

# JEREMY MOORE & ASSOCIATES

Incorporating the practice of E.J. Tucker  
(Est. 1875)

Barristers & Solicitors

21 January, 2004

Our ref: JJM:cc:21104-2x

Your ref:

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Nicole Kelly BA LLB (HONS)  
Shiralee Pratt BA LLB (HONS)

Senator Amanda Vanstone  
Minister of Immigration & Multicultural  
& Indigenous Affairs  
81 Flinders Street  
ADELAIDE SA 5000

(Fax No. 8237 6699)

Dear Senator,

re: Roqia BAKHTIARI

We enclose a copy of documents that have been faxed to us from Afghanistan together with a translation. If you wish to check the authenticity of the documents we suggest that you contact the relevant authorities in Afghanistan.

On the basis of the documents that have been provided, we submit that Roqia Bakhtiari should be released from detention immediately.

Please provide us with a response within the next seven days as to what you propose to do.

Yours faithfully,

JEREMY MOORE & ASSOCIATES

Per: 

Enc:

Branch Offices:

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123 Wright Street  
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All correspondence to Strathalbyn office

## Statement of Simon Russell


1. My name is Simon Russell. I am a citizen of the United Kingdom. In December 2002, I came to work in Afghanistan, first for the International Catholic Migration Commission (ICMC) as head of the regional office, Kandahar, until 31 December 2003, then for the Norwegian Refugee Council as Programme Manager for Afghanistan, based in Kabul. Since coming to Afghanistan, I have traveled across the country and visited most areas, including Bamian and the Central Highlands region.
2. In July 2004, I was asked to assist in a case involving some Afghan asylum-seekers in Australia. I was given to understand that the Australian Government was minded to refuse their applications for asylum in the belief that they were not from Afghanistan but from Pakistan. I was asked to interview a family member, who had previously been detached from the family group and deported from Australia to Pakistan. I was not paid for this work and I do not take a view on the merits of the case or on the actions of the asylum-seekers or the Australian Government. I have interviewed the deportee from Australia merely to act as a channel of information.
3. On 4 August 2004, I interviewed Mazar Ali, son of Yusuf Ali, in my office at the Norwegian Refugee Council country headquarters at 570, Qalai-e-Fatullah, between Streets 8/9, Kabul, Afghanistan at 11.00. The interview was conducted in English without an interpreter; Mazar Ali speaks English well, although his accent can be difficult to follow (especially on the telephone). I shall come back to his accent later.
4. I discussed with Mazar Ali what I had been asked to do and he told me he understood what my role was. He said that he is the brother of Rukhia Bakhtiari, who is in Australia awaiting a decision about her status there.

5. Mazar Ali told me that he is from Charkh, Burgha, Shahristan District in the province of Dai Kundi. Dai Kundi is a new province, created a few months ago out of the northeastern part of Uruzgan province.
6. I asked Mazar Ali for identification and he showed me his Voter Registration Card, No. 05472012, issued in Uruzgan and valid for 2003-2004. Presidential elections are scheduled for 9 October 2004 and a massive voter registration exercise has been conducted this year in Afghanistan, with the assistance of the international community. In order to register to vote and obtain a card, it is usually necessary to show a "daskara" or national identity card. However, this rule is not strictly enforced. Mazar Ali did not have an identity card on his person and said that it was at home.
7. Mazar Ali told me that he was born in Charkh, is approximately 28 years old (Afghans often give wildly imprecise birth dates), is single and unemployed. He told me that he left Afghanistan before the demise of the Taleban regime and had gone to Quetta, in Pakistan, where he stayed for a few months. He was not living in a refugee camp, which he described as being only for Pashtoons, and that he lived with other Hazaras in Quetta.
8. After a few months in Quetta, he went to Australia. He was imprecise about when he went to Australia, saying it was about three years ago. He said that he was deported by force from Australia about eight months ago.
9. About his deportation, Mazar Ali said that he was given some Australian documents and was accompanied by two security officers, sitting either side of him. He said that they went to Bangkok, where he spent a day and a night. While in Bangkok he was asked to sign some papers. I asked him if he understood what was in the papers and he said that he did not, that he was forced to sign them and that there was no time to have them explained to him.

10. After Bangkok, Mazar Ali and his escorts flew to Karachi, in Pakistan. When they approached the immigration desk they were stopped. There was an argument between the Pakistani immigration official and the escorts. It seems that the argument was about them not having correct papers to enter Pakistan. Another Pakistani official came and allowed the escorts to remain in transit but not to enter Pakistan. Mazar Ali and the escorts were separated and Mazar Ali was taken to a room for interview.
  
11. The Pakistani officials asked Mazar Ali where he was from. He bribed the officials with some Australian dollars to release him. They did so. The Australian dollars had been earned by Mazar Ali from working in a detention camp in Australia. After being allowed to leave, Mazar Ali made his way back to Quetta. The situation was not good there and the border with Afghanistan could not be crossed (it is worth noting that Quetta has seen quite a bit of sectarian violence between Sunnis and Shias and the border has been repeatedly closed this year), so he waited. Then, Mazar Ali entered Afghanistan without documents, paying a bribe to do so.
  
12. Since he entered Afghanistan, Mazar Ali spent a few days in Ghazni, a few months in Uruzgan and then a few months in Charkh.
  
13. I asked Mazar Ali about where he had learnt English and what his mother tongue was. He told me he had learnt English in the Australian detention camp and that his mother tongue is Hazaragi. Hazaragi is the language of the Hazara people, who come from the Central Highlands of Afghanistan. The language is closer to Farsi than it is to Dari. Farsi is the dialect of Persian spoken in Iran and Dari is the dialect spoken in Afghanistan. The Hazaras are Shia, and for that reason have suffered discrimination from other ethnic groups in Afghanistan, most notably in recent times from the largely Pashtoon Taliban.

14. I asked Mazar Ali about his languages because of the inflection in his accent. It is easy to distinguish between Pakistanis and Afghanis when they speak English because the inflection is so different. Persian speakers speak English with a soft accent whereas the accent of Urdu speakers is harder but also lilting. I found Mazar Ali spoke English as a native Persian speaker, but there was a slight Pakistani inflection on some words. He may have picked this up in Pakistan or in the detention camp.
15. To add some observations, Mazar Ali was wearing a shalwar kameez and waistcoat, with a sparkly green cap. He is a fit, well-built man, with the rather Mongol or Chinese features of a Hazara. He has light skin, usual for someone from the mountainous areas of the region. During our interview he held prayer beads. When being admitted to the office he spoke freely in Persian to our guards and with the other staff. I went over some details of what he had told me in the presence of our office manager, who confirmed the aspects.
16. In my opinion, I have no doubt that Mazar Ali is a Hazara from the central region of Afghanistan. Not only does his outward appearance clearly suggest this, but also his language. It is interesting that he holds a Voter Registration Card, not because of what this says about formal identification, but because it says that he identifies himself as an Afghan. In the current environment, where people have been killed for carrying voting cards, registering to vote is an affirmation that people want to build a new Afghanistan. If Mazar Ali was from Pakistan I doubt very much whether he would want to make such an affirmation.

Sworn etc,

  
SIMON RUSSELL  
BLUXEMES, 10 14 September



# دولت انتقالی اسلامی افغانستان

وزارت امور داخله

ولایت غزنی

ولسوالی جاغوری

از اینکه خانم رقیه بختیاری ولد یوسف علی نظر به تصدیق اهالی مربوطه آن  
قریه بلو داود ولسوالی جاغوری ولایت غزنی می باشد اتباع مملکت افغانستان میا شد  
از شهرت مذکوره تصدیق می شود.

با احترام

ظفر شریف

ولسوال جاغوری



خانم رجنه بصیر ری زوجه علی لعل بصیر ری کد پستی

درید بکم حققتند فائز است ملک که از خوی بلو داود

تعلق در در میان  
عبد الله  
علی یا عمر

میان اهل مسجد جامع بلو داود و سوا جوی ولایت غزنی  
تصدیق و تأیید میداریم که نامبرده از زمین منطقه

۷۸۶

اداره بلو داود زیرک و سوا جوی ولایت غزنی

تأیید و تصدیق میداریم که خانم رجنه بصیر ری از

بلو داود میباید که اداره بلو داود را



تصدیق کرده و در اداره غزنی ثبت شده است

در اداره غزنی ثبت شده است



تاریخ: ۲۰۰۳/۱۲/۱۹  
 مدیر عامل  
 مدیر عامل  
 مدیر عامل  
 مدیر عامل

بموضوع: قرارداد همکاری در زمینه ارائه خدمات اینترنتی

احتراماً، بدینوسیله به اطلاع می‌رسانیم که این قرارداد در تاریخ ۱۳۸۲/۱۲/۱۹ بین این شرکت و شرکت ... منعقد گردید. این قرارداد در تاریخ ۱۳۸۲/۱۲/۱۹ به مدت ... منعقد گردید. این قرارداد در تاریخ ۱۳۸۲/۱۲/۱۹ به مدت ... منعقد گردید.

از اهمیت و تخصص ...  
 مدیر عامل

بدینوسیله به اطلاع می‌رسانیم که این قرارداد در تاریخ ۱۳۸۲/۱۲/۱۹ بین این شرکت و شرکت ... منعقد گردید. این قرارداد در تاریخ ۱۳۸۲/۱۲/۱۹ به مدت ... منعقد گردید.



[Handwritten signature and scribbles over the stamp]



بخدمت مولانا

بخدمت مولانا محمد رفیع صاحب



مظاہر علی محمد رفیع صاحب  
شاہنشاہی چوک برسر آبپاشی نیاں

تاریخ ۱۴ جون ۲۰۰۳ء

بخدمت مولانا محمد رفیع صاحب

دعا ہے کہ مولانا محمد رفیع صاحب کی فرزند حنین علی درود بھیج کر خوشخبریاں سنیں  
بوقت نامہ عروسی کے مولانا محمد رفیع صاحب کی فرزند بیگم فریادہ کی طلاق  
از اس قرینہ موصوفہ اور مولانا محمد رفیع صاحب کی فرزند بیگم فریادہ کی طلاق  
دل میں درخشاں آنے کی دعا ہے کہ میری بیٹی کے لئے دعا ہے کہ وہ بہتر اور کامیاب  
زندگی میں گزارے کہ تعالیٰ در زندان آغا سترگی پر عملیہ امور میں  
بخدمت مولانا محمد رفیع صاحب ، لکھنؤ از سنگت قبلی آغا سترگی فریادہ  
بہ آن برج سعادت محمد علی صاحب فریادہ سے پیدا از لطف و احسان تعالیٰ ہے

بخدمت مولانا

از نام مولانا محمد رفیع صاحب  
بخدمت مولانا محمد رفیع صاحب  
بخدمت مولانا محمد رفیع صاحب  
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بخدمت مولانا محمد رفیع صاحب

خطاب

به ارادۀ محرم ذریعہ در کتبم در حق نہ کتبر استوار

یعنی آنکہ نہ سکتبت بندوبست بہ نام علی لغز بغضیہ کی طرح چھوڑ دیا گیا  
یعنی بغضیہ کی نسبت محترم ذریعہ کہہ سکتے ہیں کہ اسکا کہن مستفادہ در ذریعہ بلو  
تھیں کہ عیب ۲ ہو گیا کہ بہ نام بغضیہ بغضیہ کی ہو تو جو کہ  
بہ نام علی لغز بغضیہ کی بہ نام لغز آن بہ نام محمد زین  
مستطیر محمدی بہ کتبم ذریعہ و شہدائت طور و ہر طور و ہر طرف سے  
کہ اسکا کہن در ہشتہ مادری تعلق بہ قوم بلو (اور) در ہشتہ

موسم نقدیہ کنندگان  
نہجت المسماہ  
عہدہ  
خان محمد علی کلید  
ایم ای اے کی سید جامع بلو دادود و سوال جاہلکی و لایحہ علی ہذا کتابت و تصدیق  
سیدام کہ بہرین از عہدہ مسلمہ بلو دادود و سوال جاہلکی و لایحہ علی ہذا کتابت و تصدیق

۷۸۶  
ادارہ رسید دادود ذریعہ نیز نہ برین و نامیہ رسید دادود کی  
جامعہ دارالاسلطہ قریب دادود و اسلامی جامعہ دارالاسلطہ



۲

دولت افغانستان

وزارت امور داخله

۳۱۵

ولایت ارزگان

۱۳۸۲/۹/۲۳

رسمت اداری

اصویت مجلس

به اداره محترم ذریعہ کمپ وکسیم واقع کشور استرالیا،  
 محترماً؛ از سکونت پذیر بی بنام علی اسفندیاری فرزند حسین علی و  
 زوجه این وقیہ نامہ پایتخ نوریجو و دو دختر ذریعہ مکتوب (۱۱۸۱) مورخ  
 ۱۳۸۲/۹/۲۳ در مقام اداری است و لیسوالی محترم است و  
 لسوان شهرستان عنوان آن اداره محترم اصدان یافتہ شامہ کورہ و ایک  
 مکتوب نوریجو و لیسوالی مذکور میوزم مکتوب ہند ۱۱۸۱ یادداشت  
 عاریتہ عارض بنما ارسال شد خواہشمندم کہ علی اسفندیاری مذکور  
 کہ از لیسوالی شهرستان ہندہ و ما و اذاد فرمائید ہنگامی اداره  
 محترم را در زمینہ خواہانم. بااحترام

معم

( تھن جنرال جان محمد / مکتوب )  
 والسی ولایت ارزگان

۳۱۵

۱۳۸۲/۹/۲۳

۱۳۸۲/۹/۲۳  
 ولایت ارزگان در زمینہ مکتوب ۱۸۱ سکونت پذیر بی علی اسفندیاری و نامہ این مکتوب  
 کورہ مقام ولایت ارزگان سکونت پذیر بی آن سے لیسوالی محترم است و لیسوالی  
 ۱۳۸۲/۹/۲۳



۱۳۸۲/۹/۲۳

(7)

The Islamic Interim Government of Afghanistan  
The Ministry of Interior Affairs  
Uruzgan Province  
Administration Directorate

To the honourable authorities of the concerned detention centre in Australia:  
I would like to confirm residence acceptance of Ali Bakhtiyari S/O Hussain Ali, and his wife Roqiya with their five sons and daughters, by means of the letter number (181), dated 17/9/1382, which was written to the management of the concerned detention centre. The district head of Shahrستان signed the letter. Attached, please find the district head's letter and two applications of the applicant.

I would like to ask for your cooperation in freeing Ali Asghar and his family, who are from the district of Shahrستان.

Sincerely,  
(signature)  
(Lieutenant General Jan Mohammad/Mohammadi  
Mayor of Uruzgan Province  
عمید محمد

It is considered.

23/9/1382

To the honourable management of the concerned detention centre in Australia:  
The district of Shahrستان has confirmed the residence acceptance of Ali Asghar Bakhtiyari and his family by means of letter number (181) dated 17/9/1382. The authority of Uruzgan province, too, confirms their residence acceptance.

Sincerely,  
(Signature and stamp)  
(Lieutenant General Jan Mohammad (Mohammadi)

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(6)

To the honourable authorities of the detention centre Australia:

We would like to confirm Ali Asghar Bakhtiyari's acceptance of residence in Baloo village. We also confirm that Ali Asghar Bakhtiyari and his wife Roqiya Bakhtiyari belong to the Baloo village and their five sons and daughters, Alamdar Hussain, Montazir Mahdi, Sakina Zahra, Samina Zahra and Amina Zahra belong to this village from their mother side.

Sincerely

Confirmers:

Jan Muhammad Jan Ali Yawar (Signature)

Najibullah Misbah (Signature)

We, the local people of mosque of Baloo Dawood, District of Jaghori, Ghazni Province, Afghanistan, confirm that the people mentioned are from this area of Baloo Dawood.

Sincerely,

(Signature)

29/9/1382

786

Management of Dawood Zirak High School, too, confirm that the mentioned person is from the area of Baloo Dawood, District of Jaghori.

(Signature and Stamp)

30/9/1382

5

1440

Applicant Details  
Mazhar Ali S/O Yusuf Ali  
Resident: of Charkeh Bargar, Shahristan

(Stamp)

Application Price: Ten Afghanis

To Honourable Shahristan District Head:

My son-in-law, Ali Asghar Bakhtiyari S/O Hussain Ali, and his wife Roqiya who is my sister, immigrated to Australia from this village with their five sons and daughters during the regime of the Taliban. Upon their arrival in that country, they were taken to a detention centre where they have been kept since then.

Therefore, I am hoping if you could confirm the former residence of the above-mentioned to the authorities of that country. I will appreciate your cooperation.

With regards.

In the name of God.

The application has been considered.

Those mentioned in this application are confirmed to belong to Shahristan District. I would like to ask for your help in this regard.

Greetings.

Aref Hussain

(Signature)

17/9/1382

Islamic Interim Government of Afghanistan  
Province of Ghazni  
District of Jaghori

Date: 29/09/1382

Applicant Name: Mazhar Ali  
S/O: Yusuf Ali  
Residence: Dawood, village of Baloo  
Type: Request for confirmation

Greetings to the honourable District Head of Jaghori:

Dear Sir:

A lady named Roqiya Bakhtiyari D/O Yusuf Ali (resident of Baloo Dawood), spouse of Ali Asghar Bakhtiyari and her five children (Alam Dar Hussain, Montazir Mahdi, Sakina Zahra, Samena Zahra and Amina Zahra) are under captivity in the country of Australia. The Australian government has asked these people to provide confirmation letter. Therefore we would like to ask you to confirm these people.

Sincerely,

Local people and representative of Dawood

To The statistics management

29/9/1382

Please find out about inhabitation, personality, original and current residence and relatives of the above-mentioned. Also, please find out whether he owns any lands or property in the village, as well as the reason for their escape.

Sincerely,

(Signature)

11

We confirm the inhabitation, personality, original residence and relatives of Mazhar Ali, who is a resident of Baloo Dawood.

Sincerely,

(Signature)

Sanayi

11

According to the confirmation of the local people belonging to his area, we confirm that Mr. Mazhar Ali son of Yusuf Ali is from Baloo Dawood, District of Jaghori in the province of Ghazni and that he is a citizen of Afghanistan. We are hoping that the concerned authorities will make some consideration.

Therefore, Roqiya Bakhtiyari and her children are from Jaghori District and their details are confirmed.

(Signatures and stamp)

Zafar Sharif

Jaghori District Head

(3)

We confirm that Mrs. Roqiya Bakhtiyari, D/O Wazir Bigom, who is the spouse of Ali Asghar Bakhtiyari, is from the village of Baloo Dawood.

Najibullah (Signature)

Ali Yawar (Signature)

We, the local people of the Baloo Dawood Public mosque, Jaghoori District, Ghazni Province, confirm that the above-mentioned is from this area.

Representative of Baloo Dawood area  
(Signature)

786

The management of Dawood Zeerak High School of Jaghoori District, Ghazni Province, too, confirm that Mrs. Rooqiya Bakhtiyari is from the area of Baloo Dawood.

Management of Dawood Zeerak High School  
(Stamp)

Receiving confirmations of the local people and the management of high school of the mentioned area, the inhabitation and original residence of Roqiya Bakhtiyari  
.....(Not visible enough to translate/words hiding under stamp)

(Signature)

(Stamp)

Jaghoori District Head



7  
(Mark)

Islamic Interim Government of Afghanistan

Ministry of Interior Affairs

Ghazni Province

Jaghori District

It is to be confirmed that according to the confirmation of the local people, Mrs. Roqiya Bakhitiyari D/O Yusuf Ali is from Baloo Dawood village, Jaghori district, Ghazni province and that she is a citizen of Afghanistan.

Sincerely,

Zafar Sharif

Jaghori District Head (Signature) (Stamp)

---

(Mark)

Date: 17/9/1382

No: 181

The Islamic Interim Government of Afghanistan  
The ministry of interior affairs  
The province of Uruzgan  
The district of Shahrستان  
The security command base

Greetings To the honourable Detention Centre .....in the country of Australia where the refugees are residing:

Hereby it is to be acknowledged that: Ali Asghar Bakhtiyari, his wife Roqiya and their five children (sons and daughters), who are from Charkh Barg village of this district, who migrated from Afghanistan during the Taliban and they are currently residing or in your detention in detention centre....., which belong to you.

Therefore, we confirm the former residence of the above-mentioned in this area and we would like to ask for cooperation of the concerned authorities in their release and freedom. Wishing you success.

Sincerely,

(Signature)

Acting District Head and commander of security force of Shahrستان

(Stamp)

It is considered.

22/9/1382

To directorate of administration assembly:

Lawful performances should be carried out in this regard.

(signature)

Lieutenant General Jan Mohabamad Mohammadi

Mayor of the province



حکومت پنجاب اسلامی افغانستان  
وزارت امور داخلہ  
ولایت ارزگان  
السویلی شہرستان  
قوسمانلی امنیہ

تاریخ: ۱۷ ۹ ۱۳۸۲  
شماره: ۱۸۱

FAXED

بازار محترم زیربط کب و کیم، واقع کنڈر استرالیا کہ  
مہاجرین نامکمل بہت کثرت سے مل رہے ہیں  
بدین رسید گواہی دے کر ہی کوئی ایسا شخص نہیں لے سکتا  
موجودہ صورتحال کے پیش نظر ان کے داخلے کو روکا جائے  
مگر ان کے ساتھ ساتھ ان کے خاندان کے افراد کو بھی روکا جائے  
ان کے ساتھ ساتھ ان کے خاندان کے افراد کو بھی روکا جائے  
ان کے ساتھ ساتھ ان کے خاندان کے افراد کو بھی روکا جائے

Handwritten signature and circular official stamp of the Government of Punjab.

Handwritten notes and signatures at the bottom of the page, including a date '15/12/03' and a signature.