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### **IRAQI KURDISH IMMIGRANT ORDERED TO BE DEPORTED KIRKLAND MAN ACCUSED OF AIDING AL-QAIDA AGENT**

By PHUONG CAT LE, P-I Reporter

A federal immigration judge has ordered the deportation of an Iraqi Kurdish immigrant accused of trying to help a top al-Qaida operative enter the United States.

Judge Kenneth Josephson ruled Monday that Sam Malkandi, a Kirkland resident from Iraq, lied on his 1998 application for asylum when he said he was jailed for possessing banned religious and political books.

Immigration and Customs Enforcement investigators say Malkandi tried to help the one-legged Tawfiq bin Attash obtain a U.S. visa. A former bodyguard of Osama bin Laden, bin Attash is suspected of helping plan the attack on the USS Cole in Yemen in 2000 and the 1998 embassy bombings in Kenya and Tanzania.

"We're gratified that justice has prevailed in this case," Dorothy Stefan, chief counsel for ICE in Seattle, said Tuesday, when the ruling was announced. "This is a significant victory."

Malkandi, described by supporters as a kind, hard-working and genial man, adamantly has denied assisting bin Attash. "I am not, nor have I ever been, a member of al-Qaida," he wrote in a court declaration.

His attorney, Jason Burnett, called the decision "a mistake" and said he planned to appeal. "All of the evidence shows that he's not guilty of any threat to the United States. Their case was weak. It was thin, and it was insubstantial."

Although Malkandi's wife was pleased that the judge granted asylum to her and her two children, she desperately wants that protection for her husband as well.

"My husband is really innocent," she said Tuesday, adding that he willingly cooperated with the FBI. She said her husband cried and said he would miss his children when she broke the news to him.

"His removal is not imminent, but certainly this is a very important victory for us," Virginia Kice, an ICE spokeswoman said, noting that Malkandi has

30 days to appeal, a process that can take months. "We hope to prevail ultimately."

Malkandi and his supporters insist he would never intentionally assist a terrorist. The news of the deportation ruling shocked many of Malkandi's friends, who said he was a volunteer at his church and served as a translator when needed.

"I'm kind of disgusted by the whole process," said Greg Hope, director of the refugee resettlement program for the Episcopal Diocese of Olympia, who wrote a letter to the judge on Malkandi's behalf.

Malkandi, 47, has been jailed at the Federal Detention Center in SeaTac since August when he was arrested for fraudulently obtaining immigration benefits for himself and his family.

After spending time at a United Nations refugee camp in Pakistan, the family moved to Kenmore. They later bought a house in Kirkland.

"We were excited to come to freedom," Mali Malkandi said. "We work hard. We educate ourselves. We learned American culture. We worked hard. We love America."

Sam Malkandi worked several jobs to support his family, including working for Defense Department contractors at different Army bases.

In 1998, a month after coming to this country, Malkandi met and befriended a Yemeni man at Northgate Mall.

A year later, that friend asked him to do a favor for another friend in Yemen, who needed a prosthetic limb.

Malkandi agreed, he wrote in court papers, because "it seemed like a reasonable request, and I wanted to help my friend."

Federal agents obtained documents showing that Malkandi made arrangements with a Bellevue clinic for bin Attash, under an alias, to obtain a prosthetic foot in 1999.

His supporters don't believe it.

"They need to show us where there is a connection, not just a phone call of someone helping someone," said Rita Zawaideh, a board member of the Arab American Community Coalition. "They need to show that he was a member of al-Qaida - there's nothing like that."

Stefan, the ICE lawyer, disagreed. "The evidence we presented in court is that he was not a pawn in this - in fact, he knew what he was doing," she said.

Stefan credited the joint efforts of ICE and FBI agents on the Seattle Joint Terrorism Task Force for making the case.

Though he has been investigated by the FBI since at least 2002, he has not been charged with any crime.

Malkandi came to the attention of authorities after bin Attash was captured in Pakistan. According to the 9/11 Commission Report, he told U.S. officials that a man in Bothell, whose name sounded like "Barzan," had tried to help him enter the United States.

Investigators concluded the man was likely Sarbaz Mohammad, who changed his name to Sam Malkandi in 2001.

Under FBI interrogation in 2004, Malkandi admitted lying about being jailed for a year in Iran for possessing religious and political books when he applied for asylum in 1998.

Bin Attash never made it to this country; his visa application was denied.

Malkandi's wife remains optimistic. "I have strong faith and hope that my husband will be free, he will come home and we will have a beautiful life," she said.

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