



Pro Bono Counsel for Respondent

**UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
ANNANDALE, VIRGINIA**

In the Matter of:
[REDACTED]
In Removal Proceedings

File No. [REDACTED]

Immigration Judge John C. Barnes

Next Hearing: [REDACTED]

MOTION TO ADVANCE

**UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
ANNANDALE, VIRGINIA**

In the Matter of:
[REDACTED]
In Removal Proceedings
File No. [REDACTED]

MOTION TO ADVANCE INDIVIDUAL HEARING

As pro bono counsel of record for [REDACTED] I respectfully request that this Court grant a motion advancing Mr. [REDACTED] individual hearing, per the authority given at 8 C.F.R. § 1003.23(a) and Chapter 5.10(b) of the Immigration Court Practice Manual. In support of this motion, I hereby state the following.

1. My name and contact information is as follows: [REDACTED]

[REDACTED].

2. The Respondent's name and address is as follows: [REDACTED]

[REDACTED]

3. I, as counsel, am prepared to move forward with this case soon as is practicable.

4. The client has specifically requested that a motion to advance be filed and wishes to have his application for asylum, withholding, and Convention Against Torture protection heard as soon as possible. Mr. [REDACTED] has a master calendar hearing schedule for [REDACTED], but does not currently have an individual hearing scheduled.

5. Mr. [REDACTED] has already experienced excessive adjudicative delay. Mr. [REDACTED] filed an affirmative asylum (I-589) application in [REDACTED] nearly nine years ago. He did not receive an initial interview with the Arlington Asylum Office until [REDACTED]. After several

hours, however, the USCIS Asylum Officer (AO) prematurely terminated Mr. [REDACTED] interview. Mr. [REDACTED] was given a second interview—by a different AO—in [REDACTED]

6. On [REDACTED], Mr. [REDACTED] received notice that his affirmative asylum application was being referred to Immigration Court. Ex. 1 (Referral Notice). But the Referral Notice is based on a misapplication of the law and several egregious errors and omissions from the AOs that interviewed Mr. [REDACTED]

7. Chief among these errors and omissions were that it appears the first AO only went through the I-589 based on his questioning and the second AO admitted she did not read his declaration. This led to several instances of confusion on the part of the AOs that likely served as the source of the alleged “inconsistencies” noted in the Referral Notice.

8. Mr. [REDACTED]’s second hearing on [REDACTED] was set to commence at [REDACTED]. Later that morning, we learned that the AO never showed up for work that day and failed to notify the agency. The third AO assigned to fill in that morning could not have thoroughly read Mr. [REDACTED]’s submission in support of asylum before beginning the interview.

9. Most concerning, both AOs and the Asylum Office itself failed to correctly identify Mr. [REDACTED]’s country of origin, characterizing him as a citizen of the [REDACTED], not his correct country of citizenship, the [REDACTED])—an error plainly shown on Mr. [REDACTED] Referral Notice. *See* Ex. 1 (Referral Notice).

10. As a result of the nearly-nine-year delay he has experienced in the processing of his asylum and CAT claims, Mr. [REDACTED] has suffered and continues to suffer significant mental distress. To evaluate the effect of this delay on Mr. [REDACTED] mental state, this firm engaged the services of Dr. [REDACTED], a Neuropsychologist with over 25 years of clinical experience. Dr.

[REDACTED] conducted several hours of evaluations with Mr. [REDACTED] in February 2022. His report evaluating Mr. [REDACTED] is attached as Exhibit 2 to this motion.

11. According to Dr. [REDACTED], Mr. [REDACTED] “stress level has increased the longer he waits for a resolution of his immigration status.” Ex. 2 ([REDACTED] Rep.) at 3. The lack of immigration status has prevented Mr. [REDACTED] from earning a degree due to a lack of ability to get financial aid. *Id.* Dr. [REDACTED] also found that Mr. [REDACTED] “had numerous symptoms that are consistent with posttraumatic symptoms” and that “it is highly likely that these symptoms are the result of his experiences in the Congo and the approximately seven-year long wait he has experienced regarding the processing of his asylum application.” *Id.* at 4.

12. In conclusion, Dr. [REDACTED] diagnosed Mr. [REDACTED] with an adjustment disorder with anxiety and depression. *Id.* at 5. In Dr. [REDACTED]’s professional opinion,

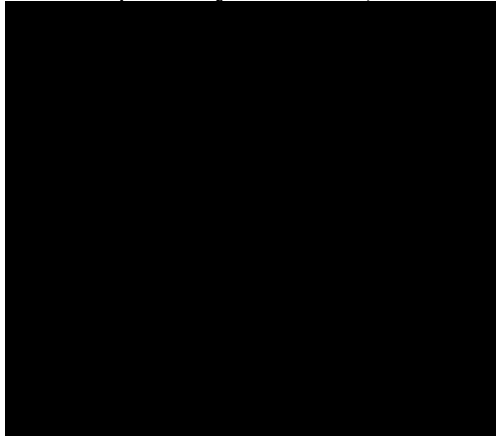
[Mr. [REDACTED]’s] depression is related to the difficulty of moving on with his life that is created by the extended uncertainty regarding his immigration status. He would like to go to school and he would like to settle down and have a family, but does not feel he can do either because he could be removed.

Id. Dr. [REDACTED] attributed Mr. [REDACTED]’s increased anxiety “due to the slowness of the resolution of his immigration case,” and that “[i]t is likely that these symptoms will tend to be exacerbated the longer that Mr. [REDACTED] has to wait for a resolution of his application.” *Id.* at 5-6.

13. Asylum, by its very nature, is a form of humanitarian relief. Mr. [REDACTED]’s persecution in the ROC and his subsequent and continuing mental trauma make him a particularly deserving candidate for relief. Given his mental state and the strength of the merits of his claims, Mr. [REDACTED] respectfully requests that this Court exercise its discretion to grant his motion to advance his individual hearing.

Respectfully submitted,

Date: [REDACTED]



*Pro Bono Counsel for
Respondent*

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Motion to Advance and all attachments were served via first-class, postage prepaid mail on:

Office of the Chief Counsel
Department of Homeland Security
7619 Little River Turnpike, Suite 400
Annandale, VA 22003

This [REDACTED]

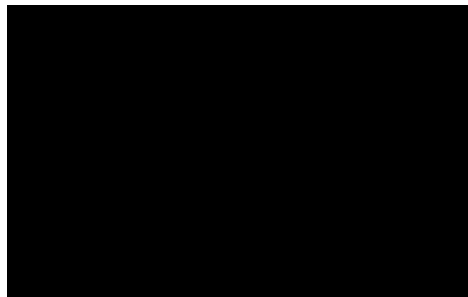


EXHIBIT 1

Department of Homeland Security

Notice to Appear

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

File No: [REDACTED]

In the Matter of:

Respondent: [REDACTED]

currently residing at:

(Number, street, city and ZIP code)

(Area code and phone number)

- 1. You are an arriving alien.
- 2. You are an alien present in the United States who has not been admitted or paroled.
- 3. You have been admitted to the United States, but are removable for the reasons stated below.

The Department of Homeland Security alleges that you:

- 1. You are not a citizen or national of the United States;
- 2. You are a native of [REDACTED];
- 3. You were admitted to the United States at Washington, DC on or about [REDACTED] as a nonimmigrant B1 visitor with authorization to remain in the United States for a temporary period not to exceed [REDACTED];
- 4. You remained in the United States beyond [REDACTED] without authorization from the Immigration and Naturalization Service or its successor the Department of Homeland Security.

On the basis of the foregoing, it is charged that you are subject to removal from the United States pursuant to the following provision(s) of law:

Section 237(a)(1)(B) of the Immigration and Nationality Act (Act), as amended, in that after admission as a nonimmigrant under Section 101(a)(15) of the Act, you have remained in the United States for a time longer than permitted.

- This notice is being issued after an asylum officer has found that the respondent has demonstrated a credible fear of persecution or torture.
- Section 235(b)(1) order was vacated pursuant to: 8CFR 208.30 8CFR 235.3(b)(5)(iv)

YOU ARE ORDERED to appear before an immigration judge of the United States Department of Justice at:

1901 S. BELL STREET, SUITE 200 ARLINGTON, VA 22202

(Complete Address of Immigration Court, including Room Number, if any)

on [REDACTED] (Date) [REDACTED] (Time) to show why you should not be removed from the United States based on the

charge(s) set forth above.

[Signature] (Signature and Title of Issuing Officer)

Date [REDACTED]

Arlington VA

(City and State)

Notice to Respondent

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

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

Representation: If you so choose, you may be represented in this proceeding, at no expense to the Government, by an attorney or other individual authorized and qualified to represent persons before the Executive Office for Immigration Review, pursuant to 8 CFR 1003.16. Unless you so request, no hearing will be scheduled earlier than ten days from the date of this notice, to allow you sufficient time to secure counsel. A list of qualified attorneys and organizations who may be available to represent you at no cost will be provided with this notice.

Conduct of the hearing: At the time of your hearing, you should bring with you any affidavits or other documents that you desire to have considered in connection with your case. If you wish to have the testimony of any witnesses considered, you should arrange to have such witnesses present at the hearing. At your hearing you will be given the opportunity to admit or deny any or all of the allegations in the Notice to Appear, including that you are inadmissible or removable. You will have an opportunity to present evidence on your own behalf, to examine any evidence presented by the Government, to object, on proper legal grounds, to the receipt of evidence and to cross examine any witnesses presented by the Government. At the conclusion of your hearing, you have a right to appeal an adverse decision by the immigration judge. You will be advised by the immigration judge before whom you appear of any relief from removal for which you may appear eligible including the privilege of voluntary departure. You will be given a reasonable opportunity to make any such application to the immigration judge.

One-Year Asylum Application Deadline: If you believe you may be eligible for asylum, you must file a Form I-589, Application for Asylum and for Withholding of Removal. The Form I-589, Instructions, and information on where to file the Form can be found at www.uscis.gov/i-589. Failure to file the Form I-589 within one year of arrival may bar you from eligibility to apply for asylum pursuant to section 208(a)(2)(B) of the Immigration and Nationality Act.

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

Mandatory Duty to Surrender for Removal: If you become subject to a final order of removal, you must surrender for removal to your local DHS office, listed on the internet at http://www.ice.gov/contact/ero, as directed by the DHS and required by statute and regulation. Immigration regulations at 8 CFR 1241.1 define when the removal order becomes administratively final. If you are granted voluntary departure and fail to depart the United States as required, fail to post a bond in connection with voluntary departure, or fail to comply with any other condition or term in connection with voluntary departure, you must surrender for removal on the next business day thereafter. If you do not surrender for removal as required, you will be ineligible for all forms of discretionary relief for as long as you remain in the United States and for ten years after your departure or removal. This means you will be ineligible for asylum, cancellation of removal, voluntary departure, adjustment of status, change of nonimmigrant status, registry, and related waivers for this period. If you do not surrender for removal as required, you may also be criminally prosecuted under section 243 of the Immigration and Nationality Act.

U.S. Citizenship Claims: If you believe you are a United States citizen, please advise the DHS by calling the ICE Law Enforcement Support Center toll free at (855) 448-6903.

Sensitive locations: To the extent that an enforcement action leading to a removal proceeding was taken against Respondent at a location described in 8 U.S.C. § 1229(e)(1), such action complied with 8 U.S.C. § 1367.

Request for Prompt Hearing

To expedite a determination in my case, I request this Notice to Appear be filed with the Executive Office of Immigration Review as soon as possible. I waive my right to a 10-day period prior to appearing before an immigration judge and request my hearing be scheduled.

Before: [Redacted]

(Signature of Respondent)

Date: _____

(Signature and Title of Immigration Officer)

Certificate of Service

This Notice To Appear was served on the respondent by me on 10/10/2017, in the following manner and in compliance with section 239(a)(1) of the Act.

In person [] by certified mail, returned receipt # _____ requested [] by regular mail

[] Attached is a credible fear worksheet.

[] Attached is a list of organization and attorneys which provide free legal services.

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

(Signature of Respondent if Personally Served)

(Signature and Title of Officer)

EOIR - 9 of 17

Privacy Act Statement

Authority:

The Department of Homeland Security through U.S. Immigration and Customs Enforcement (ICE), U.S Customs and Border Protection (CBP), and U.S. Citizenship and Immigration Services (USCIS) are authorized to collect the information requested on this form pursuant to Sections 103, 237, 239, 240, and 290 of the Immigration and Nationality Act (INA), as amended (8 U.S.C. 1103, 1229, 1229a, and 1360), and the regulations issued pursuant thereto.

Purpose:

You are being asked to sign and date this Notice to Appear (NTA) as an acknowledgement of personal receipt of this notice. This notice, when filed with the U.S. Department of Justice's (DOJ) Executive Office for Immigration Review (EOIR), initiates removal proceedings. The NTA contains information regarding the nature of the proceedings against you, the legal authority under which proceedings are conducted, the acts or conduct alleged against you to be in violation of law, the charges against you, and the statutory provisions alleged to have been violated. The NTA also includes information about the conduct of the removal hearing, your right to representation at no expense to the government, the requirement to inform EOIR of any change in address, the consequences for failing to appear, and that generally, if you wish to apply for asylum, you must do so within one year of your arrival in the United States. If you choose to sign and date the NTA, that information will be used to confirm that you received it, and for recordkeeping.

Routine Uses:

For United States Citizens, Lawful Permanent Residents, or individuals whose records are covered by the Judicial Redress Act of 2015 (5 U.S.C. § 552a note), your information may be disclosed in accordance with the Privacy Act of 1974, 5 U.S.C. § 552a(b), including pursuant to the routine uses published in the following DHS systems of records notices (SORN): DHS/USCIS/ICE/CBP-001 Alien File, Index, and National File Tracking System of Records, DHS/USCIS-007 Benefit Information System, DHS/ICE-011 Criminal Arrest Records and Immigration Enforcement Records (CARIER), and DHS/ICE-003 General Counsel Electronic Management System (GEMS), and DHS/CBP-023 Border Patrol Enforcement Records (BPER). These SORNs can be viewed at <https://www.dhs.gov/system-records-notices-sorn>. When disclosed to the DOJ's EOIR for immigration proceedings, this information that is maintained and used by DOJ is covered by the following DOJ SORN: EOIR-001, Records and Management Information System, or any updated or successor SORN, which can be viewed at <https://www.justice.gov/opcl/doj-systems-records>. Further, your information may be disclosed pursuant to routine uses described in the abovementioned DHS SORNs or DOJ EOIR SORN to federal, state, local, tribal, territorial, and foreign law enforcement agencies for enforcement, investigatory, litigation, or other similar purposes.

For all others, as appropriate under United States law and DHS policy, the information you provide may be shared internally within DHS, as well as with federal, state, local, tribal, territorial, and foreign law enforcement; other government agencies; and other parties for enforcement, investigatory, litigation, or other similar purposes.

Disclosure:

Providing your signature and the date of your signature is voluntary. There are no effects on you for not providing your signature and date; however, removal proceedings may continue notwithstanding the failure or refusal to provide this information.

EXHIBIT 2

PSYCHOLOGICAL EVALUATION

Name: [REDACTED]
Dates of Evaluation: [REDACTED]
Evaluator: [REDACTED]
Date of Report: [REDACTED]

EVALUATION PROCEDURES

- Clinical Interview
- Trauma Symptom Inventory – 2 (TSI-2)
- Beck Depression Inventory – II (BDI-II)
- Beck Anxiety Inventory (BAI)

Although [REDACTED] speaks reasonably good English most of the interview was conducted with the assistance of a certified French-English interpreter. The TSI-2 was given in its standardized French language version and the Beck Inventories were translated from English to French by the interpreter. Although this was done by a professional interpreter, it should be kept in mind that this was not a standardized translation of the Beck Inventories. The evaluation is based on approximately three to four hours of face-to-face contact. All historical information is based on [REDACTED] narrative.

IDENTIFYING INFORMATION AND REASON FOR REFERRAL

[REDACTED] is a [REDACTED] single, [REDACTED] male who is ethnically and linguistically a member of the [REDACTED]. He has no children. [REDACTED] has been in the U.S. since [REDACTED] and has been awaiting a resolution of his application for asylum since then. He has a work permit and currently has full time employment. He was referred for a psychological assessment to determine the impact of the continuing delay of his immigration case.

BEHAVIORAL OBSERVATIONS AND MENTAL STATUS

[REDACTED] appeared to be his stated age. He was well oriented to person, place and time, and showed no signs of thought disorder or manic processes. His affect was generally within normal limits. His intelligence appears to be in the normal range, although intelligence was not formally assessed in this evaluation. His speech was normal in pitch, rate and volume. His memory for events and time sequences was intact and he was cooperative and appropriately friendly throughout the evaluation process. While speaking, [REDACTED] frequently left out important details or added tangential details, which often made it difficult to follow his narrative. As a result, more frequent questioning was required.

Relevant History

[REDACTED] is the third of four full siblings. His father was the head of the maintenance department at a telecommunications company. Despite the work, the family, including [REDACTED] occasionally had to go hungry. Despite this, he reported that he was happy as a child, was

well-liked by people and never had interpersonal issues. He described his father as a responsible parent who was never paid what he was worth. He was also a good-natured person who liked to help people, but he did not have sufficient means to help as many people as he would have liked. [REDACTED] stated that "We loved him. He played with us and talked to us." His mother was a teacher who worked while he was growing up. His father died in [REDACTED]. His parents got along well with each other and [REDACTED] got along well with his siblings. He had a good family life.

He was interested in music. He played keyboards in bands in the U.S. and in [REDACTED]. He plays in a church band now.

[REDACTED] was a good student. He attended public schools and attended college briefly. He left college after his father's death, due to a lack of means to continue his education. "My plans died with my father."

He worked as a musician and earned barely enough to survive. His music had a political aspect to it. In his songs, he talked about the difficulties in [REDACTED] especially the poverty and the hunger. He stated that "the government did this. I was singing about the truth of what was going on in the country." In his music, he criticized the government because, in his view, people were dying of hunger and the government was not taking care of the people. He also sang about the [REDACTED] people not having rights.

He reported that security forces tried to arrest him. They came to his music studio but he was not there. They took his materials, including all his CDs and ransacked his studio. They told his secretary to leave and said the studio had to go out of business. They said to the secretary that they did not like what was being said with the music and that they wanted to arrest him. After [REDACTED] secretary informed him about this, he believed he needed to move, "to be invisible" for his own security. That is why he went in to hiding. He went to his paternal grandparents' village [REDACTED]. He had to leave suddenly, without even stopping by his apartment to pick up some clothes.

After he left, the police looked for him the next day at his mother's house, but he was already gone. Later, while he was staying in [REDACTED] security forces went to his mother's home and pressured her to disclose his whereabouts. She said she did not know where he was. They threatened her and tried to intimidate her. They forced their way into her home at 5:30 a.m. They grabbed her by the shirt and they aimed their gun at her to intimidate her. They pushed her. They said if she did not tell them what they wanted to know, "and if they did not find [REDACTED] they would take [REDACTED] brother instead." He only stayed in [REDACTED] for a few days. Because he did not feel safe in [REDACTED] he decided to go to [REDACTED] in the [REDACTED] because it was close to his paternal grandparents' home. This was [REDACTED]

He lived with friends in [REDACTED] and he was able to earn a living playing music there. He stayed there until [REDACTED]. He reported that there were rising tensions between the two countries and [REDACTED] was starting to deport [REDACTED] and many [REDACTED] there were being victimized by [REDACTED] violence. Because of this, he left [REDACTED] and moved to his maternal grandparents' home village of [REDACTED]

While he was in [REDACTED] a musician named [REDACTED] reached out to him through [REDACTED] cousin. [REDACTED] wanted him to be part of an exposition of [REDACTED] music in the U.S. He was initially hesitant, because he would have to return to [REDACTED] to take a flight to the U.S. and he felt that he was not safe in [REDACTED]. [REDACTED] assured him that he could get him safely out of [REDACTED] and [REDACTED] felt that sooner or later, he needed to leave [REDACTED] or the government would find him. By bribing officials and using his connections [REDACTED] succeeded in helping [REDACTED] leave [REDACTED] safely.

[REDACTED] believes he will be tortured or killed if he returns to [REDACTED]. He reported that security forces went by his mother's house looking for him numerous times in the first couple of years after he left. At the time of the assault on his studio, he had been working on an album. He reported that some of the people working on that album have disappeared and the artist who was recording the album with him [REDACTED] left for [REDACTED] and does not believe he can safely return to [REDACTED].

He reported that both sets of grandparents live in areas that now have a heavy military presence, so he cannot return to their homes. He does not feel that he is safe anywhere in [REDACTED].

He came to the U.S. and participated in the music festival. He was paid less than what the contract had specified, so he needed money. He found a church that was similar to his church in [REDACTED] and started playing in the church band but was not paid for his work. Church members gave him clothing and food. He lived with people from the church. They let him live there at first without paying rent.

He applied for asylum in around [REDACTED] after being here for six months. During some of that time, he was getting documents together to support his application. He did not know how long it would take to get asylum. He thinks he got a lawyer about two years later. In those days before he got a lawyer, he was in touch with people who got him sporadic work, such as day labor from CASA Maryland. He was still processing what should be done, so he was "not feeling too much emotionally." After two or three years, he started to feel that the process was taking too long. He got his work permit in [REDACTED] and has been working as driver for Power Drive, which provides transportation services similar to Uber and Lyft.

It has been very hard for him to wait as long as he has. He kept expecting an answer that did not come. It was very stressful because he heard of cases that were initiated after his, that had been resolved. He did not know how long his case would take. He became "very nervous" and depressed.

His stress level has increased the longer he waits for a resolution of his immigration status. The education he was hoping to pursue has been put on hold, because he cannot afford it. He would like to get a degree in computer science and learn more about software engineering. With his current immigration status, he cannot get financial aid.

Currently, he can pay his bills, but cannot afford anything beyond his basic survival needs. He hopes to have a family someday, but knows that this requires greater financial stability than he can provide currently. He would need reliable work to have this kind of stability. He does not

have the means to date. He thinks it is best to be stable on his own, with a green card. He would like to be married but wants to be stable first.

TEST RESULTS

Some of the psychological tests given below have been normed on a U.S. population of native English speakers. This should be taken into account when considering the results of these tests. On tests where cutoff scores for norms are relevant, such as the TSI and the Beck Inventories, the norms may be higher or lower for those outside the populations on which the test is normed. For this reason, it is important to consider how close a given score is to the cutoff point. It may be more accurate to think of cutoff scores as a range of scores rather than a specific score. Despite the norming issues, the tests yield valuable information concerning the test subject's experiences of traumatic events, the effects of those events and the validity of their reports of psychiatric symptoms.

TSI

The TSI-2 is a 136-item, self-administered test of posttraumatic stress and psychological sequelae of traumatic events. It measures such symptoms over the six-month period prior to the evaluation. It is composed of 12 clinical scales, four factor scales (which are different combinations of clinical scales) and two validity scales. The clinical scales assess specific symptom areas, while the factors assess more general symptomatology. The two validity scales indicate the individual's tendency to over-report or under-report their symptoms. Scores are categorized as within normal limits, problematic (borderline clinical elevation) or clinically elevated. [REDACTED] validity scales were well within normal limits, indicating that there is no evidence that he is malingering or deliberately exaggerating his symptoms and that his self-report of symptoms is valid. This means his description of his psychiatric symptoms is likely to be truthful.

[REDACTED] had one problematic factor scale, which was the Trauma factor. This indicates that on scales most directly associated with PTSD, he had numerous symptoms that are consistent with posttraumatic symptoms. Because there are no reported traumatic or incidents since he has been in the U.S., it is highly likely that these symptoms are the result of his experiences in the [REDACTED] and the approximately seven-year long wait he has experienced regarding the processing of his asylum application.

His current TSI-2 indicates four problematic scales and two problematic subscales. The Anxiety scale and the two subscales that comprise the Anxiety scale were all problematic. [REDACTED] also had problematic scales for Intrusive Experiences, Defensive Avoidance and Dissociation, which comprise the "classic posttraumatic presentation," according to the author of the TSI. [REDACTED] is troubled by intrusive thoughts and images of his trauma experiences, which are often accompanied by behaviors to avoid having thoughts or feelings about the traumatic incidents as well as behaviors to avoid places, situations or people that could remind him of traumatic experiences. This defensive avoidance could cause him to minimize his experiences and the effects those experiences have had on him. He is also likely to suffer from anxiety and experiences of depersonalization.

BDI-II

The BDI-II is one of the most widely used measures for screening depression. Unlike the TSI, it has no internal validity scales. It has 21 items. It yields a total score that translates to the level of depression from which the individual is suffering. His current score of 16 indicates mild depression. (The possible ratings are minimal, mild, moderate and severe.) Although the BDI does not have formal validity scales, an individual attempting to malingering or deliberately exaggerate symptoms would have had more symptom endorsements and would almost certainly have had a higher total score.

BAI

The BAI is similar to the BDI, in that it is a screening instrument, with no validity scales. It differs in that it screens for anxiety. His BAI score of 17 indicates moderate anxiety. (The BAI has the same possible ratings as the BDI.) Like the BDI, the BAI does not have formal validity scales, but an individual attempting to malingering or deliberately exaggerate symptoms would have had more symptom endorsements and would almost certainly have had a higher total score.

CONCLUSIONS

██████████ presented for psychological evaluation relevant to his asylum claim, based on his report of having been persecuted by authorities in ██████████. He has been waiting for a resolution of his immigration case since ██████████.

Based on the results of this evaluation, ██████████ is diagnosed with an Adjustment Disorder with Anxiety and Depression. An adjustment disorder is a response to a difficult situation or experience. It is typically a temporary diagnosis that usually improves as the situation improves or the individual is able to make a better adjustment. If the situation does not improve, the symptoms can become chronic and more severe. In this case, the adjustment is to the extended period of time his uncertainty regarding his asylum claim. His anxiety is related to the possibility of his being removed to ██████████. His depression is related to the difficulty of moving on with his life that is created by the extended uncertainty regarding his immigration status. He would like to go to school and he would like to settle down and have a family, but does not feel he can do either because he could be removed.

Although he did not experience a traumatic experience as defined by Criterion A for Posttraumatic Stress Disorder in the Diagnostic And Statistical Manual of Psychiatric Disorders-5 (DSM), he suffered persecution over a number of years that had significant psychological impact on him. (This definition includes physical insult to his bodily integrity or an immediate threat of such an insult. The threats to him were more general than is required by the DSM definition.) This persecution led him to flee his home country out of fear for his safety.

He was relieved to be in the U.S. and was happy to be free from the circumstances that had caused him to leave ██████████. Over time however, he has become increasingly anxious due to the

slowness of the resolution of his immigration case. In the past six months, he has had a problematic level of posttraumatic symptoms, as determined by the TSI-2.

It is important to note that his validity scales on the TSI-2 were well within normal limits, indicating the likelihood that his description of his symptoms is not exaggerated or malingered. Based on his TSI profile, his symptoms are consistent with what the author of the TSI refers to as a "classic posttraumatic presentation."

His scores on the Beck Inventories were also clinically significant. His BDI indicates mild depression and his BAI indicates moderate anxiety. Although the Beck Inventories do not have their own validity scales, his profiles on both of these instruments are inconsistent with exaggeration or malingering.

It is likely that these symptoms will tend to be exacerbated the longer that [REDACTED] has to wait for a resolution of his application.

If [REDACTED] is removed to Congo, there will likely be an exacerbation of his posttraumatic symptoms. (One does not need to have had a Criterion A experience to have posttraumatic symptoms, although a Criterion A experience is required to make a diagnosis of PTSD.) Those who have suffered traumatic or paratraumatic incidents (such as [REDACTED] are vulnerable to exacerbations of symptoms, even when confronted with reminders of those experiences. The symptoms become much worse when there is an actual threat.

At this point, psychotherapy is not necessary, because his symptoms are very likely to improve if he has a reasonable timely resolution of his application. If there is a decision to remove him to [REDACTED] it is likely that psychotherapy would become necessary at that point. It is not known if such treatment is available in [REDACTED] but even if it is, it would likely be unsuccessful because the most basic foundational element for trauma-related psychotherapy is that the individual be in an environment where they feel safe. This would not be the case for Mr. Nsele in Congo.

If I can be of further assistance to you in this matter, I would be pleased to do so, as long as [REDACTED] has signed the appropriate consent form.

[REDACTED]