

No. 26-164

IN THE
Supreme Court of the United States

A.A. AND F.A.,

Petitioners,

v.

JOSHUA MAST AND STEPHANIE MAST,

Respondents.

**On Petition for a Writ of Certiorari to the
Supreme Court of Virginia**

**BRIEF FOR THE CHAMBERLAIN NETWORK,
#AFGHANEVAC, AND PROFESSOR DANIEL
MAURER AS *AMICI CURIAE* IN SUPPORT OF
PETITIONER**

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STATEMENT OF INTEREST¹

The Chamberlain Network, #AfghanEvac, and individual *amici* submit this brief as *amici curiae* in support of Petitioner.

The **Chamberlain Network** is a national, veteran-led civic organization dedicated to defending democratic institutions, the rule of law, and civil order in the United States. Founded by veterans, the organization works to mobilize former service members as engaged citizens focused on democracy protection and nonpartisan civic norms. Named for Civil War hero Joshua L. Chamberlain, the Network emphasizes the continued civic responsibilities of military service beyond the uniform. The Chamberlain Network advances veteran-informed perspectives in issues affecting democratic governance, civilian control of the military, and the peaceful resolution of political conflict.

#AfghanEvac is a nonprofit, nonpartisan policy, advocacy, and communications organization focused on Afghan allies and the Americans and organizations that serve them. Formed at the beginning of the August 2021 U.S. withdrawal and evacuation from Afghanistan, #AfghanEvac initially coordinated a civil-society coalition that grew to more than 250 organizations at its peak. Beginning in September 2021,

¹ Under Rule 37.6, counsel for *amici curiae* states that they authored this brief in whole and that no party's counsel authored, in whole or in part, this brief. Counsel of Record Damon R. Porter previously represented Petitioners while employed by Latham & Watkins LLP, but his representation of Petitioners ceased in July of 2024. No person or entity other than *amici*, their members, and counsel contributed monetarily to preparing or submitting this brief. All parties were notified of *amici curiae*'s intent to submit this brief at least ten days before it was due.

#AfghanEvac became a principal civil-society partner of the U.S. government on post-withdrawal Afghan relocation, participating in regular engagements with the Department of State and other officials responsible for the relocation effort. That partnership was subsequently formalized through a Memorandum of Understanding with the Department of State and continues today. Today, #AfghanEvac conducts policy, advocacy, and communications work, engaging government officials, Afghan allies, coalition organizations, veterans, and the Americans and organizations serving Afghan communities to improve those systems and ensure that the United States fulfills its commitments to its Afghan allies.

Daniel Maurer is Associate Professor at the Claude W. Pettit College of Law at Ohio Northern University. He is a retired Army lieutenant colonel and judge advocate, with multiple combat tours overseas. Maurer has published extensively on military justice, civil-military relations, and national security law. A member of the Board of Directors of the National Institute of Military Justice, Maurer has also taught at both West Point and the U.S. Army's Judge Advocate General's Legal Center and School.

Amici submit this brief to ensure that this Court is properly informed of the standards that governed U.S. personnel in Afghanistan and the importance of U.S. personnel and U.S. institutions adhering to and enforcing those standards. *Amici* believe it is their civic duty – both to current and future U.S. personnel overseas and to the nation as a whole – to speak with candor on Respondents' abuse of those standards in this matter. *Amici* are deeply concerned those abuses, as reflected in the publicly available record, will damage

the reputation of the United States and its personnel deployed overseas should this Court allow the Supreme Court of Virginia's decision to stand.

INTRODUCTION AND SUMMARY OF ARGUMENT

Respondents Joshua and Stephanie Mast misrepresented sufficient facts in the Fluvanna Juvenile and Domestic Relations and Circuit Courts to sway them to exceed their subject matter jurisdiction and lawful authority. The Fluvanna Courts stretched into Afghanistan to purportedly adjudicate rights to an Afghan orphan with no connection to Virginia based on the Masts' false representations that Baby Doe was an orphaned, stateless, child with no known relatives, helpless in a conflict zone. The resulting custody and adoption orders have destroyed a young Afghan family, created a dangerous and inaccurate perception of the actions and motives of U.S. servicemembers abroad, and led the Supreme Court of Virginia to create precedent undercutting the very concept of due process in Virginia courts. Only this Court can correct this ongoing miscarriage of justice.

The Virginia Supreme Court's reinstatement of the Masts' 2020 final adoption order over Baby Doe is a profound violation of the federal Constitution's Due Process Clause. U.S. Const. amend. XIV. As the dissent noted, the decision "legitimizes the manipulation and artifice employed by Appellants." Pet. App. 60a (Mann, J., dissenting). The holding allows the Masts' manipulation of Virginia courts to deprive the A.s of their rights to a child in their care without *any process* at all, including receiving "notice of the case" or an "opportunity to meet it." *Mathews v. Eldridge*, 424 U.S. 319, 348-349 (1976).

The Masts engineered this unjust result by: (1) systematically violating procedures and standards the United States requires of its personnel overseas; and (2) stress testing the procedures and policies intended to protect vulnerable individuals to find exploitable gaps in existing processes. Where authorities requested more information or signaled resistance, the Masts changed course. Where the Masts identified gaps or weaknesses, they pressed forward.

Amici submit this brief because the modern system of international law and comity that underlies inter-country adoption processes is the very same system that forms the bedrock of humanitarian protections for civilians in conflict zones, and the laws of war that protect civilians and civilian property, as well as combatants, during armed conflict. Harm to that system threatens everyone it protects. *See, e.g. Boos v. Barry*, 485 U.S. 312, 323-324 (1988) (Recognizing the “Nation’s important interest in international relations” and international privileges and immunities must be protected to ensure “similar protections will be accorded those that we send abroad to represent the United States.”).

As this Court has noted, the “singular achievement of international law since the Second World War has come in the area of human rights, where international law now imposes duties on individuals as well as nation-states.” *Jesner v. Arab Bank, PLC*, 584 U.S. 241, 260 (2018) (citing *Kiobel v. Royal Dutch Petroleum Co.*, 621 F.3d 111, 118 (2d Cir. 2010)). *Amici* describe below the ways in which the United States mandates such individual duties from personnel deployed overseas as part of the nation’s commitment to human

rights and in furtherance of its reputation as a bastion of international order.

Amici also show how the Masts violated those duties. Instead of abiding by his obligations as a military attorney, Joshua Mast played differing authorities – whether sovereign nations, administrative agencies, or judicial bodies – against each other to ensure that no other interested parties could be heard and that Virginia courts would exceed their jurisdictional authority in his favor.

The Masts went under, around, and blasted right through the processes and sovereignty of the then-ex-tant Government of the Islamic Republic of Afghanistan (hereinafter “GIRoA”), U.S. law and domestic administrative regulations, and special humanitarian parole processes implemented by the U.S. government. The Masts intentionally put the Virginia Courts in an untenable position. Misrepresentations and omissions throughout the custody process, the adoption process, and the immigration and parole processes were crafted to mislead relevant authorities. This resulted in state courts issuing orders they lacked jurisdiction to render, and acting without knowledge of conflicting federal court judgments and administrative findings. With these improperly rendered orders in hand, the Masts waited for the statute of limitations to expire before bringing the A.s to Virginia where the local court orders could be enforced, allowing the seizure of Baby Doe. The result, years later, is a Virginia Supreme Court decision that eviscerates established principles of due process.

U.S. servicemembers are regularly deployed to bring order to conflict zones, humanitarian crises, and other inherently unstable regions. There will always be

opportunities for abuse in such chaos. This matter risks bringing the reputation of U.S. servicemembers overseas into disrepute. If the United States is viewed by persons overseas as allowing a U.S. officer to effectively kidnap an orphaned toddler, it will bring suspicion on future deployed personnel in conflict zones.

Repeated abuses of the adoption process and orphaned children have been well documented in conflict zones across the globe. *See generally* Ines Gillich, *Forced Adoptions of Ukrainian Children from an International Human Rights and Humanitarian Law Perspective*, 37 Pace Int'l L. Rev. 57 (2025); Lena-Maria Möller, *Legal Reform for Syria's War-Affected Children: Adoption, Fostering, and State Responsibility in Transition*, 39 Int'l J.L. Pol'y & Fam. (2025). Such abuses have inflamed tensions with civilian populations and disastrously impacted the reputations of the nations involved. *See generally* Hilly Moodrick-Even Khen, *The Forcible Transfer of Children from Ukraine as Genocide: Awakening the Dormant Prohibition of the Genocide Convention*, 32 Int'l J. Child. Rts. 73 (2024).

The Masts' actions have already been inflammatory both domestically and abroad.² But the Masts were

² See Rozina Ali, *How Did This Man Think He Had the Right to Adopt This Baby?*, N.Y. Times Mag. (Nov. 10, 2022), <https://www.nytimes.com/2022/11/10/magazine/afghanistan-orphan-baby-1.html>; *see also* Claire Galofaro & Juliet Linderman, *The US Said a Marine Could Not Adopt an Afghan Girl. Records Show Officials Helped Him Get Her.*, Assoc. Press (Feb. 8, 2026), <https://apnews.com/article/afghan-war-orphan-adoption-government-documents-marine-ef37c65e8d5c0af015b10c71a4c46591>; *US Marine's Adoption of Afghan War Orphan Voided*, Al Jazeera (Mar. 31, 2023), <https://www.aljazeera.com/news/2023/3/31/us-marines-adoption-of-afghan-war-orphan-voided>.

not the first to identify humanitarian parole processes and conflict zones as opportunities to subvert traditional intercountry adoption requirements. If this Court does not intervene to ensure the bedrock principles of the Due Process Clause are applicable here, they will not be the last.

ARGUMENT

I. THE MASTS SYSTEMATICALLY VIOLATED WELL-KNOWN STANDARDS AND PROCEDURES THAT IMPLEMENT INTERNATIONAL HUMANITARIAN LAW.

Judge advocates are trained and fully briefed by the Department of Defense on their obligations under international law, the laws of the United States, and U.S. military regulations. From 2014 onward, U.S. forces remained in Afghanistan under the framework provided by the Security and Defense Cooperation Agreement Between the United States of America and the Islamic Republic of Afghanistan, Afg.-U.S., Sept. 30, 2014 (hereinafter the “Bilateral Security Agreement” or “BSA”). As a Marine judge advocate deployed in Afghanistan, it was Joshua Mast’s responsibility to seek out and become aware of information on how U.S. law interacted with that of the GIRoA, in addition to relevant elements of the laws of armed conflict, rules of engagement, and international humanitarian law.

These applicable international legal obligations protect both vulnerable civilians and U.S. servicemembers overseas by establishing a humanitarian baseline in the law of war. Joshua Mast abused these principles and his obligations as a Marine judge advocate in order to seize Baby Doe. His actions not only harmed the Petitioners and Baby Doe, but also endangered the reputation of the United States.

**A. Officers And Enlisted Personnel In The
U.S. Armed Forces In Afghanistan Were
Aware Of Their Obligations To Respect
Afghan Sovereignty and Civilians.**

U.S. personnel were trained on their obligations under the laws of armed conflict, their rules of engagement, and other applicable regulations, such as those laid out in the Department of Defense Law of War Manual. U.S. Dep’t of Def., Law of War Manual (last updated Jul. 2023) (hereinafter the “DoD Manual”).

It was “the duty of *members* of the force and of the civilian component to respect the Constitution and laws of Afghanistan and to abstain from any activity inconsistent with” the BSA. BSA art. 3(1) (emphasis added). They were to “respect Afghan environmental and health and safety laws, regulations, and standards” and to act “with due respect for applicable Afghan laws and regulations.” *Id.* at 7(6).

The BSA aligned “full respect for Afghan sovereignty” over Afghan civilians with ensuring U.S. forces’ operations and security requirements were met. *See* BSA arts. 3(1), 7(3). It also protected U.S. forces by ensuring the United States retained exclusive criminal and civil jurisdiction over them. *See, e.g., id.* at arts. 7(3), 13(1), 16(5).

The DoD Manual describes additional individualized duties applicable to U.S. armed forces’ personnel. Individuals are obligated to “comply with the law of war in good faith * * * within a broader framework of law of war implementation by the U.S. armed forces.” DoD Manual, § 18.3.1.

The DoD Manual obliges U.S. personnel to protect civilian populations – particularly children. *See, e.g.*

DoD Manual §§ 17.9, 17.10.1 (“General Protection and Care of Children”).³ Measures to move children to safety shall be taken “whenever possible with the consent of their parents or persons who by law or custom are primarily responsible for their care.” *Id.* It also provides that “[c]hildren shall receive an education * * * in keeping with the wishes of their parents, or *in the absence of parents, of those responsible for their care.*” *Id.* § 17.10.1 (emphasis added). It further directs that “all appropriate steps shall be taken to facilitate the reunion of families temporarily separated.” *Id.*

These are basic elements of the law of war, as applied by the Department of Defense. Joshua Mast, as a judge advocate for the U.S. Marine Corps, was well trained in these requirements.

B. As Attorneys, Judge Advocates Have Heightened Obligations Including Loyalty To The Law And Prohibitions On Dishonesty Or Misrepresentations.

In addition to the requirements for all U.S. service-members, active duty Marine judge advocates are required to “maintain the highest standards of professional ethical conduct. Loyalty and fidelity to the United States, the law, clients * * * and the rules and principles of professional ethical conduct * * * must

³ The DoD Manual incorporates numerous elements of international humanitarian law, including the Geneva Conventions, the Protocols Additional to the Geneva Conventions, and the customary international law of war. As such, it recognizes specially applicable protections for children. See DoD Manual § 4.20 (citing Geneva Convention Relative to the Protection of Civilian Persons in Time of War, Aug. 12, 1949, 75 U.N.T.S. 287).

come before private gain or personal interest.” 32 C.F.R. § 776.3.

Marine judge advocates are required to “[o]bey the law and applicable military regulations,” “[b]e honest and truthful in all dealings,” and “[m]aintain the integrity of the legal profession.” *Id.* § 776.19. Engaging “in conduct involving dishonesty, fraud, deceit, or misrepresentations” constitutes professional misconduct. *Id.* § 776.69.

The Marine Corps’ Legal Support and Administration Manual (“LSAM”) sets forth service standards for Marine judge advocates. U.S. Marine Corps, Order 5800.16, *Legal Support and Administration Manual* Vol. 6, ¶ 0101 (Feb. 20, 2018). The LSAM requires judge advocates practicing international and operational law “to be conversant” with relevant orders and publications. *Id.* ¶ 0102. The LSAM also requires judge advocates deploying to combat zones to have the requisite operational law experience, education, and training. *Id.* ¶ 010702.

Joshua Mast would have received extensive training in operational and international law and the professional and ethical standards by which he was governed. Mast’s misrepresentations to the U.S. military, the courts, and the A.s,⁴ violated his obligations as a government attorney. *See* 32 C.F.R. § 776.4(b) (“Covered USG attorneys will not establish attorney-client relationships with any individual unless detailed,

⁴ In order to get the A.s to leave Afghanistan and come to the United States rather than the EU, Mast maintained complete control over the process by which the A.s came to the United States, including preparing their documents and telling them to direct an authorities questioning their movements to him. *See infra*, Part II.B.

assigned, or otherwise authorized to do so by competent authority”).

C. Resources And Materials Emphasizing The Need To Safeguard Vulnerable Afghan Allies Were Made Available In Support Of The 2021 Evacuation.

Many U.S. servicemembers were actively involved in the evacuation of Afghan allies following the collapse of the GIRoA in 2021. Established legal pathways existed for Afghans seeking protection or immigration benefits in the United States, including the Special Immigrant Visa program, refugee admissions, and humanitarian parole. Those pathways were often slow, strained, and difficult to navigate, but they included procedures intended to establish eligibility, identity, family relationships, and lawful custody. The record here demonstrates why those safeguards mattered.

Amicus #AfghanEvac was formed in August 2021 to coordinate and support efforts to evacuate and relocate Afghan allies endangered by the return of the Taliban. The United States government also supported the evacuation effort through Operation Allies Refuge (“OAR”) and Operation Allies Welcome (“OAW”), and utilized the humanitarian parole process as exigent circumstances demanded.

#AfghanEvac recruited support, distributed resource guides and training materials, facilitated information-sharing, and worked to deconflict and coordinate evacuation and relocation efforts. *See e.g.*, App.

21a-36a.⁵ #AfghanEvac also gathered and promulgated educational resources from other organizations assisting with the evacuation effort. *See* App. 14a-20a. These resources educated civilians and servicemembers on providing assistance while avoiding harm to vulnerable individuals being evacuated.

Afghan special immigrant visas (“SIVs”), authorized as part of the Afghan Allies Protection Act of 2009, constituted one pathway for at-risk Afghan allies.⁶ The United States approved 1,754 SIV applications between April 2021 and August 2021.⁷ The United States also admitted Afghan evacuees under the Refugee Admissions Program and its humanitarian parole authorities.⁸ Over 70,000 Afghan evacuees were

⁵ *See also* #AfghanEvac, *Frequently Asked Questions* (last updated August 2, 2024),

<https://static1.squarespace.com/static/62324e49718d893ae217874f/t/66ae4015f6104b5f21de0558/1722695709259/faq.pdf>.

⁶ Off. of Inspector Gen., U.S. Dep’t of State, *Information Report: Afghan Special Immigrant Visa Program Metrics*, AUD-MERO-22-38 (Sept. 2022), <https://www.stateoig.gov/report/aud-mero-22-38>.

⁷ *Id.*; U.S. Dep’t of Homeland Sec., *Department of Homeland Security Operation Allies Welcome Afghan Evacuee Report* (Dec. 2021), <https://www.dhs.gov/sites/default/files/2022-03/DMO-OSEM%20-%20Department%20of%20Homeland%20Security%20Operation%20Allies%20Welcome%20Afghan%20Evacuee%20Report.pdf>.

⁸ Nat’l Immigr. Forum, *Explainer: Humanitarian Parole and the Afghan Evacuation* (Aug. 30, 2021), <https://forumtogether.org/article/explainer-humanitarian-parole-and-the-afghan-evacuation/>.

paroled into the United States through OAR and OAW between July 30, 2021 and November 15, 2021.⁹

AfghanEvac estimates that more than 200,000 Afghan allies have reached safety, while more than 250,000 remain stranded across more than 90 countries.¹⁰ For five years, #AfghanEvac has asked vulnerable Afghans to trust American institutions: trust the servicemember at the gate, the official reviewing the document, the lawyer explaining the process, and the government promising that following its instructions will lead to safety. That system cannot function if the authority and credibility of the United States may instead be used to place those same families at risk.

II. THE MASTS’ ARTIFICES LED A VIRGINIA COURT TO EXCEED ITS JURISDICTION AND DUE PROCESS OBLIGATIONS WHEN RULING AGAINST AFGHAN APPLICATION OF AFGHAN LAW TO AN AFGHAN BABY IN AFGHANISTAN.

The Virginia Supreme Court’s decision “legitimizes the manipulation and artifice employed” by the Masts. Pet. App. 60a (Mann, J., dissenting). Respondents engaged in a sophisticated pattern of manipulation of established processes to profit from the chaos of a conflict zone and seize a child from her family. They did so against the combined decisions of the GIRoA, the United States, and the International Committee of the Red Cross that reunited her with her extended family in Afghanistan.

⁹ *Homeland Security Report*, *supra*.

¹⁰ *Homepage*, AfghanEvac, <https://afghanevac.org/> (last updated Sept. 4, 2026).

Established processes and applicable regulations known to any Marine judge advocate should have, and initially did, prevent this outcome. Baby Doe was initially transferred to GIRoA for family reunification, which the United States confirmed below was “consistent with the United States’ international obligations and long-settled international practice.” R. 1540 (Statement of Interest of the United States at 12, [A.A.] v. [J.M.], No. CL22000186-00 (Va. Cir. Ct. Fluvanna Cnty. Aug. 22, 2022)). The available public record, including the redacted record from the evidentiary hearings in the Fluvanna County Circuit Court,¹¹ shows the extent to which the Masts manipulated relevant authorities and targeted the interstitial spaces between their jurisdictions to negate that family reunification.

The Virginia Supreme Court’s decision overruled a sovereign ally’s domestic protections for its own citizens. If this Court does not act, this is a pathway for future abuse, exacerbating the disrepute Respondents have brought to the reputation of the United States.

¹¹ Appendix materials attached herein are excerpts from either formerly published materials circulated by *amici* in 2021 during the Afghan evacuation process, or from the redacted record publicly available in the Fluvanna Circuit Court. “F.R._____” refers to the circuit court record available in Fluvanna Circuit Court in the case [A.A.] v. [J.M.], No. CL22000186-00 (Va. Cir. Ct. Fluvanna Cnty. Aug. 9, 2022) (caption modified to align with the Virginia Court of Appeals). Attributions from that record to Respondents are applied based on information since made public either by Virginia appellate courts or Respondents themselves. Amici will transmit complete materials to this Court upon request.

A. Joshua Mast Abused His Position As A Judge Advocate And An Attorney To Bring The A.s To Virginia After The Statute Of Limitations Had Expired.

Mast “misus[ed] his position, authority, and access as a U.S. military officer and DoD lawyer to further his personal interest in adopting the child in question.” F.R. 8640 (Further Statement of Interest of the United States of America at 5, [A.A.] v. [J.M.], No. CL22000186-00 (Va. Cir. Ct. Fluvanna Cnty. Mar. 24, 2023)).

A timeline compiled from publicly available information shows the Masts’ systematic effort to mislead Virginia courts and bring Baby Doe within their jurisdiction *after* the expiry of the statute of limitations over the final adoption order:

- October 2019 – Mast seeks humanitarian parole for Baby Doe through USCIS, describing her as the “three month old orphaned baby daughter of a foreign terrorist fighter” who was “currently in U.S. custody.” USCIS requests the “Afghan position on custody” and her “permission to leave the country.” F.R. 1418 (Email from Joshua Mast to USCIS (Oct. 2019) (Pls.’ Ex. JM-13)).¹²

¹² Joshua Mast’s name is redacted in the Fluvanna County Circuit Court records based on that court’s protective orders. On appeal, the case was captioned with the parties named as “A.A.” and “J.M.” A.A. v. J.M., 81 Va. App. 213, 903 S.E.2d 513 (2024). The Supreme Court of Virginia opinion uses Joshua and Stephanie Masts’ names. Pet. App. 1a. Similarly, while speaking to the media about this matter, Joshua Mast publicly disclosed the email signature block in the email communications is

- October 2019 – Mast discovers Baby Doe has extended family seeking to be reunited with her. *See supra*, Part II.B.
- November 2019 – Fluvanna County Courts grant the Masts temporary custody and interlocutory adoption orders based on “representations by [the Masts] regarding the child’s legal status – including that she was ‘stateless’ and that the Government of Afghanistan had decided to waive jurisdiction over her – that were incorrect and invalid.” F.R. 1529 (Statement of Interest of the United States, [A.A.] v. [J.M.], No. CL22000186-00 (Va. Cir. Ct. Fluvanna Cnty. Aug. 22, 2022)).
- January 2020 – Mast enrolls Baby Doe in the Defense Department benefits systems as his dependent in order to get a Dependent ID card in the name he gave her. F.R. 1554 (Declaration of Colonel Joseph M. Fairfield ¶ 20, [A.A.] v. [J.M.], No. CL22000186-00 (Va. Cir. Ct. Fluvanna Cnty. Aug. 22, 2022)).
- February 2020 – Mast provides false information to DoD to instigate a parole request to USCIS. F.R. 8666-68 (Decl. of Theresa

attributable to him. Tr. *Shawn Ryan Show*, at 18:39 (“The quote says live for an audience of one. * * * And that was on my email sig block back in the day.”), *available at* <https://podcasts.happyscribe.com/shawn-ryan-show/174-joshua-mast-u-s#t1119-49> (last visited Sept. 16, 2026); *see also* *A U.S. Marine used political connections to adopt an Afghan baby, her family says. Now they're suing to get her back*, PBS News (Oct. 20, 2022), <https://www.pbs.org/newshour/nation/a-u-s-marine-used-political-connections-and-courts-to-adopt-an-afghan-baby-the-family-raising-her-didnt-know-until-she-was-taken>.

Whelan ¶¶ 5-16, [A.A.] v. [J.M.], No. CL22000186-00 (Va. Cir. Ct. Fluvanna Cnty. Mar. 24, 2023)).

- February 2020 – The Masts seek to prevent reunification in federal court and deny any intention to adopt Baby Doe. Their motion fails. *See infra*, at Part II.B. On February 27, 2020, DoD transfers custody of Baby Doe to the Afghanistan government, who shortly thereafter granted custody to the A.s.
- March 2020 – The Masts locate the A.s via Kimberly Motley and gain their contact information. F.R. 460-461, 477-479 (Dep. of Kimberly Motley (May 20, 2022)). They submit another humanitarian parole application via USCIS.
- April 2020 – USCIS requests the Masts provide evidence in support of their parole application, including evidence the Afghan government had transferred legal custody to them and “the caretaker’s contact information in Afghanistan.” No response is provided. F.R. 1280 (USCIS Request for Additional Evidence (April 20, 2020) (Pls.’ Ex. JM-6)).
- October 2020 – The Masts petition for a final adoption order without notifying the court that the “stateless minor” referenced therein is being raised by the A.s in Afghanistan. Pet. App. 187a. The Order is granted in December. *Id.*
- Early 2021 – Mast procures an Afghan Passport with the name from Baby Doe’s U.S. military ID “using nepotism” and a more than

\$1,000 payment to an Afghan official. Transcript of Proceeding at 1253, *[A.A.] v. [J.M.]*, No. CL22000186-00 (Va. Cir. Ct. Fluvanna Cnty. Aug. 1, 2022).

- June 2021 – Virginia’s six-month statute of limitations to challenge the final adoption order expires. Va. Code § 63.2-1216.
- July 10, 2021 – The Masts directly contact the A.s for the first time. F.R. 5555-56 (Transcript of Proceeding at 1457-58, *[A.A.] v. [J.M.]*, No. CL22000186-00 (Va. Cir. Ct. Fluvanna Cnty. Aug. 9, 2022)).
- August 20, 2021 – Counsel for the Masts Richard Mast submits a Form I-360 Petition to USCIS describing A.A. as a “Special Immigrant Afghanistan national escorting military dependent” in order to bring the A.s into the United States. F.R. 5567-68, 5681-83 (Transcript of Proceeding at 1469-70, 1583-85, *[A.A.] v. [J.M.]*, No. CL22000186-00 (Va. Cir. Ct. Fluvanna Cnty. Aug. 9, 2022)).
- August 2021 – Joshua Mast recruits U.S. armed forces personnel into a helicopter mission to bring Baby Doe and the A.s into the perimeter of Hamid Karzai International Airport, claiming Baby Doe is a U.S. person and omitting all information about the GIRoA/U.S. determination she was Afghan. Declaration of Karen L. Hecker, Ex. A – B, *[A.A.] v. [J.M.]*, No. CL22000186-00 (Va. Cir. Ct. Fluvanna Cnty. Mar. 24, 2023). Mast knew that, as a purported U.S. person, Baby Doe would be seized, by force if necessary, by U.S. military personnel if the A.s disagreed

with taking her to the United States. Transcript of Proceeding at 1469–70, 1583–85 [A.A.] v. [J.M.], No. CL22000186-00 (Va. Cir. Ct. Fluvanna Cnty. Aug. 9, 2022).

- August 2021 – Joshua Mast lies to DoD personnel, claiming it is lawful for them to seize Baby Doe, as he has “valid documentation of adoption from both U.S. and Afghan courts.” F.R. 8646 (Further Statement of Interest of the United States of America at 11, [A.A.] v. [J.M.], No. CL22000186-00 (Va. Cir. Ct. Fluvanna Cnty. Mar. 24, 2023)); see F.R. 8711-36 (Decl. of Karen L. Hecker, Exs. A–C, [A.A.] v. [J.M.], No. CL22000186-00 (Va. Cir. Ct. Fluvanna Cnty. Mar. 24, 2023)).
- August 2021 – Mast directs the As to rely on him to speak for them to bring them to the United States rather than staying in Germany. “[I]f someone tries to talk about documents, we want to come and show them all the forms we have filed for you all to get to America instead of staying here in Germany. So if – before you talk to them about it[,] say we have a lawyer here to talk to you about that [for us] and that’s me.” App. 5a (Transcript of Proceedings at 592, [A.A.] v. [J.M.], No. CL22000186-00 (Va. Cir. Ct. June 8, 2022)).
- August 2021 – The A.s arrive in the United States, and the Masts ensure they go to Fort Pickett, Virginia.
- September 3, 2021 – Baby Doe is seized from the A.s. Pet. App. 116a-117a.

U.S. personnel were told Baby Doe was a U.S. person and DoD dependent to be evacuated from Afghanistan regardless of the will of her caretakers. The A.s were told a U.S. attorney was helping them come to the United States with their Afghan daughter. All involved were betrayed by Joshua Mast.

B. The Masts Misled Virginia Courts, U.S. Courts, The United States Government, And The A.s.

“How did this man think he had the right to adopt this baby?”¹³ He didn’t. The Masts *knew* they had no right to adopt Baby Doe. *See* App. 7a-8a (Email from Joshua Mast to Col. [Redacted], USAF (Oct. 18, 2019) (Pet’rs’ Br. in Opp’n to Sanctions, Ex. D)) (recognizing the GIRoA needed to waive sovereignty for U.S. courts to permit adoption of Baby Doe).

Why did Virginia state courts think they had the right to dispose of the custody and adoptive parentage of an Afghan baby in Afghanistan? The Masts lied. They ensured that the proceedings before the Virginia courts occurred *ex parte*, they misrepresented sufficient facts so the courts would act, and they failed to notify Virginia courts when federal courts and other governmental bodies made clear those facts were false.

The Masts intended to adopt Baby Doe from the beginning. Barely a month after she was orphaned, Joshua Mast emailed USCIS stating he and his wife “intend to seek to adopt [Baby Doe] once she is safely

¹³ Rozina Ali, *How Did This Man Think He Had the Right to Adopt This Baby?*, N.Y. Times Mag. (Nov. 10, 2022), <https://www.nytimes.com/2022/11/10/magazine/afghanistan-orphan-baby-1.html>.

on U.S. soil.” Email from Joshua Mast to USCIS (Oct. 2019), F.R. 1419 (Pl.’s Ex. JM-13). He contacted Kimberly Motley, a U.S. attorney operating in Afghanistan, to assist him in having Baby Doe brought to the United States for adoption. App. 11a (“My wife, and I intend to adopt her into our family * * * after she is successfully brought to the United States.”).

The Masts knew at the time courts in both countries would prevent them from adopting Baby Doe:

Afghan family courts will never grant custody of [Baby Doe] to westerners/non-Muslims. Even if they did, U.S. courts do not consider a custody order sufficient to meet the standard of a ‘valid foreign adoption’ under U.S. law. Thus, the best option we have is to get the U.S. government to request GIRoA defer jurisdiction to the United States.”

App. 7a. (Email from Joshua Mast to Col. [Redacted], USAF (Oct. 18, 2019) (Pet’rs’ Br. in Opp’n to Sanctions, Ex. D)) (Email purportedly withheld during discovery).

The Masts misled Fluvanna Courts – they knew the GIRoA intended to reunite Baby Doe with her relatives – to procure custody and preliminary adoption orders in November 2019. Pet. App. 197a-199a (describing an October 23, 2019 meeting regarding ongoing efforts to locate Baby Doe’s relatives); F.R. 8975 (United States’ Response to Court’s Proposed Timeline at 2, *[A.A.] v. [J.M.]*, No. CL22000186-00 (Va. Cir. Ct. Fluvanna Cnty. Apr. 5, 2023)) (noting Baby Doe’s relatives had identified themselves by the October 23, 2019 meeting); F.R. 5626 (Transcript of Proceeding at 1528, *[A.A.] v. [J.M.]*, No. CL22000186-00 (Va. Cir. Ct.

Fluvanna Cnty. Aug. 9, 2022)) (J.M. testifying he was aware Baby Doe’s relatives had been located); *see also* Pet. App. 182a (granting interlocutory adoption).

The Masts likewise lied in federal court when they denied any intention to adopt Baby Doe – indeed, they already had a preliminary adoption order. Pet. App. 314a (The Court: “Your client is not asking to adopt the child.” Counsel Richard Mast: “No, sir.”).

In that matter, Judge Moon of the Western District of Virginia found: (1) the Virginia custody orders “reflect an assumption” GIRoA would waive jurisdiction, (2) the Department of Defense should have had formal service and notice of the proceedings; and (3) the Masts failed to “proceed through proper channels.” Pet. App. 321a–323a. After Judge Moon’s denial of the Masts’ efforts, the United States worked with the GIRoA to facilitate Baby Doe’s transfer to her Afghan family.

The Masts never told the Fluvanna Courts about Judge Moon’s decision, and instead sought a final adoption order from Fluvanna Court without telling Judge Moore: (1) the GIRoA had declined to waive jurisdiction; (2) the GIRoA had identified the Child as Afghan and placed her with her extended family; and (3) the Masts were communicating with that family through an intermediary. The final order of adoption describes Baby Doe as an “undocumented, orphaned, stateless minor subject to this court’s jurisdiction” when none of those things was true. Pet. App. 188a. Nearly two years later, the Fluvanna Circuit Court recognized these errors “addressed the very foundation of this court taking any action” and, had he known the true facts, he could have said “sorry, the

child is in Afghanistan * * * We're just going to stand down." Pet. App. 207a-11a.

III. FAILURE TO VACATE THE VIRGINIA ADOPTION ORDER IN THIS CASE WILL LEAD TO SIMILAR CASES IN THE FUTURE.

The Mastes are far from the only persons who seek to abuse lawful processes to steal custody and parental rights from others. This is a core issue other *amici* have warned about in courts below. *See generally* Br. of Nat'l Council For Adoption as Amicus Curiae Supporting Appellees-Petitioners, *J.M. v. A.A.*, No. 240707 (Va. Jan. 6, 2025); Br. of Young Ctr. for Immigrant Children's Rights & Nat'l Ctr. for Youth Law as Amici Curiae Supporting Appellees, *J.M. v. A.A.*, Nos. 0876-23-2 et al. (Va. Ct. App. Sept. 19, 2023); Amended Br. of Kids in Need of Def. as Amicus Curiae, *A.A. v. J.M.*, Nos. 0876-23-2 et al. (Va. Ct. App. Sept. 26, 2023). As noted previously, this is an issue of particular concern in conflict zones and humanitarian crises where U.S. personnel are frequently deployed. *Amici* abhor the actions the Mastes have taken to seize Baby Doe, and they are very concerned about the impact this has had on the reputation of the United States and its armed forces.

Absent this Court weighing in, other individuals may see the Virginia Supreme Court's misguided analysis as creating an opportunity to bypass other nations' internal processes governing their own citizens. This poses risks to the international recognition of national sovereignty that is the bedrock of international humanitarian law and the laws of war. *See generally* Emer de Vattel, *The Law of Nations* bk. I, ch. I, § 11 (Joseph Chitty ed., T. & J.W. Johnson & Co. 1859) (1758) ("The law of nations is the law of sovereigns");

Paweł Czubik, *Sovereignty in International Law*, in *International Law From a Central European Perspective* 95 (Anikó Ráisz ed., Cent. Eur. Acad. Publ'g 2022). If upheld, this decision would allow the circumvention of an allied nation's sovereign determinations of domestic treatment of its own citizens, and Virginia's statute of limitations would make future abuses unreviewable.¹⁵

These colossal injustices go to the heart of what due process is intended to prevent. If the Supreme Court of Virginia's reading of constitutional due process is accepted, any level of "manipulation and artifice" directed towards state courts may succeed so long as the state legislature's statute of limitations is satisfied before the ruse is exposed. Pet. App. 60a (Mann, J., dissenting).

The Virginia Supreme Court has unwittingly placed a target on the intercountry adoption system, the U.S. judicial system, the international legal framework, and the reputation of the United States and its servicemembers overseas.

Manipulative conduct like the Masts' is precisely why the Constitution *requires* individuals be given due process and an opportunity to be heard before a judicial authority rules on their rights. The Supreme Court of Virginia's dissent was correct when it stated this result "is just wrong." *Id.* For the good of the United States, the reputation of its servicemembers,

¹⁵ To the extent the Court accepts that Baby Doe's custody in a U.S. military facility placed her within a relevant U.S. jurisdiction, *In re Tarble* would recognize Baby Doe remained beyond the subject matter jurisdiction of a state court. *In re Tarble*, 80 U.S. (13 Wall.) 397 (1871).

and the international system of law, this Court should grant certiorari and reverse the decision below.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

DAMON R. PORTER

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SEPTEMBER 2026

APPENDIX

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1a

APPENDIX A

V I R G I N I A:
IN THE CIRCUIT COURT FOR THE COUNTY OF
FLUVANNA

RED. RED. AND
RED. RED.,

Petitioners,

v.

RED. & RED. RED.,

Respondents.

No. CL22000186-00

TRANSCRIPT OF PROCEEDINGS
HELD AT THE CHARLOTTESVILLE CITY
CIRCUIT COURT
BEFORE THE HONORABLE RICHARD E. MOORE

VOLUME III

Charlottesville, Virginia

Wednesday, June 8, 2022

10:11 a.m.

Reported by: Korena K. Heath

A P P E A R A N C E S

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Also Present: Nasir Alkozay, interpreter

P R O C E E D I N G S

[pp. 491:16-23, 590:14-593:6]

* * *

THE COURT: Now, we ready to proceed with Mr. **RED**'s continued direct examination?

MS VAUGHAN: Yes, sir.

THE COURT: Mr. **RED**, you can come on back.

And if the interpreter wanted to get a chair to reposition himself, you can stand or sit. It doesn't matter to me if you want to sit next to him.

* * *

BY MR. PORTER:

Q. Did **RED. RED.** ever leave you a message about documents necessary for coming to the United States?

THE INTERPRETER: Documents to help him come?

BY MR. PORTER:

Q. Yes. Documents to help him come into the United States.

A. Yes. So **RED.** sent me a voice message. He said in that one that I'm your attorney.

MR. PORTER: Thank you, **RED.**

Your Honor, I'd like to direct you to tab A19. This is just a slip sheet for a meg of audio file. The slip sheet is Bates stamped **RED.**0001621.

THE COURT: Right.

MR. PORTER: I'd like to play the beginning of this audio file for the court so that our client can identify the voice.

THE COURT: All right. How long is the clip?

MR. PORTER: It's about 30 seconds, Your Honor.

THE COURT: Oh, okay.

MR. PORTER: **RED.** I'm going to play the beginning of this audio file for you now. I'd like you to identify the voice, if you can.

(Audio clip played).

BY MR. PORTER:

Q. Can you identify that person's voice?

A. Yes.

Q. And who is this message addressed to?

A. I need clarification on the question.

Q. Who was **RED** sending this message to?

A. Mr. **RED** send this message to me.

MR. PORTER: Your honor, I'd like to play the rest of the recording if I might.

(Audio recording played).

AUDIO RECORDING: **RED**, this -- this text is if someone tries to talk about documents we want to show them all the forms that we filed for you all to get to America instead of staying here in Germany. So if -- before you talk to them about it say, we have a lawyer here to talk to you about that in four months and that's me. Just show them the text and have them call me.

(Audio recording stopped.)

BY MR. PORTER:

Q. **RED**, is that the voice recording you remember receiving?

A. Yes.

Q. At the time you received this message, had you left Afghanistan?

A. Yes.

6a

Q. And had you entered the United States?

A. No.

Q. And was it your understanding that RED. RED.
was acting as your lawyer when he said this?

A. Yes. Ahmad also told me the same thing. And he
told me as well, that you are like my brother and I
am helping you here as an attorney.

* * *

APPENDIX B

**EXHIBIT D TO PETITIONER'S BRIEF IN
OPPOSITION TO SANCTIONS -
EMAIL FROM JOSHUA MAST TO COL.
[REDACTED]**

* * *

-----Original Message-----

From: **RED.** Capt USMC USARMY HQDA TJAGLCS
(USA)

Sent: Friday, October 18, 2019 3:11 PM

To: **RED.** Col USAF AFDW SG (USA)
<**RED.**@mail.mil>

Subject: Update on **RED.**

Good Evening Sir,

I wanted to give you a quick update of where we are. The director of US Citizenship and Immigration Service (USCIS) is in direct correspondence (text and personal email) with my brother, who is an attorney in Virginia. The director indicated that USCIS will need some form of consent from GIRoA to approve the parole visa for **RED.**

Afghan family courts will never grant custody of **RED.** to westerners/non-Muslims. Even if they did, U.S. courts do not consider a custody order sufficient to meet the standard of a "valid foreign adoption" under U.S. law. Thus, the best option we have is to get the U.S. government to request GIRoA defer jurisdiction to the United States so that we can act in

RED. best interest. To that end, I have been working with a contact in the States Department (DOS) who is Senior Executive Staff (SES) in D.C. to reach out to the U.S. Ambassador for a meeting (the embassy is next door to my location). I'm going to ask the Ambassador/Embassy to reach out to GIRoA and request they defer/decline jurisdiction over **RED.**

In addition, my brother and I have prepared a request for the President to intervene in **RED.** case. We are routing the request through three major U.S. Christian leaders that my family happens to have contacts with - The President of the Southern Baptist Convention, The Chancellor of Liberty University (Jerry Falwell, Jr.) and Pastor Rick Warren. Each of these men corresponds directly with the President on at least a periodic basis. They each know the others have been asked to appeal to the President on **RED.** behalf. The idea is that when they all reach out, it demonstrates the value that the American people place on innocent life to the President - no matter who their parents are. I can provide you a copy of the letter if you have an interest in reading it. As another option to urging the President to pressure GIRoA to defer jurisdiction over **RED.** I have asked him to consider extending refugee status, granting **RED.** asylum, and flying her back to the U.S. ASAP unilaterally. Either scenario works for the purposes of getting **RED.** out of Afghanistan.

I will keep you up to date on any feedback I receive from the efforts to get **RED.** case directly to the President.

I am going to be on BAF Monday-Wednesday visiting Parwan Prison and TF 20 at Camp Alpha. I

9a

can stop by and brief you on any updates if you have the time.

Semper Fidelis,
Capt **RED.**

Semper Fidelis,

RED.

Captain, U.S. Marine Corps

Marine Representative

Center for Law and Military Operations

The Judge Advocate General's Legal Center and
School (U.S. Army)

NIPR Email: **RED.**@mail.mil

SIPR Email: **RED.**@mail.smil.mil

Comm: **RED.**

Cell: **RED.**

“Live for an Audience of one”

For we must all appear before the judgment seat of
Christ.” 2 Corinthians 5:10

* * *

APPENDIX C

**PLAINTIFF'S EXHIBIT JM-4 -
EMAIL FROM JOSHUA MAST TO KIMBERLEY
MOTLEY**

Gmail

Kimberley Motley <kimberley.motley@gmail.com>

Baby Red. (UNCLASSIFIED)

10 messages.

RED. USMC USARMY HQDA TJAGLCS (USA)
RED.@mail.mil> Fri., Oct 25, 2019 at 1:05 PM

To: "Kimberley.motley@gmail.com"
<Kimberley.motley@gmail.com>,
kmotley@motleylegal.com"
<kmotley@motleylegal.com>

CLASSIFICATION: UNCLASSIFIED

Good Evening Ma'am,

I am a Marine stationed in Kabul, and have been working to ensure that Baby **RED.** is not left here in Afghanistan under any circumstances. In support of these efforts, I have gotten a letter of appeal - in my private capacity, to the Vice President of the United States to intervene on her behalf with the U.S. Embassy. I anticipate a favorable intervention in the

next few days. To date, the Embassy has been less than helpful.

I am also in direct correspondence with the Director of DHS's U.S. Citizenship and Immigration Services, and have a parole visa in process for **RED**, pending waiver of jurisdiction from GIRoA in favor of the U.S. or other permission to travel. I am working on having documentation relating to **RED** recovery declassified for a court to consider. Faculty and students at my law school in the States have volunteered, pro bono, to prepare a legal custody filing, and are arranging an emergency legal custody hearing in a sealed proceeding for her arrival in the U.S. My wife, and I intend to adopt her into our family of three boys (Ages 8, 4, and 2, see attached) after she is successfully brought to the United States, but right now I am focusing on getting her out of Afghanistan.

Obviously, my first priority is to get **RED** out of Afghanistan, and anything else is just a blessing. The RS LEGAD, **RED**, recommended I reach out to you, let you know about my efforts, and see if you have any suggestions as to potential barriers that I can attack. I know that there were other Americans willing to step up to adopt her, I just happened to have the skill set and ability to get in contact with some decision makers - and the visa required a financial sponsor. The process has been miraculous so far, as **RED** was already supposed to have been turned over.

Just so you are tracking my motive, I volunteered to adopt the child the first time I heard we had recovered an orphaned child, without even knowing the gender, health, or what the child looked like. I would adopt

any child before leaving it in Afghanistan if I could - especially a foreign female child. I also believe it is critically important to protect and cherish innocent life, as it defines who we are as Americans.

If you are already conflicted out due to representing one of the other volunteers, I completely understand, but I wanted to reach out so we are on the same page. I attached some pics of my family and some recent ones of me with a kid on the streets of Kabul. Thanks for your time.

Semper Fidelis,

Red.

Red. U.S. Marine Corps

Marine Representative

Center for Law and Military Operations

The Judge Advocate General's Legal Center and School (U.S. Army)

NIPR Email: **RED.**@mail.mil

SIPR Email: **RED.**@mail.smil.mil

mm: **RED.**

Cell: **RED.**

"Live for an Audience of one"

For we must all appear before the judgment seat of Christ." 2 Corinthians 5:10

13a

CLASSIFICATION: UNCLASSIFIED

2 attachments

RED. RED.Family .JPG

RED.8849K

RED. RED.with Afghan Boy in Kabul – 9 Oct
19.JPG

RED 162K

* * *

APPENDIX D

AMERICAN IMMIGRATION LAWYERS ASSOCIATION (AILA)

Practice Pointer: Assistance for Afghan IV Holders and Certain Pending IV Applicants

AILA Doc. No. 21081635 | Dated August 16, 2021

By AILA's Department of State Liaison Committee

The State Department is exploring options for Afghani Immigrant Visa (IV) holders, certain IV applicants awaiting an interview but who are otherwise documentarily complete, and SIV Afghani applicants. The situation is changing rapidly which may affect how up to date this information is. AILA will continue to monitor the situation and provide updates.

Repatriation Efforts for those with Approved IV or those Awaiting IV interview

The U.S. Embassy in Kabul has created a form to solicit information from IV holders and certain pending IV applicants. The purpose of the form is to gather names of those who need immigrant visa appointments and those who wish to utilize any repatriation options, including assistance with repatriation flights. The State Department advises **not to cancel booked commercial flights** as they cannot guarantee charter flights will be available.

Your client may fill out this Repatriation Assistance Request form if:

He or she is an IV holder or pending IV applicant;

Has an approved petition; and

Has submitted all required documents to the National Visa Center **or** has been interviewed and the case is pending at Embassy Kabul.

This will allow U.S. Embassy officials to contact your client for further processing and register their interest in any option that might be identified for relocating to the United States.

Practice Tip: The State Department advises to fill in the visa number, or NVC or KBL case number for Question 7. For Questions 8 and 9, the DOS liaison committee advises to fill in the date of the national's passport issuance and expiration dates.

DOS has stated that only IV holders and pending IV applicants that meet the specifications will be contacted. **This form must be submitted to communicate interest in flight options. Your client will be contacted if flight arrangements can be made. Please note travel costs will be incurred.**

DOS has issued the following explanation of repatriation eligibility requirements:

1. **Afghan IV Holders:** If you are an Afghan National with a valid Immigrant Visa you may be eligible. If your family members do not have U.S. citizenship, LPR status, a valid U.S. visa, or pending IV application (see point 2) they are not eligible to travel with you, do not include

their information in your relocation request form.

2. **Certain Pending Afghan IV Applicants:** If you are an Afghan National with an approved petition and have submitted all required documents to the National Visa Center or you have been interviewed and your case is pending at Embassy Kabul, you may be eligible. IV applicants should provide their NVC case number with the request and must have a valid passport for travel. IV applicants can only be considered if they have an approved USCIS petition and have submitted all required documents to the National Visa Center and are documentarily complete or have been interviewed and are pending further action at Embassy Kabul. If your family members do not have U.S. citizenship, LPR status, a valid U.S. visa, or pending IV application that meets these requirements they are not eligible to travel with you, do not include their information in your relocation request form.
3. **Documents:** All passengers should have valid travel documents required for entry into the United States (*e.g.*, valid passports or visas). Please bring any civil documents that may be relevant for your IV.

Please note: The form is unsecure and there may be data privacy risks with completing the form that clients should consider, especially if completing the form from Afghanistan.

Afghanis Without Approved Immigrant Petitions

The DOS Liaison Committee understands that the State Department is considering arrangements for SIV and IV interviews at other embassies for cases that have not yet been interviewed or no visa has been issued, as these cases are high priority, <https://travel.state.gov/content/travel/en/News/visas-news/immigrant-visa-prioritization.html>. AILA will provide additional information as we obtain it. In the meantime, for pending Immigrant Visa petitions at USCIS or for those planned to be filed in the near future, it is best to choose the embassy to which your client has the strongest chance of traveling.

For those with Approved Special Immigrant Visa, email NVCSIV@state.gov or call 1-603-334-0828. For those with/without approved petitions, email congressional office so we can try and push for an urgent evac. RepKimEvac@mail.house.gov

Humanitarian Parole

Due to the dangerous conditions in Afghanistan, and the incredibly limited State Department resources available, other options should be pursued, including Humanitarian Parole. Humanitarian Parole can be requested by someone outside of the United States who is seeking temporary entrance to the U.S. for urgent humanitarian reasons.

Requesting Humanitarian Parole at a U.S. Embassy

If your Afghan client is able to reach a third country, an application for Humanitarian Parole can be made at the Embassy.

Afghan citizens are eligible for e-visas to Tajikistan, Uzbekistan, and Kyrgyzstan, and they may enter the following countries without a visa:

1. Antigua and Barbuda (e-Visa)
2. Benin (e-Visa)
3. Cape Verde (Visa on arrival - 3 months)
4. Comoros (Visa on arrival - 45 days)
5. Dominica (Visa free entry - 21 days)
6. Ethiopia (e-Visa - 90 days)
7. Maldives (Visa on arrival - 30 days)
8. Qatar (e-Visa)

Requesting Humanitarian Parole with USCIS

In some cases, urgent humanitarian reasons can form the basis of a request to be paroled into the U.S. For IV applicants based on sponsorship by a USC or LPR family member a request can be made to the Washington DC Humanitarian Parole office or a local USCIS Field Office. The limitation for these cases is that an applicant must find a way out of Afghanistan and arrange for the transportation to the U.S.

Requesting Humanitarian Parole with CBP

Urgent humanitarian parole can be granted by CBP. The request must be made to a specific CBP Port of Entry. The limitation with this option again lies with the ability to exit Afghanistan, or if already out of Afghanistan, arranging for transportation to the USA. Considering Canada's humanitarian efforts, it may be possible to gain entry to Canada, and then pursue entry to the USA.

Other Resources:

Congressional offices have been very active with assisting with humanitarian situations such as this. You may want to consider reaching out to your federal Senator or Representative for assistance. For example, certain Members of Congress have set up special email addresses:

Representative Andy Kim (D-NJ)
RepKimEvac@mail.house.gov or (202) 225-4765

Senator Tom Cotton (501) 223-9081 or
evac@cotton.senate.gov

*For questions on how to receive Chief of Mission (COM) approval for the Afghan Special Immigrant Visa Program: **AfghanSIVapplication@state.gov***

For information on the P2 program for Afghan nationals, please visit:

1. **<https://www.state.gov/u-s-refugee-admissions-program-priority-2-designation-for-afghan-nationals/>**
2. The Refugee Processing Center via:
<https://www.wrapsnet.org>

The US Kabul Embassy email is **KABULIV@state.gov**. However, it may not be an effective means of communication due to conditions on the ground and the Embassy staff having evacuated to Kabul airport

Pathways for migration for Afghans seeking entry to the United States, United Kingdom, Canada, or EU: This non-exhaustive document has been compiled by a non-AILA source, so AILA cannot vouch for the information contained within;

however, it may be informative as you consider options for your client:

<https://docs.google.com/document/u/0/d/1fOLF0xD6DWs2JrBb1hqf2EXMbC5imN1Bfbclid=IwAR0OU44XYogkJQ09OhCB1YYFG9GpHAbyRhV640QvXSI6d6meyFdORQz2DZk>

IRAP: **<https://support.iraplegalinfo.org/hc/en-us/sections/360008472712-U-S-Special-Immigrant-Visas-SIVs>**

<https://refugeerights.org/news-resources/legal-resources-for-afghans>

Lutheran Immigration and Refugee Services:
<https://www.lirs.org/emergency-evacuation-afghan-allies-action-alert>

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APPENDIX E

SIV for Case Manager Training Webinar

6 December, 2021 8:00 ET

Objective

Terminal Learning Objectives

Enabling Learning Objectives

Statutes and Eligibility

Procedural Basics

CEAC Codes and Information

COM Approval Resources

I-360 Resources

DS-260 Resources

OBJECTIVES

The evacuation is about to begin the “pre-foiled” phase. While nothing is certain in the evac world, it is expected that SIV foiled and foil-less will be adjudicated and either manifested or be marked as unable to be manifested by the end of this year, or early 2022.

The pre-foil phase presents new challenges, both to volunteer organizations participating in the AfghanEvac coalition, and to the government agencies, namely the Department of State and

USCIS, who ultimately adjudicate whether or not cases will be manifested for evacuation, the priority in which those cases will be manifested, as well as conducting the interviews and processing necessary to complete the visa process for SIV applicants.

As AfghanEvac continues its fruitful partnership with DoS, it should be our goal to provide timely, accurate information to DoS regarding the cases we are managing. The coalition seeks to add value, not add friction, to the evacuation process. In addition, AfghanEvac organizations can provide valuable resources to the SIV applicants who have reached out to them, in order to assist those applicants progressing through the visa process in a timely manner, which will ultimately lead to them moving up the priority list, and reducing processing times in Qatar, which in turn will increase the throughput capacity of DoS at the AUD/CaS lily pad.

To that end, it is important that case managers be able to properly identify which stage of the visa process their cases are currently in, and promptly share information with those cases regarding where the SIV applicant can find information regarding next steps in their visa application.

LEARNING OBJECTIVES

Terminal Learning Objectives:

By attending this training, case managers will

- (1) increase their knowledge of the SIV process

- (2) increase their awareness of publicly available resources case managers can share with SIV applicants

Enabling Learning Objectives

Overview:

At the end of this training, attendees will be able to:

- (1) Find the statutes which authorizes the SIV program
- (2) Find the statutory eligibility requirements for SIV
- (3) Direct a case towards resources if a case may be eligible to apply for an SIV

Procedural Basics:

At the end of this training, attendees will be able to:

- (4) Distinguish between “foiled” “issued” (foil-less) and “ready” cases
- (5) Identify the steps an SIV applicant must have completed to be “interview ready” (DS-157 and COM-approval / I-360, DS-260)
- (6) Identify the three agencies who share ownership of the SIV program (DHS, DoD, DoS)
- (7) Identify which agency owns which parts of each process
- (8) Identify the order in which those steps take place

CEAC

At the end of this training, attendees will be able to:

- (9) Identify which letters can precede an SIV case number (NVCSIV, KBL)
- (10) Identify the CEAC website
- (11) Identify which cases can be searched for on CEAC, and which cannot (SIV / NVCSIV)
- (12) Describe what information is and is not obtainable for a case manager on CEAC
- (13) Know how to find information regarding what common CEAC statuses mean (“Issued” “Refused” “Ready” “Administrative Processing” “Returned to NVC” “At NVC” “Expiring” etc)

COM approval:

At the end of this training, attendees will be able to:

- (14) Know where to find the list of required documents to be submitted for COM approval
- (15) Identify the email address to which applications for COM approval should be submitted
- (16) Identify the two most commonly difficult pieces of information to gather for a COM approval request (HR letter, Supervisor letter)
- (17) Identify what Project Rabbit is, its current level of functionality, and where to find the most recent guidance on how to access it
- (18) Identify where to direct cases to find information and guidance regarding COM approval applications
- (19) Identify if a case has received COM approval

I-360

At the end of this training, attendees will be able to:

- (20) Identify if a case has submitted an I-360 or not
- (21) Identify where to send cases to find assistance for completing an I-360

DS-260

At the end of this training, attendees will be able to:

- (22) Identify if a case has submitted a DS-260
- (23) Identify where to send cases to find assistance for completing a DS-260

Interview Ready

At the end of this training, attendees will be able to:

- (24) Identify if a case is “interview ready”
- (25) Identify where to send cases to find assistance if they are not “interview ready”

RESOURCES

(1) Overview - Statutes and Eligibility

Statutes:

2006 - Section 1059 of the 2006 NDAA (50 / year, smaller, translators)

2009 - 602(b)(2)(A)(ii)(I) of the Afghan Allies Protection Act of 14 2009 (8 U.S.C. 1101)

Eligibility:

IRAP Eligibility Guide

Who can apply for this program?

- (1) Afghan National
- (2) Employed, in Afghanistan, for at least one year between 2001 and 2023
- (3) By or on behalf of USG (or ISAF as a translator for USMIL or perform activities for USMIL)
- (4) Faithful and valuable service (positive Letter of Recommendation or evaluation)
- (5) Experiencing on-going threat

(2) Procedural Basics

Operation Sacred Promise Guide

Before application

- Gathering materials. DoD can assist with employment verification and supervisor letter. See latest Project Rabbit Guidance.

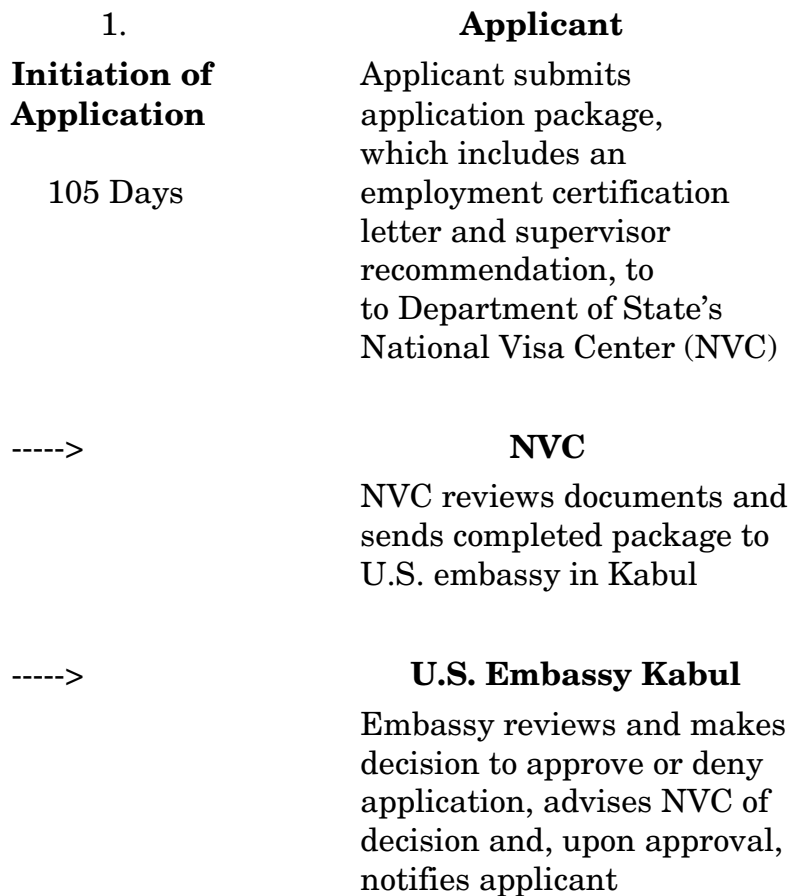
Initial application for COM approval

- DoS
- Sent to NVC, who reviews. (NVCSIV)
- NVC sends to US Embassy Kabul (KBL) (no more US Embassy Kabul, but SIV application processing is still occurring.)
- If KBL approves - KBL number

I-360 “Petition for Classification”

- USCIS.
- Actual petition for immigration
- Family “added” (derivative information included in petition. Derivatives not included in COM approval package)

DS-260 - Immigrant Visa and Alien Registration
Application
Interview Ready



2.
**Applicant
self-petition**

15 Days

Applicant

Applicant self-petitions
to Department of Homeland
Security's U.S. Citizenship
and Immigration Services
(USCIS)

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USCIS

USCIS adjudicates
petition and sends to NVC
if approved

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NVC

3.
**Visa interview
process**

237 Days

Applicant

Based on instructions
from NVC, applicant submits
required standard immigrant
visa documentation

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NVC

NVC reviews documents and
schedules applicant for next
available interview at
embassy

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U.S. Embassy Kabul

Consular officer interviews applicant; if interview is successfully completed, applicant's case undergoes administrative processing

4.

Applicant

Visa issuance to eligible applicant

Applicant-controlled

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Medical Exam

Upon completion of administrative processing, applicant is instructed to obtain a medical exam

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Visa Issuance

Visa is issued if applicant is eligible

(3) CEAC Codes**IV Visa Statuses in CEAC and What They Mean (US Embassy Japan)**

Ready	Your case is ready for your interview when scheduled at the U.S. Consular section. If you have already scheduled an appointment for an interview, please prepare your documents as directed in your appointment letter and appear at the consulate on the appointed date and time. Otherwise, please wait until you have been notified of your interview appointment. Additional information about how Immigrant Visa interview appointments are scheduled can be found at: https://travel.state.gov/content/travel/en/us-visas/immigrate/the-immigrant-visa-process/interview.html
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Administrative Processing	Your visa case is currently undergoing necessary administrative processing. This processing can take several weeks. Please follow any instructions provided by the Consular Officer at the time of your interview. If further information is needed, you will be contacted. If your visa application is approved, it will be processed and mailed/available within two business days. Under the U.S. Immigration and Nationality Act, Immigrant Visas for “Diversity Visas” cannot be issued after September 30th of the year in which you were selected to apply for a Diversity Visa. For example, entrants into the Diversity Visa Program in Fall of 2011 were selected for Diversity Visa 2012 Program, and selectees MUST apply and receive their visa prior to September 30, 2012 otherwise they lose eligibility to receive a Diversity Immigrant Visa, regardless of additional administrative processing.
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	In addition, please note that some immigrant visas may not be able to be issued if the annual numerical limit for that category has been reached.
Issued	Your visa has been printed. Depending on local procedures at the location where you were interviewed, your visa will be mailed or available for pickup soon. If there are further questions, or if we need updated contact information, you will be contacted.
Refused	A U.S. consular officer has adjudicated and refused your visa application. Please follow any instructions provided by the consular officer. If you were informed by the consular officer that your case was refused for administrative processing, your case will remain refused while undergoing such processing. You will receive another adjudication once such processing is complete. Please be advised that the processing time varies and that you will

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	be contacted if additional information is needed.
Returned to NVC	Your case has been returned to the National Visa Center (NVC). Please contact NVC for further information. https://travel.state.gov/content/travel/en/us-visas/immigrate/national-visa-center.html
Transfer in Progress	Your Immigrant Visa case has been transferred to another U.S. Consular office. You should check back for your case status at a later date.

Expired	You have been notified that your registration for an immigrant visa was cancelled, and any petition approved on your behalf was also cancelled. We informed you that your application might be reinstated if, within one year, you could establish that your failure to pursue your immigrant visa application was due to circumstances beyond your control. Since you have failed to do so, the record of your registration and any petition approved on your behalf and all supporting documents have been destroyed; any Department of Labor certification has been returned to your prospective employer. If you are still interested in obtaining an immigrant visa, the petitioner should contact the U.S. Citizenship and Immigration Services (USCIS) Office of Department of Homeland Security's (DHS) regarding filing a new immigrant visa petition.
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Expiring Soon	Section 203(g) of the Immigration and Nationality Act requires that your registration be canceled and any petition approved on your behalf canceled, if you do not apply for your immigrant visa within one year of being advised to do so. You were advised of this requirement over 1 year ago, but we have not received a response from you since then. As a result, your application for a visa has been canceled and any petition approved on your behalf has also been canceled. Your application may be reinstated and any petition revalidated if, within one year, you can establish that your failure to pursue your immigrant visa application was due to circumstances beyond your control. Please provide a written statement to the Embassy or Consulate outlining the circumstances beyond your control and noting that you still wish to pursue this visa petition.
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Application Receipt Pending	Please allow up to 20 business days from the day the DS-260 was submitted for the form to be reviewed.
*At NVC	Please follow the instructions you received from the National Visa Center (NVC) for the next step in the processing of your visa petition. If you have misplaced the instructions sent to you by the NVC or did not receive them, please contact us at https://travel.state.gov/content/travel/en/us-visas/immigrate/national-visa-center.html for additional information.

(4) COM approval resources:

[IRAP help page](#)

[Latest Project Rabbit Guidance](#)

[DoS instructions PDF](#)

[DS-157](#)

[DoS SIV Page - Step One - COM approval](#)

(5) I-360 Resources

(6) DS-260 Resources