

No. 11-71854

IN THE UNITED STATES COURT OF
APPEALS
FOR THE NINTH CIRCUIT

Turgut Tarhan,
A 088 737-523
Appellant,
v.
Eric Holder,
Appellee.

APPEAL FROM A DECISION OF
THE BOARD OF IMMIGRATION APPEALS

APPELLANT'S PETITION FOR REHEARING

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In the United States Court of Appeals for the Ninth Circuit

TURGUT TARHAN,
Petitioner,

vs.

ERIC H. HOLDER Jr.,
Attorney General
Respondent

Case No. 11-71854

Agency No. A088-737-523

Petition for Panel Rehearing
Petition for Rehearing En Banc

Statement of Counsel

Appellant Petitions the Court for a Rehearing by the Panel and by the Court En Banc because we respectfully believe that the Court has failed to take account of the changing nature of the current rules governing when, and under what circumstances, an alien with close US Citizen family members, and strong ties to the United States such as Mr. Tarhan, will be allowed to apply for relief from removal.

The Court did not allow briefing on the issues raised, which include, notably, the issue of equal protection of similarly-situated persons under the law.

Because this issue deals with the rules surrounding comprehensive immigration reform, the issues potentially affects an estimated 20 million people here in the US, in addition to having a profound affect on those people's US Citizen or legal resident family members.

This is a question of exceptional importance.

Argument

In addition to the rapidly-changing nature of standards for removal from the US that are documented in Petitioner's Response to Order to Show Cause (Dkt. 6-1) the Executive Branch has continued its policy of reevaluating how it interprets and enforces US immigration law.

(See Exhibit 1)

The Executive Branch continues to seek comprehensive immigration reform from which Mr. Tarhan and those similarly situated would benefit and, as documented in Petitioner's Response to Order to Show Cause, it is well settled that an Immigration Courts are *required* to continue

proceedings in order to allow additional legal processes to take place that will result in a beneficial outcome to an alien in proceedings. *See Matter of Garcia*, 16 I&N Dec. 653 (BIA 1978); *Matter of Velarde-Pacheco*, 23 I & N Dec. 253 (2002); *Matter of Fatmir Libohova*, A73-591-296 (BIA Jan. 28, 2003); *Matter of Sohail Raza*, A76-231-298 (BIA Oct. 11, 2002); *Matter of Hashmi*, 24 I&N Dec. 785 (BIA 2009); *Rajah v. Mukasey*, 544 F.3d 449 (2d Cir. 2008).

It is estimated that there are up to 20 million residents of the United States that would potentially benefit from comprehensive immigration reform.

Clearly the issue is divisive politically and just as clearly the issue demands a solution.

The question of how to effect comprehensive immigration reform is therefore a question of exceptional importance requiring the Court to decide the fate of millions of residents of the US who have unshakeable ties to the US, such as Mr. Tarhan, but have had the mere misfortune to have been born on the wrong side of an arbitrary and historically changing line in the sand.

While their family members were born on the another side of that line.

The Courts, as interpreters of the law, have a duty to hear important cases such as this one, in which the issue is equal protection under the law.

Specifically, the issue raised is that the administrative agencies which

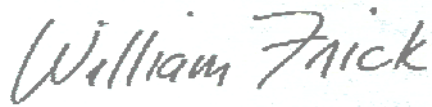
control the US immigration process allow continuances for the purpose of waiting for the issuance of certain immigration benefits, but refuse continuances for the purposes of waiting on other benefits. This is not fair. In this case this Court refused to accept Mr. Tarhan's Petition for Review, and did not even allow briefing on this issues raised – despite the volatile climate regarding immigration reform, and the potential effect of the issues raised by Mr. Tarhan, on millions of people and their US citizen relatives. The Court should at minimum, allow the issues to be fully briefed, and make any decision on this case only after full briefing.

Lastly, as a policy matter, the judicial branch must not shy from investigating and ruling on the law as it relates to important political questions. Doing so provides communication and perhaps expert guidance to the other branches of government and to the public, on matters of urgent importance such as the current state of US Immigration Law, and the tens of millions of US and non-US human beings that these confusing and often-conflicting laws and policies affect.

We ask the court to note of the facts described in Mr. Tarhan's pending Motion for a 21-day Extension of Time to File a Petition for Panel Rehearing / Rehearing En Banc, submitted yesterday. Based upon those

facts Mr. Tarhan requests permission to supplement this Petition within the next 21 days.

Respectfully submitted this 1st day of December, 2011

A handwritten signature in black ink that reads "William Frick". The signature is written in a cursive, slightly slanted style.

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PROOF OF SERVICE

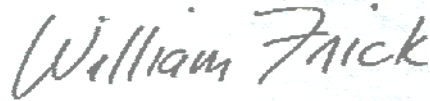
I William Frick do hereby declare that I caused to be delivered (via electronic mail) the following listed documents to:

US Department of Justice
Civil Division
Office of Immigration Litigation
PO Box 878
Ben Franklin Station
Washington, DC 20044

1. Petition for Panel Rehearing / Petition for Rehearing En Banc

Dated this 1st day of December, 2011,

By:



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Certificate of Compliance
Pursuant to Fed.R.App. 32(a)(7)(C)
and Circuit Rule 32-1,
for Case Number
11-71854

I certify that:

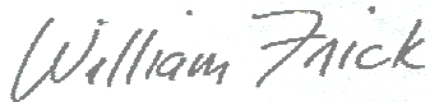
The attached Motion conforms with Circuit Rule 32.

The Motion contains 6 pages.

The Motion (including footnotes) contains 857 words.

None of the fonts are smaller than 10.5 characters per inch

Dated this 1st day of December, 2011



By _____

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