

on June 19. "They may take the form of sabotage to destroy Kuwait from within."

Saad's cry was meant to persuade George Bush to leave ground forces in Kuwait indefinitely. "We'll stay beyond the publicly announced withdrawal date of Sept. 1," says a State Department official. "and we may soon sign a protection agreement, but a long-term commitment of ground forces is not in the cards." The U.S. is not completely against the idea, explains a Western diplomat in Kuwait, "but Washington won't go along unless an Arab force is present as cover. Getting labeled as Kuwait's sole guarantor would only confirm the fears of those who think the U.S. wants to control the region militarily, and an overall Middle East peace would then be even harder to put together."

If Saad's statement had little impact in Washington, it has scared hell out of his constituents at home. A call to turn in weapons has gone unheeded despite the promise of a 15-year prison term for harboring arms. "Why should we turn in our guns?" asks a Kuwaiti merchant. "The government couldn't protect us the first time. If the Iraqis come again, we're better off fending for ourselves, especially since the Arab states can't agree on a common security policy."

The Prime Minister's analysis, repeated as a mantra by his subordinates, has also had a damaging effect on Kuwait's economy. With the exception of automobile dealers, who are thriving as Kuwaitis rush to replace more than a quarter-million stolen or trashed cars, most Kuwaiti businesses were moribund even before the Prime Minister spoke. Uncertain about the size of the postliberation population until the de facto deportation policy runs its course, businessmen are leery of replacing lost inventory. The government's inexplicable failure to set a reasonable compensation policy for goods lost during the occupation has aided stagnation as well. Most businessmen are also waiting to see whether the Emir will trump his consumer-debt order by similarly forgiving commercial loans. "Now we have Saad's idiotic statement about Saddam," says the Gulf Bank's Sultan. "Where is business confidence to come from? Who from the outside will invest here if our leaders are trembling? And what interest rates will we have to pay when the government borrows in the international markets if Kuwait is deemed a security risk? Nothing Saad could have said would have been dumber." What is now certain as well, admits Salem

Abdulaziz al-Sabah, the governor of Kuwait's Central Bank, "is that there will be a run on bank accounts when the current withdrawal restrictions expire on Aug. 3."

## ONE EMIR, ONE VOTE

With little physical devastation beyond the oil fires that darken the skies, Kuwait appears tranquil. Most shops are closed, but the supermarkets are well stocked, and bargains—10 watermelons for \$1—can be had from the Iranian merchants whose skills cross the gulf each morning. Giant minesweeping machines patrol the beaches, but few people pop up their umbrellas or venture into the water.

Kuwaitis traditionally beat the oppres-

didn't exist. We love our rulers for all they have done for us economically, but they don't trust us enough to let us have a meaningful say in the running of our nation."

The Kuwaiti government is behaving as would most regimes in similar circumstances. Its overriding priority has been the reassertion of its authority. But its decision to disband the resistance groups that kept the peace in the weeks following liberation has been "a colossal error," in the words of a Western diplomat. "Embracing those who stayed and fought, using their expertise and praising their willingness to help, could have gone far toward uniting the nation."

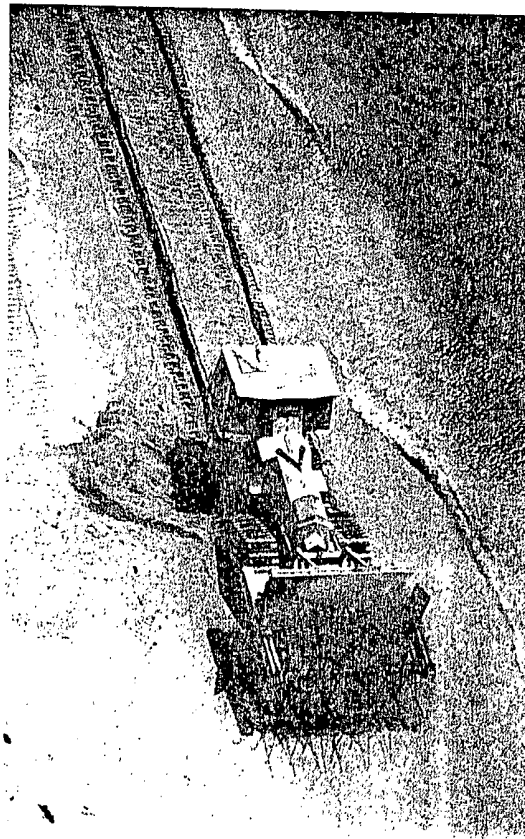
No one familiar with Kuwait is surprised that the government does not understand its mistake. By all accounts, the new Cabinet is less competent than the old, and the Prime

Minister, who is notorious for hoarding power while being loath to make decisions, won't sack or even investigate the conduct of the military leaders who let the country down so completely, so quickly, last summer.

Still, a revolution is the last thing anyone envisions. Outraged by their commanders, who were among the first runners, several hundred lower-ranking military officers have protested the lack of accountability. They want the Chief of Staff and at least five other high-ranking officers fired. In many countries such discontent would produce rumors of an imminent coup. In Kuwait the disenchanted sent a polite letter up the chain of command, asking for an audience with the Prime Minister. Seven weeks later, they have still received no response, so most stay home passively and grow beards—

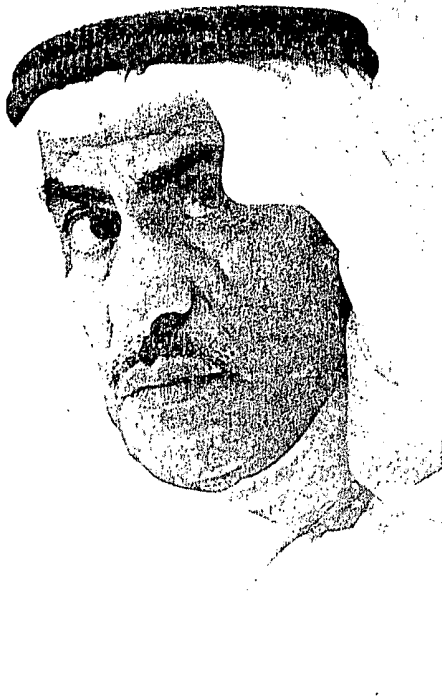
an officer corps on a genteel sit-down strike. "A coup, a civil war?" laughs an air-force officer whose Hawk missile anti-aircraft battery shot down four Iraqi jet fighters on the day of the invasion. "We're all too comfortable economically to even think of revolution. Maybe if we had a hint at what might follow the Sabahs if they were overthrown, we would act. But we don't, so we won't."

Since becoming independent from Britain in 1961, Kuwait has enjoyed the greatest democracy and freest press in the gulf region—which is not saying much. The last parliament, elected in 1985, was suspended by the Emir in 1986 largely because it began to act like the U.S. Congress. Its sin: investigating the financial affairs of senior government officials. The Emir also imposed a press censorship that continues to this day. Pressure against the government's autocratic tendencies began to rise



**An estimated 5 million mines were laid by Iraq. Here a special machine chews up some of those that were planted along the coast in anticipation of the amphibious landing that never came.**

sive summer heat by vacationing in Europe, so the country's ghostly appearance is not unusual. But with school starting early in order to squeeze two academic years into one, many of the estimated 300,000 Kuwaitis still outside the country are beginning to return. Many stop first at a cemetery on the edge of town, where the graves of friends and relatives killed by the Iraqis are marked by red banners. It is only at night, when Kuwaitis gather to gossip, that one perceives the pervasive seething. The treatment of Palestinians is on everyone's mind, but deeper, more worrisome resentments are expressed, and none approach the disdain felt by those who stayed for those who left. "We cared for ourselves and proved our loyalty," says Nadyah al-Mudhaf, an investment banker. "The 'runners' wine and dined and discoed, and now they are back to treating us like we



**Kuwait's opposition, led by Ahmed Saadoun, left, charges the government with the unconstitutional usurpation of power. So far, Sheik Jaber al-Sabah, the Emir, right, has adroitly checked the dissidents' complaints.**

most likely to vote? "Well," says al-Awadi, smiling, "I am not the most astute of politicians, but it would seem to me that those granted a certain right might well feel a strong preference for whoever is seen as having given it to them."

Despite their managerial incompetence, the Sabahs appear to have the political savvy necessary to perpetuate their rule well into the next century. Exactly how they use their power is anyone's guess, but growing xenophobia is one likely effect. For years Kuwait's goal has been to reach a fifty-fifty ratio of Kuwaitis to foreigners by the year 2000

in 1990, so the Emir created a National Council, an assembly that could question policy but not legislate. The council, which met only once before the Aug. 2, 1990, invasion, reconvened on July 9 and now meets weekly.

Seven opposition groups have joined to protest the council's existence and urge that the old, suspended parliament be reinstated. Few Kuwaitis seem to care. By calling the council back, the Emir hoped to establish a nonthreatening channel for complaints. He has not been disappointed. Within days of the council's convocation, its members began receiving letters from citizens urging that it probe specific areas. The opposition may pine for the old parliament, but the populace appears content to treat the council as a legitimate avenue of expression (especially since it is as eager as the Emir to restore the old order, and so is considering a plan that would give \$70,000 to every Kuwaiti family—a \$10 billion outlay the Central Bank's governor Salem labels "totally insane").

In another adroit move, the Emir has called for an entirely new parliament to be elected in October 1992. "Too far away," says Abdullah al-Nibari, an opposition leader. But again, few seem to care so long as a date has been set. "In all of this," admits a U.S. diplomat, "the anti-Sabah factions have been hurt by President Bush's saying that the gulf war was not fought in order to bring democracy to Kuwait. The Secretary of State has admitted that Kuwait's government is not 'the optimum type of regime,' but when the President, who's considered a saint in Kuwait, downplayed democracy, the Emir won a cushion that will protect him at least until the '92 vote."

The opposition coalition has increased

its irrelevance by being able to agree only on the National Council's supposed illegitimacy. "The real questions people are talking about, like the Palestinian problem, they're the ones we don't touch," says Isa al-Shaheen, a leader of the Muslim Brotherhood, which has put aside its own desire for an Islamic state in order to join the coalition. "The fact is that most of the opposition is afraid to take tough stands for fear of jeopardizing their election prospects. Some of us want to ignore the street and try to lead, but we've got nowhere. And with nothing to say to the people on the matters that most concern them, we're viewed as just another bunch of rich people out to increase our share of the wealth by exploiting political positions."

After the Palestinian question, the hottest political issue in Kuwait concerns the right to vote. Until now, the franchise has been limited to male Kuwaitis who can trace their roots in the country to before 1920, a meager total of about 65,000 people, a figure that is less than 10% of the present Kuwaiti population.

Most of the opposition favors extending the vote to both later-arriving Kuwaitis and women, but there are indications that the Emir will steal their thunder by broadening the franchise himself. "We have botched almost everything since liberation," says Abdul Rahman al-Awadi, the Prime Minister's adviser, "but through politics we now have a chance to recoup."

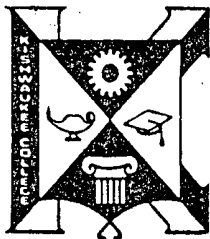
Al-Awadi understands that stability is unlikely if hereditary rulers resist legitimate pressures for change. "The trick now is not so difficult," he says. "We must make the regime more responsive and understanding, goals that would certainly be helped by increasing the voter rolls." And for whom would the newly enfranchised be

(vs. the 30-to-70 ratio before the Iraqis rolled in). The invasion has made the government more loudly determined than ever to reach that goal—but getting there will probably prove impossible. After a whirlwind shopping spree in the Far East, a Sabah woman turned up at the airport last week with 40 servants in tow. "I have replaced my Arabs with Asians," she said proudly. She will not be the last to do so.

The Emir has declared that a "rightly guided society lets neither the criminal go unpunished nor the innocent bear the blame for others," but Kuwait has already expressed its preference for punishment. As for U.S. Ambassador Edward Gnehm's observation that "no matter how emotionally difficult it is, Kuwaitis must now champion justice and fairness for all people in Kuwait in the same way the entire world stood for those principles for Kuwaitis," well, Gnehm must share a speechwriter with the Emir.

Meanwhile, Kuwaitis will continue enjoying a new pastime: the daily 15-minute radio program that recounts tales of the Iraqi invaders' stupidity. Three weeks ago, a roomful of Kuwaitis dissolved into laughter when the announcer recalled the troops who stole computer screens thinking they were TVs, and then wondered why "Lotus 123" never came on the air. When not laughing at their onetime tormentors, some Kuwaitis poke fun at the desirability of living in their wrecked country. A favorite joke has Kuwait's Public Works Ministry rushing to complete a new highway to Saudi Arabia, with all six lanes going one way—out.

If ever they bear down at all, most Kuwaitis will probably work hardest in the service of the one goal they all understand instinctively: making their nation safe for the making of money. Democracy can wait. ■



# KISHWAUKEE COLLEGE

21193 Malta Road \* Malta, Illinois 60150-9699

Telephone (815)825-2086, ext. 274

*An equal opportunity employer*

April 30, 1991

## Student Services

U.S. Dept. of Justice  
Immigration and Naturalization Service  
Dirksen Federal Building  
219 South Dearborn Street  
Chicago, Illinois 60604

Dear INS Officer:

I am writing in support of Mr. Hani El-Khader's request for Asylum in the United States.

Mr. El-Khader is an international student attending Kishwaukee College on an F-1 visa. His country of last residence was Kuwait and as an Arab who is not a Kuwaiti national, he and his family face continued persecution if they return to Kuwait.

Hani has received phone calls from his sister in Kuwait warning him to not return to Kuwait and apply for asylum in the United States.

With the reports of abuses of non-Kuwaiti Arabs by Kuwaiti nationals and confirmation by Mr. El-Khader's sister that conditions are unsafe to return, I believe Mr. El-Khader's request for asylum warrants consideration.

If I can provide any further information relevant to your consideration of this request, please contact me.

Sincerely,

Larry G. Apperson  
Dean of Student Services

LGA/jam



This page must be completed and signed in the U.S. by a designated school official.

1. Family Name (surname) **EL-KHADER**

First (given) name (do not enter middle name) **Hani**

Country of birth **Kuwait** Date of birth (mo./day/year) **1/69**

Country of citizenship **Jordan** Admission number (Complete if known) **31032378801**

2. School (school district) name **Kishwaukee College**

School official to be notified of student's arrival in U.S. (Name and Title) **Larry G. Apperson, Dean of Student Services**

School address (include zip code) **Rt. 38 & Malta Road, Malta, IL 60150**

School code (including 3-digit suffix, if any) and approval date **CHI 2145 0569.000 approved on 5/28/69**

For Immigration Official Use

Immigration & Naturalization Service  
 CHICAGO, ILLINOIS-481  
 ADMITTED

**JAN 13 1990**  
 D/S

Visa issuing post **Kuwait** Date Visa issued **14 Dec 88**

Reinstated, extension granted to:

3. This certificate is issued to the student named above for:

(Check and fill out as appropriate)

a.  Initial attendance at this school.

b.  Continued attendance at this school.

c.  School transfer.  
 Transferred from \_\_\_\_\_

d.  Use by dependents for entering the United States.

e.  Other \_\_\_\_\_

7. This school estimates the student's average costs for an academic term of 12 (up to 12) months to be:

a. Tuition and fees \$ 4,288.00

b. Living expenses \$ 5,796.00

c. Expenses of dependents \$ \_\_\_\_\_

d. Other (specify): \$ \_\_\_\_\_

Total \$ 10,084.00

4. Level of education the student is pursuing or will pursue in the United States: (check only one)

a.  Primary e.  Master's

b.  Secondary f.  Doctorate

c.  Associate g.  Language training

d.  Bachelor's h.  Other \_\_\_\_\_

5. The student named above has been accepted for a full course of study at this school, majoring in Accounting

The student is expected to report to the school not later than (date) 01/15/90 and complete studies not later than (date) 12/91

The normal length of study is 2 years

8. This school has information showing the following as the student's means of support; estimated for an academic term of 12 months (Use the same number of months given in item 7).

a. Student's personal funds \$ \_\_\_\_\_

b. Funds from this school \$ \_\_\_\_\_  
 (specify type) \_\_\_\_\_

c. Funds from another source \$ 10,084.00  
 (specify type and source) Family Funds From Abroad

d. On-campus employment (if any) \$ \_\_\_\_\_

Total \$ 10,084.00

6.  English proficiency is required:

The student has the required English proficiency.

The student is not yet proficient, English instructions will be given at the school.

English proficiency is not required because \_\_\_\_\_

9. Remarks: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

10. School Certification: I certify under penalty of perjury that all information provided above in items 1 through 8 was completed before I signed this form and is true and correct; I executed this form in the United States after review and evaluation in the United States by me or other officials of the school of the student's application, transcripts or other records of courses taken and proof of financial responsibility, which were received at the school prior to the execution of this form; the school has determined that the above named student's qualifications meet all standards for admission to the school; the student will be required to pursue a full course of study as defined by 8 CFR 214.2(f)(6); I am a designated official of the above named school and I am authorized to issue this form.

*Larry G. Apperson* **Larry G. Apperson, Dean of Student Services** **12/11/89** **Malta, IL 60150**

Signature of designated school official Name of school official (print or type) Title Date issued Place issued (city and state)

11. Student Certification: I have read and agreed to comply with the terms and conditions of my admission and those of any extension of stay as specified on page 2. I certify that all information provided on this form refers specifically to me and is true and correct to the best of my knowledge. I certify that I seek to enter or remain in the United States temporarily, and solely for the purpose of pursuing a full course of study at the school named on Page 1 of this form. I also authorize the named school to release any information from my records which is needed by the INS pursuant to 8 CFR 214.3(g) to determine my nonimmigrant status.

*Hani El-Khader* **Hani El-Khader** **1-13-90**

Signature of student Name of student Date

*[Signature]* **DeKalb** **IL** **DeKalb**

Signature of parent or guardian if student is under 18 Name of parent/guardian (Print or type) Address (city) (State or province) (Country) (Date)

I-20-ID (STUDENT) COPY



Department of Homeland Security  
U.S. Citizenship and Immigration Services

# Cover Sheet

# Record of Proceeding

**NOTE:** This is a permanent record of the U. S. Citizenship and Immigration Services. Any part of this record that is removed **must be returned** after it has served its purpose.

## Instructions

1. Place a separate cover sheet on the top of each Record of Proceeding.
2. Each Record of Proceeding must be fastened on the inner left side of the file jacket in chronological order.
3. Any person temporarily removing any part of this record must make, date and sign a notation to this effect that must be retained in this record, below the cover sheet. The signer is responsible for replacing the removed material as soon as it has served its purpose.
4. See AM 2710 for detailed instructions



U.S. Department of Justice  
Immigration and Naturalization Service

For sale by the Superintendent of Documents  
U.S. Government Printing Office  
Washington, DC 20402

OMB #1115-0168  
Petition for a Nonimmigrant Worker

**START HERE - Please Type or Print**

**Part 1. Information about the employer filing this petition.**  
If the employer is an individual, use the top name line. Organizations should use the second line.

Family Name	Given Name	Middle Initial
Company or Organization Name AMCORE Financial, Inc.		
Address - Attn: Wanda Liptow, Vice-President, Human Resources		
Street Number and Name	Apt #	
501 Seventh Street - POB 1537		
City	State or Province	
Rockford,	IL	
Country	ZIP/Postal Code	
USA	61110	
IRS Tax #		
36-3183870		

**Part 2. Information about this Petition.**  
(See instructions to determine the fee.)

- Requested Nonimmigrant Classification:**  
(write classification symbol at right) H-1B
- Basis for Classification (check one)**
  - New employment
  - Continuation of previously approved employment without change
  - Change in previously approved employment
  - New concurrent employment
- Prior petition.** If you checked other than "New Employment" in item 2. (above) give the most recent prior petition number for the worker(s): \_\_\_\_\_
- Requested Action: (check one)**
  - Notify the office in Part 4 so the person(s) can obtain a visa or be admitted (NOTE: a petition is not required for an E-1, E-2, or R visa).
  - Change the person(s) status and extend their stay since they are all now in the U.S. in another status (see instructions for limitations). This is available only where you check "New Employment" in item 2, above.
  - Extend or amend the stay of the person(s) since they now hold this status.
- Total number of workers in petition:** one  
(See instructions for where more than one worker can be included.)

**Part 3. Information about the person(s) you are filing for.**  
Complete the blocks below. Use the continuation sheet to name each person included in this petition.

If an entertainment group, give their group name.

Family Name	Given Name	Middle Initial
El-Khader	Hani	H.
Date of Birth (Month/Day/Year)	Country of Birth	
██████/██/69	Kuwait	
Social Security #	A #	
	A #	

If in the United States, complete the following: \*

Date of Arrival (Month/Day/Year)	I-94 #
1/13/90	310 323788 01
Current Nonimmigrant Status	Expires (Month/Day/Year)
F-1 asylum applicant	

**FOR INS USE ONLY**

Returned	Receipt
Resubmitted	
Reloc Sent	
Reloc Rec'd	
Interviewed	
<input type="checkbox"/> Petitioner	
<input type="checkbox"/> Beneficiary	


LINVF601  
LIN-95-166-50628  
05/26/95

Class: H1B1  
# of Workers: 1  
Priority Number: \_\_\_\_\_  
Validity Dates: From 6/6/95 To 6/1/98

Classification Approved  
 Consulate/POE/PFI Notified  
At Ciudad Juarez  
 Extension Granted  
 COS/Extension Granted

Partial Approval (explain)

Action Block



To Be Completed by Attorney or Representative, if any

Fill in box if G-28 is attached to represent the applicant

VOLAG# \_\_\_\_\_  
ATTY State License # \_\_\_\_\_

MAY 26 1995 9 45 AM



Law Office of David Rubman  
332 South Michigan Ave., Suite 850  
Chicago, IL 60604

Firm Name and Address

Signature: *David Rubman*

Print Name: \_\_\_\_\_  
Date: \_\_\_\_\_

I declare that I prepared this petition at the request of the above person and it is based on all information of which I have any knowledge.

**Part 7. Signature of person preparing form if other than above.**

Please Note: If you do not completely fill out this form and the required supplement, or fail to submit required documents listed in the instructions, then the person(s) filed for may not be found eligible for the requested benefit, and this petition may be denied.

Signature and title: *David Rubman*  
Print Name: *WANDA LIPKOW*  
Date: *5/10/95*

I certify, under penalty of perjury under the laws of the United States of America, that this petition, and the evidence submitted with it, is all true and correct. If filing this on behalf of an organization, I certify that I am empowered to do so by that organization. If this petition is to extend a prior petition, I certify that the proposed employment is under the same terms and conditions as in the prior approved petition. I authorize the release of any information from my records, or from the petitioning organization's records, which the Immigration and Naturalization Service needs to determine eligibility for the benefit being sought.

Read the information on penalties in the instructions before completing this section.

**Part 6. Signature.**

of Employees	1090
Current Number	
Type of business:	Financial Services/Banking
Type of Petitioner - check one:	<input type="checkbox"/> U.S. citizen or permanent resident <input checked="" type="checkbox"/> Organization <input type="checkbox"/> Other - explain on separate paper
Other Compensation (explain) standard insurance	
Value per week	or per year
Wages per week	\$26,700 or per year
Is this a full-time position?	<input type="checkbox"/> No - Hours per week <input checked="" type="checkbox"/> Yes
Address where the person(s) will work	
Title	Operations Cost Accountant (Quality Control) of Job Accountant
Job	Nontechnical Description

**Part 5. Basic Information about the proposed employment and employer.**

Attach the supplement relating to the classification you are requesting.

Does each person in this petition have a valid passport?  
 Not required to have passport  
 Yes

a. If the person named in Part 3 is outside the U.S. or a requested extension of stay or change of status cannot be granted, give the U.S. consulate or inspection facility you want notified if this petition is approved.

b. Are you filing any other petitions with this one?  
 No  
 Yes - How many? \_\_\_\_\_

c. Are applications for replacement/initial I-94's being filed with this petition?  
 No  
 Yes - How many? \_\_\_\_\_

d. Are applications by dependents being filed with this petition?  
 No  
 Yes - How many? \_\_\_\_\_

e. Is any person in this petition in exclusion or deportation proceedings?  
 No  
 Yes - explain on separate paper

f. Have you ever filed an immigrant petition for any person in this petition?  
 No  
 Yes - explain on separate paper

g. If you indicated you were filing a new petition in Part 2, within the past 7 years has any person in this petition:  
 No  
 Yes - explain on separate paper

h. (1) ever been given the classification you are now requesting?  
 No  
 Yes - explain on separate paper

(2) ever been denied the classification you are now requesting?  
 No  
 Yes - explain on separate paper

i. If you are filing for an entertainment group, has any person in this petition not been with the group for at least 1 year?  
 No  
 Yes - explain on separate paper

**Part 4. Processing Information.**

a. If the person named in Part 3 is outside the U.S. or a requested extension of stay or change of status cannot be granted, give the U.S. consulate or inspection facility you want notified if this petition is approved.

Type of Office (check one):  Consulate  
 Pre-flight inspection  
 Port of Entry

Office Address (City): Ciudad Juarez, Mexico  
 U.S. State or Foreign Country: \_\_\_\_\_

Person's Foreign Address: \_\_\_\_\_

U.S. Department of Justice  
Immigration and Naturalization Service

Name of person or organization filing petition:  
AMCORE Financial, Inc.

Name of person or total number of workers or trainees you are filing for:  
Hani El-Khader

List the alien's and any dependent family members; prior periods of stay in H classification in the U.S. for the last six years. Be sure to list only those periods in which the alien and/or family members were actually in the U.S. in an H classification. If more space is needed, attach an additional sheet.

Classification sought (check one):

- H-1A Registered Professional nurse
- H-1B1 Specialty occupation
- H-1B2 Exceptional services relating to a cooperative research and development project administered by the U.S. Department of Defense
- H-1B3 Artist, entertainer or fashion model of national or international acclaim

- H-1B4 Artist or entertainer in unique or traditional art form
- H-1B5 Athlete
- H-1BS Essential Support Personnel for H-1B entertainer or athlete
- H-2A Agricultural worker
- H-2B Nonagricultural worker
- H-3 Trainee
- H-3 Special education exchange visitor program

Section 1. Complete this section if filing for H-1A or H-1B classification.

Describe the proposed duties.

See attached letter

Alien's present occupation and summary of prior work experience

See attached letter

Statement for H-1B specialty occupations only:

By filing this petition, I agree to the terms of the labor condition application for the duration of the alien's authorized period of stay for H-1B employment.

Petitioner's Signature

Date

X *Standa Ripton*

5/10/95

Statement for H-1B specialty occupations and DOD projects:

As an authorized official of the employer, I certify that the employer will be liable for the reasonable costs of return transportation of the alien abroad if the alien is dismissed from employment by the employer before the end of the period of authorized stay.

Signature of authorized official of employer

Date

X *Standa Ripton*

5/10/95

Statement for H-1B DOD projects only:

I certify that the alien will be working on a cooperative research and development project or a coproduction project under a reciprocal Government-to-Government agreement administered by the Department of Defense.

DOD project manager's signature

Date

Section 2. Complete this section if filing for H-2A or H-2B classification.

Employment is:  
(check one)

- Seasonal
- Peakload
- Intermittent
- One-time occurrence

Temporary need is:  
(check one)

- Unpredictable
- Periodic
- Recurrent annually

Explain your temporary need for the alien's services (attach a separate paper if additional space is needed).

**Labor Condition Application for H-1B Nonimmigrants**

**U.S. Department of Labor  
 Employment and Training Administration  
 U.S. Employment Service**



1. Full Legal Name of Employer <b>AMCORE Financial, Inc.</b>	5. Employer's Address (No., Street, City, State, and ZIP Code) <b>501 Seventh Street P.O. Box 1537 Rockford, IL 61110</b>
2. Federal Employer ID Number <b>36-3183870</b>	6. Address Where Documentation is Kept (If different than item 5) <b>Chicago Business</b>
3. Employer's Telephone No. <b>(815) 961-7788</b>	
4. Employer's FAX No. <b>(815) 961-7745</b>	

**RECEIVED**  
 MAY 02 1995  
 ALIEN CERTIFICATION UNIT  
 REGION V - CHICAGO

7. OCCUPATIONAL INFORMATION (Use attachment if additional space is needed)  
 (a) Three-digit Occupational Group Code (From Appendix 2): 160 (b) Job Title (Check Box if Part-Time): Operations Cost Accountant

(c) No. of H-1B Nonimmigrants	(d) Rate of Pay	(e) Prevailing Wage Rate and Its Source (see Instructions)	(f) Period of Employment From To	(g) Location(s) Where H-1B Nonimmigrants Will Work (see Instructions)
one	\$26,700 per yr.	\$26,988 <input type="checkbox"/> BESA <input checked="" type="checkbox"/> Other: <u>Salary Survey</u> <input type="checkbox"/> BESA <input type="checkbox"/> Other: <u>From Crain's</u>	6/1/95 6/1/98	Rockford, IL

8. EMPLOYER LABOR CONDITION STATEMENTS (Employers are required to develop and maintain documentation supporting labor condition statements 8(a) and 8(d). Employers are further required to make available for public examination a copy of the labor condition application and necessary supporting documentation within one (1) working day after the date on which the application is filed with DOL. Check each box to indicate that the employer will comply with each statement.)

- (a) H-1B nonimmigrants will be paid at least the actual wage level paid by the employer to all other individuals with similar experience and qualifications for the specific employment in question or the prevailing wage level for the occupation in the area of employment, whichever is higher.
- (b) The employment of H-1B nonimmigrants will not adversely affect the working conditions of workers similarly employed in the area of intended employment.
- (c) On the date this application is signed and submitted, there is not a strike, lockout or work stoppage in the course of a labor dispute in the occupation in which H-1B nonimmigrants will be employed at the place of employment. If such a strike or lockout occurs after this application is submitted, I will notify ETA within 3 days of the occurrence of such a strike or lockout and the application will not be used in support of petition filings with INS for H-1B nonimmigrants to work in the same occupation at the place of employment until ETA determines the strike or lockout has ceased.
- (d) A copy of this application has been, or will be, provided to each H-1B nonimmigrant employed pursuant to this application, and, as of this date, notice of this application has been provided to workers employed in the occupation in which H-1B nonimmigrants will be employed: (check appropriate box)
  - (i) Notice of this filing has been provided to the bargaining representative of workers in the occupation in which H-1B nonimmigrants will be employed; or
  - (ii) There is no such bargaining representative; therefore, a notice of this filing has been posted and was, or will remain, posted for 10 days in at least two conspicuous locations where H-1B nonimmigrants will be employed.

9. DECLARATION OF EMPLOYER. Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury that the information provided on this form is true and correct. In addition, I declare that I will comply with the Department of Labor regulations governing this program and, in particular, that I will make this application, supporting documentation, and other records, files and documents available to officials of the Department of Labor, upon such official's request, during any investigation under this application of the Immigration and Nationality Act.

Name and Title of Hiring or Other Designated Official: WANDA LIPTON VP-HUMAN RESOURCES  
 Signature: [Signature] Date: 4/28/95

Complaints alleging misrepresentation of material facts in the labor condition application and/or failure to comply with the terms of the labor condition application may be filed with any office of the Wage and Hour Division of the United States Department of Labor.

AN APPLICATION CERTIFIED BY DOL MUST BE FILED IN SUPPORT OF AN H-1B VISA PETITION WITH THE INS.

FOR U.S. GOVERNMENT AGENCY USE ONLY: By virtue of my signature below, I acknowledge that this application is hereby certified and will be valid from 6-1-95 through 6-1-98

Signature and Title of Authorized DOL Official: [Signature]  
 Subsequent DOL Action: Suspended (date) Invalidated (date) Withdrawn (date)  
 ETA Case No. 771660 Date 5-2-95

The Department of Labor is not the guarantor of the accuracy, truthfulness or adequacy of a certified labor condition application. Public reporting burden for this collection of information is estimated to average 12 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of U.S. Employment Service, Department of Labor, Room N-4470 and/or the Office of IRM Policy, DOL, Room N-1201, 200 Constitution Avenue, N.W., Washington, DC 20210. (1205-0310).  
 DO NOT SEND THE COMPLETED FORM TO EITHER OF THESE OFFICES  
 ETA 9035 (Rev. Dec. 1994)



May 9, 1995

Immigration and Naturalization Service  
P.O. Box 87129  
Lincoln, NE 68501-7129

Dear Sir or Madam:

We are submitting the enclosed H-1B visa petition on behalf of Hani El-Khader. AMCORE Financial, Inc. is a holding company with several banks and eight financial service companies: a trust company, a mortgage company, a full-service broker-dealer, a capital management company, a collection agency, an investment banking company, a consumer finance company and an insurance agency.

AMCORE is interested in employing Mr. El-Khader as an operations cost accountant (quality control) in our Bank Services division for a temporary period of three years.

The position of operations costs accountant (quality control) is a professional position with the minimum requirement of a B.A. or B.S. in accounting or finance. The individual in this position is responsible for supporting the selection, development, monitoring and reporting of quality assurance, billing, profit plan and performance reporting systems. In addition, the individual is responsible for supporting the development, testing and maintenance of the corporate and data center disaster recovery plans. The accountant performs financial and quantitative analyses to assure quality bank operations to internal and external customers, and determines data processing quality costing and transaction prices for bank clients.

Mr. El-Khader was chosen for this position due to his educational experience. He holds a Bachelor of Science degree in Finance from Northern Illinois University, where his emphasis was in banking/cost management. He also holds an Associate of Applied Sciences degree in Accounting from Kishwaukee College in Malta, Illinois. This educational background makes Mr. El-Khader a perfect candidate for this position.

Please note that Mr. El-Khader will be assigned to only one work site, located at our address above. He will not be working

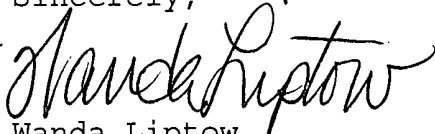


at any other location. AMCORE Financial, Inc. is the actual employer, in that we retain the authority to pay, hire, supervise and control Mr. El-Khader in his employment.

We hereby certify that we will abide by the terms and conditions of the Labor Condition Application for H-1B Nonimmigrants. The prevailing wage for this position that we will pay Mr. El-Khader is \$26,700 per year.

Thank you for your prompt attention to this petition.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Liptow".

Wanda Liptow  
Vice-President  
Human Resources

# Northern Illinois University

De Kalb, Illinois

On recommendation of the President and Faculty,  
the Board of Regents, by virtue of the authority vested in it,  
has conferred on

**Hani Hasan El-Khader**

the degree of  
**Bachelor of Science**

and has granted this Diploma as evidence thereof  
this eighth day of May, 1993.

*D Brewster Barber*  
Chair, Board of Regents



*John P. DeLoatch*  
President

NAME: EL-KHADER, HANI HASAN ID NUMBER: [REDACTED] 4566 BIRTHDATE: [REDACTED] DATE PRINTED: 06/03/93 PAGE: 1

OUT OF COUNTRY H S JUNE 1988

DEGREES EARNED AT NORTHERN ILLINOIS UNIVERSITY B. S. MAY 08, 1993 MAJR: FINANCE

COURSE TITLE	DEPT.	COURSE	CREDIT	GRADE	COURSE TITLE	DEPT.	COURSE	CREDIT	GRADE
TRANSFER CREDIT FROM: KISHWAUKEE COLLEGE				IL	COMMERCIAL BANK MGMT	FINA	450T	3.00	B
AUG 1989 - JUNE 1991			68.0		BUSINESS LAW	MGBE	312	3.00	B
TRANSFER CREDIT FROM: CUYAHOGA COMM COLL-EAST				OH	DATABASE MGMT BUS	OMIS	452	3.00	B
JAN 1989 - MAY 1989			0.0		TELE COMM FOR BUS	OMIS	460	3.00	W
					UGR TERM HRS 12.0 GPA 3.000 CUM HRS 113.00 GPA 3.000				
					SPRING 1993				
BASIS FOR ADMISSION: A.A. DEGREE					FINANCIAL ACCY INFO	ACCY	306	3.00	C
KISHWAUKEE COLLEGE, MALTA, IL					ADV COST MANAGEMENT	ACCY	431	3.00	C
SUMMER 1991					SH-TRM FIN MGMT MDLG	FINA	330	3.00	B
PRINCIPLES OF MKTG			3.00	C	CPT BUDG LG-TRM FINA	FINA	430	3.00	W
UGR TERM HRS 3.0 GPA 2.000 CUM HRS 71.00 GPA 2.000					STRATEGIC BUS PROBS	MGMT	468	3.00	B
FALL 1991					INDEP STUDY IN MANAGEMENT	MGMT	495	3.00	A
INTERMED MICROECON			3.00	A	PHED 106	PHED	106	1.00	A
PRINCIPLES OF FINA			3.00	B	PHED 133	PHED	133	1.00	A
PRINCIPLES OF MGMT			3.00	C	UGR TERM HRS 17.0 GPA 2.940 CUM HRS 130.00 GPA 3.080				
INTRU BUS STATISTICS			3.00	A	*****				
UGR TERM HRS 12.0 GPA 3.250 CUM HRS 83.00 GPA 3.000					* BACHELOR OF SCIENCE				
FALL 1992					* MAY 08, 1993				
INTRO COST MANAGEMENT			3.00	OW	* FINANCE				
INVESTMENT PRINC			3.00	B	* MAJOR: FINANCE				
FINA MARKETS & INST			3.00	B	*****				
BUSI REPORT WRITING			3.00	A	MET REQUIREMENTS OF SENATE BILL 195 1953				
PRINCIP OF OPER MGMT			3.00	C	(SCHOOL CODE, SECTION 27-3).				
UGR TERM HRS 12.0 GPA 3.000 CUM HRS 95.00 GPA 3.000					-----END OF COURSE INFORMATION-----				
SUMMER 1992									
MANAGERIAL ACCY INFO			3.00	A					
INFO SYS ORGANIZATNS			3.00	A					
UGR TERM HRS 6.0 GPA 4.000 CUM HRS 101.00 GPA 3.180									
FALL 1992									
SURV OF INCOME TAXES			3.00	B					

*Richard Y. Douglas*

ISSUED TO STUDENT

LAW OFFICES  
DAVID RUBMAN  
SUITE 860  
332 SOUTH MICHIGAN AVENUE  
CHICAGO, ILLINOIS 60604

TELEPHONE (312) 341-1907  
FACSIMILE (312) 341-0399

OF COUNSEL  
DONALD B. KEMPSTER & ASSOCIATES

May 25, 1995

By Express Mail

Immigration and Naturalization Service  
Regional Processing Facility  
850 S. Street  
Lincoln, NE 68508

Re: I-129 Petition for H-1B Temporary Worker  
Petitioner: AMCORE Financial, Inc.  
Beneficiary: Hani El-Khader

Dear Sir or Madam:

Enclosed for filing are duplicate copies of a Petition for Non-Immigrant Worker (Form I-129), supporting documents, and the required fee of \$85.00. The respondent is not eligible for a change of status, and he is requesting consular notification to the American Consulate in Ciudad Juarez.

Your prompt attention to this petition is appreciated.

Sincerely,

  
David Rubman

cc: Wanda Liptow  
Hani El-Khader





Is your RETURN ADDRESS completed on the reverse side?

**SENDER:**

- Complete items 1 and/or 2 for additional services.
- Complete items 3, and 4a & b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

- 1.  Addressee's Address
- 2.  Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

ANI HASAN EL-KHADER  
 5229 LINDEN ROAD, APT. 7313  
 ROCKFORD, IL 61109

4a. Article Number

2075 065 877

4b. Service Type

- Registered  Insured
- Certified  COD
- Express Mail  Return Receipt for Merchandise

7. Date of Delivery

1/25/95

5. Signature (Addressee)

*Hasan*

6. Signature (Agent)

8. Addressee's Address (Only if requested and fee is paid)

Thank you for using Return Receipt Service.

# Referred to Immigration and Customs Enforcement

**UNITED STATES DEPARTMENT OF JUSTICE  
IMMIGRATION AND NATURALIZATION SERVICE**

# **COVER SHEET**

# **RECORD OF PROCEEDING**

This is a permanent record of the Immigration and Naturalization Service. Any part of this record is removed **MUST BE RETURNED** after it has served its purpose.

## **INSTRUCTIONS**

1. Place a separate cover sheet on the top of each Record of Proceeding.
2. Each Record of Proceeding is to be fastened on the inner left side of the file jacket in chronological order.
3. Any person temporarily removing any part of this record must make, date, and sign a notation to this effect which is to be retained in this record, below the cover sheet. The signer is responsible for replacing the removed material as soon as it has served its purpose.
4. See AM 2710 for detailed instructions.



NOTICE OF ENTRY OF APPEARANCE AS ATTORNEY OR REPRESENTATIVE

In re: <span style="font-size: 1.2em; margin-left: 100px;">Deportation Proceedings</span>	DATE <span style="font-size: 1.2em; margin-left: 20px;">6/9/95</span>
	FILE No. <span style="font-size: 1.2em; margin-left: 20px;">A 71 846 426</span>

I hereby enter my appearance as attorney for (or representative of), and at the request of, the following named person(s):

NAME <span style="font-size: 1.2em; margin-left: 20px;">Hani Et-Khadu</span>	<input type="checkbox"/> Petitioner <input type="checkbox"/> Beneficiary	<input type="checkbox"/> Applicant <input type="checkbox"/>	
ADDRESS (Apt. No.) (Number & Street) (City) (State) (ZIP Code) <span style="font-size: 1.2em; margin-left: 20px;">5229 Linden Rd # 7313 Rockford IL 61109</span>			

Check Applicable Item(s) below:

<input checked="" type="checkbox"/>	I am an attorney and a member in good standing of the bar of the Supreme Court of the United States or of the highest court of the following State, territory, insular possession, or District of Columbia <div style="text-align: center; margin: 5px 0;"> <span style="font-size: 1.2em; margin-right: 100px;">Illinois</span> <span style="font-size: 1.2em;">Supreme Court</span> </div> _____ and am not under a <small>(Name of Court)</small> court or administrative agency order suspending, enjoining, restraining, disbaring, or otherwise restricting me in practicing law.
<input type="checkbox"/>	I am an accredited representative of the following named religious, charitable, social service, or similar organization established in the United States and which is so recognized by the Board:
<input type="checkbox"/>	I am associated with _____, the attorney of record who previously filed a notice of appearance in this case and my appearance is at his request. (If you check this item, also check item 1 or 2 whichever is appropriate.)
<input type="checkbox"/>	Others (Explain fully.)

SIGNATURE 	COMPLETE ADDRESS Law Office of David Rubman 332 S. Michigan Ave., Suite 860 Chicago, IL 60604
NAME (Type or Print) David Rubman	TELEPHONE NUMBER (312) 341-1907

PURSUANT TO THE PRIVACY ACT OF 1974, I HEREBY CONSENT TO THE DISCLOSURE TO THE FOLLOWING NAMED ATTORNEY OR REPRESENTATIVE OF ANY RECORD PERTAINING TO ME WHICH APPEARS IN ANY IMMIGRATION AND NATURALIZATION SERVICE SYSTEM OF RECORDS: David Rubman

(Name of Attorney or Representative)

THE ABOVE CONSENT TO DISCLOSE IS IN CONNECTION WITH THE FOLLOWING MATTER:

NAME OF PERSON CONSENTING	SIGNATURE OF PERSON CONSENTING	DATE

**(NOTE: Execution of this box is required under the Privacy Act of 1974 where the person being represented is a citizen of the United States or an alien lawfully admitted for permanent residence.)**

P 451 223 815

**US Postal Service**  
**Receipt for Certified Mail**  
 No Insurance Coverage Provided.  
 Do not use for International Mail (See reverse)

Sent to	
D. Muna	
Street & Number	
295 E Oakview	
Post Office, State, & ZIP Code	
Oak Creek WI 53154	
Postage	\$
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	
Return Receipt Showing to Whom, Date, & Addressee's Address	
<b>TOTAL Postage &amp; Fees</b>	<b>\$</b>

Postmark or Date

5-13-99

PS Form 3800, April 1995

**Stick postage stamps to article to cover First-Class postage, certified mail fee, and charges for any selected optional services (See front).**

1. If you want this receipt postmarked, stick the gummed stub to the right of the return address leaving the receipt attached, and present the article at a post office service window or hand it to your rural carrier (*no extra charge*).
2. If you do not want this receipt postmarked, stick the gummed stub to the right of the return address of the article, date, detach, and retain the receipt, and mail the article.
3. If you want a return receipt, write the certified mail number and your name and address on a return receipt card, Form 3811, and attach it to the front of the article by means of the gummed ends if space permits. Otherwise, affix to back of article. Endorse front of article **RETURN RECEIPT REQUESTED** adjacent to the number.
4. If you want delivery restricted to the addressee, or to an authorized agent of the addressee, endorse **RESTRICTED DELIVERY** on the front of the article.
5. Enter fees for the services requested in the appropriate spaces on the front of this receipt. If return receipt is requested, check the applicable blocks in item 1 of Form 3811.
6. Save this receipt and present it if you make an inquiry.

P 451 223 816

US Postal Service

Receipt for Certified Mail

No Insurance Coverage Provided.

Do not use for International Mail (See reverse)

Sent to	
H. El-Khader	
Street & Number	
544 Michigan Ave	
Post Office, State, & ZIP Code	
Highland Park IL 60035	
Postage	\$
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	
Return Receipt Showing to Whom, Date, & Addressee's Address	
TOTAL Postage & Fees	\$

00, April 1995



**postage stamps to article to cover First-Class postage, certified mail fee, and fees for any selected optional services (See front).**

**If you want this receipt postmarked, stick the gummed stub to the right of the return stub; leaving the receipt attached, and present the article at a post office service or hand it to your rural carrier (no extra charge).**

**If you do not want this receipt postmarked, stick the gummed stub to the right of the address of the article, date, detach, and retain the receipt, and mail the article.**

**If you want a return receipt, write the certified mail number and your name and address on return receipt card, Form 3811, and attach it to the front of the article by means of the ends if space permits. Otherwise, affix to back of article. Endorse front of article **RECEIPT REQUESTED** adjacent to the number.**

**If you want delivery restricted to the addressee, or to an authorized agent of the addressee, endorse **RESTRICTED DELIVERY** on the front of the article.**

**If you want a return receipt, check the applicable blocks in item 1 of Form 3811.**

**If you want a return receipt and present it if you make an inquiry.**

P 451 223 817

**US Postal Service**  
**Receipt for Certified Mail**  
 No Insurance Coverage Provided.  
 Do not use for International Mail (See reverse)

Sent to <b>D. Rubman</b>	
Street & Number <b>3325 Michigan # 860</b>	
Post Office, State, & ZIP Code <b>Chicago IL 60604</b>	
Postage	\$
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	
Return Receipt Showing to Whom, Date, & Addressee's Address	
<b>TOTAL Postage &amp; Fees</b>	<b>\$</b>

PS Form 3800, April 1995

Postmark or Date  
**5-13-99**

**Stick postage stamps to article to cover First-Class postage, certified mail fee, and charges for any selected optional services (See front).**

1. If you want this receipt postmarked, stick the gummed stub to the right of the return address leaving the receipt attached, and present the article at a post office service window or hand it to your rural carrier (*no extra charge*).
2. If you do not want this receipt postmarked, stick the gummed stub to the right of the return address of the article, date, detach, and retain the receipt, and mail the article.
3. If you want a return receipt, write the certified mail number and your name and address on a return receipt card, Form 3811, and attach it to the front of the article by means of the gummed ends if space permits. Otherwise, affix to back of article. Endorse front of article **RETURN RECEIPT REQUESTED** adjacent to the number.
4. If you want delivery restricted to the addressee, or to an authorized agent of the addressee, endorse **RESTRICTED DELIVERY** on the front of the article.
5. Enter fees for the services requested in the appropriate spaces on the front of this receipt. If return receipt is requested, check the applicable blocks in item 1 of Form 3811.
6. Save this receipt and present it if you make an inquiry.

Is your RETURN ADDRESS completed on the reverse side?

**SENDER:**

- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

- 1.  Addressee's Address
- 2.  Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

David Rubman  
 3329 S. Michigan Ave  
 #860  
 Chicago IL 60604

4a. Article Number

P451 223 817

4b. Service Type

- Registered  Certified
- Express Mail  Insured
- Return Receipt for Merchandise  COD

7. Date of Delivery

5-17-99

5. Received By: (Print Name)

*[Handwritten Signature]*

8. Addressee's Address (Only if requested and fee is paid)

6. Signature: (Addressee or Agent)

X

Thank you for using Return Receipt Service.

UNITED STATES POSTAL SERVICE



First-Class Mail  
Postage & Fees Paid  
USPS  
Permit No. G-10

• Print your name, address, and ZIP Code in this box •

*Crim*

US INS

*eads*

10 W JACKSON

CHICAGO IL 60604

AT5 820 315 2 of 3





**UNITED STATES DEPARTMENT OF JUSTICE  
IMMIGRATION AND NATURALIZATION SERVICE**

209 S. LaSalle St., Suite 625  
Chicago, Illinois 60604

JAN 10 1995

Hani Hasan EL-KHADER  
5229 Linden Road, Apt. 7313  
Rockford, Illinois 61109

A71 846 426

Dear Mr. El-Khader,

On November 22, 1994, you were notified of this Service's intent to deny your Request for Asylum in the United States.

You were afforded thirty days in which to offer evidence or argument in rebuttal to the discussion set forth in the Notice of Intent to Deny. The response you provided was carefully reviewed and taken into consideration. However, the information contained in the rebuttal was found insufficient to overcome the preliminary decision to deny.

Your asylum request is therefore denied for the reasons contained in the Notice of Intent to Deny. Moreover, your application for withholding of deportation must also be denied since you have not established a clear probability of persecution, a standard more stringent than that required to establish eligibility for asylum.

There is no appeal from this decision. Please find enclosed form(s) I-221, Order To Show Cause and Notice of Hearing, placing you (and any member of your family included in your asylum request) under deportation proceedings. You may renew your request for asylum before an Immigration Judge in these proceedings.

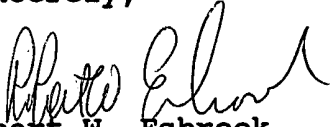
Please be advised that any employment authorization which you have been issued as a result of having a pending application for asylum will expire sixty (60) days from the date of this notice or on the date of expiration of your Employment Authorization Document, whichever period is longer.

You are directed to report any changes of address to the office of this service having jurisdiction over your place of residence. If you should depart the United States, please notify the Immigration and Naturalization Service office having jurisdiction over your

place of residence prior to any such departure and furnish the expected date, place, and manner of departure and destination.

Please make reference to the file number(s) listed above in any future correspondence or contact with this Service.

Sincerely,



Robert W. Esbrook  
Director, Chicago Office of Asylum  
for John Cummings  
Assistant Commissioner  
Refugees, Asylum, and Parole  
01/05/95  
yv

cc: W. Appel, atty.

**NOTICE OF ENTRY OF APPEARANCE AS ATTORNEY OR REPRESENTATIVE**

In re: <u>Hani Hassan El-Khader</u>	DATE
	FILE No. <u>A71-846-426</u>

I hereby enter my appearance as attorney for (or representative of), and at the request of, the following named person(s):

NAME <u>Hani Hassan El-Khader</u>	<input type="checkbox"/> Petitioner	<input checked="" type="checkbox"/> Applicant
ADDRESS (Apt. No.) (Number & Street) (City) (State) (ZIP Code)	<input type="checkbox"/> Beneficiary	<input type="checkbox"/>
NAME	<input type="checkbox"/> Petitioner	<input type="checkbox"/> Applicant
ADDRESS (Apt. No.) (Number & Street) (City) (State) (ZIP Code)	<input type="checkbox"/> Beneficiary	<input type="checkbox"/>

Check Applicable Item(s) below:

1. I am an attorney and a member in good standing of the bar of the Supreme Court of the United States or of the highest court of the following State, territory, insular possession, or District of Columbia:  
Illinois Supreme Court and am not under a court or administrative agency order suspending, enjoining, restraining, disbaring, or otherwise restricting me in practicing law.  
(Name of Court)

2. I am an accredited representative of the following named religious, charitable, social service, or similar organization established in the United States and which is so recognized by the Board:

3. I am associated with \_\_\_\_\_ the attorney of record who previously filed a notice of appearance in this case and my appearance is at his request. (If you check this item, also check item 1 or 2 whichever is appropriate.)

4. Others (Explain fully.)

SIGNATURE <u>Warren H. Appel</u>	COMPLETE ADDRESS <u>LAW OFFICES OF WARREN H. APPEL</u> <u>1607 W. Lawrence Ave</u> <u>Chicago, IL 60640</u>
NAME (Type or Print) <u>Warren H. Appel</u>	TELEPHONE NUMBER <u>(312) 728-7551</u>

PURSUANT TO THE PRIVACY ACT OF 1974, I HEREBY CONSENT TO THE DISCLOSURE TO THE FOLLOWING NAMED ATTORNEY OR REPRESENTATIVE OF ANY RECORD PERTAINING TO ME WHICH APPEARS IN ANY IMMIGRATION AND NATURALIZATION SERVICE SYSTEM OF RECORDS: LAW OFFICES OF WARREN H. APPEL  
(Name of Attorney or Representative)

THE ABOVE CONSENT TO DISCLOSE IS IN CONNECTION WITH THE FOLLOWING MATTER:

NAME OF PERSON CONSENTING <u>Hani El-Khader</u>	SIGNATURE OF PERSON CONSENTING <u>Hani El-Khader</u>	DATE <u>12/16/94</u>
---	--	----------------------

(NOTE: Execution of this box is required under the Privacy Act of 1974 where the person being represented is a citizen of the United States or an alien lawfully admitted for permanent residence.)

RCO 12/19

UNITED STATES DEPARTMENT OF JUSTICE  
IMMIGRATION AND NATURALIZATION SERVICE  
209 S. LASALLE ST. SUITE 625  
CHICAGO, ILLINOIS 60604

Asylum ) Attn ZCH015  
Hani Hassan El-Khader )  
) No.: A 71-846-426

RESPONSE TO NOTICE OF INTENT TO DENY

On November 22, 1994 The Service issued its NOID in the above captioned application. The applicant agrees with the Service contention the he is not a citizen or resident of Kuwait and has no legal right to return. Therefore, even though he believes that he can prove he would be persecuted if he returned the issue is moot because Kuwait will not admit him.

The applicant is in possession of a valid Jordanian Passport and under Jordanian Law is in fact entitled to be admitted into Jordan. However the applicant believes, that possibly his life, but certainly his freedom and well being would be placed in serious jeopardy should he return to Jordan.

The applicant's affidavit is attached hereto and made part hereof. The applicant was very active in PLO and Muslin Activities many of which were well known to Jordanian Authorities. Specifically the Muslim Brotherhood has long been of great interest to Jordanian Security Police and the Government. In a recent article entitled, "Islam, Democracy and Human Rights: The Continuing Debate in the West", on page 34, the authors point out that after the Muslim Brotherhood won 1/3 of the seats in the Jordanian Parliament, King Hussein took measures to dilute their power including transferring public employees who were not members but just supporters and by harassing candidates. This action was taken against Jordanian Citizens and the applicant is not even a Citizen. While the Muslim Brotherhood is not a part of Hamas they have supported Hamas as far as their opposition to the Jordan - Israel peace process and the exclusion of religious leaders from positions of importance in the Jordanian Government. In fact the Muslim Brotherhood is vociferously opposed to the Treaty. Attached hereto is an article from the Middle East Monitor, October 1994 attesting to the Fundamentalist opposition which I might add is a legitimate expression of their political beliefs. The Middle East Monitor of April 1994 acknowledged a Wall Street Journal report from Amman that states that the kingdom security agency has closely monitored Hamas activities in Jordan even though Hamas had always confined itself to public relations, fund-raising and other Services in Jordan. Clearly this is evidence of the Kingdom security forces having an interest in the applicant and his Muslim activities.

The applicant also has specific evidence of persecution undertaken against fellow members of the Muslim Brotherhood and PLO who were closely tied to the applicant in Kuwait. These ties were specifically through their all working at the fundamentalist Al Monar Islamic Book Shop which was basically a gathering place for members of the Muslim Brotherhood to discuss their political and religious beliefs and discussing fundamentalist literature and books, many of which were written by members of their specific group. They also planned rallies and demonstration there.

The applicant and his brothers were very active with the PLO Karate Club which was considered to be involved in self defense training for fundamentalists. The coach of the Karate club was arrested and detained in Jordan for investigation of his connection to the applicant and his group.

Attached hereto and made part hereof is a letter from Murad Helaleh, who is referred to in the applicant's affidavit and appears in an attached photo with the applicant. The letter warns the applicant that the Jordanian security forces have knowledge of him and will arrest him upon his arrival in Amman.

Also attached and made part hereto is a letter from Mohammed Hilala, along with a copy of Mr. Hilala's asylum application and its approval from the INS office in Los Angeles. Mr. Hilala and the applicant were involved in precisely the same activities and were members of the same group of the Muslim Brotherhood. In his letter he details evidence of persecution, arrest and torture at the hands of the Jordanian Authorities. His statements were already found credible by the INS and on February 28, 1994 the INS found that he had established a well found fear of persecution upon return to his homeland, Jordan. I believe the facts of this case warrant the same finding.

The applicant stated that he feared military service. The applicant's fear is not that he wishes to avoid military service simply because he is unwilling to serve but that Islamic Fundamentalists suffer greatly in the Jordanian Army. The Jordanian Government lashes out at people who just support their causes by transferring them (see middle East Reporter Article) and it is our contention that fundamentalist soldiers suffered virtually non-stop torment. The applicant is terrified of persecution while a civilian and this terror is only enhanced by him being ensconced away at some remote military installation.

The applicant had the burden of establishing that:

- (1) You possess beliefs or characteristic the persecuting force seeks to overcome in others by means of punishment of some sort;
- (2) The persecutor is already aware, or could become aware, that you possess these beliefs or characteristic;



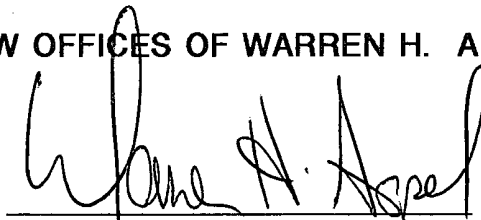
(3) The persecutor has the capability of punishing you; and

(4) The persecutor has the inclination to punish you. See Matter of magharrabi, 19 I and N Dec. 439 (BIA 1987). See also Matter of Acosta, 19 I and N Dec. 211 (BIA) 1985).

The applicant has clearly demonstrated all four of the above requirements by more than the required weight of evidence and I believe his case merits favorable consideration.

LAW OFFICES OF WARREN H. APPEL

By:



Warren H. Appel

LAW OFFICES OF WARREN H. APPEL

1607 W. Lawrence Ave.

Chicago, IL. 60640

(312) 728-7551

Firm No. 12527



## AFFIDAVIT

I, Hani El-Khader being duly sworn and placed under oath do hereby state:

I was born in Kuwait City, Kuwait, on [REDACTED] 1969. I went to Iben Zibon Elementary School with my friend Mohammed Hilala who used to live next door to us, he is currently residing in California. I lived one block away from the Moslim Mosque and about five blocks away from the PLO center in Hawalli. All my childhood friends used to associate with the PLO and Moslim Brotherhood; therefore, I found myself one of those who regularly went to the Mosque and spent many hours with all the Muslim guys who gathered inside the Mosque and the PLO center. During the summer time, I used to work in a bookstore called AlManar Islamic Bookstore, which is owned by a person who was very active with the Muslim Brotherhood Group in Kuwait. Murad Hilala used to work with us as well as my brother Nezam and many others like Mohammed Hilala, Khaled Azam. It was at that time I joined the Muslim Brotherhood and became active in the movement.

In 1983, I started practicing karate with the Muslim group in the PLO center (see picture). My coach's name was Mohammed Shehata. In 1986, he traveled to Jordan and was arrested and beaten by the Jordanian officials and he was forced to release all our names. I learned of this through friends in the Muslim Brotherhood. In late 1986, or early 1987, my Dad traveled to Jordan and was arrested by Jordanian Security Police and questioned about myself and my brother's activities and our belonging to the Muslim Brotherhood and our association with the PLO. My Dad was detained for that purpose, for several weeks during which time he was threatened and held incommunicado even though he was never a member of the Muslim Brotherhood.

One of our friends who used to spend a lot of time with us is Khaled Azam. He graduated from Pakistan University in Islamic Studies and he wrote several books regarding the importance of strict adherence to fundamental Muslim tradition and beliefs. Khaled Azam's books and followers are known and monitored by Jordanian Security Forces (see sample). Murad Hilala was our group leader who used to take us on summer camps, lectures, and many funds raising gathering efforts in Kuwait.

In April of this year, my sister left Kuwait to Jordan and she was detained on the Jordanian border for questioning about myself and my brother's activities for the past 10 years in Kuwait. She mentioned to them that we are in the U.S. seeking higher education. They got our addresses and more detailed information about us (see my sister's letter). My sister wrote us the complete story as to what happened to her upon her return to Jordan. She strongly warned us not to return and wished that she could join us living in the U.S.


While my sister was in Jordan she met with Murad's Dad who informed her of Murad's arrest and detention because of his past involvement in the Muslim Brotherhood and other fundamentalist activities. Murad's Dad told my sister that the

Jordanians still question our activities for the past 10 years in Kuwait and are actively seeking to arrest us.

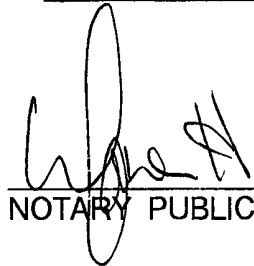
Six months ago, Murad Hilala was persecuted by Jordanian Police and was detained (see Murad's fax from India). This is evidence of what our future would be upon returning to Jordan.

Mohammed Hilala with whom I spent much time was so terrified he too filed for political asylum in California for the same reason as me and his case was approved, approval attached. We were members of the same group of the Muslim Brotherhood.

I have never tried to avoid military service when that service is without persecution and risk of my life. In the Jordanian Army non-citizen Palestinians are given the most dangerous and least desirable jobs in a very discriminatory manner. They are never promoted and often subject to arbitrary punishment including beatings and imprisonment. It is for this reason that I am afraid to go to the Army.

  
Hani Hassan El-Khader

Subscribed and sworn to  
before me this 16<sup>th</sup> day  
of December, 1994.

  
NOTARY PUBLIC



[Redacted]

**AFFIDAVIT**

being duly sworn and placed under oath do hereby state:

(b)(6)  
I was born in [Redacted]

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In 1983, my brother Hani started practicing karate with the Muslim group in the PLO center (see picture). His coach's name was Mohammed Shehata. Although I was not a team member I spend a lot of time watching my brother and supporting him and the other PLO team member. I also became good friends with the coach, Mohammed Shehata. In 1986, he traveled to Jordan and was arrested and beaten by the Jordanian officials and he was forced to release all our names. I learned of this through friends in the Muslim Brotherhood. In late 1986, or early 1987, my Dad traveled to Jordan and was arrested by Jordanian security Police and questioned about our activities and belonging to the Muslim Brotherhood and our association with the PLO . My Dad was detained for that purpose, for several weeks during which time he was threatened and held incommunicado even though he was never a member of the Muslim Brotherhood.

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*Nezam Hassan El-Khader*  
Nezam Hassan El-Khader

Subscribed and sworn to  
before me this 16<sup>th</sup> day  
of December, 1994.

*Warren H Appel*  
NOTARY PUBLIC OFFICIAL SEAL  
WARREN H APPEL  
NOTARY PUBLIC, STATE OF ILLINOIS  
MY COMMISSION EXPIRES: 02/05/98

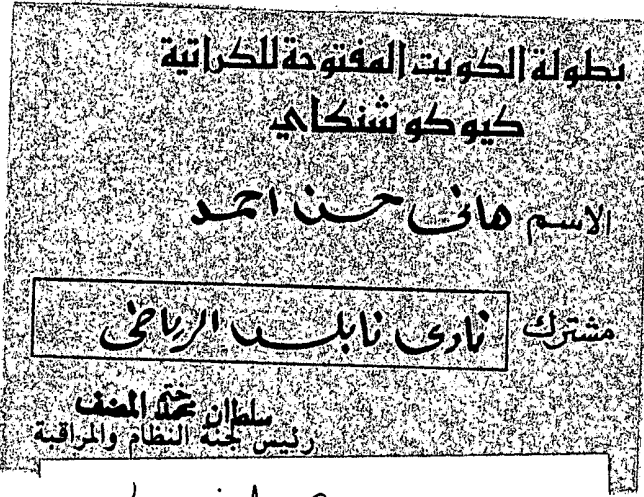
أض العزيز: نفاً هذا عنواني التام، فإذا أردت أي شيء  
 من تصليبي، أو تراهن على هذا الراتب، الصفران  
 مكتبة المنار الإسلامية لأمة الله - آل البيت  
 AL MANAR ISLAMIC BOOK SHOP  
 طباعة ونشر وتوزيع الكتب والأشرطة الإسلامية  
 Print. Publ. & Dist. Islamic Books & Casseties  
 من المكتبة  
 ص. ب. 43099  
 ح. ب. 32045  
 ص. ب. 2615045

كويت  
 ص. ب. 43099 حوالي  
 الرمز البريدي 32045  
 شارع المنى - قرب مطعم الجولان  
 تلفون ٢٦١٥.٤٥  
 Kuwait  
 P. O. Box 43099 Hawalli  
 Code No. 32045  
 Tel. 2615045  
 Almuthanna S. Near Aljulan Rest.





Nezam, Hani, Murad + 2 other  
Muslim Brotherhood Members in Kuwait



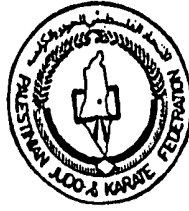
Kuwait Open  
Karate Champion

Name: Hani El-Khadey

member: Nabless Club



الاتحاد الفلسطيني للجودو  
والكاراتيه



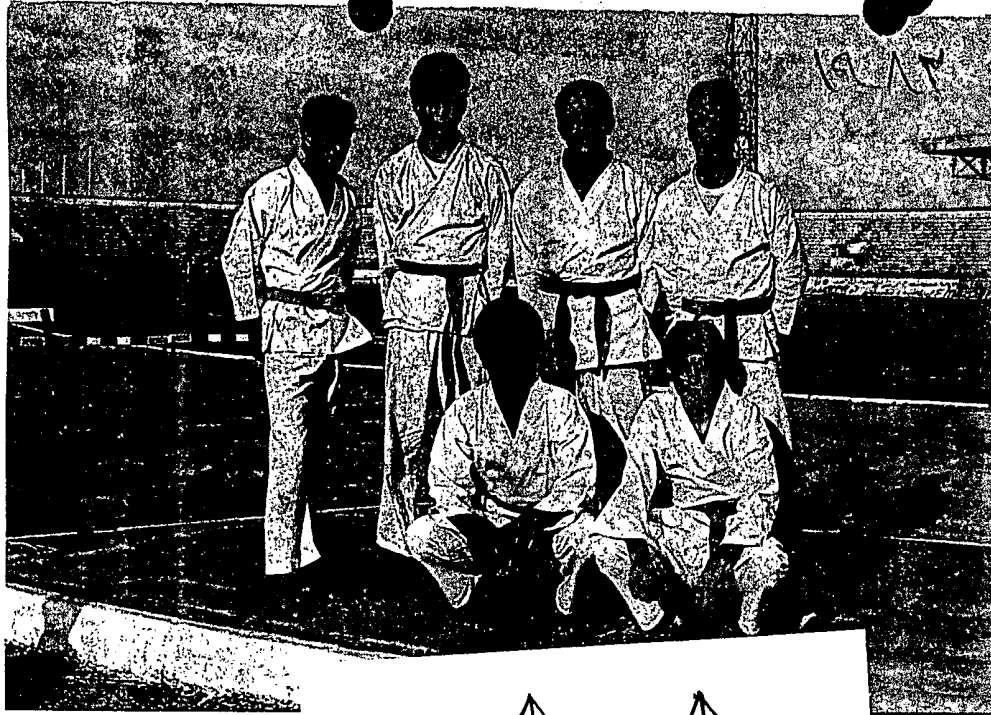
اسم اللاعب هاني حسن الخضر  
تاريخ الميلاد 1979/11/14  
تاريخ الانتساب 988/6/18  
GASSAN HAMDAN

Palestinian Karate &  
Judo Federation

Name: Hani Hasan El-Khader

Date of Birth: [REDACTED] 69

Date of membership: 6/18/88



↑                    ↑  
my                  Hani  
Coach              |  
                          my  
                          picture

(Palestine Karate Young Team)

(b)(6)

11-28-1994

My Dear Brother Nejam:-

I'm writing this letter in response to your request to tell you about what happened to me during my visit to Jordan in May, 28, 1994 to July, 17, 1994. The moment I arrived at Alia Airport in Amman, the officer at the check point asked me to wait inside the officer, after that 3 men claimed to be Jordanian Police with regular clothes took me to the headquarter of the internal secret police of Jordan building. They threw me in a jail cell for about three weeks without asking any questions, after that they started asking about my activities with the religious groups in Kuwait, and where are the other persons who were involved in these religious activities in Kuwait. I told them I was only praying in the closest mosque to my house and so everybody else. Then they started swearing at me and my religion and started beating me up with their hands and legs and spitting in my face and pulling off cigarets in my back and neck. I asked them why they were doing this to me, they told me because I'm not telling the truth. I told the truth about what they said the truth about what I'm trying to do in Jordan. I said I just came to get married and go back to school in India. and then



Then they started beating me up again with sticks, hands, office supplies, chairs, and other things I cannot remember now. Then I started crying and told them I swear that is why I'm in Jordan just to get married. and then they took me back to the jail cell for 2 days after that they brought me back in the office for more questioning, they started asking me about your father, you, your brother Hamid and about the other persons who are new in Kuwait and what they are up to, and where they are now and I told them everything I know that you and your brother go to school in the U.S.A. and your father I think still in Kuwait. After that they took me back to the jail cell and they threatened that they will let ~~me~~ a hungry dog go inside my jail cell if I do not tell the truth. then I stayed for 5 more days with nothing happening to me. and then they told me that they will let me go since I'm in Jordan for a short visit, then the next day I got out and I found that my family did not even know when I was all this time so I stayed with my family for about two weeks and I flew back to India.

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At the end I hope you would learn a lesson from my story and know that if you go to Jordan you might as well be punished just like what happened to me.

From: your Brother Murad Helaleh.

Address:



Fax :-  
Phone :-

To : NEZAM AL KUNDUK (b)(6)

Address :



PHONE :

Mohammed Hilala (b)(6)



TO: Mr. EL-Khader, Hani  
Mr. EL-Khader, NeZam.

Dear Mr. ELKhader:

I am writing Letter as an evidance to the fear of future Prosecution from both Kuwait and Jordan. We have stayed next door neighbors living in Hawalli, Kuwait for over 18 years. We have been closed friends since the age of 7, and have faced the same Prosecution from the Kuwaiti government.

Also during the last six months, my Brother Murad Hilala went to Jordan to get married, and he was Prosecuted from the Jordanian government. As you may Recall from the last time I talked to you he was questioned about his activities for the past 10 years living in Kuwait. The Jordanians have asked him about you and me since we used to belong to the muslim mosque, near the PLO Center, in Kuwait.

They question him about you, Ihab Malike, Ahmed AZAM, Khaled AZAM, and me. He mentioned to them that three of us are in the United States and he does not know any thing about us belonging to any groups. However, they prosecuted him and detained him just because we used to pray and associate with all the muslim guys from the PLO center. They asked him if he ever talked to us over phone, also mentioned if Murad Hilala still send letters 5248

to us or not.

The last time I talked to Murad Hilala, he told me if we ever decided to go to Jordan, it will be the end of our freedom. He said that they are very active in persecuting any one used or still associate with the PLO or Islamic groups. As you know, since we left Kuwait, all our friends went to different countries to pursue (college) college education. My brother went to India, Kahled AZam went to Pakistan, Ahmed AZam went to Canada and who knows where the rest of our childhood friends.

Mr. Hani, when I think about life I think about a monster like to kill or love <sup>see</sup> other people suffering. You and I and our other friend in our neighborhood who were born in Kuwait, I mean we were born in a country had never believed in us. They used to persecute us any where we go or any time they can. If Kuwaiti government used to see us walking in the street or hanging together any time at night they take us to jail and start calling us and our families the worst words you would ever heard, and start saying you fucking, Palestinian we don't want you here in our country just go back and fight for your own country. Remember Hani when we were playing soccer ball, and we were 16 years old, Kuwaiti government came with their big buses and took all of us away to jail and start persecuting us. In top of that they expell our families out of Kuwait after the war. They knew they have no place to go or any sort of living any where else. ~~is~~ Being a Palestinian is being the enemy of whole the world.

In conclusion, Muraad has cautioned us of future persecution from the Jordan side. Also feel free to call muraad. I believe that he fax Nezam a letter explaining his recent persecution in Jordan.

Hani and Nezam, if you ever need me to testify on front of the INS, I will be more than happy because this is the reality of our sad situation. We have the persecution since the day of our life, just because of our national origin unfortunately.

Good Bless you; and let me know if you need clarification or evidence. (Attached is a copy of my asylum approval).

Sincerely, *Mikhal*

(b)(6)



(b)(6)



(b)(6)

(b)(6)

(b)(6)

(b)(6)



Sunday 4/4/1941

(1)

My Dear be loving brothers: Nezam & Hani

In the beginning, I would like to thank God that who blessed us to his path.

After saying Hellow to all of you, I hope that this letter arrive to you while you are at the best of health. This letter is after I received your last letter in Kuwait.

I am writing you this letter after my arrival to Jordan of one week, till now this country is not in my desire neither its people nor its Constitution and the social welfare.

I am asking God that you still as you were in Kuwait, very careful about your religion and daily prayers. And do not hang around with bad people, always find yourselves the good and conservative guys who are very concern about their religion. I want to tell that your friends in Kuwait said hi to you and my Dad goes to the mosque and chat with them on a daily basis. My Dad still goes to the Moslam Mosque where we live in Kuwait.

Specialty, Mohammed Moneeb said to you, Issa Mael Allah, and Shak Abid Al Rahman Kalag. Now I am living with my Aunt in Al Rysarta, and she is a normal woman, doesn't care about religion but she is very nice. I wish that I could go back to Kuwait even without a job because living away from the family is very difficult and the way they treat people here is terrible.

I want to you that the Jordanian officials is looking for every conservative muslim guys who used to be active in the path of Islam in Kuwait. Even though when I entered Jordan, they asked me about my Dad, you, and the rest of the family, and if they still in Kuwait and where did they go. They took my the job from my head those dogs. I leave this to my beloved God who is watching. But I found myself forced to leave Kuwait and seek job opportunity in Jordan.

But Abo Moh'd Al Mithaloma promised me to find me a job in Al Dajani laboratory in Jordan. I am praying for God to make things easy. Please forgive me for my bad hand writing.

Your Sister                      Taha                      4/14/16                      259

الأحد ٤/٤/١٩٩٤م

بسم الله الرحمن الرحيم

وأخواني الأجداد نظام وجماني :-

في البداية الحمد لله الذي هدانا لهذا الذي كنا لنهتدي لولا أن هدانا الله ، والصلاة والسلام على رسول الله هذا الله عليه وسلم . من يهديه الله فهو المهتد ومن يضلل الله فلا يضر الله شيئاً . بعد النصيحة والأشواق الحارة في التجميع لكم أرحم أمه تفضلت هذه الرسالة بعد إرسالكم لرسائلكم الأخيرة في الكويت في تاريخ ١٢/٤/١٩٩٤م . أخواني الأجداد أكتب لكم هذه الرسالة بعد رجوعي إلى الأردن بأستودع واحد وقتها الآن لم تعجبني هذه البلاد ولا قس الناس الذين فيها ولا قس نظامهم وحياتهم الإيجابية .

أسال الله عز وجل أنكم ما تزالوا كما تركناكم في الكويت حريصين كل الحرص على دينكم ودين صلاتكم وألا تصابوا إلا بالناس والشباب الطيبين الملتزمين المحترمين الذين يحترم دينهم ونفسهم . أميت أمه أقول لكم أمه الشباب في الكويت قسائيسكم كل الإشتياق ~~و~~ والله البياض وأنا يذهب ويراهم في مسجد المسلم الذي قد هدموه ونحو مكانه مسجد كبير وعديد . لقد وصاني الوالد العزيز أمه أقول لكم أمه الشباب يسلمون بسلام كثير السلام وظاهرتهم محمد نيت والباب ملكه وتحسين حال الله والشيخ عبد الرحمن عبد الخالق وكذلك فإنه الأهم ~~أنا~~ أنا باني الآن مع فاني في الرفيفه وهم امرأة تاربه لا تهم بالدين كثيراً ولكننا طيبه كريمة ونحن ~~أنتن~~ أمه أقول لكم أمه الكويت قد بددت شغل لأمه العجزة هديته يرفق الأهل والأصدقاء والأقرباء على الطريقة التي يعاملون الناس فيها هنا سيديته صدياً .

أحب أمه أقول لكم أمه الشره الأردنيه تبحث وتبحث كل الشباب الملتزمين الذين كانوا في الكويت وذهبوا إلى الأردن ، فقد أمه المحاضرات الأردنيه عند ~~رجوعي~~ رجوعي إلى الأردن عمل الحمد الأردنيه سألوني عن الوالد ~~و~~ وكنتم . وأني باني أهلي هل هم في الكويت ما بين ذهبوا حتى أنهم ~~التزحوا~~ التزحوا المحضاب من حال رأسين هؤلاء الكلاب . حين الله ونعم الوكيل ولكن مضطر إلى ~~المجن~~ المجن في هذه البلاد .

لقد وكنتني أبو محمد المثلوني أمه يجد في شغل مما صخبر من مكان أسسه مخبرات الدجاني وأسال الله أمه سهل ويوفق المحضوع والله اتعود على الحياة الجديدة من الأردن . أرحم أمه ~~تعدون~~ تعدون على فطر لأنني كنت أكتب سره قدياً والله أفكاره كانت سلاصقه وأريد أمه أحمق بكتنا بئر . فمن التربة أرحم الرديس ياشي والسلام عليكم ورحمة الله وبركاته أفتنكم المكافئه استقهار السلام والأشواق الحارة لكم .

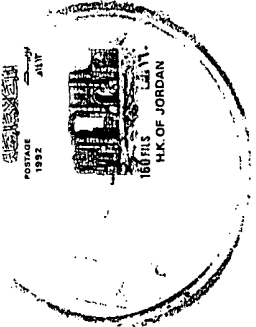
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160 FILS  
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H.K. OF JORDAN

POSTAGE  
1992  
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160 FILS  
L.A. 11  
H.K. OF JORDAN



To:

Hani Hasan EL-Khadur  
5229 Linden Rd. #7313  
Rockford, ILL 61109  
U.S.A



~~1128-818-8211~~  
~~121 544-818 (215)~~

م. هادي محمد عبد الله

# ISLAM, DEMOCRACY AND HUMAN RIGHTS: THE CONTINUING DEBATE IN THE WEST

Mahmood Monshipouri and Christopher G. Kukla

*Dr. Monshipouri and Mr. Kukla are affiliated with the Department of Political Science at Alma College in Alma, Michigan. An earlier draft of this paper was delivered at the Eleventh Annual Meeting of the American Council for the Study of Islamic Societies, Georgetown University, Washington, D.C., March 18-19, 1994. Comments made by Carl Mentley, Peter Koper, Tomas Ivan Moore and Roseanne Hoefel on a previous draft are gratefully acknowledged.*

Some have argued that although the concept of human rights originated in the West, the world should *not* renounce declaring or enforcing human rights.<sup>1</sup> R. Panikkar writes that other traditions should "develop and formulate their own homomorphic view corresponding to or opposing Western 'rights'. . . . [O]ther world traditions should make room for themselves, since no one else is likely to make it for them."<sup>2</sup> Attempts to marginalize or disparage Islamic perspectives on human rights, social justice and democracy in the name of making universal in the Muslim world practices which are Western-liberal in origin will render uncertain the future prospects of peace and stability in these countries.<sup>3</sup> Such efforts, which are described by Charles Amjad-Ali as "pseudo-universalizing," pose a direct challenge to Islamic political, moral and legal orders. The demands of the Is-

lamic world to experiment with participatory politics on a different scale—not necessarily along liberal political lines—must be respected.<sup>3</sup> Amjad-Ali, advocating a plurality of political orders and democratic views, writes, "Peace is most threatened

<sup>3</sup>Charles Amjad-Ali, "Democratization in the Middle East from an Islamic Perspective," in Elise Boulding, ed., *Building Peace in the Middle East: Challenges for States and Civil Society* (Boulder, CO: Lynne Rienner Publishers, Inc., 1994), pp. 69-77; see p. 76. Amjad-Ali writes that many factors obscure the proper comprehension of the question of democracy in an Islamic context. One such factor, among others, he notes, is the "confusion Western history has made between the proper institutional separation of church and state and its improper ontological extension to the separation of religion and politics. Officially, Islam has never had an institution like the church and a priestly class, so the separation of church and state makes no sense. Neither does the transference of the theocratic state, which was based on the power of the church and the priestly class. The separation of religion and politics makes no sense in an Islamic context, which has a hard theological and philosophical commitment to keeping the two together in order to provide the ethical and moral parameter to the political order and to show the relevance of religion in its ability to be translated in the political order." (p. 76)

<sup>1</sup>R. Panikkar, "Is the Notion of Human Rights a Western Concept?" *Diogenes*, no. 120, Winter 1982, pp. 75-102; see p. 100.  
<sup>2</sup>*Ibid.*, p. 101.

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<sup>4</sup>*Ibid.*  
<sup>5</sup>Fatima Mernissi, *Islam and the Modern World* (Bouling Company, 1992), p  
<sup>6</sup>Harvard professor o lington has offered a pa civilizations." Hunting Western ideals and act be brought into harmo lines around the world civilizations. As such, has emerged to challe and powers. See "The eign Affairs, vol. 72, n Edward W. Said, prof at Columbia Universit that "[t]his, of cours Islam are watertight every Westerner and giance. The fact is th opposite is homogenou reality that has to be a Islamic Threat," *The November 21, 1993, p*



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when the historical basis and experience of a particular people is hegemonically thrust upon others who have a completely different history and experience."<sup>4</sup>

Dialogue between different cultures is imperative if the debate on how to promote democratization as well as a holistic notion of human rights is to have cultural legitimacy. One observer has contended that the Gulf War proved that secular nationalism is bankrupt and that it is the Islamic heritage which offers to the millions of the disinherited a sense of identity and the power to struggle against *Zulm* (injustice).<sup>5</sup>

To the casual observer as well as to some scholars, it would seem that the ideals of democracy and Islam are diametrically opposed and that the schism between the two is irreconcilable.<sup>6</sup> Initially, the opposition between the ideals of Western democracy and Islamic social justice seems pronounced. Upon closer scrutiny, however, one may find many similarities that do not appear at first glance. The purpose of this paper is to discern where Islam and democ-

racy diverge and where they intersect. We will first examine the cases of Algeria, Iran, Pakistan and the Sudan as examples of current situations where the dialectic between Islam and democracy manifests itself, and then attempt to use the human-rights conditions of these countries as a basis for analysis. We will close by assessing the Western world's responses to and fears of the resurgent Islamists in the Middle East and North Africa.

### THE MEANING OF DEMOCRACY

In order to compare and contrast Islamic government and democracy, it is essential to have a clear definition of democracy itself. The ideas of two theorists, Joseph Schumpeter and David Held, represent the literature. Adopting a narrow definition, Schumpeter maintains that democracy exists only when the most powerful decision makers are elected "in fair, honest and periodic elections in which candidates freely compete for votes and in which virtually all the adult population is eligible to vote."<sup>7</sup> Applying a more comprehensive notion, Held states that democracy involves a basic principle of autonomy for individuals, a high degree of accountability of the state, socio-economic liberties for the individual citizens, and equal opportunities for political participation.<sup>8</sup>

Huntington agrees that the minimalist Schumpeterian approach is the best way to establish clear norms of democracy. He says there are five. First, the existence of free and fair elections is the basis for democracy, and the attachment of any other

<sup>4</sup>Ibid.

<sup>5</sup>Fatima Mernissi, *Islam and Democracy: Fear of the Modern World* (Boston: Addison-Wesley Publishing Company, 1992), pp. 57-59.

<sup>6</sup>Harvard professor of government Samuel P. Huntington has offered a paradigm known as "the clash of civilizations." Huntington maintains that Islamic and Western ideals and actions are in conflict and cannot be brought into harmony. The present and future fault lines around the world can be drawn between different civilizations. As such, a Confucian-Islamic connection has emerged to challenge Western interests, values and powers. See "The Clash of Civilizations?" *Foreign Affairs*, vol. 72, no. 3, Summer 1993, pp. 22-49. Edward W. Said, professor of comparative literature at Columbia University, refutes such a view, arguing that "[t]his, of course, assumes that the West and Islam are watertight categories, identities to which every Westerner and every Muslim must choose allegiance. The fact is that neither Islam nor its alleged opposite is homogenous or all-inclusive. Diversity is a reality that has to be acknowledged." See "The Phony Islamic Threat," *The New York Times Magazine*, November 21, 1993, pp. 62-65; see p. 62.

<sup>7</sup>Samuel Huntington, *The Third Wave: Democratization in the Late Twentieth Century* (Norman: The University of Oklahoma Press, 1991), p. 7.

<sup>8</sup>On the Heldian view of democracy, see Georg Sorensen, *Democracy and Democratization: Processes and Prospects in a Changing World* (Boulder, CO: Westview Press, 1993), pp. 10-11.



## MONSHIPOURI AND KUKLA: ISLAM, DEMOCRACY AND HUMAN RIGHTS

overthrown and the Ayatollah Ruhollah Khomeini returned to Iran. Khomeini had been for some time a symbol of opposition to the shah. His regime was becoming more and more unpopular, due both to the government's use of the military to repress its critics and to its use of Islam as a way to transfer populist support to movements based on secular principles. After the ayatollah gained power, he began a "program of Islamization" that culminated in the implementation of an Islamic constitution. Simultaneously, Khomeini purged the government of secularists, replaced them with Islamists, and took over the media, all of which fully consolidated his power.<sup>48</sup>

One expert wrote that the presence of a constitution did not necessarily mean that Iranian citizens' rights would be protected under the law. The Islamic groups in power used Islam to legitimize their version of human-rights protection. In the Iranian constitution, the protection of rights is laid out in a fashion similar to most constitutions. However, each right is qualified by the statement that the right can be exercised only within Islamic standards. That is to say, rights can be restricted—and in fact some are—in the name of Islamization. For instance, Article 21 of the Iranian Constitution states, "[t]he Government shall guarantee the rights of women in all areas according to Islamic standards."<sup>49</sup> However, conventional usage of Islamic standards toward women relegates them to a lower status and thus is contrary to the internationally recognized norms. Article 24 states, "[p]ublications and the press may express ideas freely, *except when they are contrary to Islamic principles*, or are detrimental to public rights. The law will provide the details."<sup>50</sup> As the law was prac-

ticed by religious clerics close to the ayatollah, whenever the press did not cooperate, it was quashed by the government in the name of Islamization, thereby reinforcing the state's power over civil society.

After the death of the ayatollah, President Ali Akbar Hashemi Rafsanjani promoted more temperate political orientations and actions in Iran and around the world. Rafsanjani has participated in actions that have increased his standing in the world community: helping to negotiate the release of hostages in Lebanon, condemning Saddam Hussein's invasion of Kuwait, and aiding in the implementation of a cease-fire in Afghanistan. All of these indicate that Iran is taking a different tack on world issues. However, several opposition leaders around the world have been killed, and some reports point to the involvement of the Iranian government,<sup>51</sup> hence the difficulty in discerning the shifting and fluid policy objectives of some Islamic factions in Iran.<sup>52</sup>

### RECENT EXPERIMENTS WITH DEMOCRACY: JORDAN

A recent case has arisen where the government has allowed Islamist groups to participate in elections without suffering a crisis of legitimacy. In Jordan, the government has retained its hold on power after a parliamentary election in which Islamist groups were allowed to participate. This is not to say that the Islamists were allowed to participate easily, as this participation was in fact an attempt by the government to break up the Islamic bloc in Parliament. In Jordan's first general elections in 1989, the

<sup>48</sup>Thomas Sanction, et al., "Terrorism: The Tehran Connection," *Time*, March 21, 1994, pp. 50-55.

<sup>49</sup>Gary Sick, "The Two Faces of Iran—Rafsanjani's Moderation and Mullah's Holy Terror," *Manchester Guardian Weekly*, vol. 148, no. 19, May 9, 1993, pp. 18-19.

<sup>48</sup>Esposito, op. cit., pp. 187-212.

<sup>49</sup>Mayer, op. cit., p. 81.

<sup>50</sup>Ibid.

## MIDDLE EAST POLICY

Muslim Brotherhood a right-wing Islamist group, won one-third of the seats in Parliament. King Hussein, concerned about a growing Islamist threat, lifted the ban on leftist parties, and spurred the formation of some twenty new parties.<sup>53</sup> The Islamic Action Front (IAF), another Islamist party, has charged that the government has tried to muzzle the Islamic parties by banning open rallies, by prohibiting the use of mosques for political campaigning, and by transferring public employees to different districts for supporting Islamist parties.

The IAF also accuses the government of harassing Islamist candidates and encouraging clergymen allied with the government to run for office. These have all been efforts to split the Islamist vote. The Supreme Court overturned the ban on political rallies, which was a major victory for the Islamists, but the ban acted as a stumbling block to the Islamists for almost a month.<sup>54</sup> The government's actions did achieve the desired goal: the Islamist vote was split. The Islamist parties, the IAF in particular, actually won fewer seats in the 1993 parliamentary elections than in the 1989 elections. The IAF won 16 seats in the 80-seat lower house, compared to the 22 seats that the Muslim Brotherhood, the essential framework of the IAF at the time, won in general elections. Analysts blame the loss of seats partly on the laws apparently passed to block the Islamist parties, but they also blame the Islamists' lack of achievements in Parliament and the loss of protest votes that they had received in the 1989 elections. Also, the Islamist parties focused their attention on promoting their views on the Arab-Israeli peace talks, while

<sup>53</sup>Lamis Andoni, "Jordan's First Party Vote Pits Tribes Against Leftists," *The Christian Science Monitor*, November 8, 1993, p. 2.

<sup>54</sup>Lamis Andoni, "Jordan Islamists Struggle to Keep Legislative Bloc," *The Christian Science Monitor*, November 2, 1993, p. 6.

the public was more concerned with domestic issues like unemployment and high prices.<sup>55</sup> In fact, after the 1989 elections, five Islamists were named to cabinet positions, but they proved to be ineffective administrators and resigned soon afterwards. Hani Hourani, head of the New Jordan Research Center, stated, "[t]hey didn't do anything special or distinguished, and they didn't give us a good idea of what they meant by their slogan 'Islam is the solution.'" <sup>56</sup>

It is difficult to counter the attractiveness of Islamic groups at the grass-roots level. Islamic activists, as seen during the strikes in Algeria, are willing to give aid to society in areas where the government often has failed to do so. Similar events have occurred in Egypt, where the government is cracking down on Islamist student groups at the universities. These groups' programs have been designed to aid those students without the resources to perform well at school. Students who do not have the expensive textbooks that their professors have written or who cannot afford the private, though illegal, tutorials given by professors do not fare well. The Islamic groups give photocopies of the texts to students, help them find their way around campus, and help them to navigate the ever-present bureaucracy. In this way, Islamists are able to recruit and entice new followers and to make their movement stronger.<sup>57</sup>

<sup>55</sup>Peter Ford, "Jordanian Vote Marks a Victory for the King and the Peace Process," *The Christian Science Monitor*, November 10, 1993, p. 3.

<sup>56</sup>Peter Ford, "Jordan's Democracy: Is It a Model For Region?" *The Christian Science Monitor*, November 12, 1993, pp. 1-4.

<sup>57</sup>Chris Hedges, "Egypt Cracking Down on Islamic Student Groups," *The New York Times*, November 28, 1993, p. 8Y.

## DEMOCRACY'S ISLAM

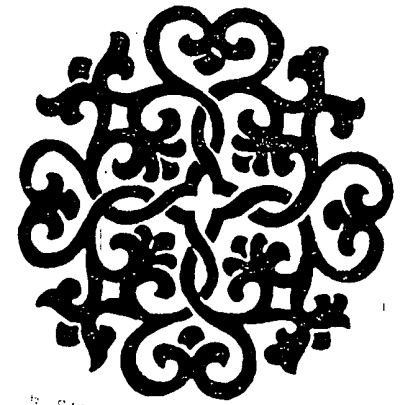
The three sets of have shown that Islam gained momentum in years. It is disturbing with major Islamic only one country, Al democratic ideals a human rights. The restricted or stifled those widely accepted ing, in order to maintain government in every they used Islam as James C. N. Paul, who demands for democratic tutional orders in Tunisia, is optimistic for Islamic states ac He states, however,

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<sup>58</sup>James C.N. Paul, "I Problems of Establishing Rights," *Cardozo Law R March 1991, pp. 1057-107*

# Middle East MONITOR



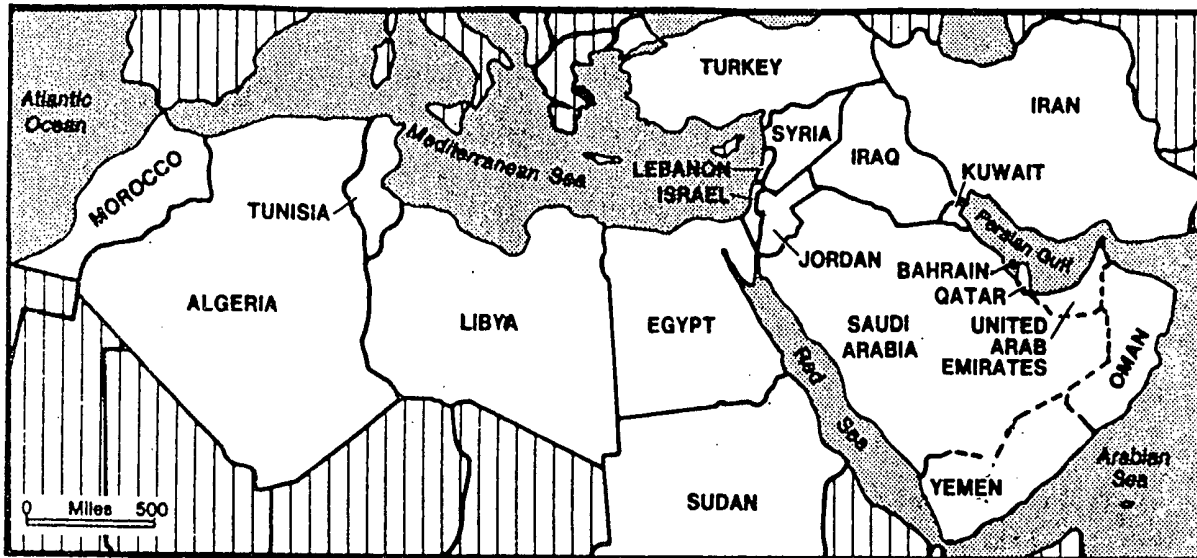
OCTOBER 1994 - VOLUME XXIV, No. 10

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MONITOR

and

MIDDLE EAST - AFRICAN  
ECONOMIST



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JORDAN AND  
ISRAEL SIGN  
A PEACE TREATY

...SYRIA AND  
THE PLO REACTION  
TO PUBLISHED  
DRAFT OF TREATY

Jordan and Israel signed a peace treaty on October 26th in a ceremony that formally establishes full diplomatic relations after more than forty years of hostility. Many Islamic fundamentalists in Jordan bitterly oppose the treaty with Israel. More than a dozen members of the Jordanian Parliament boycotted the ceremony.

President Clinton who attended the peace ceremony told King Hussein and Prime Minister Yitzhak Rabin that "the faces of terror will try to hold you back." But, he added, "We cannot, we must not, we will not let them succeed." The Wall Street Journal report said that the Middle East peace making will be far more complicated. To underscore the point, it said while Jordanian and Israeli leaders were signing the peace accord, Katyusha rockets were fired from Lebanon into northern Israel.

President Clinton told the Jordanian Parliament October 26th that the United States supports the creation of a Middle East development bank that would provide fund for projects in the region. The funding estimates were given by the Wall Street Journal to be about \$50 million a year for five years. Other nations would be expected to contribute to capitalizing the bank. President Clinton also told reporters that Overseas Private Investment Corp., which assists U.S. companies' investments in developing countries, is establishing a \$75 million fund to encourage investment in the Middle East.

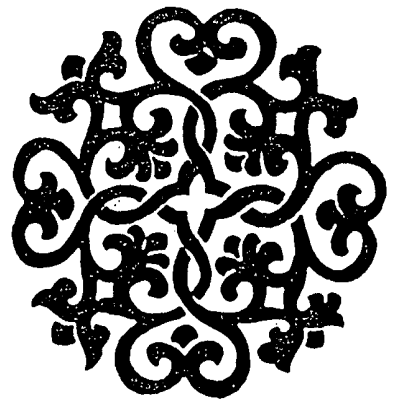
The Jordan-Israel peace treaty calls for returns to Jordan of 135 square miles of Israeli-occupied land along the southern border. But under the treaty, about one-third of the territory would be leased back to Israel. In addition, Israel, under the terms of the treaty, is to divert billions of gallons of water yearly to Jordan, which is largely arid, said the Wall Street Journal.

In reaction to the Jordan-Israeli draft peace accord on Oct. 18, President Hafez al-Assad of Syria already condemned the treaty and said Jordan committed a blasphemy by agreeing to rent part of its land back to Israel. Middle East political experts and diplomats said the treaty has effectively undermined Syria's stance in the Middle East peace talks. Mr. Assad has lost some control now that Israel and Jordan have signed. Mr. Assad believes that Arab coordinated policies would bring them a comprehensive peace in the region. Mr. Assad who traveled to Cairo for a meeting with President Mubarak told reporters that Syria would not try to obstruct peace between Israel and its Arab neighbors. But he said King Hussein has done wrong and has damaged collective action.

The Palestine Liberation Organization attacked the Israeli-Jordanian draft peace treaty and called it a betrayal of Palestinian interests. The PLO officials specially are troubled with a provision that gives Jordan a "special role" in Jerusalem. "We are most concerned about the dangerous issue of Jerusalem," said a PLO official, "any arrangement with Jordan violates the Israel-PLO agreement," that puts off negotiations on the status of city for two year.

President Clinton canceled the walking tour of Jerusalem in view of this sensitive issue.

# Middle East MONITOR



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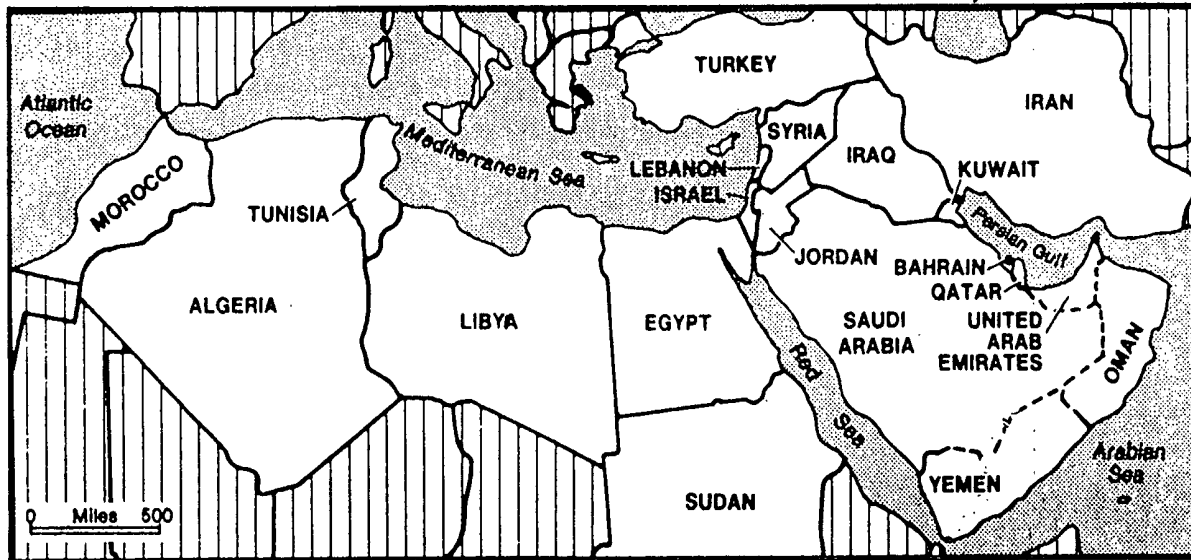
Middle East  
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MOSCOW ON  
MIDEAST MOVE IS  
HOSTING PRIME  
MINISTER RABIN  
AND PLO'S ARAFAT

Russia is showing more assertiveness to remain a major player in Middle East affairs.

With separate visits to Russia by the P.L.O. Chairman Yasir Arafat and Israeli Prime Minister Yitzhak Rabin, the first visit ever by an Israeli leader, Moscow took centerstage this month. The reception for Mr. Rabin marks a major step in normalizing relations between Moscow and Tel Aviv. Talks reportedly had focused on the peace process and the implementation of Palestinian self-rule. Foreign Ministry's Viktor Gogitidze said our relations with both sides is a "milestone event." Russian government wants to show that it has not given up this region to the Americans and Moscow still has influence in the area, the spokesman said.

PRIME MINISTER  
RABIN'S LABOR  
PARTY IS FACING  
A NEW CHALLENGE  
FROM THE LEFT

Prime Minister Yitzhak Rabin's Labor coalition which is under seige from the right has been splintered from the left of his party after his Minister of Health Haim Ramon resigned after he lost Mr. Rabin's support on a health-reform bill. Also the Labor Party suspended three members of the Knesset for disloyalty to Prime Minister.

According to press reports from Israel, Mr. Ramon is trying to forge a political coalition to challenge Mr. Rabin's supporters in next month's elections for the trade union federation, the Histadrut. The political analysts argue that former Labor's Health Minister Ramon intends to use the trade union elections to test public support for the creation of a new center-left reform party capable of challenging Prime Minister Rabin and Israel's traditional Labor party.

Prime Minister Rabin in a recent speech said " This is a grave political attempt, in the midst of a peace government, to harm it by casting doubt on its leadership." Mr. Ramon's challenge has caused considerable concern among hard-core Laborites. They say the party's fragile coalition, if weakened may, take away from support for the peace with Arabs.

KING HUSSEIN  
ON THE HAMAS  
ACTIVITIES  
IN JORDAN TAKES  
PLO'S SIDE

At a special news conference in mid-April, King Hussein of Jordan denied Israeli charges that Jordan has become a haven for the activities of Hamas, an Islamic militant group opposed to peace with Israel.

He said "We will not accept that this territory be turned into fighting grounds for the sons of Palestine or Jordan." He also asserted that the P.L.O. and not Hamas or any other Palestinian group remains the only authorized representative of Palestinians in Jordan. The Wall Street Journal report from Amman said the kingdom security agencies have closely monitored Hamas activities in Jordan for many years. Hamas has always confined itself to public relations, fund-raising and other services in Jordan. The Hamas officials said that they have never engaged in any type of military operations or planning in Jordan. Hamas leadership for the first time has set conditions for negotiating peace with Israel. They claim we will respect the wishes of a Palestinians Parliament once it is established.



**UNITED STATES DEPARTMENT OF JUSTICE  
IMMIGRATION AND NATURALIZATION SERVICE**

209 S. LaSalle St. Suite 625  
Chicago, Illinois 60604

PLEASE ADDRESS REPLY TO  
ZCH015

AND REFER TO THIS FILE NO.  
A71 846 426

**NOTICE OF INTENT TO DENY**

NOV 22 1994

Hani Hasan EL-KHADER  
5229 Linden Road, Apt. 7313  
Rockford, Illinois 61109

Dear Mr. El-Khader,

The purpose of this letter is to notify you of this Service's intent to deny your request for asylum in the United States.

In presenting your request for asylum in the United States, you claimed that you are a 24 year old male born and raised in Kuwait, who entered the United States with inspection on January 13, 1990 and was admitted as an F-1, student. You do not claim Jordanian citizenship or residency, although you possess a five-year Jordanian passport.

You fear that you will be harmed by the Kuwait government on account of your nationality.

You testified that you are a Palestinian born and raised in Kuwait. You came to the United States in 1987 to study. You said that on a return trip to Kuwait in 1989, the authorities questioned you on suspicion of PLO activities. You stated that the Kuwait authorities will not allow you to live in the country because you are not a citizen. You commented that if you resided in Jordan, you would have to serve in the armed forces, during which time you would not be allowed to leave the country.

Your testimony was believable, consistent, and sufficiently detailed. Therefore, you are found to be credible. However, the fact that you were considered credible does not in itself establish either that you were persecuted, or that you have a well founded fear of future persecution.

In order to receive asylum, an asylum-seeker must show actual past persecution or a well-founded fear of future persecution on account of race, religion, nationality, membership in a particular social group, or political opinion. 8 C.F.R. Sec. 208.13(b).

You have not claimed any past persecution. You claim to have a fear of future persecution. To establish a well-founded fear of future persecution, an asylum applicant must show that his or her fear is both subjectively genuine and objectively reasonable by

demonstrating that there is a reasonable possibility of suffering persecution. He or she must show that his/her fears are more than a matter of conjecture or speculation; he or she must show that his/her fear has a basis in fact and that persecution by the Government or some other person or entity is a reasonable possibility.

Accordingly, it is your burden to establish that:

- (1) you possess beliefs or characteristics the persecuting force seeks to overcome in others by means of a punishment of some sort;
- (2) the persecutor is already aware, or could become aware, that you possess these beliefs or characteristics;
- (3) the persecutor has the capability of punishing you; and
- (4) the persecutor has the inclination to punish you.

See Matter of Mogharrabi, 19 I&N Dec. 439 (BIA 1987). See also Matter of Acosta, 19 I&N Dec. 211 (BIA 1985).

In mid-1991, after Gulf war ended, there were widespread government abuses against Palestinians, Yemenis, Jordanians, Libyans, Sudanese because of suspected collaboration with Iraq. The incursion compelled the Government to change its residency policy which affected all foreign nationals, not only Palestinians, that were living there at that particular time. Presently, any foreigner desiring to reside in Kuwait will be granted residency permission based on the merits of their case. In 1993, a large majority of Palestinian holders of Jordanian passports left Kuwait for Jordan because of economic reasons rather than political fears. Approximately 20,000 Palestinians have been granted residency permission in Kuwait. At this juncture, it would appear you, as well as others similarly situated to you, do not have legal tenure to live in Kuwait as before, unless you qualify for such a benefit. Middle East Watch, "Nowhere to Go", October 23, 1991, vol.2, no. 12, pp. 14-21. Country Reports on Human Rights Practices for 1992, Department of State, February 1993, pp. 1032-1042. You do not have evidence to suggest that your fear of persecution in your last place of habitual residence, Kuwait, is well founded.

The question of your legal rights to reside in Jordan must be addressed. It is apparent that you are very aware that you have residency rights in Jordan, but desire not to reside there because of the required military duty, the economic situation, and the country's political instability. Although it may be true that you are not a Jordanian citizen; you do have certain legal rights to enter and reside there. Reliable sources of information indicate that Palestinian holders of a Jordanian two-year passport and the

five year passport have distinctive entitlement and protection under Jordanian law. The fact that you possess a five-year Jordanian passport is substantiated. Bearers of such document are have legal right to enter and permanently live in Jordan, even if they have never lived there before. They are entitled the same benefits as a Jordanian citizen, with exception of holding public office. It appears that firm resettlement would be offered to you upon presenting your passport to the Jordanian government.

All governments have the right to require military service of its citizens. Avoidance of military service does not ordinarily form the basis for a valid political asylum claim. Required military service is not persecution. M.A. v. INS, 899 F.2d. 305, 312 (4th Cir. 1990). You show no evidence to conclude that you would be punished for refusal to serve because of any of the five statutory grounds anymore so than any other person similarly situated.

You have not shown there is a reasonable possibility of suffering the persecution you fear.

For the foregoing reasons, you are not eligible for asylum status in the United States.

Because the Service intends to deny your asylum application, it must also determine whether you are eligible for withholding of deportation. In order to be eligible for withholding of deportation to any country, an applicant must show that "his life or freedom would be threatened in such country on account of race, religion, nationality, membership in particular social group, or political opinion." 8 U.S.C. Section 1253(h). This statutory provision requires an alien to demonstrate "it is more likely than not" that he would be subject to persecution if he returned to his native land. INS V. Stevic, 467 U.S. 407, 429 (1984). This is a more stringent standard than that required to establish eligibility for asylum.

For the reasons set out above, it is also concluded that you have not demonstrated that it is more likely than not that your life or freedom would be threatened on account of one of the five grounds. It is thus also the intent of this Service to deny your application for withholding of deportation.

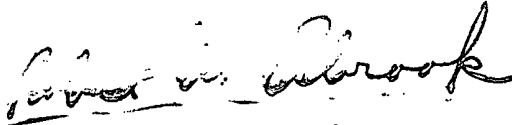
You can provide rebuttal to this notice in support of your request. You have thirty (30) days from the date of this notice to submit such rebuttal or new evidence. Failure to respond to this notice within this allotted time may result in the denial of your request for asylum.

Please direct any response to the address on this letterhead. Mark both the envelope and the contents as follows:

ATTN: ZCH 015, File No. A71 846 426

REBUTTAL

Sincerely,



Robert W. Esbrook  
Director, Chicago Office of Asylum  
for John Cummings  
Assistant Commissioner  
Refugees, Asylum, and Parole  
11/02/94

MYV

**UNITED STATES DEPARTMENT OF JUSTICE**

**IMMIGRATION AND NATURALIZATION SERVICE**

# **COVER SHEET**

## **RECORD OF PROCEEDING**

**This is a permanent record of the Immigration and Naturalization Service. Any part of this record that is removed MUST BE RETURNED after it has served its purpose.**

### **INSTRUCTIONS**

- 1. Place a separate cover sheet on the top of each Record of Proceeding.**
- 2. Each Record of Proceeding is to be fastened on the inner left side of the file jacket in chronological order.**
- 3. Any person temporarily removing any part of this record must make, date, and sign a notation to this effect which is to be retained in this record, below the cover sheet. The signer is responsible for replacing the removed material as soon as it has served its purpose.**
- 4. See AM 2710 for detailed instructions.**





U.S. Department of Justice

COPY

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Northern District of Illinois

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Direct Line: (312) 353-8788  
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June 13, 2003

Cynthia J. O'Connell, Interim District Director  
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10 West Jackson Boulevard  
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George Katsivalis, District Counsel ✓  
Department of Homeland Security  
55 East Monroe Street  
Chicago, Illinois 60603

RECEIVED INS-DC  
CHICAGO, IL  
2003 JUN 18 A 3:09

Re: *Hani El-Khader v. Brian Perryman*, 02 C 984 (N.D. Ill)  
**INS # A71846426**


Dear Counsel:

Enclosed please find a copy of the Order of April 1, 2003 dismissing the Petition for Writ of Mandamus. As of today's date I am closing my file.

If you have any questions regarding this matter, please contact me at 312-353-8788.

Very truly yours,

PATRICK J. FITZGERALD  
United States Attorney

By:   
SHEILA M. ENTENMAN  
Special Assistant United States Attorney

Enclosure



United States District Court  
Northern District of Illinois  
Eastern Division

El-Khader

JUDGMENT IN A CIVIL CASE

v.

Case Number: 02 C 984

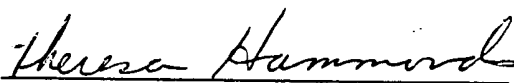
Perryman

- Jury Verdict. This action came before the Court for a trial by jury. The issues have been tried and the jury rendered its verdict.
- Decision by Court. This action came to hearing before the Court. The issues have been heard and a decision has been rendered.

IT IS HEREBY ORDERED AND ADJUDGED that Memorandum Opinion and Order is entered. Defendant's motion to dismiss for lack of subject matter jurisdiction (R-21) is granted and Plaintiff's case is dismissed with prejudice. Plaintiff's Memorandum Relating to Exhaustion of Administrative Remedies (R-19) is denied as moot.

Michael W. Dobbins, Clerk of Court

Date: 4/1/2003

  
Theresa Hammonds, Deputy Clerk

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Amy J. St. Eve	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	02 C 984	DATE	4/1/2003
CASE TITLE	El-Khader vs. Perryman		

[In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state briefly the nature of the motion being presented.]

MOTION:

DOCKET ENTRY:

- (1)  Filed motion of [ use listing in "Motion" box above.]
- (2)  Brief in support of motion due \_\_\_\_\_.
- (3)  Answer brief to motion due \_\_\_\_\_. Reply to answer brief due \_\_\_\_\_.
- (4)  Ruling/Hearing on \_\_\_\_\_ set for \_\_\_\_\_ at \_\_\_\_\_.
- (5)  Status hearing[held/continued to] [set for/re-set for] on \_\_\_\_\_ set for \_\_\_\_\_ at \_\_\_\_\_.
- (6)  Pretrial conference[held/continued to] [set for/re-set for] on \_\_\_\_\_ set for \_\_\_\_\_ at \_\_\_\_\_.
- (7)  Trial[set for/re-set for] on \_\_\_\_\_ at \_\_\_\_\_.
- (8)  [Bench/Jury trial] [Hearing] held/continued to \_\_\_\_\_ at \_\_\_\_\_.
- (9)  This case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to]  
 FRCP4(m)  Local Rule 41.1  FRCP41(a)(1)  FRCP41(a)(2).
- (10)  [Other docket entry] Enter Memorandum Opinion and Order. Defendant's motion to dismiss for lack of subject matter jurisdiction (R-21) is granted and Plaintiff's case is dismissed with prejudice. Plaintiff's Memorandum Relating to Exhaustion of Administrative Remedies (R-19) is denied as moot. Status hearing set for 4/2/03 is stricken. Any other pending dates are stricken. Any pending motions are denied as moot.  

*Amy J. St. E*
- (11)  [For further detail see order attached to the original minute order.]

<input type="checkbox"/>	No notices required, advised in open court.		2	<b>Document Number</b>
<input type="checkbox"/>	No notices required.		number of notices	
<input checked="" type="checkbox"/>	Notices mailed by judge's staff.		date docketed	
<input type="checkbox"/>	Notified counsel by telephone.		docketing deputy initials	
<input checked="" type="checkbox"/>	Docketing to mail notices.		4/1/2003	
<input type="checkbox"/>	Mail AO 450 form.		date mailed notice	
<input type="checkbox"/>	Copy to judge/magistrate judge.		TH	
<input checked="" type="checkbox"/>	Courtroom deputy's initials		mailing deputy initials	
		Date/time received in central Clerk's Office		



On April 1, 1998, Ameritrust Mortgage Corporation filed an Immigrant Petition for Alien Worker on behalf of Plaintiff seeking residence for the Plaintiff in the United States pursuant to the Immigration and Nationality Act. Ameritrust was El-Khader's employer. On August 18, 1998, the INS approved Ameritrust's petition on behalf of El-Khader. Once he obtained this approval, he was eligible to apply for permanent resident status in the United States.

On September 4, 1998, Plaintiff filed an application for permanent residence status in the United States with the INS's Nebraska Service Center based on Ameritrust's approved petition. This application is known as an "adjustment of status application." On February 3, 2000, the Nebraska Service Center informed Plaintiff that it was transferring his application to the Chicago INS "in order to speed processing." The Chicago INS thereafter instituted an investigation to determine whether El-Khader was qualified for the permanent resident visa.

As part of its investigation, the INS concluded that Plaintiff's marriage to Ms. Muna was a sham. On December 5, 2001, the INS informed Plaintiff that it intended to revoke the approved petition Ameritrust received on Plaintiff's behalf on the basis that El-Khader had previously entered into a marriage for the purpose of evading the immigration laws. The INS also denied his accompanying adjustment of status application on the same day. On May 14, 2002, Ameritrust and Plaintiff responded to the INS's notice of its intent to revoke his visa petition arguing that his marriage was legitimate.

On November 1, 2002, Defendant Perryman informed El-Khader that his visa petition would be revoked. Perryman informed El-Khader that the INS was revoking the Petition for Skilled Worker or Professional filed on El-Khader's behalf pursuant to Section 205.2 of the Immigration and Naturalization Act because the INS's investigation revealed that "the marriage

between Mr. El-Khader and Ms. Muna was a sham and was entered into for the purpose of procuring an immigration benefit.” The INS concluded that El-Khader failed to provide any evidence establishing that his marriage was bona fide. Perryman noted “[e]ven though the marriage was an arranged marriage, Mr. El-Khader failed to establish any commitment to his marital union other than filing for adjustment of status.” Accordingly, the INS revoked his petition.

Plaintiff did not file an administrative appeal of Perryman’s decision. Plaintiff now seeks this Court’s review of the INS’ decision under the Administrative Procedure Act.

### ANALYSIS

#### **I. LEGAL STANDARD**

On November 14, 2002, at the Court’s direction, Plaintiff filed a memorandum with the Court arguing that he had exhausted his administrative remedies and was properly before the Court. The INS subsequently responded to the Plaintiff’s memorandum in what amounts to a motion to dismiss the case for lack of subject matter jurisdiction under Fed.R.Civ.P. 12(b)(1). Defendant argues that the Court does not have jurisdiction to hear this case, and even if it did, Plaintiff failed to exhaust his administrative remedies thus he is not properly before the Court. Plaintiff thereafter responded to the motion.

The standard for Rule 12(b)(1) and Rule 12(b)(6) motions is similar. The Court “must accept the complaint’s well-pleaded factual allegations as true and draw reasonable inferences from those allegations in the plaintiff’s favor.” *Transit Express, Inc. v. Ettinger*, 246 F.3d 1018, 1023 (7<sup>th</sup> Cir. 2001). As the Seventh Circuit recently noted, “if the complaint is formally sufficient but the contention is that there is in fact no subject matter jurisdiction, the movant may

use affidavits and other material to support the motion.” *United Phosphorus, Ltd. v. Angus Chemical Co.*, No. 01-1693, 2003 WL 910592 at \*2 (7<sup>th</sup> Cir. Mar. 10, 2003). *See also United Transp. Union v. Gateway Western Ry. Co.*, 78 F.3d 1208, 1210 (7<sup>th</sup> Cir. 1996). The party asserting jurisdiction bears the burden of proof on a Rule 12(b)(1) motion. *United Phosphorus*, 2003 WL 910592 at \*2.

## II. JURISDICTION

The Court must first determine if it has subject matter jurisdiction to hear this case. The federal courts are courts of limited jurisdiction. “It is axiomatic that a federal court must assure itself that it possesses jurisdiction over the subject matter of an action before it can proceed to take any action respecting the merits of the action. The requirement that jurisdiction be established as a threshold matter ‘springs from the nature and limits of the judicial power of the United States’ and is ‘inflexible and without exception.’” *Cook v. Winfrey*, 141 F.3d 322, 325 (7<sup>th</sup> Cir. 1998) (quoting *Steel C. v. Citizens for a Better Environment*, 523 U.S. 83, 94, 118 S.Ct. 1003, 140 L.E.2d 210 (1998)).

Defendant argues that this Court does not have jurisdiction pursuant to Section 1252(a)(2)(B)(ii) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (“the IIRIRA”) because the Attorney General, through District Director Brian Perryman of the INS, acted within his discretion in revoking the visa petition. Plaintiff contends that Section 1252 does not apply to this case because that section only applies to removal proceedings and the INS’ decision was not discretionary.

**A. The Scope of Section 1252(a)(2)(B)(ii)**

Section 1252(a)(2)(B)(ii) provides:

Notwithstanding any other provision of law, no court shall have jurisdiction to review . . . any other decision or action of the Attorney General the authority for which is specified under this subchapter to be in the discretion of the Attorney General, other than the granting of relief under section 1158(a) of this title.

8 U.S.C. § 1252(a)(2)(B)(ii).

As an initial matter, the reference to the phrase “under this title” in Section 1252(a)(2)(B)(ii) encompasses decisions made under Subchapter II of Chapter 12 of Title 8 United States Code, and includes decisions made under 8 U.S.C. §§ 1151 through 1378. *See Avramenkov v. Immigration & Naturalization Service*, 99 F.Supp.2d 210, 213 (D. Conn. 2000). Because the District Director made his decision to revoke Plaintiff’s visa petition pursuant to Section 1155, it clearly falls within the reach of Section 1252( a)(2)(B)(ii). Accordingly, the Court must turn to the scope of Section 1252(a)(2)(B)(ii) to determine if it has jurisdiction to proceed.

Section 1252(a)(2)(B)(ii) limits a court’s jurisdiction. The first issue the Court must decide is whether this judicial stripping provision applies outside of final orders of removal issued by the INS. The Seventh Circuit has not addressed this issue. In *Iddir v. INS*, the Seventh Circuit recognized that there is a split among courts addressing this issue, but concluded that the dispute was “beyond the scope of [the court’s] narrow inquiry.” 301 F.3d 492, 497 n.1 (7<sup>th</sup> Cir. 2002).

The plain language of Section 1252(a)(2)(B)(ii), however, demonstrates that it is not limited simply to orders of removal. The statute strips a court’s jurisdiction to review “any



**other decision or action** . . . where the Attorney General has discretionary authority.” 8 U.S.C. §1252(a)(2)(B)(ii). The meaning of the statute is clear and unambiguous -- it precludes the courts from reviewing any discretionary decision of the INS. *See CDI Information Services, Inc. v. Reno*, 278 F.3d 616, 619 (6<sup>th</sup> Cir. 2002).

The Court is not persuaded by Plaintiff’s argument that the Section’s title -- “Judicial review of orders of removal title” -- limits its scope. First, Section 1252 speaks to a “multitude of jurisdictional issues, including ones that are collateral to the review of a final order of a deportation.” *Van Dinh v. Reno*, 197 F.3d 427, 432 (10<sup>th</sup> Cir. 1999). Second, the Supreme Court has explained that “Where the text [of a statute] is complicated and prolific, headings and titles can do no more than indicate the provisions in a most general manner. . . . For interpretative purposes, they are of use only when they shed light on some ambiguous word or phrase. They are but tools available for the resolution of a doubt. But they cannot undo or limit that which the text makes plain.” *Trainmen v. Baltimore & Ohio R.R.*, 331 U.S. 519, 528-29, 67 S.Ct. 1387, 91 L.Ed. 1646 (1947). *See also CDI Information Services*, 278 F.3d at 620; *Van Dinh*, 197 F.3d at 432.

Accordingly, the Court finds that the judicial review limitations in Section 1252 are not limited to those made in removal proceedings. *See CDI Information Services*, 278 F.3d at 620 (Section 1252(a)(2)(B)(ii) is “not limited to discretionary decisions made within the context of removal proceedings”); *Van Dinh*, 197 F.3d at 432 (“§1252(a)(2)(B)(ii) is not limited in application only to review by the circuit courts of final orders of removal”); *ANA International, Inc. v. Way*, No. Civ. 02-479-BR, 2002 WL 31971575 at \*15 (D. Or. Dec. 6, 2002) (“Section 1252(a)(2)(B)(ii) expressly precludes judicial review of discretionary decisions of the Attorney

General made pursuant to his authority under the INA”); *Avramenkov v. INS*, 99 F.Supp.2d 210, 214 (D. Conn. 2000) (Section 1252(a)(2)(B)(ii) “is not limited to final orders of deportation”); *Curri v. Reno*, 86 F.Supp.2d 413, 419 (D.N.J. 2000) (same). *But see Talwar v. INS*, No. 00 Civ. 1166 JSM, 2001 WL 767018 (S.D.N.Y. July 9, 2001) (holding that Section 1252(a)(2)(B)(ii) is limited to orders of removal); *Shanti v. Reno*, 36 F.Supp.2d 1151, 1157-60 (D. Minn. 1999) (same).

**B. The Discretionary Nature of the INS’s Actions**

Having concluded that Section 1252(a)(2)(B)(ii) divests the Court of jurisdiction to hear the case if the INS’s actions were discretionary, the Court now turns to whether the actions in this case were in fact discretionary. Plaintiff argues that the INS’s actions under Section 1155 were factual determinations, not discretionary ones. Plaintiff argues that the INS’ decision was not discretionary because the INS revoked Plaintiff’s visa petition based on its factual finding that Plaintiff committed marriage fraud. This factual finding, according to Plaintiff, nullifies the INS’ discretion.

Section 1155 provides that “[t]he Attorney General may, at any time, for what he deems to be good and sufficient cause, revoke the approval of any petition approved by him under section 1154 of this title.” 8 U.S.C.A. § 1155. The plain language of this provision gives the Attorney General discretion to revoke a petition when he deems it appropriate based on good and sufficient cause. “[N]o strict standards exist to determine when ‘good and sufficient cause’ is present.” *Systronics Corp. v. INS*, 153 F.Supp.2d 7, 12 (D.D.C. 2001).

Plaintiff suggests that 8 U.S.C. § 1154(c) provides the Court with a standard to review decisions under Section 1155. Section 1154(c) provides that “no petition shall be approved if . . .

the Attorney General has determined that the alien has attempted or conspired to enter into a marriage for the purpose of evading the immigration laws.” 8 U.S.C. § 1154(c). Plaintiff contends that Section 1154(c) limits the INS’ authority to deny a petition to those cases where it determines that an alien entered into a marriage for the purpose of evading the immigration laws.

The Court is not persuaded by this argument. Section 1154(c) does not address the revocation of a petition, it only applies to the denial of a petition. The INS’ reference to the marriage fraud provision of Section 1154(c) as the basis for its “good and sufficient” cause does not alter the fact that the INS revoked the visa petition based on its authority under Section 1155. *See ANA International*, 2002 WL 31971575 at \*15 (“The INS’s determination to revoke for good and sufficient cause its prior approval of Plaintiff ANA’s immigrant visa petition on behalf of Plaintiff Yu [pursuant to Section 1155] was a discretionary decision. The Court, therefore, lacks subject matter jurisdiction to review that decision pursuant to § 1252(a)(2)(B)(ii).”).

The INS exercised its discretion in revoking Plaintiff’s visa petition pursuant to Section 1155, and thus, the Court does not have jurisdiction to hear Plaintiff’s case.<sup>1</sup>

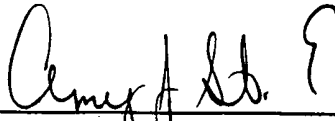
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<sup>1</sup> Defendant also argues that this Court does not have jurisdiction pursuant to Section 1252(g) of the Illegal Immigration and Nationality Act, and that the this Court lacks jurisdiction because Plaintiff failed to exhaust his administrative remedies. Because this Court concludes that it lacks jurisdiction to review the INS’ decision in light of Section 1252(a)(2)(B)(ii), the Court need not address these arguments.

CONCLUSION

Because this Court lacks jurisdiction in light of Section 1252(a)(2)(B)(ii), Defendant's motion to dismiss is granted. Plaintiff's complaint is dismissed with prejudice.

DATED: April 1, 2003

  
\_\_\_\_\_  
AMY J. ST. EVE  
United States District Court Judge

01/15/2003 16:25 F

I & N S EXAMS

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CONNECTION ID		
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PGS. SENT	9	
RESULT	OK	

**INS FACSIMILE**



Department of Justice  
U.S. Immigration & Naturalization Service  
10 West Jackson Blvd.  
Chicago, Illinois 60604

TO: Sheila

TELEPHONE

FAX

PAGES INC. COVERED

FROM: Lisa Zamora

TELEPHONE

FAX

COMMENTS:

Dani El-Khadar Case

*Per Sheila  
Enterman -  
Subject appears  
to be stuck  
outside of U.S.*

*No appeal  
was rec'd  
J. Zamora*

**INS FACSIMILE**



**Department of Justice  
U.S. Immigration & Naturalization Service  
10 West Jackson Blvd.  
Chicago, Illinois 60604**

(b)(6)

TO:

*Shado*

[Redacted box]

TELE:

FAX:

PAGES INC. COVER: *9*

FROM:

*Lisa Zamora*


TEL:

FAX:

[Redacted box]

(b)(6)

COMMENTS:

*Dani El-Khadar Case* 



U.S. Department of Justice  
Immigration and Naturalization Service

A71 846 426

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10 West Jackson Blvd.  
Chicago, Illinois 60604

OCT 31 2002

Ameritrust Mortgage Corporation  
C/O: Ms. Sandy Heuer  
284 Virginia Street  
Crystal Lake, IL 60014

CC: Attorney David Rubman  
332 S. Michigan Avenue, Ste #860  
Chicago, IL 60604

**NOTICE OF DECISION TO REVOKE APPROVED PETITION FOR SKILLED  
WORKER OR PROFESSIONAL**

Dear Ms. Heuer,

Upon due consideration, it is the decision of the Service to revoke the approved Petition for Skilled Worker or Professional filed on behalf of Hani El-Khader. On April 1, 1998, your company, Ameritrust Mortgage Corporation, filed an Immigrant Petition for Alien Worker on behalf of Hani H. El-Khader, seeking classification pursuant to Section 203(b)(3)(A)(i) or (ii) of the Immigration and Nationality Act. This petition was approved on August 18, 1998. On December 5, 2001, the Service notified you of its intent to revoke the approved petition.

8 Code of Federal Regulations, Section 205.2 states:

(a) General. Any Service officer authorized to approve a petition under section 204 of the Act may revoke the approval of that petition upon notice to the petitioner on any ground other than those specified in Section 205.1 when the necessity for the revocation comes to the attention of the Service.



Ms. Heuer

Page 2

Section 204 (c) of the Immigration and Naturalization Act states, in pertinent part:

No petition shall be approved if (1) the alien has previously been accorded, or has sought to be accorded, an immediate relative or preference status as the spouse of a citizen of the United States or the spouse of an alien lawfully admitted for permanent residence, by reason of a marriage determined by the Attorney General to have been entered into for the purpose of evading the immigration laws or (2) the Attorney General has determined that the alien has attempted or conspired to enter into a marriage for the purpose of evading the immigration laws.

The record shows that Mr. El-Khader first entered the United States on December 27, 1988 as a student (F-1). Mr. El-Khader filed for political asylum in the United States, which was later denied. On January 11, 1995, Mr. El-Khader was placed into deportation proceedings before the Executive Office for Immigration Review.

While in deportation proceedings, Mr. El-Khader filed for a nonimmigrant worker visa (H1B), which was approved. Mr. El-Khader departed the United States to pick up his approved nonimmigrant visa at the U.S. Consulate in Ciudad Juarez, Mexico. Mr. El-Khader returned to the United States on this visa and attended his final deportation hearing. On August 19, 1995, his deportation proceedings were terminated due to his departure and reentry on the H1B visa. Mr. El-Khader worked for his H1B petitioner, Amcore Financial, Inc. until December 1997.

On May 9, 1997, Mr. El-Khader married Nadia Muna. Based upon this marriage, Mr. El-Khader attempted to become a legal permanent resident of the United States by filing an adjustment of status application concurrently with a Petition for Alien Relative filed on his behalf by his spouse. Mr. El-Khader and Ms. Muna divorced on October 27, 1998. Therefore his adjustment application and petition were denied on May 13, 1999 due to the divorce.

The current Immigrant Petition for Alien Worker (Form I-140) was filed on behalf of Mr. El-Khader on March 13, 1998, and was approved on August 17, 1998. Mr. El-Khader filed another adjustment application on September 17, 1998.

Mr. El-Khader's two Immigration files were consolidated and reviewed. One file contained Mr. El-Khader's application for immigration benefits based upon his marriage to Ms. Muna and the other based upon his offer of employment with your company. Upon review of the record, the Service had reason to believe that Mr. El-Khader's marriage to Ms. Muna was a sham marriage, entered into solely to procure an immigration benefit. The consolidated file was transferred to the Service's investigations branch for further review.

On March 20, 2001, INS Special Agents conducted a field investigation into the marriage between Mr. El-Khader and Ms. Muna. The agents discovered that this marriage was never consummated and that Mr. El-Khader and Ms. Muna never cohabited as husband and wife. The agents also discovered that there were no joint marital assets established to indicate that this was a bona fide marriage.

Mr. El-Khader made it appear on paper, that his spouse Nadia was living with him. Mr. El-Khader now claims that he used his address for his wife because it was her legal address. However, her legal address was with her parents, as she never lived with Mr. El-Khader even though he attempted to make it appear that she did. Mr. El-Khader furthered this deception when he made a statement and attached it to his I-140 petition in March of 1998. In this statement, Mr. El-Khader informed the Service that he had previously filed for adjustment of status based upon a petition filed by his spouse and that the application was still pending at the time. Mr. El-Khader stated:

“I have filed an adjustment of status application last year through my former US Citizen spouse. However, we are now separated and do not live together anymore, she is now filing for an annulment and a legal divorce.”

Mr. El-Khader stated, in his own words that he and his spouse were separated and were not living together anymore. Yet, they had never lived together. Mr. El-Khader was trying to convince the Service that he had a bona fide marriage and that he and his spouse had recently stopped living together.

During the investigation, Ms. Muna stated that she believed that she was participating in an engagement ceremony and not a marriage ceremony on May 9, 1997. However, rather than an engagement ceremony being conducted on this date, a marriage license was procured and the Imam of the Milwaukee Muslim Center conducted a marriage ceremony. Even the divorce decree indicates Ms. Muna's understanding that she was participating in a engagement ceremony. The Marital settlement agreement stipulated that Mr. El-Khader must return to Ms. Muna his album of the engagement party pictures, the copy of the album of the engagement party pictures with her family in Jordan, the two videocassettes of the engagement party, and all negatives of all pictures. There were no debts or property to divide as this couple never commingled their finances.

The investigation revealed that the marriage between Mr. El-Khader and Ms. Muna was not consummated and that she and Mr. El-Khader never lived together. None of the trappings of a bona-fide marriage were present. Yet, Mr. El-Khader attempted to procure immigration benefits through this marriage.

In response to the Service notice of intent to revoke the approved petition, Mr. El-Khader submitted through his attorney, the following evidence:

1. An affidavit of Hani-El-Khader

Ms. Heuer

Page 4

2. Affidavits from Amin Amer, Ahmad Ali, Mary Fitzgerald, Talal Razick, Hassan Baalbaki, Emad Salem and Jawdat and Majida Muna.
3. Affidavit of Dr. Ahmad Sakr, professor of Islamic Religion.
4. Copy of H1-B visa and approval notices.
5. Photos of the marriage party and a photo of Mr. El-Khader with family in Amman.

The central question is whether the bride and groom intended to establish a life together at the time they were married. See, e.g., *Bu Roe v. INS*, 771 F.2<sup>nd</sup> 1328 (9<sup>th</sup> Cir. 1985); *Bark v INS*, 511 F. 2d 1200 (9<sup>th</sup> Cir. 1975); *Matter of Soriano*, 19 I&N Dec. 764 (BIA 1988); *Matter of Lureano*, 19 I&N Dec. 1 (BIA 1983); *Matter of McKee*, 7 I&N Dec. 332 (BIA 1988). In determining whether a marriage is a sham or fraudulent for immigration purposes, the conduct of the parties before and after the marriage is relevant to their intent at the time of the marriage. *Lutwak v U.S.*, 344 U.S. 604 (1953); *Garcia-Jaramillo v. INS*, 604 F.2d 1236 (19th Cir. 1979); *Bark v INS*, supra; see *Matter of Soriano*, supra.

In visa petition proceedings, the burden is on the petitioner to establish eligibility for the benefits sought. In the *Matter of Brantigan*, 11 I&N Dec. 493 (BIA 1996). The burden on the petitioner in visa petition proceedings is usually that of a preponderance of evidence. *Matter of Soo Hoo*, 11 I&N Dec. 151 (BIA 1965).

According to the Service's investigation, the marriage between Mr. El-Khader and Ms. Muna was a sham and was entered into for the purpose of procuring an immigration benefit. The documents submitted by Mr. El-Khader have been considered. Although Islamic marriage customs may differ than those traditionally found in the United States, Mr. El-Khader has not submitted any evidence to establish a bona fide commitment to Ms. Muna during the entire course of their marriage. It is this relationship upon which Mr. El-Khader was seeking to adjust status.

Mr. El-Khader outlines in his affidavit the few times that he visited his spouse. Yet, he failed to show any level of commitment to her with the exception of a few claimed gifts, a deferred dowry and a marriage contract. Mr. El-Khader listed his spouse as living with him and claimed this information to be true on more than one occasion to the Service. Yet, they had never lived together, never consummated the marriage and had no commingling of personal property, liabilities or finances

Mr. El-Khader did not present any documentation to indicate that he and his spouse had any joint savings or checking accounts or any liabilities, such as joint credit cards. Mr. El-Khader did not even provide evidence of medical, health or car insurance for his spouse during their marriage.

Ms. Heuer

Page 5

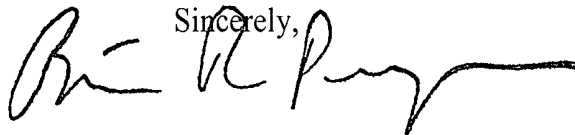
Mr. El-Khader simply listed Ms. Muna as his spouse, then tried to convince the Service that they were living together, had problems and then stopped living together. Now, Mr. El-Khader admits that they did not live together and that they did not consummate the marriage through a mutual agreement based upon Islamic marriage customs. Mr. El-Khader did not establish that he had any commitment to his spouse other than a few claimed visits and a marriage contract. Yet, Mr. El-Khader attempted to procure an immigration benefit through this fraudulent marriage and attempted to make it appear that he and his spouse had resided together.

The Service has considered the affidavits and information provided on the Islamic culture. However, this evidence has not overcome the Service's intent to revoke the approved petition. The bottom line is that Mr. El-Khader led the Service to believe that he and his spouse lived together and had a bona fide marital relationship. Even though the marriage was an arranged marriage, Mr. El-Khader failed to establish any commitment to his marital union other than filing for adjustment of status. The marriage was never consummated. Therefore, it is the decision of the Service that this petition be revoked as of the date of approval.

You may file an appeal on this decision. You must file your appeal within fifteen (15) calendar days from the date of this notice, (18 days if this notice was received by mail). If no appeal is filed within the time allowed, this decision is final. Enclosed is the Form EOIR 29 for your convenience.

If an appeal is desired, the Notice of Appeal shall be executed and filed with this office, together with the required fee. A brief or written statement in support of your appeal may be submitted with the Notice of Appeal.

Sincerely,

A handwritten signature in black ink, appearing to read "Brian R. Perryman", written over the word "Sincerely,".

Brian R. Perryman  
District Director

Department of Justice  
 Migration and Naturalization Service

Notice of Appeal to the  
 Administrative Appeals Unit (AAU)

Important: See instructions on other side.

Fee Stamp

In the Matter of:

File Number:

I am filing an appeal from the decision dated:

\_\_\_\_\_

Please check the one block which applies:

- I am *not* submitting a separate brief or evidence.
- I *am* submitting a separate brief and/or evidence with this form.
- I am sending a brief and/or evidence *to the AAU* within 30 days.
- I need \_\_\_\_\_ days to submit a brief and/or evidence to the AAU. (*May be granted only for good cause shown. Explain in a separate letter.*)

**Person Filing Appeal**

SIGNATURE \_\_\_\_\_

Name \_\_\_\_\_

Address \_\_\_\_\_

Number

Street

City

State

ZIP Code

Date \_\_\_\_\_

- I am an attorney or representative, and I represent:

\_\_\_\_\_  
 Person and/or organization for whom you are appearing

You must attach a Notice of Entry of Appearance (Form G-28) if you are an attorney or representative and did not submit such a form before.

Briefly, state the reason(s) for this appeal:

INSTRUCTIONS



Notice of Appeal to the Administrative Appeals Unit (AAU)

U.S. Department of Justice  
Immigration and Naturalization Service

4. Brief. You do not need to submit a brief in support of your appeal, but you may submit one. Or you may submit a simple written statement instead. You may also submit evidence.  
You may submit a brief, statement, and/or evidence with this form. Or you may send these materials to the AAU within 30 days of the date you sign this form. You must send any materials you submit after filing the appeal to:

Administrative Appeals Unit  
Immigration and Naturalization Service  
425 Eye Street, N.W.  
Washington, D.C. 20536

If you need more than 30 days, you must explain why in a separate letter attached to this form. The AAU may grant more time only for good cause.

5. Oral Argument. You may ask for oral argument before the AAU in Washington, D.C., in a separate letter attached to this form. The letter must explain specifically why oral argument is necessary.  
If your request is granted, the AAU will write to you about setting the date and time. Oral argument is normally limited to fifteen minutes. The government does not furnish interpreters for oral argument.

6. Visa Petition Beneficiary. If you are the beneficiary of a visa petition or the beneficiary's attorney or representative you may not file an appeal on this form. When a decision on a petition may be appealed, the petitioner, an authorized official of a petitioning corporation, or the petitioner's attorney or representative must sign this form. (The only exceptions are the beneficiaries of third preference and Public Law 97-359 Amerasian petitions. These beneficiaries may file appeals on this form.)

1. Filing. You must file your appeal with the Immigration and Naturalization Service (INS) office which made the unfavorable decision within 30 calendar days after service of the decision (33 days if your decision was mailed). The date of service is normally the date of the decision. Do not send your appeal directly to the Administrative Appeals Unit (AAU). Submit an original appeal only. Additional copies are not required.

2. Fee. You must pay \$110.00 to file this form. (You only need to pay one fee of \$110.00 if two or more aliens are covered by the unfavorable decision.) The fee will not be refunded, regardless of the action taken in your case. DO NOT MAIL CASH. All checks or money orders, whether U.S. or foreign, must be payable in U.S. currency at a financial institution in the United States. When a check is drawn on the account of a person other than yourself, write your name on the face of the check. If the check is not honored, INS will charge you \$5.00.  
Pay by check or money order in the exact amount. Make the check or money order payable to "Immigration and Naturalization Service." However, A. if you live in Guam, make the check or money order payable to "Treasurer, Guam," or B. if you live in the U.S. Virgin Islands, make the check or money order payable to "Commissioner of Finance of the Virgin Islands."

3. Attorney or Representative. You may, if you wish, be represented, at no expense to the government, by an attorney or other duly authorized representative. Notice of Entry of Appearance (Form G-28) that your attorney or representative must submit with this notice is available at INS offices.





U.S. Department of Justice  
Immigration and Naturalization Service

A71 846 426

10 West Jackson Blvd.  
Chicago, Illinois 60604

OCT 31 2002

Hani H. El-Khader  
POB 1644  
Highland Park, IL 60035

CC: Attorney David Rubman  
332 S. Michigan Ave, Ste #860  
Chicago, IL 60604

**DECISION TO DENY APPLICATION FOR ADJUSTMENT OF STATUS**

Dear Mr. El-Khader,

Upon due consideration, it is the decision of the Service to deny your adjustment of status application. On September 17, 1998, you filed for adjustment of status based upon an approved Petition for Immigrant Worker filed on your behalf by Ameritrust Mortgage Corporation seeking classification as a skilled worker.

On December 5, 2001, the Service notified your petitioner of its intent to revoke your approved petition. You responded to the Service's notice of intent to revoke. However, the Service has revoked your approved Petition for Immigrant Worker.

In accordance with part 205 of this chapter, the petition filed on April 1, 1998, by Ameritrust Mortgage Company, on behalf of Hani El-Khader has been revoked, pursuant to 8 CFR 205.2. As the petition filed on your behalf has now been revoked, the basis for your adjustment application no longer exists. Therefore, your application for adjustment of status must be and is hereby denied.

Furthermore, 8 CFRa.12(c)(9) allows an alien who has filed an application to adjust status to lawful permanent resident pursuant to section 245 to obtain employment authorization

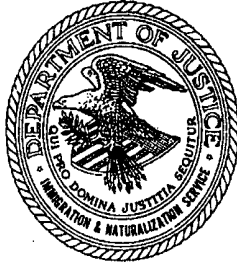
Mr. El-Khader  
Page 2

during the period the application is pending. However, now you are no longer eligible for employment authorization as of the date of this decision because your application for permanent residence is no longer pending

Sincerely

A handwritten signature in black ink, appearing to read "Brian R. Perryman", with a long horizontal flourish extending to the right.

Brian R. Perryman  
District Director



**INS FACSIMILE**

**Department of Justice  
U.S. Immigration & Naturalization Service  
Correspondence Unit  
10 West Jackson Blvd.  
Chicago, IL 60604**

**TO:** Sheila Entenman

**TELEPHONE #** \_\_\_\_\_ (b)(6)

**FAX #** \_\_\_\_\_

**PAGE INC. COVER:** 0

**FROM:** D. Williams

**TELEPHONE #** \_\_\_\_\_

**FAX #** \_\_\_\_\_

(b)(6)

**COMMENTS:** Re: A-71 846 426

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

# I-485 Processing Worksheet

## I-485 Processing Worksheet

A-Number:

"Riding With" Files:

Special Handling:	Due Date
Age Out	<input type="text"/>
Fiance(e)s (CF-1)	<input type="text"/>
Other:	<input type="text"/>

G-28 Filed

Basis for Eligibility:

Family-Based     Employment-Based     Other: \_\_\_\_\_

Application accepted as properly filed.  
 (Correct Fee or Fee Waiver, Signature, Jurisdiction, Visa Availability)

Initial / Date

Other Filings     I-485 Supplement A Filed     I-130 Filed    I-131    I-765 Filed

Initial Evidence Received

Case Denied for Lack of Prosecution

File placed in Record of Proceeding Order

I-181 Created and Sent

G-325A Copy Sent (If Applicable)

Visa Petition / Diversity Visa File Requested

Scheduled for Fingerprinting     Waived

A-File(s) Received, verified as pertaining to applicant

Fingerprint Result:     Control Number     Process Date

Second Result:     Control Number     Process Date

RAP Sheet / Other Investigative Information Interfiled

Potentially Disqualifying Criminal History in Record\*

I-601/I-602 Filed     Approved     Denied

Interview     Waived     Failure to Appear

Withdrawn

Continued (Note: Complete Processing Sheet page 2)

Approved

Denied     Discretionary\*     Certified

EOIR Jurisdiction (Interview terminated and sent to Litigation)

Reinstatement of Removal (Interview terminated and file forwarded)

Supervisory Review (\* denotes that this item requires a Supervisory Review)

Comments:

10/29/12