

Exhibit C

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Investigations

ICE indefinitely holds man facing no charges in high-stakes asylum case

If he's deported to Afghanistan, he expects the Taliban to kill him. The Trump administration says he remains under a "National Security" investigation.

November 6, 2025

9 min

Summary



H's wife and their son watch his asylum hearing online. (Carolyn Van Houten/The Washington Post)



By [John Woodrow Cox](#)

An Afghan man who has been detained for nearly four months, despite being charged with no crime, will remain behind bars indefinitely after his asylum case was delayed once again last week.

Though the man has lived in the United States for more than four years and been repeatedly vetted by federal authorities, a Department of Homeland Security attorney announced in court that the government has not finished his background check and could not estimate when it

would. Investigators have now asserted he poses a “potential threat” to national security.

At the Friday hearing in Virginia, a frustrated immigration judge acknowledged that, by law, she doesn’t have the option to grant the father of two asylum without a finalized check.

“The department’s going on a fishing expedition trying to dig up whatever they can,” his lawyer, Amin Ganjalizadeh, argued in court.

“I share counsel’s concern,” the judge told the government’s attorney, Joseph Dernbach. “You can’t give me a timeline.”

Dernbach asked that the case be delayed another 30 days, and though the judge cannot force the government to complete the background check by a certain deadline, she instructed him to update the court on its status by Nov. 14.

The man, whom The Washington Post is identifying as H due to concern for his safety, could petition a federal court to intervene, but that process can take months.

“The judge is in a bind,” said Dana Leigh Marks, who presided over immigration courts for 35 years. Even if immigration judges believe the government has acted in bad faith or intentionally stalled, Marks said, they’re not empowered to hold prosecutors in contempt.

H has sought asylum because he publicly supported the U.S. cause in Afghanistan and he fears the Taliban will kill him if he’s deported. Before a military plane rescued him and his wife in August 2021, he worked for a U.S.-based nonprofit and attended the American University of Afghanistan in Kabul. In America, the couple was given humanitarian parole and moved in with his brother, a naturalized citizen who risked his life as an interpreter for the U.S. Army.

In July, Immigration and Customs Enforcement officers arrested H on his way to work at an accounting firm. The arresting officer, H said, claimed his immigration documents had lapsed, but federal records show his humanitarian parole wasn’t scheduled to expire for weeks.

Read more: He supported the U.S. war in Afghanistan. Now he may be deported to the Taliban.

Last month, The Post published an investigation of the arguments and evidence Homeland Security presented at H's first hearing, much of which centered on the contention that he could be safely deported to a regime so brutal and repressive the U.S. refuses to recognize it. The Post found that key elements of the government's case were misleading.

Late on the afternoon before the second hearing, Homeland Security filed a two-page, unsigned memo from the FBI stating that H was under a "National Security investigation" and the agency considers him "a potential threat."

The document referenced people H knew in Afghanistan who have been associated with terrorist groups, but it did not accuse him of any wrongdoing, crime or act of terrorism. The judge noted that H had testified at length about his connections to those people, who he says were introduced into his life through no choice of his own. He told the court he hadn't spoken to them in about a decade, well before he learned of their alleged affiliation through a news report in Afghanistan.

To protect H and his family's safety, The Post cannot divulge specifics, but he has also shared details in sworn affidavits, interviews with a reporter and, he says, lengthy discussions with federal investigators.

Such ties are not unusual, according to two Afghan experts. Terrorist groups flourished in the country for decades and, after the U.S. withdrawal, the Taliban seized control of all 34 provinces. But any association, no matter how distant, could derail an asylum claim.

In a line from the memo his attorney called "inconsistent, unclear, and incoherent," the government also states that H is associated with numerous "counterterrorism" subjects. The Post asked Homeland Security and the FBI why the memo notes that he has multiple connections to people who combat terror.

Neither agency responded to questions about the memo or its allegation that he is a potential threat.

The judge, whom The Post is not naming to protect H's identity, questioned Dernbach about the timing of the filing. She noted that the memo's date suggests Homeland Security held onto the document for three days until submitting it just prior to close of business the afternoon before the Oct. 31 hearing.

“I filed it yesterday because that’s when I received it,” Dernbach said.

“So the FBI did not give it to you until yesterday, right before you filed it?”

“Through the chain of command, I received it yesterday,” Dernbach responded, though he did not reveal who gave him the memo.

“And it’s not signed,” the judge noted. “There’s no author.”

“All I can say is the memo that I filed is how I received it,” the attorney said.

Dernbach, who scrutinized H’s past connections at the second hearing, said he intended to oppose asylum based on at least three points. H, he alleged, lacks credibility, hasn’t proved he legally deserves asylum and is a danger to America.

The judge did not offer an opinion on those first two assertions, but she questioned whether Homeland Security had established H was a danger.

“He hasn’t testified to anything that would make him a national security interest,” the judge said.

Dernbach told the court he intended to explain his case in written closing arguments, which are due in the coming weeks.

The stakes of the case extend to tens of thousands of asylum seekers from Afghanistan whom President Donald Trump’s administration may seek to purge. If an immigration appellate board dominated by Trump appointees ultimately sides with Homeland Security, legal experts say the case could set a precedent with sweeping consequences.

After prosecutors asked H more than 400 questions across two hearings, the judge revisited the interviews he says he gave the FBI while in detention. The first, he testified, came immediately after his arrest.

“When you spoke to the FBI agents on three occasions, you always spoke to them freely?” the judge asked. “You knew that an attorney could be present, but you chose to talk to them?”

“Yes, they said you have the choice to not talk right now. If you don’t want, you can leave,” replied H, who testified over video from the

detention center. “But I didn’t need to leave. I’m honest for this government, for this people, for this country.”

For H’s safety, The Post cannot detail the specifics of their conversations, but he told the court that the agents, who were always warm and welcoming, thanked him for cooperating, said his bookkeeping job would be waiting for him when he got out, asked if they could bring him tacos and, in their last meeting, promised he would soon receive “good news.” He never did.

The judge asked if the interviews were recorded, and H said he believed they were.

In H’s earlier hearing on Oct. 16, another government attorney, Xiao Yan Huang, objected to his testimony about the FBI interviews, claiming Homeland Security had no way to rebut his descriptions.

“If you think he’s lying under oath to the court, you could ask the court to call the FBI agent to talk about their interview,” the judge said. “I would allow that.”

Huang did not respond.

When H realized at the end of last week’s hearing that his case would not be resolved, he let out a deep sigh.

His wife had finished testifying over a video call minutes earlier. Because she had no one to care for their two young children, they were in the room with her as she addressed the court. Amid her appearance, their son spotted his father sitting alone in an empty room. The toddler pointed.

“Ader! Ader!” he said, because the boy can’t pronounce “father.”

Before court adjourned, the judge asked H if he had any questions.

“Your honor, and the state officer, please take in account my situation, my family situation. I’m already sinking in debt, in loans up to here,” he said, holding his hand above his head. “Every food that my kids are eating right now is from loan.”

The humanitarian parole that allowed his wife to remain in the U.S. while their cases were processed has expired, as has her driver’s license and work authorization. For months, his brother, the former interpreter,

has supported both his and H's families with a job that pays less than \$40,000 a year.

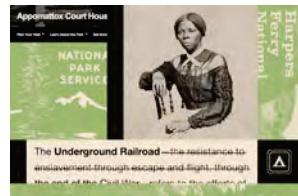
Esther Jones, who has taught English to H's wife at a local church, recently started a GoFundMe account for them: "Help a Family Who Stood with America--Now Needs Our Support."

Though Ganjalizadeh has given the family discounts, their legal fees continue to mount. Even if the judge eventually grants asylum, the attorney expects Homeland Security to appeal.

"I've never seen DHS, in my 11 years of practice, so zealously push for the denial of an application on such tenuous grounds," Ganjalizadeh said.

After H's hearing, the attorney concluded that his client should soon file a writ of habeas corpus — forcing the government to justify his captivity — in federal court, a maneuver Ganjalizadeh would have to outsource and could cost well more than \$5,000. Without it, his attorney said, H could remain in detention for many more months.

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