UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
BOARD OF IMMIGRATION APPEALS

Silva Otavio
Via Electronic Service

DHS/ICE Office of Chief Counsel - SFR
100 MONTGOMERY STREET, SUITE 200
San Francisco, CA 94104

Name:
RASHIDI, SHAYAN 249-259-874

Riders:

Date of Notice: 10/02/2026

REJECTED FILING

This notice is to inform you that the filing received by the Board of Immigration Appeals (Board or BIA) on 09/28/2026 is being rejected for the reasons given below. If you re-file a corrected document, please attach this rejection notice to the corrected document. You must also serve a copy of the corrected filing on the opposing party.

Document being rejected: EOIR-26 Sahayan Rashidi.pdf
Filed by: Respondent/Applicant

Document rejected for the following reasons:
1. Rejection Reason Not Listed (Other)

Additional Comments
The Attorney's address on the EOIR-26/Motion and EOIR-27 do not match AND the submitted Fee Waiver Request Form (Form EOIR-26A) contains information that the respondent/applicant has sufficient Assets to pay the required fee. The respondent/applicant has not established an inability to pay the required filing fee. See 8 C.F.R. § 1003.8(a)(3). The respondent/applicant has 15 days from the date of this notice to re-file the rejected document with the filing fee and any applicable filing deadline will be tolled during the 15-day cure period.

PLEASE NOTE – Applies only to rejection of an appeal, motion to reopen, or motion to reconsider.

We have rejected your appeal or motion for correction of the defect(s). If you correct and refile this appeal or motion, you must attach this notice of rejected filing to the corrected document. Rejection of this notice does not extend the original deadline for the filing for the appeal or motion unless otherwise noted above. Where a stay attached to the filing of an appeal, there is no automatic stay of removal beyond the filing deadline unless an appeal is properly filed at the BIA. For more information on automatic stays and discretionary stays of removal, see the BIA's Practice Manual available on EOIR's website at www.justice.gov/eoir.

If you file your corrected **appeal** after the original time limits, your corrected appeal must be accompanied by a written motion entitled "**MOTION TO ACCEPT UNTIMELY APPEAL**" and comply generally with the rules and procedures for filings. If you file your corrected **motion** after the original time limits, your corrected motion must make a request to the Board to accept your motion and comply generally with the rules and procedures for filings. Your request to accept your untimely appeal or motion must clearly establish both diligence in the filing of the notice of appeal or motion and that an extraordinary circumstance prevented timely filing. The motion should also be supported by affidavits, declarations, and other evidence.

FILING QUESTIONS – In General.

If you have any questions about how to file something at the BIA, please review the EOIR Policy Manual, Part III: Board Practice Manual, available on EOIR's website at www.justice.gov/eoir.

Rejected by: HeywardZ

Date: 10/02/2026

CC

U.S. Department of Justice
Executive Office for Immigration Review
Board of Immigration Appeals

OMB #1125-0002
Notice of Appeal from a Decision of an Immigration Judge

1. List Names and Alien Numbers (A-Numbers) of all Respondents/Applicants.

Shayan Rashidi, A-Number 249-259-874

WARNING: Names and A-Numbers for everyone appealing the Immigration Judge's decision must be written in item #1. The names and A-Numbers listed will be the only ones considered to be the subjects of the appeal.

2. I am ☑ the Respondent/Applicant ☐ DHS-ICE *(Mark only one box.)*

3. I am ☐ DETAINED ☑ NOT DETAINED *(Mark only one box).*

4. My last hearing was at: Immigration Court, Concord, California *(Location, City, State)*

5. **What decision are you appealing?**

Mark only one box below. If you want to appeal more than one decision, you must use more than one Notice of Appeal (Form EOIR-26).

☑ I am filing an appeal from the Immigration Judge's decision *in **merits** proceedings* (example: removal, deportation, exclusion, asylum, etc.) dated 8/21/26

☐ I am filing an appeal from the Immigration Judge's decision *in **bond** proceedings* dated _____ (For DHS use only: Did DHS invoke the automatic stay provision before the Immigration Court? ☐ Yes ☐ No)

☐ I am filing an appeal from the Immigration Judge's decision ***denying a motion to reopen or a motion to reconsider*** dated _____

☐ I am filing an ***interlocutory appeal*** from the Immigration Judge's decision dated _____

(Please attach a copy of the Immigration Judge's decision that you are appealing.)

6. State in detail the reasons for this appeal. Please refer to the General Instructions at item F for further guidance. You are not limited to the space provided below; use more sheets of paper if necessary. Write your name(s) and A-Number(s) on every additional sheet.

Respondent, by and through undersigned counsel, hereby submits the following reasons for appeal, in response to the Immigration Judge's ("IJ") denial of Respondent Shayan Rashidi's application for asylum, withholding of removal, and protection under the Convention Against Torture (CAT).

The Respondent respectfully presents the following grounds for his appeal:

1. The IJ erroneously concluded that the harm suffered did not rise to the level of persecution. Respondent established that he was subjected to repeated arbitrary arrests and detentions, coercive interrogations, threats of unjust prosecution, confiscation of identity documents and personal property, and severe, ongoing restrictions on his liberty. In December 2012, Respondent's uncle was murdered by state actors operating on behalf of the Islamic Republic of Iran. His brother was also subjected to arbitrary arrests, coercive interrogations, and constant threats. His father received threats that extended to the entire family because of his sons' political stance and opposition to the government. Even if any single incident does not independently constitute persecution, the cumulative impact of these repeated detentions, physical altercations, threats, economic deprivations, and liberty restrictions, endured from childhood into adulthood, easily crosses the legal threshold to establish past persecution. Baballah v. Ashcroft, 367 F.3d 1067, 1074 (9th Cir. 2004) ("Threats and attacks can constitute persecution even where an applicant has not been beaten or physically harmed."); Gonzales-Neyra v. INS, 122 F.3d 1293, 1297 (9th Cir. 1997) (granting withholding of deportation where petitioner had been threatened by Shining Path guerrillas but not harmed); Surita v. INS, 95 F.3d 814, 819 (9th Cir. 1996) (recognizing asylum eligibility for Indo-Fijian woman who was repeatedly robbed by ethnic Fijians because of her race); Mgoian v. Immigration & Naturalization Serv., 184 F.3d 1029, 1037 (9th Cir. 1998) (holding that the suffering inflicted on Petitioner's family because of its Kurdish-Moslem ethnicity was not merely innocuous discrimination or trivial inconvenience and amounted to persecution). Consequently, the IJ erred by failing to apply the statutory presumption of a well-founded fear of future persecution under 8 CFR § 1208.13(b)(1), thereby improperly shifting the burden of proof onto the Respondent. See Matter of D-I-M-, 24 I&N Dec. 448 (BIA 2008); see also Mgoian v. Immigration & Naturalization Serv., 184 F.3d at 1037 (holding that the harassment of a vulnerable minority with the goal of ethnic cleansing necessarily satisfies the objective requirement of the well-founded fear component).

The remaining grounds for the Respondent's appeal are provided in the additional sheets attached to this Notice of Appeal.

(Attach additional sheets if necessary)

WARNING: You must clearly explain the specific facts and law on which you base your appeal of the Immigration Judge's decision. The Board may summarily dismiss your appeal if it cannot tell from this Notice of Appeal, or any statements attached to this Notice of Appeal, why you are appealing.

7. Do you desire oral argument before the Board of Immigration Appeals? ☐ Yes ☑ No

WARNING: If you mark "Yes" in item #7, you should also include in your statement in item #6 why you believe your case warrants review by a three-member panel. The Board ordinarily will not grant a request for oral argument unless you also file a brief.

8. Do you intend to file a separate written brief or statement after filing this Notice of Appeal? ☑ Yes ☐ No

WARNING: If you mark "Yes" in Item #8, you will be expected to file a written brief or statement after you receive a briefing schedule from the Board. The Board may summarily dismiss your appeal if you do not file a brief or statement within the time set in the briefing schedule.

9. Signature of Person Appealing (or attorney or representative):

Print Name: Shayan Rashidi

Sign Here: 

Date: 9/17/26

10. Mailing Address of Respondents/Applicants:

Name: Shayan Rashidi

Street Address: 100 Willow St.

Apartment or Room Number: N/A

City, State, Zip Code: Pacheco, CA, 94553

Telephone Number: (925) 393-4227

NOTE: You must notify the Board within five (5) business days if you move to a new address or change your telephone number. You must use the Change of Address Form/Board of Immigration Appeals (Form EOIR-33/BIA).

11. Mailing Address of Attorney or Representative for the Respondents/Applicants:

Name: Otavio Haverroth Silva

Street Address: 5051 La Jolla Blvd.

Suite or Room Number: Suite 202

City, State, Zip Code: San Diego, CA, 92109

Telephone Number: (510) 241-9336

Email: otavio@yousalaw.com

NOTE: If an attorney or representative signs this appeal for you, he or she must file *with this appeal*, a Notice of Entry of Appearance as Attorney or Representative Before the Board of Immigration Appeals (Form EOIR-27).

12. **PROOF OF SERVICE**
You must complete this section.

I N/A

mailed or delivered a copy of this Notice of Appeal on N/A

to N/A

at N/A

☑ No service needed. I electronically filed this document, and the opposing party is participating in ECAS.

SIGN HERE: 

NOTE: If you are the Respondent or Applicant, the "Opposing Party" is the Assistant Chief Counsel of DHS – ICE.

WARNING: If you do not complete this section properly, your appeal will be rejected or dismissed. If you do not attach a fee payment receipt or a completed Fee Waiver Request (Form EOIR-26A) to this appeal, your appeal may be rejected or dismissed.

HAVE YOU?

- [x] Read all of the General Instructions.
- [x] Provided all of the requested information.
- [x] Completed this form in English.
- [ ] Provided a certified English translation for all non-English attachments.
- [x] Signed the form.
- [x] Served a copy of this form and all attachments on the opposing party, if applicable.
- [x] Completed and signed the Proof of Service.
- [x] Attached the required fee payment receipt or Fee Waiver Request.
- [x] Attached a completed and signed EOIR-27 for each respondent or applicant represented by an attorney or representative.

ADDITIONAL SHEETS OF RESPONDENT'S REASONS FOR APPEAL - FORM EOIR-26, SECTION 6

The Respondent respectfully presents the following remaining grounds for his appeal:

2. The IJ applied an improperly heightened standard of causation, failing to recognize that the protected ground was "at least one central reason" for the persecution. INA § 208(b)(1)(B)(i); *Matter of J-B-N- & S-M-*, 24 I&N Dec. 208, 212–14 (BIA 2007). Iranian authorities persecute Kurds under the guise of "national security" or "counter-terrorism" when the underlying reason is their Kurdish ethnicity and actual or imputed political opposition. Respondent's Kurdish ethnicity and anti-government political opinion are not merely incidental, tangential, superficial, or subordinate to any other reasons for the persecution. Rather, they are central reasons for the repeated surveillance, coercive interrogations, arbitrary detentions, confiscation of his documents and belongings, and threats he endured. The standard was therefore misapplied by the IJ.

3. The Immigration Judge (IJ) erred as a matter of law and fact in concluding that the Respondent failed to establish a well-founded fear or clear probability of persecution on account of his political opinion, or an imputed political opinion, pursuant to INA § 101(a)(42)(A) and INA § 241(b)(3). Specifically, the IJ erred by:

a. Failing to recognize that Respondent's overt political beliefs, anti-regime stance, and opposition to state-sponsored oppression constitute a protected political opinion under *INS v. Elias-Zacarias*, 502 U.S. 478 (1992) and *Matter of S-P-*, 21 I&N Dec. 486 (BIA 1996);

b. Failing to evaluate whether the persecutors attributed an anti-government or subversive political opinion to the Respondent, regardless of his actual political stance. *INS v. Elias-Zacarias*, 502 U.S. 478, 482-83 (1992). The law broadly recognizes that political opinion is not limited to formal political affiliation or electoral activity. *Ahmed v. Keisler*, 504 F.3d 1183, 1192 (9th Cir. 2007). An applicant may establish persecution on account of political opinion where the persecutor attributes or imputes an anti-government or otherwise opposing political view to the applicant, and the existence and significance of that political opinion must be assessed

in light of the broader political context of the applicant's country of origin. *See Matter of S-P-*, 21 I&N Dec. 486, 494 (BIA 1996) (granting asylum where the applicant was detained and abused by government actors because of "an assumption that his political views were antithetical to those of the Government"); *Navas v. I.N.S.*, 217 F.3d 646, 658 (9th Cir. 2000); *Castro v. Holder*, 597 F.3d 93, 100–06 (2d Cir. 2010); *Song v. Sessions*, 882 F.3d 837, 841-42 (9th Cir. 2017). In establishing an imputed political opinion, the adjudicator must inquire into the views held by the persecutor, rather than those held by the victim. *Sangha v. I.N.S.*, 103 F.3d 1482, 1489 (9th Cir.1997); and

c. Erroneously mischaracterizing the persecutors' actions as legitimate criminal law enforcement rather than politically motivated persecution. Under the mixed-motives analysis, nexus can be established by showing that persecution occurred both because of legitimate investigatory reasons and because of a protected ground, if it constituted at least one central reason for the harm. *See Singh v. Holder*, 764 F.3d 1153 (9th Cir. 2014); Singh v. Ilchert, 63 F.3d 1501 (9th Cir. 1995); and *Baballah v. Ashcroft*, 367 F.3d 1067, 1075-1076 (9th Cir. 2003) (finding that the IJ's dismissal of arbitrary citations as legitimate law enforcement failed to account for their discriminatory nature). Under *Matter of S-P-*, 21 I&N Dec. 486, 492 (BIA 1996), the fact that authorities characterize their actions as legitimate law enforcement does not preclude a finding of political persecution, as prosecution for an alleged offense may serve as a pretext to punish an individual for his actual or imputed political opinion. The IJ therefore failed to consider that the persecutors' motive was inherently political where they attributed an anti-government, dissident political opinion to Respondent based on his Kurdish ethnicity.

4. The Immigration Judge erred as a matter of law and fact in finding that the Respondent failed to demonstrate past persecution or a well-founded fear of future persecution on account of his Kurdish race and ethnic identity pursuant to INA § 101(a)(42)(A) and INA § 241(b)(3). Notably, the IJ erred by:

a. Failing to properly analyze Respondent's claim under the protected ground of 'Race' and 'Ethnicity' as a distinct and independent statutory ground;

b. Minimizing the cumulative impact of systemic, state-sanctioned discrimination, physical abuse, arbitrary detentions, and harassment directed at the Respondent specifically because of his Kurdish ethnicity, which rises to the level of persecution. *See Matter of O-Z- & I-Z-*, 22 I&N Dec. 23 (BIA 1998). *See* also *Knezevic v. Ashcroft*,

367 F.3d 1206, 1211 (9th Cir.2004) ("Persecution encompasses the infliction of suffering or harm upon those who differ in race, religion or political opinion in a way regarded as offensive"). The instances of harm inflicted on Respondent must be assessed cumulatively, rather than in isolation, particularly where the repeated mistreatment is tied to the Respondent's ethnic identity and reflects a broader pattern of discriminatory targeting. *See Korablina v. I.N.S.*, 158 F.3d 1038, 1044 (9th Cir. 1998) (the court rejected the characterization of the petitioner's experiences as mere discrimination and held that the cumulative effect of repeated harassment, threats, property destruction, and physical violence directed at her because of her Jewish heritage compelled a finding of persecution); and *Duarte de Guinac v. Immigration and Naturalization Serv.*, 179 F.3d 1156, 1162 (9th Cir. 1999) (holding that the violence perpetrated by members of the Guatemalan military, under a cumulative analysis, was sufficient to establish persecution on account of the applicant's Indigenous heritage);

c. Disregarding objective country conditions evidence establishing a pattern or practice of persecution against ethnic Kurds by state authorities and affiliated paramilitaries under 8 CFR § 1208.13(b)(2)(iii)(A)–(B);

d. Failing to recognize ethnic Kurds as a "disfavored group" and that Respondent is likely to be targeted as a member of such a group. *Sael v. Ashcroft*, 386 F.3d 922, 925-927 (9th Cir. 2004); *Wakkary v. Holder*, 558 F.3d 1049 (9th Cir. 2009). An applicant can establish a well-founded fear of persecution and eligibility for asylum by demonstrating "a pattern or practice of persecution against a group of which she is a member". *Mgoian v. INS*, 184 F.3d 1029, 1035 n. 4 (9th Cir. 1999) (internal quotations omitted). Accordingly, the objective reasonableness of Respondent's fear of future persecution must be assessed in light of both his individual experiences and the degree of persecution generally suffered by members of the disfavored group. *Hoxha v. Ashcroft*, 319 F.3d 1179, 1182-83 (9th Cir. 2003). The absence of evidence that Respondent was individually singled out does not obviate the need to consider the risk arising from his group membership and the broader pattern of persecution. Indeed, membership in a disfavored group may place an applicant at an increased risk of persecution even where the group's members are not subjected to systematic persecution in every instance. *Singh v. INS*, 94 F.3d 1353, 1359 (9th Cir.1996). *See* also *Kotasz v. I.N.S.*, 31 F.3d 847 (9th Cir. 1994) ("although members of the disfavored groups are not threatened by systematic persecution of the group's entire

membership, the fact of group membership nonetheless places them at some risk"); and

e. Incorrectly concluding that Respondent could safely and reasonably relocate within the country of removal to avoid persecution targeting ethnic Kurds. Because the persecutor is the Iranian central state apparatus (state actor), there is a legal presumption under 8 CFR § 1208.13(b)(3)(ii) that internal relocation is unreasonable and unsafe nationwide, which DHS failed to rebut. *Matter of M-Z-M-R-*, 26 I&N Dec. 28 (BIA 2012). Also, relocation is legally impermissible where it would require the Respondent to suppress the characteristic that exposes him to persecution, such as his ethnic identity. *Matter of C-G-T-*, 28 I&N Dec. 740, 745 (BIA 2023).

5. The Immigration Judge (IJ) erred as a matter of law and fact in concluding that the Respondent failed to establish past persecution or a well-founded fear on account of his religion as a Sunni Muslim in the Shia-dominated Islamic Republic of Iran, pursuant to INA § 101(a)(42)(A), INA § 241(b)(3), and 8 CFR § 1208.16; 1208.18. Specifically, the IJ committed reversible error by:

a. Misapplying the legal standard for persecution on account of religion and failing to recognize that the systemic state-sponsored discrimination, surveillance, arbitrary detentions, physical abuse, and severe restrictions on religious practice imposed by the Iranian Shia theocracy against Sunni Muslims rise to the level of persecution. The Ninth Circuit has recognized that ethnicity and religion may be closely intertwined in the Middle Eastern context. *Baballah v. Ashcroft*, 367 F.3d 1067, 1077 n.9 (9th Cir. 2003). There, the Court further recognized the intrinsic connection between the two protected grounds, concluding that it need not analyze them separately because the protected-ground requirement was satisfied based on both race and religion. *Id*. Accordingly, Respondent's Kurdish ethnicity and Sunni Muslim faith cannot be artificially separated when evaluating the reasons for his mistreatment, particularly where the record demonstrates that Iranian authorities perceive Kurdish Sunnis as a distinct and politically suspect minority.

b. Again failing to consider the general persecution faced by Sunni Muslims in Iran and whether their status as a disfavored group increases the likelihood that Respondent will be targeted on account of his religion. *Sael v. Ashcroft*, 386 F.3d 922, 925-927 (9th Cir. 2004); *Wakkary v. Holder*, 558 F.3d 1049 (9th Cir. 2009); *Hoxha v. Ashcroft*, 319

F.3d 1179, 1182-83 (9th Cir. 2003); *Singh v. INS*, 94 F.3d 1353, 1359 (9th Cir.1996); *Kotasz v. I.N.S.*, 31 F.3d 847 (9th Cir. 1994).

c. Failing to conduct a proper mixed-motive analysis under INA § 208(b)(1)(B)(i). The IJ improperly overlooked that Respondent's religious identity as a Sunni Muslim was "at least one central reason" for the harm and threats directed against him by Iranian state security forces, who inherently view Sunni religious practice as both a theological violation and a threat to state security (imputed political opinion).
d. Ignoring or improperly discounting country conditions evidence, which document a clear pattern or practice of state-sanctioned persecution, prosecution under vague charges such as Moharebeh ('enmity against God'), and destruction of Sunni places of worship.

6. The IJ's adverse credibility determination was not supported by substantial evidence. Under the REAL ID Act, credibility must be assessed based on the totality of the circumstances, including the consistency of the Respondent's statements, their consistency with the record, and the inherent plausibility of his account. INA § 208(b)(1)(B)(iii), 8 U.S.C. § 1158(b)(1)(B)(iii). Although an IJ may consider inconsistencies, the determination must be reasonable and supported by the record as a whole. Minor or collateral discrepancies that do not meaningfully undermine the core account of persecution should not, standing alone, support an adverse credibility finding. *Matter of B-*, 21 I&N Dec. 66, 70 (BIA 1995). Moreover, an applicant's testimony may be sufficient to sustain the burden of proof without corroborating evidence. INA § 208(b)(1)(B)(ii). Where, as here, the record provides no meaningful basis to question Respondent's credibility, his consistent and plausible testimony should be credited, and minor discrepancies should not outweigh his account of persecution.

7. The IJ erred as a matter of law and fact in denying the Respondent's application for Withholding of Removal under INA § 241(b)(3)(A). Because the IJ's underlying findings regarding credibility, harm, and nexus were erroneous, the IJ's conclusion that the Respondent failed to establish a clear probability ('more likely than not') of persecution in his home country is likewise fundamentally flawed. *See Mgoian v. INS*, 184 F.3d 1029, 1038 (9th Cir. 1999) (granting withholding petition where petitioner was a member of prominent Kurdish-Moslem family, her uncle was murdered, a witness was harassed into silence, her mother was threatened with death, and she received threats directing her to leave the country). The IJ further erred by failing to consider the broader pattern of persecution against ethnic

Kurds in Iran and whether Respondent's membership in this disfavored group heightens his risk of persecution on account of his ethnicity. *See Wakkary v. Holder,* 558 F.3d 1049 (9th Cir. 2009). *See* also *Kotasz v. I.N.S.*, 31 F.3d 847 (9th Cir. 1994).

8. The Court applied the incorrect nexus standard in evaluating Respondent's withholding of removal claim by requiring him to establish that his actual or imputed political opinion and race was "one central reason" for the persecution, rather than applying the less demanding standard that the protected ground be "a reason" for the threatened harm. INA § 241(b)(3)(C), 8 U.S.C. § 1231(b)(3)(C). *See Barajas-Romero v. Lynch,* 846 F.3d 351 (9th Cir. 2017).

9. The IJ committed legal error by conflating the legal standards for CAT protection with those for Asylum and Withholding of Removal. Protection under CAT does not require a nexus to a protected ground, and the IJ failed to perform an independent, autonomous analysis of the Respondent's CAT claim.

10. The IJ erred in finding that the Respondent failed to show that it is more likely than not that he would be subjected to torture upon removal. The IJ further erred in assessing government involvement, failing to recognize that public officials would acquiesce to, participate in, or exhibit 'willful blindness' toward the torture of the Respondent. *Aguilar-Ramos v. Holder*, 594 F.3d 701 (9th Cir. 2010); *Cole v. Holder*, 659 F.3d 762, 771 (9th Cir. 2011). The IJ improperly ignored objective country conditions evidence establishing a pattern of gross human rights violations in the country of removal. The IJ also failed to recognize the Respondent that has already experienced conduct meeting the definition of torture at the hands of public officials, including the arbitrary detention and deprivation of liberty.

11. The Immigration Judge erred in denying a continuance for Respondent to obtain additional corroborating evidence under *Matter of L-A-C-*, 26 I&N Dec. 516 (BIA 2015). The IJ failed to consider whether further corroborating evidence was necessary to meet the Respondent's burden of proof under INA § 208(b)(1)(B)(ii), and to evaluate the Respondent's explanation regarding the unavailability of such evidence. In an analysis pursuant to *Matter of L-A-C-,* good cause existed under 8 C.F.R. § 1003.29 to grant a continuance for Respondent to obtain additional evidence that goes to the core of his asylum claim. 26 I&N Dec. at 516. The evidence sought is non-cumulative, highly probative, and directly addresses the core elements

of the claim, specifically past harm, protected grounds, state actors' inability to protect, impossibility of relocation, and nexus. Denial of a continuance without meaningfully evaluating the Respondent's reasonable explanation for the temporary absence of corroboration thus constitutes an abuse of discretion under *Matter of L-A-C-* and deprives the Respondent of a full and fair hearing.

12. The IJ failed to fulfill the heightened duty to develop the record for a pro se respondent. The IJ did not adequately account for Respondent's pro se status following the withdrawal of his prior counsel and to fulfill the corresponding duty to ensure that the record was sufficiently developed for a fair adjudication of his claims. This failure was particularly consequential because Respondent was not afforded a continuance to obtain additional evidence, supplement his existing filings, or otherwise address evidentiary deficiencies arising from the withdrawal of counsel. By proceeding to adjudication without allowing Respondent a reasonable opportunity to address evidentiary deficiencies, the IJ failed to ensure a fundamentally fair hearing. *See Jacinto v. INS*, 208 F.3d 725, 728 (9th Cir. 2000). *See* also *Agyeman v. INS*, 296 F.3d 871 (9th Cir. 2002); *Quintero v. Garland*, 998 F.3d 612, 618-20 (4th Cir. 2021).

13. The IJ violated the Respondent's Fifth Amendment right to due process and a full and fair hearing by failing to act as a neutral adjudicator and by restricting the presentation of material testimony and evidence. *See* INA § 240(b)(4)(B). *See* also *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976); *Okpala v. Whitaker*, 908 F.3d 965, 971 (5th Cir. 2018); *Colmenar v. INS*, 210 F.3d 967 (9th Cir. 2000); *Jacinto v. INS*, 208 F.3d 725, 728 (9th Cir. 2000).

Respondent reserves the right to raise additional arguments in a separate written brief after review of the complete record of proceedings.



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