

Akin Gump Secures Asylum For US Military Interpreter

By Nicole Narea

Law360 (February 20, 2018, 1:16 PM EST) -- Afghan native Abdul Samey Honaryar should not have spent a year detained in the custody of the same government he served as a war zone translator, his Akin Gump Strauss Hauer & Feld LLP attorneys told Law360.

They argued that Honaryar had a compelling life story and a compelling, black-letter-law asylum case: the Taliban, an Islamic fundamentalist group that maintains strongholds in Afghanistan, had marked him a traitor for his work as a U.S. military translator, targeting him and his family, so he fled to the U.S., whose soldiers he had supported in conflict. Seemingly, the U.S. immigration system should have welcomed him, they said.

Instead, when he arrived in the U.S. in early 2015, he had to plead his case to an unyielding immigration judge and was stuck in immigration detention. It was only after two years with Akin Gump's pro bono counsel that he was able to secure asylum in November.

"You have an individual who has performed an incredibly vital function to the U.S. military in Afghanistan. It's well-known when you sign up to do that, you make yourself an enemy of the Taliban immediately," Akin Gump's Dean Chapman told Law360. "Not only was he denied asylum, but he was actually imprisoned, being treated in the same way that we would treat an accused murderer or rapist."

Honaryar grew up in Afghanistan opposing the Taliban. He refused to cut his hair, as is customary in the Taliban, and contracted out his services to secretly install satellite TV antennas at night, violating Taliban rules, according to his testimony.

He managed to avoid the group's wrath until he started working for the Americans. In 2009, he became an interpreter and translator for the U.S. military and North American Treaty Organization coalition forces based in Kabul. The attacks started soon after.

On one occasion, the Taliban stole his car from a parking lot outside the U.S. military camp in Kabul and left a note warning him against supporting "infidels," or "non-Muslims and traitors" that the group



Abdul Samey Honaryar, second from left, stand with his Akin Gump attorneys, from left, Lauren Connell, Natasha Burnett, and Dean Chapman.

believes should die, according to court filings. And in 2012, a Taliban member accompanied by a group of men tried to open his car door and then smashed the window, pulling him out and beating him with the butt of a rifle.

Honaryar fled Afghanistan in 2014 for India, the United Arab Emirates and then the U.S., where he applied for asylum and appeared in immigration court in Los Fresnos, Texas, without an attorney. But in June 2015, Immigration Judge Robert Powell denied his application and ordered his deportation. Honaryar had failed to prove that he had a "well-founded fear of future persecution" if he would return to Afghanistan, Powell ruled, finding that the Afghan government was willing and able to reign in the Taliban's threats against him.

Honaryar brought that decision to the Board of Immigration Appeals and was sent to an immigration detention center in Alabama, then Texas, denied release on bond and waiting for a ruling.

It was then that Honaryar's case came to Akin Gump's attention. Steven Schulman, who heads the firm's pro bono practice, read a story about Honaryar's case in The New York Times in April 2016 and immediately put together a team to represent him.

In San Antonio, senior counsel Dennis Windscheffel tried to get him out of detention on bond. In response to his petitions, Immigration Judge Powell set the bond to \$25,000 — an "astronomical amount," Lauren Connell, pro bono counsel on the team, told Law360, noting that immigrants in Honaryar's situation would typically post bonds in the range of \$2,500 to \$3,500. Nevertheless, a bail fund helped him secure the funds to post the bond.

The BIA eventually remanded Honaryar's case and it was transferred to New York immigration court. The core issues on remand were whether the Afghan government was, as Immigration Judge Powell had ruled, willing and able to control the Taliban and whether Honaryar could have alternatively sought safety by relocating to another part of his home country.

The federal government took the first punch, with a "hostile" attorney moving to transfer the case back to Immigration Judge Powell's court, Chapman said. In its brief, it was also "unwilling to concede that the Afghan government was unable to control the Taliban," he added.

Honaryar called various witnesses: his supervising officers in the U.S. military and journalist Elizabeth Rubin, who penned The New York Times' profile of him and who the government sought to discredit as an expert. During the proceedings, one of the government's attorneys had asked Rubin if she had ever taken any courses on Afghanistan during her university studies, overlooking her almost two decades of experience reporting on the country, Connell said.

Nevertheless, after a two-day trial, Immigration Judge Brigitte Laforest ruled in November 2017 to finally grant Honaryar's asylum application. She praised him as a "trusted and effective asset to the U.S. military" who has "saved countless lives and risked his own well-being in the process."

And she found that the Afghan government could not control the Taliban or stop its "systemic and pervasive persecution" of military interpreters who have worked with coalition forces. Honaryar therefore could show a credible fear of persecution at the hands of the Taliban should he return to Afghanistan.

Honaryar's lawyers said it was the ruling that he should have gotten at the start.

"He's been through a lot," Chapman said. "People think that asylum seekers are cagey people who are just figuring out how to get into this country. But this person would like to live in Afghanistan if he could. He lost his family, his homeland, his security."

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--Editing by Katherine Rautenberg.

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