

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF NEW YORK

**UNITED STATES OF AMERICA**

**v.**

**CHASIB HAFEDH SAADOON AL  
FAWADI,**

**Defendant.**

Criminal No. 5:20-CR-241 (TJM)

Government's Motion for Pretrial Detention

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The United States of America, by and through its counsel of record, the United States Attorney for the Northern District of New York, hereby moves, pursuant to 18 U.S.C. § 3142(f)(2), for an order that defendant Chasib Hafedh Saadoon Al Fawadi be detained pending trial under 18 U.S.C. § 3142(e). The government has statutory authority to move for detention because there is a serious risk that, if released, Al Fawadi will flee and will obstruct or attempt to obstruct justice, or threaten, injure, or intimidate, or attempt to threaten, injure, or intimidate, a prospective witness.

**1. Introduction: Bases For the Government's Motion**

On September 2, 2020, a federal grand jury in the Northern District of New York returned a three-count indictment charging Al Fawadi in Count One with making false statements in an immigration application, in violation of 18 U.S.C. § 1546(a); and in Counts Two and Three with making false statements to a government agency, in violation of 18 U.S.C. § 1001(a)(2).

As explained in greater detail below, Al Fawadi poses a serious flight risk pending trial. He was admitted to the United States as a refugee from Iraq under false pretenses, specifically his claim that he was persecuted by an anti-American, Iranian-backed paramilitary organization when, in fact, Al Fawadi was an active member of that organization. He has no meaningful ties to the

Northern District of New York or the United States and no incentive to appear for trial or other court proceedings in this case. Because he is aware of the strength of the evidence against him, and he ultimately will be deported from the United States without regard to the outcome of this case, he has a powerful incentive to flee.

There also is a serious risk that, if released, Al Fawadi will harm or kill, or threaten to harm or kill a potential government witness, his ex-wife, Maryam Al-Azzawi. Al Fawadi now is incarcerated on state charges, including rape in the first degree, for a physical and sexual assault on Al-Azzawi that occurred before their recent divorce. In that state criminal prosecution, Al Fawadi's bail was revoked when he violated a post-arrest protective order in favor of Al-Azzawi. Al Fawadi also was arrested for assaulting Al-Azzawi on another occasion. In addition, Al Fawadi has reason to believe that testimony proving his guilt in both this case and the state case can be provided to authorities by Al-Azzawi.

## **2. Governing Law**

In any kind of case not described in § 3142(f)(1), the government may move for detention if there is “(A) a serious risk that [the defendant] will flee; or (B) a serious risk that [the defendant] will obstruct or attempt to obstruct justice, or threaten, injure, or intimidate, or attempt to threaten, injure, or intimidate, a prospective witness or juror.” 18 U.S.C. § 3142(f)(2). The Second Circuit has explained that “if detention is sought under section 3142(f)(2)(B) on the ground of risk of threat or injury to a witness or juror, or other obstruction of justice, that specific ground should be alleged. *United States v. Melendez-Carrion*, 790 F.2d 984, 993 (2d Cir. 1986).

Upon such motion, the Court must conduct a detention hearing “immediately upon the defendant's] first appearance . . . unless [the defendant], or the attorney for the Government, seeks a continuance.” 18 U.S.C. § 3142(f). “If, after a hearing pursuant to the provisions of subsection

(f) of this section, the judicial officer finds that no condition or combination of conditions will reasonably assure the appearance of the [defendant] as required and the safety of any other person and the community, such judicial officer shall order the detention of the [defendant] before trial.”

18 U.S.C. § 3142(e)(1).

In assessing whether a defendant poses a danger to the community or to another person, or a risk of flight, the Court shall:

take into account the available information concerning—

- (1) the nature and circumstances of the offense charged, including whether the offense is a crime of violence, a violation of section 1591, a Federal crime of terrorism, or involves a minor victim or a controlled substance, firearm, explosive, or destructive device;
- (2) the weight of the evidence against the person;
- (3) the history and characteristics of the person, including—
  - (A) the person’s character, physical and mental condition, family ties, employment, financial resources, length of residence in the community, community ties, past conduct, history relating to drug or alcohol abuse, criminal history, and record concerning appearance at court proceedings; and
  - (B) whether, at the time of the current offense or arrest, the person was on probation, on parole, or on other release pending trial, sentencing, appeal, or completion of sentence for an offense under Federal, State, or local law; and
- (4) the nature and seriousness of the danger to any person or the community that would be posed by the person’s release.

18 U.S.C. §3142(g).

- 3. There is No Condition or Combination of Conditions that Will Prevent Al Fawadi from Posing Both a Danger to the Community and to Al-Azzawi, and a Risk of Flight.**
  - a. Al Fawadi Was Admitted into the United States Under False Pretenses and is Facing Certain Deportation.**

As alleged in the indictment, on September 1, 2015, Al Fawadi, an Iraqi national then living in Turkey, completed an application for classification as a refugee and admission for himself and

his family into the United States. His “application for refugee status was based in large part on his claim that, while in Iraq, he was persecuted and threatened by Asa’ib Ahl al-Haq, an Iranian-backed Shiite militia and paramilitary organization and group, because he had refused to assist in kidnappings of Sunni Muslims.” Dkt. #1 (Indictment) at p. 1, ¶ 1. Indeed, Al Fawadi affirmatively denied membership in Asa’ib Ahl al-Haq or any similar organization. In fact, this was a willful fabrication. Later, after Al Fawadi successfully secured classification as a refugee and, along with his family, gained admission to the United States, the Federal Bureau of Investigation [“FBI”] obtained photographic evidence showing that Al Fawadi actually was an active member of Asa’ib Ahl al-Haq before coming to the United States.

For example, this photograph, taken at a soccer stadium in Baghdad during an Asa’ib Ahl al-Haq ceremony, shows Al Fawadi (front row, second from the left) wearing an Asa’ib Ahl al-Haq uniform with its insignia on his sleeve. According to metadata associated with the digital version of this image, it was taken on May 4, 2013.



When questioned by FBI agents (assisted by an Arabic-speaking interpreter) about this photograph on September 1, 2020, Al Fawadi initially claimed that he was taken by Asa'ib Ahl al-Haq to the stadium where the photograph was captured. Later, however, he admitted that he had worked for Asa'ib Ahl al-Haq, but only at their headquarters office buildings, and only in the capacity of "checking people" at the doors when they came into the buildings. Al Fawadi claimed that he would receive calls for work and report to the offices to perform the door duties.

This limited admission, if true, would show that Al Fawadi falsified his application for refugee classification (and later made false statements in connection with his application to be a permanent resident alien, as charged in the indictment) by denying participation or membership in any organization, including Asa'ib Ahl al-Haq. In fact, however, Al Fawadi's acknowledgement of minimal involvement is contradicted by the following photographic evidence, showing him handling military grade weapons while in Iraq and receiving an award or recognition from Qais al-Khazali, the leader of Asa'ib Ahl al-Haq.









When interviewed, Al Fawadi admitted that the photograph immediately above depicts him meeting with Qais al-Khazali. He admitted knowing that al-Khazali is the leader of Asa'ib Ahl al-Haq. He stated that al-Khazali presented him an award bearing the Asa'ib Ahl al-Haq logo in recognition for his commitment to provide support on behalf of Asa'ib Ahl al-Haq. But, he then denied aiding Asa'ib Ahl al-Haq. Al Fawadi stated that this event with al-Khazali occurred two to three days before he and his family left Iraq for Turkey in June 2014. This explanation cannot be reconciled with Al Fawadi's claim during the refugee application process that he and his family fled Iraq because of persecution by Asa'ib Ahl al-Haq. And, in any event, metadata associated with this digital images is inconsistent with what Al Fawadi said in the interview. The metadata shows that this image was created on June 20, 2012, approximately two years before Al Fawadi and his family left Iraq.

As to photographs showing him holding military grade weapons like those set out above, Al Fawadi claimed that they were taken when he was a commando in the police forces for the Iraqi Ministry of the Interior. Given that Al Fawadi is wearing a sandal in the photograph in which he is aiming a rocket-propelled grenade launcher, and is wearing tennis shoes in another of the pictures in which he is armed, and his companion is barefoot in the photograph depicting a machine gun mounted in the back of a pickup truck, this claim is implausible.

During the refugee application process, Al Fawadi also denied being in or travelling to any country other than Iraq and Turkey. Later, in a follow-up interview on October 30, 2019, as part of his application to be a lawful permanent resident, Al Fawadi acknowledged, for the first time, travelling to Jordan as well. But, in statements related to his classification as a refugee and application to be a lawful permanent resident, Al Fawadi denied travel to any other countries. This too was false, as shown by the photographs below depicting him and others in front of the Damascus, Syria international airport (with a semi-automatic assault rifle slung over his shoulder) and in front of the Fatimah Masumeh Shrine in Qom, Iran.







When FBI agents questioned Al Fawadi about these photographs, he admitted that he was taken to Damascus, Syria by Asa'ib Ahl al-Haq to provide food, water, and supplies. He denied being in Syria to fight on behalf of Asa'ib Ahl al-Haq (despite his camouflage uniform and the assault rifle). When asked about the rifle, Al Fawadi stated that individuals who delivered supplies for Asa'ib Ahl al-Haq were given weapons by the organization. He stated that Asa'ib Ahl al-Haq was in Damascus, Syria for the purpose of defending the Shia shrine known as the Sayyidah Zaynab Mosque. Al Fawadi also identified himself in the photograph in Iran but did not provide additional information. Later, he AL-FAWADI admitted that he traveled to Iran with Asa'ib Ahl al-Haq but denied being there for training. Al Fawadi's false denial on October 30, 2019, about travel to Iran and Syria is alleged in Count Three of the indictment.

Based on discussions with an official from United States Citizenship and Immigration Services, Department of Homeland Security, it is government's counsel's understanding that Al Fawadi's false statements about involvement in Asa'ib Ahl al-Haq and travel to Syria and Iran are alone sufficient for Al Fawadi's application for lawful permanent resident status to be denied and

for him to be deported from the United States, all without regard to the outcome of this criminal prosecution.

**b. If Released Pending Trial, Al Fawadi Will Pose a Danger to the Community.**

The images set out above provide clear and convincing evidence that Al Fawadi was an active member in Asa'ib Ahl al-Haq before coming to the United States. His disingenuous interview statements show that he is unwilling to admit the extent of his involvement, but also unable to provide plausible explanations for the photographs. Al Fawadi's membership in this virulently anti-American organization is alone sufficient to show that he poses a danger to the community.

The Counter Extremism Project, which describes itself as “a not-for-profit, non-partisan, international policy organization formed to combat the growing threat from extremist ideologies,” *see* <https://www.counterextremism.com/threat/asaib-ahl-al-haq>, last visited on July 12, 2020, describes Asa'ib Ahl al-Haq in part as follows:

Asaib Ahl al-Haq (AAH) is an Iranian-backed Shiite militia and political party operating primarily in Iraq, as well as in Syria and Lebanon. The group is implicated in numerous acts of sectarian violence and potential war crimes in Iraq and Syria.

Formed in 2006 by Qais al-Khazali, AAH has between 7,000 and 10,000 members and is one of the most powerful Shiite militias in Iraq. Until the U.S. military withdrawal from Iraq in December 2011, AAH launched more than 6,000 attacks on American and Iraqi forces, including highly sophisticated operations and targeted kidnappings of Westerners. The group seeks to promote Iran's political and religious influence in Iraq, maintain Shiite control over Iraq, and oust any remaining Western vestiges from the country.

AAH broke away from the Mahdi Army (JAM), the militia run by influential Shiite cleric Muqtada al-Sadr, in 2006. AAH is one of three prominent Iraqi Shiite militias funded and trained by Iran's external military wing, the Quds Force of the Islamic Revolutionary Guards Corps (IRGC). AAH overtly displays its loyalty to Iran's leaders, including the current supreme leader, Ayatollah Ali Khamenei, and his predecessor, the late Ayatollah Ruhollah Khomeini. In Iraq, and reportedly in Syria as well, the group operates under the command of Iran's Quds Force.

Following the January 3, 2020, assassination of Quds Force commander Qasem Soleimani in Iraq, AAH joined with other Iranian-sponsored Iraqi militias in vowing revenge on the United States.

Following the U.S. withdrawal from Iraq in December 2011, AAH announced its intention to lay down its weapons and enter Iraqi politics. The group opened a number of political offices and religious schools and offered social services to widows and orphans. According to a Reuters report, “The model [AAH] uses is Hezbollah in Lebanon,” another Iranian proxy.

The Shiite-led Iraqi government of Prime Minister Nouri al-Maliki reportedly welcomed AAH into politics, noting that Khazali had “committed no crime under Iraqi law” and was therefore “welcome to play a role in public life.” According to analyst Sam Wyer, AAH “expanded at an unprecedented and alarming rate.” The group formed a political bloc, al-Sadiqun (the Honest Ones), and ran under al-Maliki’s State of Law bloc in the April 2014 Iraqi national elections, winning one seat. AAH’s political branch has since sought to distance itself from the group’s militant branch, accused by international human rights organizations of various war crimes. In an effort to soften its image, AAH has removed the rifle from its official logo and has begun referring to itself as the “Asaib movement.” In May 2017, the group earned a license to operate as a political party and run in the next Iraqi elections under its own name.

Since entering politics, AAH has not fulfilled its vow to halt armed resistance, instead continuing to carry out sectarian violence, execute homophobic attacks, and threaten the “interests” of Western countries participating in strikes in Syria. One of AAH’s Syrian offshoots—the IRGC-backed Harakat al Nujaba militia—is reportedly the largest Iraqi militia operating in Aleppo, where reports of war crimes against Sunni civilians are widespread. Another AAH offshoot, Imam Ali Brigades, dispatched forces to both Aleppo and Palmyra in 2016. AAH forces are themselves reported to maintain unofficial units in Syria under the direct control of Qasem Soleimani. Meanwhile, the group is itself suspected of carrying out war crimes, alleged to be behind a series of abductions, killings, and torture targeting hundreds of Sunni boys and men in Iraq’s eastern Diyala province. AAH has also recruited former ISIS members in the province, who are used to stoke anti-Kurdish violence in the areas under its control.

Significantly, on January 10, 2020, the United States State Department Secretary of State designated Asa’ib Ahl al-Haq as a Foreign Terrorist Organization [“FTO”] under Section 219 of the Immigration and Nationality Act. The Secretary of State has also listed the following aliases for Asa’ib Ahl al-Haq: Asa’ib Ahl al-Haq min Al-Iraq; Asaib al Haq; Asa’ib Ahl Al-Haqq; League of the Righteous; Khazali Network; Khazali Spcial Group; Qazali Network; The People of the

Cave; Khazali Special Groups Network; Al-Tayar al-Kisali; and the Missionary Current. To date, Asa'ib Ahl al-Haq remains a designated FTO.

In short, Al Fawadi was an active member of a paramilitary organization whose mission and activities posed a sufficient threat to have it designated by the State Department as a foreign terrorist organization. Although this designation is recent, it is based on activities that occurred when Al Fawadi was actively involved in the organization. When given an opportunity to acknowledge his participation and its nature, Al Fawadi instead responded with implausible falsehoods. It is reasonable to conclude from this evidence is that Al Fawadi remains both unrepentant and committed to the violent objectives of this terrorist group.

**c. If Released Pending Trial, Al Fawadi Will Pose a Threat to the Safety of Potential Government Witness Maryam Al-Azzawi.**

Al Fawadi, his wife, Al-Azzawi, and their two minor sons entered the United States as refugees in January 2016 and settled in San Antonio, Texas. According to a San Antonio Police Department report, less than a year later, on November 20, 2016, Al Fawadi was arrested for committing an aggravated assault with a deadly weapon against his wife, who was then pregnant with their third child. When police arrived at the scene, Al-Azzawi reported that Al Fawadi had assaulted her and held a knife to her neck. Police observed visible scratches on her neck. Later, with the assistance of a translator, Al-Azzawi reported that Al Fawadi subjected her to a pattern of physical and sexual abuse. In December 2016, however, after Al Fawadi was released from custody, police learned that he was seen with Al-Azzawi at the apartment where the family resided. On December 21, 2016, Al-Azzawi informed the San Antonio Police Department that she did not want to press charges. The charges against Al-Azzawi in San Antonio were dropped.

In or around April 2017, Al Fawadi and his family moved to Syracuse, New York. On April 29, 2019, Al-Azzawi came to the Solvay Police Department Station and reported that Al

Fawadi had held her against her will and physically and verbally abused her for a period of several days beginning on April 26, 2019, including by holding a knife to her throat. When interviewed with an interpreter, she reported that Al Fawadi also had sexually assaulted her. On April 29, 2019, Al Fawadi was arrested for rape, in violation of New York Penal Law § 130.25, and related charges.

On April 29, 2019, the Honorable Robert Patrick O’Leary issued an order of protection requiring that Al Fawadi have no contact with Al-Azzawi. Despite that order, during May 2019, while incarcerated and pending release on bail, Al Fawadi made 14 telephone calls to and sent four letters to Al Azzawi. This resulted in revocation of his bail.

A grand jury sitting in Onondaga County returned a six-count indictment against Al Fawadi, charging him in Count One with rape in the first degree, in violation of New York Penal Law § 130.35(1); in Count Two with criminal obstruction of breathing or blood circulation, in violation of New York Penal Law § 121.11; in Count Three with menacing in the second degree, in violation of New York Penal Law § 120.14(1); in Count Four with criminal possession of a weapon in the fourth degree, in violation of New York Penal Law § 265.01(2); in Count Five with harassment in the second degree, in violation of New York Penal Law § 240.26(1); and in Count Six with criminal contempt in the first degree, in violation of New York Penal Law § 215.51(b)(ii). This last charge is based on Al Fawadi’s violation of the protective order. These charges remain pending and Al Fawadi is presently incarcerated at the Onondaga County Justice Center pending trial.

Despite Al Fawadi’s incarceration, Al-Azzawi has reported harassing and threatening conduct. Specifically, she reported to the Solvay Police Department that on April 22, 2020, two Arabic unknown males came uninvited to her residence. When she answered the door, one of the



males identified himself with only a first name and told her that he was “from the mosque,” but did not respond to her request that he identify which mosque. One of the males asked her if she knew that she had court with Chasib (Al Fawadi) and when she responded affirmatively, he lifted his shirt to display a handgun tucked in his waistband. She reported to police that he then said: “I am here to remind you about court.” Al-Azzawi reported that she interpreted this as a threat to persuade her not to testify against Al Fawadi.

Al Fawadi is aware that Al Azzawi is a witness against him in the Onondaga County prosecution and cannot help but also realize that she also can provide incriminating information in this federal prosecution regarding the falsity of statements that he made in connection with his application to be a lawful permanent resident. Indeed, she was present during an interview at which he made oral false statements on April 9, 2019, to an official of the United States Citizenship and Immigration Services in connection with that application. These false statements are charged in Count Two of the indictment.

Accordingly, Al Fawadi has both a powerful motive to intimidate, threaten, or harm Al-Azzawi to prevent her from being available as a witness, and a track record of disobeying a court order prohibiting him from having contact with her. Although there is no direct evidence linking Al Fawadi to the threatening visit that Al-Azzawi reported to Solway police on April 22, 2020, it is reasonable to conclude that this visit was made for his benefit, and likely with his knowledge or involvement. All of this evidence establishes that Al-Fawadi’s release will pose a serious risk that he will threaten or harm Al-Azzawi to prevent her from testifying.

**d. Al Fawadi Poses a Risk of Flight if Released.**

Al Fawadi has no meaningful ties to the Northern District of New York and only limited ties to the United States generally. It is the understanding of government counsel, based on

information from the Onondaga County District Attorney's Office, that Al-Azzawi has successfully divorced Al Fawadi, severing his link to his family in this district. Al Fawadi has only been in the Central New York area since April of 2017, and has been incarcerated since April 2019, suggesting that he has no other meaningful ties here. Although Al Fawadi has family in San Antonio, Texas, he lived in that city only from his admission to the United States in January 2016 through his departure for Syracuse a little over a year later, in April 2017.

Al Fawadi is aware that he will be deported from the United States and has no incentive, if released, to appear for proceeding in this matter. In fact, the opposite is true – he has a powerful motive to flee and attempt to remain in the United States as a fugitive.


#### **4. Conclusion**

Here, factors set out in 18 U.S.C. § 3142(g) demonstrate that detention is warranted here. There is irrefutable photographic evidence proving that Al Fawadi made the false statements alleged in the indictment. Further, Al Fawadi's bad "character" and active involvement in an anti-American paramilitary organization that was later designated as an FTO; his lack of "family ties" and "community ties" and brief "residence in the community"; "his past conduct," including his membership in Asa'ib Ahl al-Haq and disingenuous statements when confronted with evidence of that membership; and his record of having violated a protective order all favor detention. For all of the reasons stated above, the government respectfully requests that the Court order Al Fawadi detained pending trial. Although Al Fawadi is now being held without bail in the state court

prosecution, there is no certainty that he will remain in that status until this federal case proceeds to trial or is otherwise resolved.

Respectfully submitted this 5th day of October, 2020.

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