unnecessary delay before magistrate judge if not available the state or local judicial officer, warrant must be signed by a judge. Specified under summons contain the same forms only specified the time, date and place of appearance before magistrate judge see **Fed. R. Crim. P. (4)(b)(2)**

Fed. R. Crim. P. (4)(c) served by marshal or authorized officer in federal civil action, warrant and summons executed under within the jurisdiction of the U.S. or anywhere else in federal state authorized arrest. Under manner **Fed. R. Crim. P. (4)(c)(3)(A)** warrant must be execute to arrest defendant (petitioner in this case) officer posses original or duplicate of warrant must show to defendant (petitioner) as well office inform that warrant of arrest exist and at the defendant (petitioner) request must show warrant. In executing summons covered on **Fed. R. Crim. P (4)(c)(3)(B)(i), (ii)** by delivering a copy to defendant (Petitioner), leaving a copy to defendant or a person in suitable age who live in last known address. Concerning serving summons on **Fed. R. Crim. P (4)(3)(C)** summons served on organization in judicial district must be delivered a copy to the officer or any agent appointed legal authorization and theorized by statute and be mailed by the organization.

Fed. R. Crim. P (4)(c)(4) after executing a warrant must be returned to the judge where defendant if brought according Rule 5 officer may do so by reliable electronic means, at the request of attorney of the government unexacted warrant must be brought back and concealed magistrate judge is none by state or local officer, the summers delivered to serve must return before the return day, at the request of the government attorney the judge may deliver unexacted, unserved warrant or summons to the marshal or authorized person to execute the service.
The FBI- UCN. 958484AC9 must be supported by unequivocal evidence beyond doubt where petitioner has committed criminal act where it matches Rule 4. As stated, and evaluating the mater section by section related to petitioner case, to prove criminal act on federal level must include the following 1) court order stating in one of more affidavit that individual committed criminal offence

supported by probable cause to issue an arrest warrant .2) there must be warrant of arrest issued contain name and description of the individual, describing the office committed including command to bring the individual to court of jurisdiction with an order signed by a judge the same applied to summons and stated the time and place of appearance before a judge. 3) execution of warrant must include made by whom marshal or local law officer, specified location if within the jurisdiction of the united states to serve the execution of warrant and manor delivering the execution by mail, visit by the office to last know address proof of service must be shown the authorized person. 4) after executing the warrant must return to the judge before person brought to court, the office may do so electronically if warrant unexcited it must bring back and concealed by the judge for summons must be done promptly,

there are two issues involved in authorizing the FBI-UCN. i) per NRC report issued by USCIS-FOIA page 43 indicating there no identifiable record found on NCIC nor Interstate Identification Index (III) has any information against petitioner and it seam to proof the same result found on NCIC authorized by a judge executed effectively on 04/10/2003 at 17:58:11 confirming clear record. ii) as per instruction and procedures found under Rule 4 the FBI-KCMO must show the proof of electronic filling sent to the judge to initiate arrest or executing warrant against petitioner none of these important elements found. This matter tiger question of how the UCN 958484AC9 has been initiated if not following the procedures, indicated if the FBI at this time must provide tangible evidence or it can be understood as attempted (Computer Fraud) in official record violating the privacy act of 1974 of which tragically can be proven by evidence provided. The same can be found on Booking record by penetrating Jail Software System to change apprehension date from 04/11/2003 to 04/10/2003 additionally the A-file hard copy not found nor recorded in any system. Thus, in order to initiate investigation defendant must show proof of judge order of exaction arrest and electronic filling of crime identified resulting to petitioner removal as criminal alien.

To impose or executing search and seizure to must be followed by **Fed. R. Crim. P. (41)(b)(1)** the search warrant executed by the request of federal law enforcement officer or attorney of the government. The magistrate judge or the state court has the authority to execute search warrant located within the district of the person or property. the FBI-KCMO must show execution of warrant issued by the FBI agent or an attorney practicing within the agency to show causes of such warrant signed by the Judge permitting such search. Petitioner want to see approve of such search and seizure warrant issued by a judge and the explanation of whether the search warrant can be issued before or after initiating the UCN for petitioner.

Magistrate judge with authority and where the criminal act may occur the judge have the right to issue warrant to search electronica storage media or information concealed technological means. See **Fed. Crim. P. (41)(b)(6).** The matter of concealed information vis technological means cannot be applicable to petitioner, it may be applicable to defendant the FBI and ICE-KCMO to bring to light all of information concealed regarding false issuance of UCN and A-file hard copy including other information to frame deliberately and knowingly petitioner as Criminal Alien without tangible evidence and regardless of both his clear record and lengthy residence prior of las entry on VWP.
Warrant may be issued to person or property subject to search and seizure of the following; evidence of crime, contraband fruit of crime, or other illegally possessed, property designed for you or intend for use in committing a crime or a person arrested or who unlawfully restrained. See **Fed. R. Crim. P. (41)(c).** the FBI including ICE-KCMO must show with tangible evidence beyond reasonable doubt if petitioner has been committed or about to commit any criminal act or intended to commit crime by using property on his last known address or show any sympathy with any criminal person or known to be activist to show negative opinion of the United States during his last entry or before.

The fact remain that petitioner never had any plans to commit any criminal act nor committed in past any crime nor misdemeanor subject to any punishment. in absent of any attempt of whatsoever to bring harm to other person or community there are no reasons for the FBI to restrain petitioner specially where has been proven by the FBI record that petitioner possess clear record. however, the elements of arrest made wrongfully and deliberately is the unlimited authority of arrest that the FBI has where ICE- KCMO can't have. ICE or INS cannot arrest aliens unless if they had prior information of undocumented aliens who work in public places, since public places are open areas, they no need to bring any warrant any they might enter without prior notice and have the rights to arrest an alien if found undocumented or without proper work authorization in the United States. the Authority of ICE to make arrest of aliens are so limited and only be done if Alien do commit any act minor major would be under the authorities of state and local law enforcement where if alien found and taken to custody for routine check which reviled that there are violation of law, then alien will be issued form I-247 notifying the Nearest ICE within the district. Stating the fact that petitioner cannot be issued form I-247 in absent of probable cause or exigent circumstances the local authorities which admit aliens under the law enforcement discretion most likely won't cooperate with ICE in arrest of petitioner. Thus, producing and crating false file of UCN and pass the state authority to accused illegally of criminal act occur within the jurisdiction of the State where petitioner last known residence it will trigger an issue and concerns regarding the Tenth Amendment.

Stated on **Fed. R. Crim. P (41)(d)(1)** if proven to the judge there are probable cause to search and seize person or personal property then request warrant on the present of a judge which contain warrant of an affidavit, warrant on sworn, recording testimony and requesting a warrant by telephonic or other reliable electronic means. In obtain warrant must be supported by evidence enough to raise to criminal level supported by sworn testimony under oath of indictment of crime render to arrest and seize person or property see **Fed. R. Crim. P (41)(d)(2)**
None of the mentioned above has been taken as legal steps to support issuance of UCN issued by the FBI-KCMO to dangers criminal individuals. In obtains warrant to search and seize property the warrant must identified person or property to be search or person property to be seized and designated to the judge. Accordingly, a warrant will be executed no longer the 14 days, warrant executed during the day time unless judge for a good cause executing the warrant in other time and return the warrant to the judge. See **Fed. R. Crim. P (41)(e)(2)(A).** the good cause of search and seizure must be present and approved by a judge in court of jurisdiction

As stated under **Fed. R. Crim. P (41)(2)(B)** warrant under Rule 41(e)(2)(A) to seize information electronically stored or concealed. This matter maybe applicable to Defendant to show causes of have in an individual of foreign born as criminal regardless of the background check which reviled there are no criminal convection ever found. The Issuance of the FBI-UCN was to proof fraudulently that petitioner committed criminal act without showing probable cause if issuing of UCN made upon request of the state or federal court related to conviction and whether there is any conviction sent by federal court to the FBI. thus, the federal agencies must revile all information with electronic proof including the nonelectronic filling to determine the real causes.

Stated under **Fed. R. Crim. P 41(f)(1)** must include noting of time, inventory, receipt and return all information must be recorded ranging of time items taking as evidence and recorded under specific timing and return of items from whom was taking. To issue UCN under conviction this process must followed petitioner had two officers of ICE-KCMO entered the property without search warrant of any convictions nor outstanding court order while petitioner handcuffed in his last known apartment there are no written evidence nor signature of petitioner shown. However, it can be approved on the exhibits on NRC file of what happens to be phone number and business

cards found in the apartment. if person show there are unlawful search and seizure my ask return on items as stated on **Fed. R. Crim. P 41(g)** of which has been proven on the record on NRC. The court if any must move to address factual evidence to prepare a motion which didn't happens due to NO crime found on petitioner record.

According to the law mentioned above under Fed. R. Crim. P (4), (41) defendant didn't inform the court of criminal activities as they claim to be committed by portioner which shown there are no evidence in support of there conclusion. Thus, petitioner fourth amendment which prohibit unreasonable search and seizure has been violated. the service must show probable cause has been made to render arrest based upon previous information where it must be under the supervision of the court. There are no suggestion nor evidence found on petitioner record who had prior residency of 14 years living in the U.S. as F-1 visa that render search and seizure based upon prior criminal convection, nor there are an outstanding warrant issued by court of jurisdiction nor petitioner.

Fed. R. Evie 901, 902

Fed. R. Evie 901(a) to support requirement of authentication there must be sufficient evidence in support of the claim. Petitioner provide to the court all supportive evidence that he removed as Criminal Alien without any indication showing that he ever committed criminal act nor found in violation of VWP. Additionally, petitioner who had 14 years prior residency under F-1 visa and prove of education from accredited colleges in the U.S. nothing found under his record to rendered removal as criminal alien. All record has falsified by fraud and forgery made by ICE and the FBI-KCMO to render removal.

Under **Fed. R. Evie 901(b)(3)** a comparison with an authenticated specimen by an expert witness. Circuit Eight court must provide an expert to examine the record prior of issuing unpublished denial, to find out if record found are authenticated by an expert who must be expert in criminal alien removal proceeding and an expert in computer storage determining if the process of petitioner information has been entered according to the rules and regulations set forward.

Petitioner information found on public record must show that document was recorded or filed in public office as authorized by law **Fed. R. Evie 901(b)(7)(A).** petitioner emphasize that all information found was in strict violation of the law and the United States Constitution. Removal as Criminal Alien it doesn't rely on any facts since it has not been reviewed by court of jurisdiction nor found in record and statement or proof of conviction rendered removal nor the overstaying time of 150 day was deportable offence by law, in regard of overstaying the period of VWP the Homeland Department inherit prosecutorial discretion have the power to adjust status under nonimmigrant E-2 visa, in assumption that petitioner has prior lengthy legal residency in the United Sates of which ICE-KCMO and the FBI failed to do. All information of public record, documents and statements provided to court are from the office where items of this kind are kept, the record came from Freedom of Information Act Office which are legal. NO evidence suggested that petitioner made his assumption that removal was targeting his race and national origin provided by evidence from legal legitimate sources of information in the United States. see **Fed. R. Evie. 901(b)(7)(B).**

The evidence found on system of record has not been produced in accurate result nor complying with laws and regulations of the united states as stated on **Fed. R. Evie. 901(b)(9).** Disseminating wrongful information that petitioner found to be Criminal Alien and removed based upon false attempt made with knowledge to harm violating Privacy Act of 1974. Electronic Information found on record NALIS, DACS, IDENT, CIS, and CLASS system based upon false assumption of

removal found on electronic record since there are no criminal record nor immigration record found on petitioner which cannot be complied with laws and regulations set forward, thus, there are no accurate result found. Stated under **Fed. R. Evie. 901(b)(10)** any method of authentication or identification allowed by federal statue or a rule prescribed by the Supreme court. Petitioner question if the FBI and ICE-KCMO can provided any authenticated information related to criminal record or immigration record suggested with evidence that petitioner was found as criminal alien in violation of VWP which will be complied or allowed by federal statue proven by evidence and if found then the service must give legal explanation of the reasons to NOT include such information in public record.

Record provided by the government can be admissible to the court since it is self-authenticated. To fulfill this requirement the domestic public documents are sealed and signed either by a department or agency which carry the department seal or by the officer of the entity see **Fed. R. Evie. 902(1)(A)**. as shown on ICE-FOIA that some of the forms as signed other not bear the officer signature but do carry the department and service seal which can be admissible as evidence. A signature of the officer purporting to be an execution or attestation see **Fed. R. Evie 902(1)(B)** as record suggested that majority of forms it doesn't carry the signature of attestation by the officer in charge of removal specially forms related to Criminal Alien removal while others do which proven to be issued deliberately to harm petitioner other forms are missing which it should be added to preform fair and just removal according to the constitution and laws and regulation govern removal. domestic public documents that are not sealed but signed and certified, it bears the signature of an officer or employee of an entity named under rule 902(1)(A) as stated under **Fed. R. Evie. P. 902(2)(A)** the question asked if the officers who signed the forms as it appeared on ICE-KCMO are authorized under there scope of employment to sign such documents as stated under **8 CFR 287.8 (b)(3);8 CFR 287.5(c).** *See Appendix 1 for further details.* even if it bears the signature of the officer it doesn't mean the officer in charge of removal are authorized to sign such form, thus, there are an obvious forgery attempted in official documents never happened (In the History of Immigration). If another officer has the seal and duties or its equivalent as stated under 8 CFR 287 has the official capacity and that the signature is genuine as stated under **Fed. R. Evie. P. 902(2)(B).**

The forms appeared on ICE-FOIA, Shawnee County Booking report and the FBI-UCN 958484AC9 which is filed on public office as authorized by law (If the copy Certified as Correct) by the custodian or another person certified as correct see Fed. R. Evie. 902(4)(A). the records as it appeared came from official domestic public record which made it self- authenticated however even if the record has completely falsified to impose removal as criminal alien it doesn't mean that record Self-authenticated since it has been produced by official record. the certification of compliance has to meet Rule 902(1),(2) or (3).which it dose since it carry the seal of the service and the forms found on all records suggested removal by fraud, forgery and concealed fraudulent evidence which led to discovery rule based on petitioner due- diligence . see **Fed. R. Evie 902(4)(B).**

Form and other documents files appeared in record must be acknowledge either by notary public or officer who take acknowledgement that is (Lawfully Executed), there are two parts appeared in this section 1) the record which obtained from government record pertained to be for petitioner is self-authenticated and admissible to the court of law,2) under statement of lawfully executed by the officers in charge of removal this statement is not applicable since the removal made targeting petitioner race and national origin and proceed removal as criminal alien without proof of conviction which made the form and other record completely falsified and fraudulently concealed. Thus, elements of acknowledgment must be subject to investigation to determine the Causes of Action made and under what purpose. See **Fed. R. Evie 902(8).**

The petitioner record which obtained from official sources in the United Sates. The FBI and ICE-KCMO has to show if the signature, document, or anything else that a federal statue declares to be (Presumptions) or (Prima Facie) genuine or authentic. After analyzing all facts appeared within records the FBI nor ICE-KCMO cannot show any tangible evidence beyond reasonable doubt that petitioner commit or about to commit any criminal act that permit to issue the FBI-UCN 958484AC9 which issued only to criminal individual nor there are any Probable Cause nor Exigent Circumstances has been recorded for court of jurisdiction to decide to record proof of conviction . Therefore, petitioner concluded there are no Presumption nor prima facie act recorded which explain the reason that most of forms are not signed by officers of the service. See **Fed. R. Evie 902(10).**

The original copy of record must meet requirement under Rule 803(6)(A)-(C), must be certified by custodian or qualified person complying with federal statue or rules prescribed by supreme court, before trial or hearing must be given notice of intend to offer record, must made record available for inspection to have fair opportunity to challenge them. see **Fed. R. Evie 902(11)**. Evaluating the matter based on rule 11, removal made upon criminal offences must be challenged in in court of law which has not been done nor the overstayed 150 days on VWP considered by law as removal offences. Petitioner who had no criminal nor immigration offences recorded whether during his last entry to the U.S. or prior entry and residency of 14 years under nonimmigrant visa F-1.

Accurate result produced under Electronic process system shown by qualified person and certified data from electronic device, storage medium or file if authenticated by process of digital identification both must met Rule 902(11) or (12). See **Fed. R. Evie 902(13); 902(14)** as evidence suggested that electronica process system didn't produce any accurate information of petitioner nor the files found concealed on Shawnee Booking Report, ICE-FOIA, USCIS-FOIA and FBI-UCN. information shows strict violation of data and falsification by fraud and forgery committed by ICE-KCMO and the FBI to accuse petitioner of both criminal act without proof of conviction in court of law to proceed removal as criminal alien nor petitioner found on violation of VWP proved to be removable offence.

Fed. R. Evied 803

There is exaptation of the rule against hearsay can be found in the case as stated on **Fed. R. Evie 803(6)(A)-(C)** a record of an act, event, condition, opinion or diagnoses, record must be made within near time with knowledge, record kept in regular conduct activity organization, occupation or calling, making record was regular practice of activity, all these conditions shown by custodian or another qualified witness or by certification comply with Rule 902(11) or(12). The record it doesn't meet the requirement since removal made as criminal alien without any tangible evidence recording criminal event nor overstaying of 150 days can be removable offence.

The matter not included in paragraph 6., the evidence admitted to prove that the matter did not occur or exist, a record was regularly kept for matter of that kind. The evidence that Petitioner removed as Criminal Alien has not been recorded or exist nor VWP overstaying of 150 days was removable offence. Criminal and immigration Violation must be kept in record as regular practice of which has not been done since the Hard Copy of A- File or Alien Number has not been registered to conduct an official removal. Thus, there are absence of record of a regularly conducted activities as stated on **Fed. R. Evie. P. 803(7)(A)**

Under **Fed. R. Evie. P. 803(8)(A)(i), (ii) and (iii)** record or statement of a public office it set to be office's activities, the record found on petitioner made by the FBI-UCN 958484AC9 its record activity concerning Criminal individual. Since petitioner has clear record UCN cannot be issued

without Burden or proof that petitioner committed criminal act. Thus, the record initiated to include petitioner as criminal alien by falsifying information and facts and without conclusion of the law made in court of jurisdiction where petitioner if indicted with proof of conviction then the UCN will be valid of which cannot be since petitioner has clear record. on the other hand, ICE-KCMO in coordination with the FBI-KCMO to remove petitioner as criminal alien the service has issued fraudulently and without conclusion of the law the following forms Form I-296 (Notice to alien ordered removal/ Departure verification) box 2 marked as alien excluded under section 236 without tangible evidence, Form I-200 (Warrant of arrest of Alien) issued to concluded that alien committed criminal act recognizable under section 236, Form I-286(Notice of Custody Determination) show petitioner signature appeared on form as he signed form unaware of and without appearance of his attorney which indicate that he taken to custody under section 236 tell the time an immigration Judge determine the case this form cannot be valid since signed by petitioner and indicating that he is proceeding criminal removal which violating his rights under the fifth amendment as he incriminating himself without conclusion of the law. considered Petitioner as Flight-Risk there must be proof of incarceration of minimum period of one year to criminal individual and when released will be danger to community NOT all criminals can be community danger unless proven in court of law. there is no indication found in record of petitioner that he served one-year imprisonment due to his clear record.
Form I-213(Record of Deportable/ Inadmissible Alien) this from which appeared non-authenticated by officer in charge produced only to criminal alien charged under "aggravated Felony" which must be completed and served under form I-851(Notice of intend to issue final administrative removal order) accompanied by conviction order by court of which has not been found on ICE-FOIA record. the other issue is form I-213 contains fingerprints petitioner believe it doesn't belong to him. Therefore, the court must initiate investigation of forensic biometric test to determine if fingerprints appeared on from belong to Petitioner. As stated and proved by evidence beyond reasonable doubt that all forms and files issued which set out the (Office's Activity) it doesn't relay on any facts that petitioner should removed as Criminal Alien, issuance of ICE-KCMO forms to support the FBI-UCN was issued by fraud, Forgery and falsifying record to deliberately accused petitioner of criminal act never committed. The office of the FBI and ICE-KCMO do have the authority invested in them as Office's Activity ONLY if proven that Petitioner committed criminal act redder Removal as Criminal Alien.

As stated under (ii) the matter has to be observed under legal duty to report. But not included case a mater by law enforcement personal. While attending the FBI interview which was under reasonable suspicion as petitioner understand that he has clear record therefore there nothing to be reported more than a person attended an interview and answer set of questions cooperating with authority. Petitioner didn't understand or know that the matter of interview premeditated a day before on 04/10/2003 to issue UCN 958484AC9 to include petitioner as criminal individual see USCIS-FOIA pages 33-43 which shows that petitioner has clear record, however, in order to record a matter then it has to be observed by personal or law-enforcement which referring to Probable Cause and Exigent Circumstances where must be recorded during the interview either recorded or based upon previous information and has to comply with Criminal Rule(4) and (41) of which it didn't happens due to lack of evidence and petitioner clear record. Thus, due to disappear of Arrest factors then then it triggers another issue as proven to be an interview it was more of false arrest and imprisonment as stated under 18 U.S.C. 1983 and attempt of kidnaping as stated under 18 U.S.C. 1201(a) and (b).

In both civil case or against the government in criminal case, factual findings from legally authorized investigation. There is no investigation has been initiated by the FBI-KCMO to prove with tangible unequivocal evidence that petitioner was planning or had committed any criminal act to issue UCN based upon legal investigation nor dose ICE-KCMO show tangible proof of

conviction and set of evidence supportive to their conclusion to have petitioner removed as criminal alien. As stated under **Fed. R. Evie. P 803(8)(B)** the opponent doesn't show that the source of information or other circumstances indicate lack of trustworthiness. This section of the law are in matter of grate debate as all information sources indicate (Lack of Trustworthiness) since all information related to petitioner arrest as criminal Alien then removed this way based solely upon the FBI-UCN 958484AC9 which has been issued fraudulently with deliberate attempt to harm petitioner unless if defendant proof otherwise it was complying with the law.

Evidence suggest there are Absent of Public Record testimony- or certificate under Rule 902- that a diligent search failed to disclose a public record or statement if the testimony or certificate is admit to proof that the record or statement does not exist. see **Fed. R. Evie. P. 803(10)(A)(i).** Petitioner removal based upon three false facts i) removal targeting criminal alien which there are no public record nor proof of conviction found and there are no supportive evidence suggested that UCN should be issued , ii) removal based upon expired VWP which is not visible as the overstayed time it doesn't exceed 180 days to considered removal in violation of VWP terms and condition, iii) removal based upon previous violation to VWP as stated on page 35 on USCIS-FOIA that petitioner overstayed the period granted on admission where he should exit the country on Jan 9, 2001 and exit the country on Jan 23, 2001. As indicated, there are only 15 days over the 90 days given to petitioner due to no flight availability in holiday season which cause him delay. According to **8 CFR 217.3(a)** there are 30 days giving to VWP where they can exit the country without violating the overstaying terms and condition under what known to be "Satisfactory Departure" .thus, petitioner not found in violation or overstaying the period giving by the immigration and successfully departed the country within 30 days therefore, adding phrase (Confirmed Overstayed) found to be violation of law since it doesn't relay on any evidence suggesting that, iv) stated on form I-213(Record of an Alien) indicated on fine prints that alien found trespassing the border of the United States Illegally where the methods of such act is not known to the government, this is not correct statement as shown on Page 59 of USCIS-FOIA that petitioner admitted and paroled before an immigration officer on Sept 5th, 2002 on VWP. Therefore, proved by tangible evidence there are no public record exist against petitioner to proof that he is criminal individual nor alien found in violation of his visa and no proof that petitioner entered the U.S. border illegally. *see Appendix A for more details.*

As stated under **Fed. R. Evie. P 803(10)(A)(ii)** a matter did not occur or exist, if public regularly keep record or statement for a matter of this kind and criminal case prosecutor most provide notice of intend 14 days before trail at minimum and show that defendant tot object in writing within 7 days of receiving the notice see **Fed. R. Evie. P 803(10)(B).**

The FBI-KCMO and ICE try to hide all elements of existing of the Interview with the FBI- KCMO and make the matter never existed based upon the following elements.

- Change apprehension date from 04/11/2003 to 04/10/2003 if the date changed there are no criminal act or interview with the FBI existed. This found on Canceled booking report as they show that petitioner was in custody of ICE-KCMO on the 04/10/2003, if date changed then there are no (Place) nor (Time) of any arrest criminal or civil in immigration ever existed. It has been proven on form I-203 (Detained or released an alien) found on Shawnee Booking report that petitioner was in custody on the 04/11/2003 and NOT as they claim on 04/10/2003 by penetrating Jail Software System.
- There are no Probable Cause nor Exigent circumstances found to render Arrest nor there is prior information suggested that petitioner will or about to commit criminal act.
- If elements of arrest dose not exist, then the elements used was more of kidnaping where Use elements of decoy, inveigle, unlawful seizure all are elements used to preform operations (Similar

to Kidnap) where excluding force. The elements are obvious used with motive of which targeting me based upon Race and national origin as an Iraqi.

- As explained above Arrest cannot be implemented due to lack of probable cause. However, according to evidence stated forward the elements of kidnap clearer then false arrest and imprisonment. If the FBI and ICE-KCMO has a reason to believe that alien committing any criminal act they can use Decoy under court of jurisdiction to serve process ONLY. Thus, reason to believe I have committed any criminal act it does not exist.
- Attempted to made pass the interstate transfer another element concern kidnap and not false arrest only. There was unreasonable search and seizure committed by the officer while conducting removal as explained in this report. stated under **18 U.S.C 1201(a)** [*Whenever unlawful seizer, confines, inveigle, decoy, kidnaps, abducts or carried a way and holds for ransom or reward or otherwise any person, except in the case of a minor by the parent thereof*]. The elements used it tailored to fit the description under statue above verses the actual evidence and incidence occurred 14 years ago. The amount of immigration bond mentioned on concealed Shawnee report of $9,999,999 suggested using huge lamp sum would associate with (Reward, Ransom or otherwise any person). we cannot understand the reason of such an act.
- stated on **18 U.S.C. 1201(b)** if failure to release the victim with in twenty-four hours as been taken by kidnaping as stated on subsection (a)(1). And transported in interstate or foreign. The transport made pass the interstate to Kansas where ICE hide all elements of transport and assume incidence of removal never exist.
- ICE-FOIA must include all movement of alien from the date, time and place arrested and taken under service custody to the date alien either relief before an immigration judge or removed in from I-216 (Record of Person and Property Transferred) this form appeared to be non-authenticated by the officer in charge of petitioner removal for purpose to hide (Place) and (Time) of transfer petitioner to ICE-KCMO custody. The elements analyzed according to information provided by public record suggest it was Kidnaping more than arrest.
- ICE-KCMO as standard procedures as stated under Inspector Field Manual any alien found in violation of the law or any other law and brought to ICE custody the service must initiate form G 391 including all biographical information, place and time where alien found initiated by the officer in charge while alien in field office and kept in ICE-FOIA file which has not been found nor any evidence suggesting that this from initiated to hide the field office where petitioner found.
- To release and alien to ICE custody proceeding removal where will be transferred to confinement form I-385 must initiated which show where alien has been booked and indicate his medical record, habits ...EXT. this form has not been initiated to hide Place of detention facility.
- ICE and USCIS-FOIA report reveled facts of the place where petitioner been held under the custody of ICE-KCMO. In fax written by officer of Shawnee County-Topeka, KS added an observation of what petitioner question the reason that officer unarmed in fear of his life while was in detention under the service custody. The question asked why would the officer whose name and signature shown on fax interested in behavior of fearful petitioner while in process of admitting to facility? Is there are plan made by ICE and the FBI-KCMO to eliminate petitioner life? specially where all information of detention not exist nor even the interview with the FBI shown that petitioner attended any interview even if mentioned on comment section page 26 ICE-KCMO which falsified date on 04/10/2003. Petitioner believe based upon Public record found that the matter of interview with FBI-KCMO and detention to ICE-KCMO it doesn't show that petitioner even exist on both services where all elements are fraudulently concealed.

Additionally, there are no evidence in criminal offence that petitioner been served with notice of intend to prove that he committed Aggravated Felony as stated under subparagraph B.

As sated under **Fed. R. Evie. P 803 (22)(A) to (C) and (D)** the service must stated if there wear previous arrest made of any convictions as they claim deliberately that petitioner found in second violation of VWP this is not true, the fact is petitioner left after 15 days of the scheduled time of 90 days granted on entry which considered as (satisfactory departure). Additionally, the service mentioned on from I-213(record of Alien) that petitioner found attempting illegal entry to the Border which they cannot prove since the last entry made on VWP. Thus, according to law stated the service must prove there was conviction, judgment or conviction by imprisonment for over a year where all evidence must be admitted as fact in judgment. However, when offered to prosecutor in criminal case other than impeachment the judgment was against defendant.

Fed. R. Civ. R 44

As stated on **Fed. R. Civ. P 44(a)(1)(A)** all records portend to be for petitioner are kept in United States, federal, state and district which will be subject to the Administrative or judicial jurisdiction. Certified record will be under officer of custody or public officer with seal of office with official duties where the record kept where certified by a judge of court of record see **Fed. R. Civ. P 44(a)(1)(B)(i).** or by public officer with seal of office and with official duties as stated under **Fed. R. Civ. P. 44(a)(1)(B)(ii).** However, the record provided from Domestic Record show that the officers falsified all recorded to include deliberately and attentionally petitioner as criminal alien without conclusion of the law nor proof of conviction ever recorded by court of jurisdiction as shown in ICE and USCIS-FOIA.

As stated under **Fed. R. Civ. P. 44(b)** written statement that a diligent search of designated records reveled no record or entry of a specified tenor is admissible as evidence that the records continue no such record of entry. For domestic record must be authenticated under rule 44(a)(1). Petitioner emphasize that to convict him as criminal alien defended must show proof of conviction from court of law which they failed to do so since petitioner has clear record of any criminal or misdemeanor convictions. Thus, there is lack of record showing that petitioner ever committed any criminal act.

Under **Fed. R. Civ. P. 44(c)** A party may prove an official record – or an entry or luck of entry in it- by any other method authorized by law. Petitioner based upon his due diligence and investigation to removal matter did provide as evidence Shawnee County Jail Booking report and the FBI-UCN 958484AC9 which has been provided by domestic record as stated under Rule 44(a)(1). The added evidence suggested that both records appeared not on the regular storage facilities and can be an evidence upon unconstitutional removal. after analyzing the content involved in both record it is evident that it has been falsified information about the facts of removal ranging of incomplete UCN , and falsifying or invented criminal act it doesn't exist on the booking report of Shawnee as (Civil & Criminal Penalties Exist for Misuse & Unlawful Dissemination) additionally report mentioned immigration bond of $9,999,999 and falsifying apprehension date same as UCN. Thus, these evidences applicable to the case since it has been provided by domestic record and it is related to the issue of removal. *See appendix 1 for more details.* See the following statues of uniform methods of providing public records. 28 U.S.C. 1735(same; certified copy of official paper). 28 U.S.C. 1738 (

Fed. R. Evie 706, 702

Court of Appeal for The Eight Circuit didn't examine evidence enclosed with the argument to determine whether to issue (Published) denial or not. stated Under **Fed. R. Evie 706(a)** on party's motion or motion of its own the court may order parties to show cause why the expert witness

should not be appointed and may ask parties to submit nomination. The Court may appoint any expert that the parties agree on and any of its own choosing. But the court may only appoint someone consent to act.

Circuit Eight of appeal under motion of its own where petitioner case has been dismissed without prejudice by district of western Missouri has been placed under (motion of its own) didn't ask to examine the evidence to show cause of which must be done based upon two facts. 1) the court accept the well- pleaded fact to view them and 2) all facts must be evaluated as true even if doubtful in fact. *See Great Plains Trust Co. v. Morgan Stanly Dean Witter,313 F.3d 305, 312 (5th Cir, 2002).* [the court must accept well-pleaded facts in the complaint as true and view them in the light most favorable to the plaintiff] and see also Id (quotation marks, citations, footnote omitted [the [f]ctual allegations of [a complain] must be enough to raise a right to relief above the speculative level... on the assumption that all allegations in the complaint are true (even if doubtful in facts)]. Per **Fed. R. Evie 706(b)** the court inform the expert's duty either in written or orally through a conference through the court clerk office. The expert duties involved as stated under **Fed. R. Evie 706(b)(1), (2), (3) and (4)** must advise the parties of any findings of the expert marks, maybe deposed by any party, may be called to testified by the court or any party; and may be cross-examined by any party, including the party that called the expert.

The court of circuit Eight as part of evaluating evidence to determine the process and procedures where petitioner has been removed, by reexamine all elements found on evidence enclosed to the court attention. The reexamination consist, if there are criminal offence rendered removal do exist, if the overstayed period are suitable enough to be removable offence, if the electronic records shown of issuance of the FBI-UCN made according to process and procedures where Petitioner issued this number based upon criminal act or any other act and the process of issuing UCN 958484AC9 relay upon judicial conclusion or there are (Computer Fraud) has been committed. The same will be applicable on Shawnee Booking report which has been produced electronically. Additionally, examine if the fingerprints appeared on ICE-FOIA page 27 match petitioner fingerprints and reexamine all fingerprints appeared on record as well examine if forms initiated do comply with laws and regulation of removal procedures set forward under 8 U.S.C. and INA.

As part of investigation the Circuit Eight must appointed testimony of expert witness as set under **Fed. R. Evie. P. 702(a), (b), (c) and (d),** where the expert must be qualified by knowledge, skills, training or education may testify in from of an opinion or otherwise if the expert scientific, technical or other specialized knowledge will help the tire of fact to understand evidence to determine the fact of the issue, the testimony based on sufficient facts or data, the testimony if the product of reliable principle and methods; and the expert has reliably applied the principles and methods to the facts of the case.

The Circuit Eight must provide an expert in Immigration removal proceedings and computer expert in storing individual record system to determine the fact how the information of petitioner has been disseminated to all channels as Criminal Alien without proof of conviction of a court of jurisdiction.

Additionally, the court must call on revised measure all ICE-KCMO employee whose name and signature appeared on forms shown on ICE-FOIA record to identify their signature and state their authority at the time petitioner has been removed, including the testimony of the attorney in charge of the case while petitioner was held in custody of ICE-KCMO to find out the reasons why he didn't arrive while petitioner under the custody nor preform his duties . as stated under **Fed. R. Evie. P. 701(a), (b), (c)** if witness is not testifying as an expert, testimony in the form of an opinion is limited to one that is rationally based on the witness's perception, helpful to clear understanding

the witness's testimony or to determining a fact in issue and; not based on scientific, technical or other specialized knowledge within the scope of Rule 702.

Fed. R. Cim. P 29

Reviewing the fact of criminal charges found on concealed Shawnee County Jail based upon **Fed. R. Crim. P 29(a)** after the government close its evidence, or after the close of all evidence the court on defendant motion must enter a judgment of acquittal of any offence of which evidence insufficient to sustain a conviction.

Thus, the FBI and ICE-KCMO must provide evidence beyond reasonable doubt that there is charges sufficient to sustain conviction and without any delay and within six-hours to charge petitioner in a court of law. petitioner was under ICE-custody for period of 19 days from April 11, 2003 to May 1, 2003 of which they didn't bring any conviction to court of law of charges produced on Booking report or any other charges.

Fed. R. Crim. P 29(b) the court has the right to revise its decision on a motion before closing of evidence, submits the case to the Jury and decided a motion either before a jury return a verdict or after returns a verdict of a guilty or discharged without having return a verdict. If the court revised decision, it must decide the motion on the bases of evidence at the time ruling was revised.

The Rule above discussed all possibilities of the court to decide a motion. The charges brought against petitioner has not been recorded to the court nor has been supported by tangible evidence to raise an issue where the court with juries must have tangible sufficient evidence. There are two possibilities where ICE-KCMO and the FBI-KCMO either there are NO conviction found on petitioner record render arrest then removal, or the service and the FBI hide elements that might produced motion of Guilty against petitioner. Due to petitioner clear record of any criminal act the matter is fabricated by falsifying information and concealed others in retaliation of U.S. invasion to Iraq or to target petitioner Race and national origin to fabricate removal as criminal alien to include petitioner within (Secure Community) program which track down criminal aliens within the United States without any tangible evidence supporting such false arrest, imprisonment and removal. investigation to this matter must be initiated.

Liberal Construction for Pro Se.

Liberal construction as defined is A form of construction which allow a judge to consider other factors when defining the meaning of a phrase of document.

The factors that been evaluated are based upon the following:

- Stating clear statement where relief will be granted
- Plausibility and evidence of the complain
- Stating factual allegation to support the claim and set of facts.
- Implementing Federal Rules of Civil Procedures Effectively as standard of the argument

Plaintiff argue that he is not attorney at record to provide technical sentence which must be grammatically and effectively sound to state the claim. *See Rushing v. Travelers Insurance Company of Harford, Connecticut, 133 F. Supp, 707 (United States District Court, 1955)* [liberal construction dose not mean that words should be forced out of their natural meaning, but simply

that the words should be received a fair and reasonable interpretation so as to attain the objects for which the instrument is designated and the purpose to which it applied].

Plaintiff emphasize the fact that he used the best of his ability using and implementing the words to state his claim before the court which based upon the fact of the case.

Over 24 months of research plaintiff understand the facts of proceeding further with pro se complain by following the rules and procedures requirement, based only upon his understanding of the rules as non-attorney and based upon the merit of the case and set of facts supported by evidence. *See, e.g., Pomales v. Celulares Telefonica, Inc., 342 F.3d 44, 49n.4 (1st Cir 2003)* ("[p]ro se statue did not absolve [plaintiff] of the need to comply with... the district Court's procedural rules"). *See also; Creative Gifts Inc. v. UFO, 235 F.3d 540, 549 (10th Cir. 2000)* ["Although pro se litigant get the benefit of more generous treatment in some respects, they must nonetheless follow the same rules of procedures that govern other litigants." (citation omitted)]. *and See Edwards v. INS, 59 F.3d 5, 8 (2d Cir. 1995)* ("[p]ro se litigants generally are required to inform themselves regarding procedures rules to comply with them.")

The court judgment above emphasized that the rules and procedures of the courts shall not be ignored nor omitted, to crystalize the factual elements where relief can be granted. Plaintiff add that he did follow all elements to state the claim by following the rules and procedures of the court system. However, the court decisions didn't emphasize that the rules of the court must followed by pro se litigators to point of professional level and perfection as they understand that pro se possess limited legal back ground to do so.

Plaintiff argue that he posses' constitutional rights regardless of unconstitutional removal occurs 15 years ago where before May.1, 2003 plaintiff lived 14 years in the United States in good legal standing under F-1 visa. One of the constitutional rights is self-representation as stated under **28 U.S.C. 1654** ("All Courts of the United States the parties may plead and conducts their own cases personally or by counsel .....")

The lawsuit prepared based upon excessive research and set of facts has been found in regard of unconstitutional removal occurs in May 1, 2003. Nothing in this argument made based upon informative narrative to the issue rather it has been based upon facts obtained from legal government organizations and sources which are the Freedom of Information Act Office, Shawnee County Jail Booking report and Criminal Justice Information Service (CJIS) where the FBI Universal Control Number 958484AC9 located.

Plaintiff analyzed all information based upon standard practice provided under Inspector Filed Manual of ICE and issuance of FBI-UCN which has been issued deliberately to proceed removal as Criminal Alien regardless of clear record of any criminal offences of which violating plaintiff rights under the U.S. constitution and civil rights under **42 U.S.C. 1983**. These set of violation has been set and explained based on step-by-step supported by facts provided and analyzed which led to discovery based on plaintiff due diligent supported by U.S. Codes and the United States Constitution. Therefore, case cannot be dismissed under "No Set of Facts Standard" nor failure to state a claim. *See, e.g., Hughes v. Rowe, 449 U.S. 5, 9-10 (1980) (per curiam)* [observing that "it is settled law that the allegations of [a pro se] compliant... are held to "less stringent standards" and nothing that such compliant can prove no set of facts in support of his claim which would entitled him to relief") (Citation omitted) *(quoting Haines v. Kerner, 404 U.S. 519, 520 (1972) (per curiam)].*

Elements of Fair Trail

Plaintiff request the court to consider Fair trail for review. The elements of fair trial have been considered. the 7th Circuit set the elements of fair trial. *See Stollings v. Ryobi Technologies Inc., F.3d (7th Cir. Aug. 2, 2013) (No.12-2984) (Citing United States v. Klebig, 600 Fd3 700, 720-21 (7th Cir. 2009)* [In assessing the effect of improper remarks on the fairness of the trail, the court should consider the nature and seriousness of this remarks, whether the remarks were invited by the conduct of defense counsel, whether the district court sufficiently instructed the jury to disregard the remarks, whether the defense could counter the improper remarks through rebuttal, and finally, whether the weight of the evidence was against the defendant).

The five factors cited by the circuit included:

1. Magnitude: The nature and seriousness of the argument.
2. Opened door: whether the statement was invited by the opposing party
3. Rebuttal Possible: whether the statement could be rebutted effectively
4. Curative Instructions: whether an effective curative instruction was given, and
5. Impact: The weight of the evidence.

As stated above with respect to plaintiff case the following must be considered

1. The matter is being national security issue which concern the safety prosperity and tranquility of citizen and residence of the U.S. of which the officers acting under color of law forfeit
2. Evidence suggest that removal matter has been premeditated and orchestrated on fabricated reasons to remove plaintiff by fraud, forgery and deliberately made accusations ranging from accusations of security ground never proven to proceed removal as criminal alien targeting plaintiff race and national origin.
3. Plaintiff has invited defendant on many occasions by claiming case of investigation under U.S. inspector General office of both Department of Justice and homeland security department of which no efficient answer came to discuss this matter.
4. Plaintiff can ask whether rebuttal considering this case where constitutional due right has been abused, inhuman treatment, violating human rights laws including the international laws of Detainees. The evidence is very clearly stated and supported by proof beyond reasonable doubt removal made violating plaintiff rights.
5. Curative Instruction as defined under Black's Law Dictionary (A Judge's instruction given to the jury in order to correct a previous error of instruction or a jury's misunderstanding). Plaintiff argue that the district court judgment was denying the matter under forma pauperis not under the merit of the case since it has not giving the proper time frame. Plaintiff emphasize that he requested review before the Jurys of which it didn't happens. The judgment wasn't clear and there was misunderstanding to the main subject matter and error which has caused the case dismissal. Plaintiff cannot understand if 28 U.S.C. 1915(e)(2)(B) was proper since it concerns mainly prisoners under custody of law to deal with previous removal occurs 15 years ago.

Reciprocal Treatment

One of the important elements to have the Visa Waiver program is the reciprocal visa waiver benefits for the united states citizens traveling abroad. As the travelers of the VWP country to rejuvenate the economy by creating new jobs or conducts investment and increase the quality of life in the U.S. however, having an issue similar to petitioner case who is national citizen of Italy where he lived continues period of fourteen years in the United States earning his education never violate any laws of the United States and attempted to establish Business pay taxes as an ordinary peaceful person. Petitioner who has been called for an interview with the FBI-KCMO and been removed and discovered that causes of removal was based upon fraud and forgery in committed by

the FBI and ICE-KCMO targeting his race and national origin. this matter will affect the reciprocal issue and raise concerns regarding the U.S. citizens and European citizens who travel for many of reasons business or pleasure.

To have petitioner who have clear record and never committed any criminal act removed from the United States as criminal alien and depraved his rights according to the U.S. constitution and protection of the law in general this miss treatment will raise concerns regarding the U.S. citizens who travel to Europe. *See Arizona v. United States, 567 U.S. 387, 395 (2012) [* Perceived mistreatment of aliens in the United States may lead to harmful reciprocal treatment of American citizens abroad]. One of the reasons having Visa Waiver Program discussed in federal court system including the Supreme Court of the United Sates is the reciprocal treatment of American National abroad.

Many circuit courts have discussed VWP cases as matter based upon reciprocal treatment regardless of the facts that the VWP cases involved with immigration issues of which it will be found under Immigration Courts and Immigration Courts of Appeal, but since the law eliminate jurisdiction do discuss the cases of VWP. Circuit courts agreed to deny all cases of VWP including the Supreme Court but agreed upon jurisdiction to publish an opinion of this matter. *See Bradley v. Att'y Gen., 603 F.3d 235 (3rd Cir. 2010); Lang v. Napolitano, 596 F.3d 426 (8th Cir. 2010); Bayo v. Napolitano, 593 F.3d 495 (7th Cir. 2010); McCarthy v. Mukasey, 555 F.3d 459 (5th Cir. 2009); Momeni v. Chertoff, 521 F.3d 1094 (9th Cir. 2008); Zine v. Mukasey, 517 F.3d 535 (8th Cir. 2008); Lacey v. Gonzales, 499 F.3d 514 (6th Cir. 2007); Ferry v. Gonzales, 457 F.3d 1117 (10th Cir. 2006); Schmitt v. Maurer, 451 F.3d 1092 (10th Cir. 2006); Freeman v. Gonzales, 444 F.3d 1031 (9th Cir. 2006); see also Nose v. Att'y Gen., 993 F.2d 75 (5th Cir. 1993)*

All the mentioned above decision agreed that adjusting statues under VWP that go to permanent residency cannot be found not tell publishing policy memorandum of Nov 14, 2013 permit to have adjustment of statue of VWP who had U.S. Spouse and U.S. born children. However, none of the cases nor the purpose of this case made by petitioner to acquire any type of residency or immigration privilege. The main purpose is to have rights restored under both the U.S. constitution and the international law and compensation made of the injuries had been caused by the federal agencies who committed this act.

Want to remind the court that permanent residency goes to U.S. citizenship was available option where petitioner had for fourteen years legal residency under F-1 visa where he can adjust his status toward permanent residency. however, petitioner didn't see the need to have residency in the United Sates as Italian citizen and European national have the same privilege of the U.S. Citizen in freedom of mobilities including economic opportunities, on the other side there are other type of visa permissible like the E-2 visa where petitioner can have freedom of mobilities and pay taxes without getting to have permanent residency and it was the purpose to return last time to the U.S. to do and invest on Janitorial Franchise in Kansas City .

However, the cases discussed in circuit courts and denied since petitioners show by evidence to the court that they plan to use privilege of entry without going to any U.S. embassy abroad and use entry privilege for immigration purposes prior of entry to the U.S. which is violating the purpose and privilege of having such opportunity and trust then abuse it which will reflect negatively on reciprocal treatment.

The reciprocal treatment in the case presented cannot be understood as matter international issues appeared to be between countries approved by the United Sates on VWP. Petitioner case raise an issue concerning the "Domestic Reciprocal Treatment" which is the trust between people and

Local, State and Federal government law enforcement which concerns citizens and noncitizens who are THE PEOPLE OF THE UNITED STATES, if the FBI allow to issue UCN which issued to only criminal individual then collaborate with this matter with Immigration Customs Enforcement-ICE to have innocent person who never committed any criminal act removed by using excessive power by fraud and forgery of legal documents, then the trust no longer exist between people and government and what happened to petitioner who is not citizen of the United Sates then it can happens to any person including the citizen of the U.S. and this is not the foundations where the constitution has been constructed upon nor the principles of the father founders of the U.S. constitution. Denying this case for fair review in the supreme court which will give petitioner no choice only to try to have his voice heard in International Court and/ or human rights Court which will trigger an issue of National Security matter concerning the citizens and noncitizens of the United Sates.

Among many issues disused in Illegal Immigration Reform and Immigration Responsibilities Act of 1996(IRIRA) is discussing the elements of aggravated felony which cannot be applied to any convection for which the term of imprisonment was completed within the previous 15 years. Even though petitioner has not committed any aggravated felony nor known to be involved in any criminal act rendered imprisonment whether in the U.S. or out where the matter of removal made fraudulently this way without any consideration to humanity of the U.S. citizens and dignity of the government thus, petitioner request investigation to all officer who have done this crime against him and the U.S. constitution. Additionally, IRIRA recognized the international law and human rights law including convention of Geneva of which the FBI and ICE-KCMO has violated when removed petitioner based only upon his race and national origin. therefore and due to all violations previously mentioned and explained in this argument petitioner stand on his compensation amount of $13,999,999 in damages if Immigration and Customs Enforcement allow to violate the law by Imposing illegal amount of immigration bond of $9,999,999 then petitioner as well have the right of fair compensation where he have lost two forms of active business, kidnaped by officers of law in the FBI-KCMO filed office and illegally transferred have his life in constant danger while in ICE-KCMO custody impose illegal accusation as stated on Shawnee County Booking report. Ten years past after removal petitioner has been insulted by another officer of the State Department when acquired information regarding his application then go through almost three years of excessive research searching the truth of removal where he didn't focus on his work nor his personal life all of this must come with compensation as agreed upon on the international law. see *The International Covenant for the Protection of Human Rights and Fundamental Freedom, article 5, signed Nov. 4, 1950, entered into force Sept. 3, 1953, 213 U.N.T.S. 222. States.*
See appendix 1 for more details.

Equitable Tooling

Plaintiff argue that even though the statute of limitation of five years has passed the merit of the case cannot be neglected nor omitted based upon fair review. Implementing equitable tooling as principle of law where statute of limitation shall not bar a claim in cases where plaintiff, despite use of due diligence, could not or did not discover the injury until after expiration of the limitation period.

Plaintiff has discovered the injury made by the FBI and ICE-KCMO almost 12 years after the actual incidence of removal, the fact that plaintiff did hire an attorney to find remedy to previous removal of which he didn't perform his duties.

the discovery rule shown that removal not only violates the standard rule and procedures of removal as stated on Inspector Filed manual but as well violates the due right process of the U.S. constitution of plaintiff in addition to, citizen and residence of state of Missouri rights under the 10th amendment regardless of 14 years legal residency prior to last entry to the U.S. using VWP.

Plaintiff argue that stating the nature of the removal process conducted almost 15 years a go was proven to be by evidence brought forward that the FBI and ICE-KCMO committed deliberately act of Fraud, Forgery, Fraudulently Concealed evidence, accusations without tangible evidence and removal targeting plaintiff race and national origin.

All the facts have been proven based on analyzing ICE-FOIA and NRC report, concealed Shawnee County Jail report and the FBI Universal Control Number 958484AC9 which issued only to Criminal Individuals where has been issued to plaintiff regardless his clear record.

The federal approach been described as merging principals of equitable tooling and equitable estoppel. Under standard application of those principles, equitable tooling dose not require any misconducts by the defendant, while equitable estoppel that require wrongful conduct on the part of the defendant, such as fraud and misrepresentation.

The case speaks for itself with excessive evidence suggest that removal has been made unconstitutionally with obvious fraud and forgery in government documents and abuse of rights.

To establish review under equitable tooling certain factors apply

- Timely notice to the adverse party is given within applicable statue of limitation of filing the first claim. the notice of time within the statute of limitation is not exist giving two facts, 1) under **8 CFR 236.6** prohibit release any information of detainee who are subject of removal after April 17, 2002 which was very difficult to understand the circumstance of removal. The Department of Justice did narrow the statue above to exempt detainees who left detention to county of citizenship or country of residency to obtain information regarding detention and 2) all information concerning plaintiff information has been fraudulently concealed as suggested by Shawnee County Jail that the files don't exist within the storage facilities concerning the booking report as ICE-KCMO try to hide the location of detention facilities. 3) Plaintiff has been subject to abuse by uncle Abdulbaki A. Alwaissi who embezzled plaintiff with amount of $84,900 as he claim it was legal fee to an attorney, where discovered there are no legal representation ever made and money want to him not to mentioned he used plaintiff social security number and U.S. driver license to issue credit cards fraudulently under plaintiff name case has been reported to New Berlin Police Department then want to court where case has been dismissed without prejudice since defendant didn't permit to give my testimony over video conference . the contact in this regard began on 2011 and continued tell Aug 24 2017.4) plaintiff hire attorney Allen H. Bell & Associates to find legal remedy after almost one 1 year's
  attorney Allen didn't apply for FOIA information tom prolog the case. Due to these factors plaintiff has no choice only to try his case pro se.
- Lack of prejudice to the defendant. The defendant has displayed prejudice in all level whether conducting the process of removal which based upon targeting race and national origin to later time when the process of removal discovers by plaintiff due diligent. Plaintiff contacted and officially file case with inspector general office of both the Homeland and justice departments where no sufficient answer has ever came including reporting the matter to U.S. Counselor Section -Kyiv where case of visa pending Administrative processing over 5 years now.
- reasonable good faith conducted on part of the plaintiff. The measurement of good faith determined that plaintiff welling and determination to know the Truth of removal and investigating the incidence occurs in April 11, 2003 as part of his rights. It has been discovered after almost over 24

months of research that removal is void since doesn't relay on any facts or conclusion of the law. Additionally, plaintiff didn't have any adequate legal representation whether at the time of detention led by former Attorney Jeffery Bell to his father Allen H. Bell where they are violating client Attorney privilege done by them. therefore, it is matter of rights to arrive to the conclusion of removal and have the case (Fairly Reviewed) by neutral decision maker.

When the united stated is the defendant, equitable tooling could not apply against the Unites States since the spending clause has interpreted by the supreme court to waive sovereign immunity vested only to Congress with authority where Statue of Limitation are interpolated on the waiver of sovereign immunity that limits the jurisdiction of the court to hear cases against the United States. As of April 22, 2015, the supreme court of the United Sates Ruled (that equitable tooling can applied against the united states despite the Spending Clause). *See United States v. Wong, 135. S. Ct. 1625(2015).* Thus, plaintiff request the court to consider equitable tooling for fair review

Appendix B-

United States Court of Appeals
For The Eighth Circuit
Thomas F. Eagleton U.S. Courthouse
111 South 10th Street, Room 24.329
St. Louis, Missouri 63102

Michael E. Gans
Clerk of Court

VOICE (314) 244-2400
FAX (314) 244-2780
www.ca8.uscourts.gov

June 26, 2018

Omer Al Obaidy
Flat 39
4 Great Western Street
Aylesbury,
UK BU HP20 2PL

RE: 18-2381 Omer Al Obaidy v. Kirstjen Nielson, et al

Dear Al Obaidy:

The district court clerk has transmitted a notice of appeal in this matter, and we have docketed it under the caption and case number shown above. Please include the caption and the case number on all correspondence or pleadings submitted to this court.

Counsel in the case must supply the clerk with an Appearance Form. Counsel may download or fill out an Appearance Form on the "Forms" page on our web site at www.ca8.uscourts.gov.

Upon further review, our previous letter was issued in error. Your appeal is being referred to the court. No briefing schedule will be established, and no additional pleadings are required from you. Our office will advise you of any action taken in your case.

On June 1, 2007, the Eighth Circuit implemented the appellate version of CM/ECF. Electronic filing is now mandatory for attorneys and voluntary for pro se litigants proceeding without an attorney. Information about electronic filing can be found at the court's web site www.ca8.uscourts.gov. In order to become an authorized Eighth Circuit filer, you must register with the PACER Service Center at https://www.pacer.gov/psco/cgi-bin/cmecf/ea-regform.pl. Questions about CM/ECF may be addressed to the Clerk's office.

UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

No: 18-2381

Omer Al Obaidy

Appellant

v.

Kirstjen Nielson, United States Secretary of Homeland Security, et al.

Appellees

Appeal from U.S. District Court for the Western District of Missouri - Kansas City
(4:18-cv-00404-ODS)

ORDER

If the original file of the United States District Court is available for review in electronic format, the court will rely on the electronic version of the record in its review. The appendices required by Eighth Circuit Rule 30A shall not be required. In accordance with Eighth Circuit Local Rule 30A(a)(2), the Clerk of the United States District Court is requested to forward to this Court forthwith any portions of the original record which are not available in an electronic format through PACER, including any documents maintained in paper format or filed under seal, exhibits, CDs, videos, administrative records and state court files. These documents should be submitted within 10 days.

June 26, 2018

Order Entered Under Rule 27A(a):
Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Michael E. Gans

UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

No: 18-2381

Omer Al Obaidy

Plaintiff - Appellant

v.

Kirstjen Nielson, United States Secretary of Homeland Security; Jefferson B. Sessions, III, Attorney General of the United States; Thomas D. Homan, Acting Director of U.S. Immigration and Customs Enforcement; Peter T. Edge, Acting Deputy Director of the U.S. Office of Immigration and Customs Enforcement; Christopher Wray, Director of the Federal Bureau of Investigation; Darrin E. Jones, Special Agent in Charge of Federal Bureau of Investigation Kansas City, MO Division

Defendants - Appellees

Appeal from U.S. District Court for the Western District of Missouri - Kansas City
(4:18-cv-00404-ODS)

JUDGMENT

Before GRUENDER, KELLY and GRASZ, Circuit Judges.

This court has reviewed the original file of the United States District Court. It is ordered by the court that the judgment of the district court is summarily affirmed. See Eighth Circuit Rule 47A(a).

August 14, 2018

Order Entered at the Direction of the Court:
Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Michael E. Gans

UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

No: 18-2381

Omer Al Obaidy

Appellant

v.

Kirstjen Nielson, United States Secretary of Homeland Security, et al.

Appellees

Appeal from U.S. District Court for the Western District of Missouri - Kansas City
(4:18-cv-00404-ODS)

ORDER

The petition for rehearing by the panel is denied.

October 05, 2018

Order Entered at the Direction of the Court:
Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Michael E. Gans

Additional material from this filing is available in the Clerk's Office.