

**UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
NEW YORK, NEW YORK**

In the Matter of:

XXXXXX

Respondent

File No.: A No. XXXXXX

Next Hearing: September 26, 2016 at 1:00pm

RESPONDENT'S DECLARATION

I, XXXXXXXXXXXXXXXX, declare under penalty of perjury, pursuant to 18 U.S.C. § 1546, that the following is true and correct:

1. My name is XXXXXXXXXXXXXXXX and I was born on XXXXX in Azuay, Ecuador. I am a citizen of Ecuador. Currently, I reside at XXXXXX, Brooklyn, NY 11211.
2. I am seeking asylum in the United States because I am afraid to return to Ecuador. While in Ecuador I experienced physical abuse, beatings, mistreatment, and threats against my life because I am a gay man. In 2013, my then-boyfriend and I were attacked and beaten by a group of homophobic men as we left a bar known for its gay patrons. I fled to the U.S. shortly after I was targeted, beaten, and threatened by two men, one of which I recognized as an Ecuadorian police officer, in 2013 as I was on my way to work. I knew that my safety was at great risk and I had no choice but to flee Ecuador to the United States in order to remain safe as a gay man.

CHILDHOOD

3. I was born and raised in Pucara, Azuay, Ecuador. I was raised by my parents, XXXXX and XXXXX, both of whom are Ecuadorian nationals. I am the youngest of six children. My parents and my siblings still live in Ecuador to this day.
4. While in secondary school, when I was about sixteen years old, I began to become aware that I was attracted to people of the same sex as me, but I didn't want to accept this and was in denial for some time. I did this because I was afraid that my family would reject

me and because our society in Ecuador is very conservative and do not accept people who are gay.

ADULTHOOD

5. In 2003, when I turned eighteen years old, I completed nine months of compulsory military training. I completed required military service and left the military. During my time in the compulsory military service I did not use my firearm against anyone, and only fired any weapons during trainings. I was not part of any war or any battles and simply received compulsory training for nine months, which satisfied my compulsory service obligation.
6. Around 2006, I came out as gay to my family members. At first it was very difficult because I was terrified that my family would reject me. At first, my family had a lot of trouble understanding or accepting my sexual orientation. One of my sisters, XXXXX, began to cry and kept saying that this would bring shame to the family if anyone ever discovered that I was gay. My oldest brother XXXXX, was furious and said that I was no longer his brother because I am a “faggot” and he wanted to renounce our surname because a “faggot” also had the same surname. After some time living away from the family, they finally understood and accepted that I was gay.
7. Even though my family eventually accepted my sexual orientation, I knew that I still had to hide that I was gay to the rest of Ecuadorian society. I used to hear in the news reports of gay, lesbian, bisexual, and transgender people are attacked, tortured, beaten, forced into “conversion therapy”, verbal aggressions, and severe discrimination. I knew that if I wanted to be safe I had to try to hide my sexual orientation.
8. I also watched in the news how the police regularly failed to protect the Ecuadorian people, even high ranking politicians, from danger. I knew that if they failed to protect the general public, they would be even less likely to protect a gay man like me.
9. Around 2008, I was dating my former boyfriend XXXXX. We dated for about a year, but the whole time we were together we had to hide that we were in a relationship and never show public affection. We knew that society would not accept us and we would risk attacks by homophobic community members.
10. That same year, 2008, I was diagnosed with HIV. This was difficult news for me to handle. I became very depressed, and about a week after my diagnosis I attempted to commit suicide by jumping off of a building. As I threw myself forward, my ex-boyfriend Javier Plaza, caught me and pulled me back before I could fall forward. I was able to receive some counseling to help overcome my suicidal thoughts.
11. It was very difficult to keep my HIV private, since hospitals in Ecuador have separate sections of the hospital that are used to exclusively treat patients who are HIV positive.

So every time I went to the hospital I was only treated in the one section of the hospital where it was obvious to anyone watching that I was entering the area where only HIV positive patients receive care and that I therefore had HIV.

12. In Ecuador, there is a lot of ignorance associated with HIV. People believe that if you are gay, you have HIV. They also believe if you have HIV, you must be gay. When people believe you have HIV people refuse to touch you, share plates and cups with you, and treat you like a disease. Once I went to a dentist to receive dental care. I disclosed that I have HIV and she refused to treat me.

HOMOPHOBIC ATTACKS AND FLEEING ECUADOR

13. Around 2011 I began dating my former boyfriend, XXXXX. We lived in the same apartment together, which we also shared with my sister XXXXX. Because my sister shared the apartment with us, we would simply pretend to be roommates so no one would suspect that we were actually partners. Even so, some neighbors suspected that we were in fact in a romantic relationship because we were regularly seen together and they never saw us with girlfriends.
14. On January 12, 2013, XXXXX and I went out to a bar called “Tato’s Bar” in the city of Cuenca, where many gay men go to dance and socialize in a safe non-public setting. XXXXX and I left Tato’s and walked a couple of blocks to get a cab to take us home. As we were trying to get a taxi cab, four men attacked us. They started to beat us, kick us, and threw us onto the ground. They called us homophobic slurs like “disgusting faggots” “an embarrassment to society” and said that they would kill us, all while beating us on the street. Afterwards they fled the area.
15. Approximately two or three days after the attack, my sister XXXXX accompanied me to the police to report the attack. I reported to the police that I was attacked by homophobic men, which I wrote out on a form where I described the attack. When I handed the police officer the form, he told me that what had happened to me and my boyfriend was a personal attack and that they could do nothing to help me. I noticed that they changed their demeanor after reading the form describing the homophobic attack, and the officers were dismissive. They told me I could report this attack to the district attorney’s office if I wanted to, but it was very obvious they were saying anything to get me to leave. I did not go to the district attorney’s office to report this because it was obvious that they would require a police report and the police would not give it to me. I knew the police were just trying to get me to leave and not help me, so my sister and I went home.
16. Upset that the police did not want to help us, XXXXX and I went home. I left confirming my suspicions, that the police in Ecuador would not protect me from harm or attacks by homophobic community members.

17. On around January 21, 2013, I was attacked for a second time. I was walking to work from my home. I was about four to six blocks away from my home when I noticed a car suddenly stop next to me. Two men got out of the car. I recognized one of the men as a police officer that regularly patrols my neighborhood, but this time he was wearing civilian clothing.
18. The two men pushed me onto the ground and began to brutally beat me and kick me as I curled up my body to try to protect myself from their blows. As they were beating me they called me a “faggot” and said they were going to kill me. Thankfully, a woman walked onto the block where they were beating me, screamed, and yelled “help!” After she screamed the men stopped beating me and went back to their car to flee. Before they drove away I heard one of them say “your days are numbered you dirty faggot.”
19. When they left I got up from the ground terrified, hurt, and crying. I immediately went back home and told my sister XXXXX what had just happened to me. I did not leave my apartment again out of fear for my life until January 28, 2013, when I fled to the United States. I did not report this second attack to the police because one of my attackers was a police officer and because the police told me they couldn’t help me when I reported the previous attack.
20. I flew first to Honduras, where I then travelled through Guatemala and Mexico before reaching the United States. I entered the United States on February 23, 2013. About two days later, I was apprehended by immigration officials.

LIFE IN THE UNITED STATES AND APPLYING FOR ASYLUM

21. Once in immigration custody, I was placed in immigration detention at Karnes County Civil Detention Center. On April 16, 2013, I had a credible fear interview, where I told the asylum officer about the two homophobic attacks I experienced and my fear of living in Ecuador as a gay man living with HIV. On April 19, 2013 I was found to have a credible fear of persecution because of my sexual orientation.
22. In late June, 2013 I was released from immigration detention on my own recognizance. My cousin in the U.S. purchased my ticket from Texas to New York with the intention that I come live with her. At that time, I was represented by another lawyer, who spoke to my cousin and told her that I was HIV positive. My cousin, who didn’t know I have HIV, told me I could not live with her because she was afraid that she and her child would get HIV if I lived with them. Instead, they had me live with people they knew. It hurt me so much at the time that even once I came to the U.S. to find acceptance and live a safe life, I was again discriminated against for being HIV positive. Since then, my cousin has remained very distant from me, all because of their ignorance and discrimination against people living with HIV.
23. While in New York, I was able to make some friends who were supportive and I felt that I could live my life more openly as a gay man. I began a relationship with XXXXX around January 2015. We moved in together soon after. About a month after living

together, I noticed that he was very controlling and very jealous. Because of his jealousy, XXXXX and I got into many verbal fights. A number of times I fled our home to my friend's XXXXX and XXXXX's home and spend the night there. Around April 29, 2015, XXXXX became furious with me out of jealousy that I was speaking to other men on my cell phone. He began to hit me; he grabbed my phone and broke it, and pushed me against the radiator in the apartment. He placed himself in front of the bedroom door and refused to let me leave. I was able to escape the bedroom and locked myself in the bathroom. Soon after, XXXXX is able to open the bathroom door and he has a wound on his lip that was not there previously and that I did not create. He said he was going to call the police and accuse me of hitting him so I would be deported since I was undocumented. He called the police and spoke to them in English, and I couldn't understand what he was saying to them. The police came soon after, where they threw me onto the ground, and about six to five police officers together arrested me as if I were a dangerous criminal. This arrest was particularly terrifying because it triggered my memory of when I was attacked by an Ecuadorian police officer.

24. I was not given an opportunity to tell the police that I was the one being abused and that I needed their help. I was bruised and bleeding on my face from XXXXX attacking me, but for reasons I don't understand they never asked me or suspected that I was the one being abused. When I went to court I explained through an interpreter what actually happened that night XXXXX attacked me. The judge told me I could fight my case but risk getting a maximum sentence or say I am guilty and receive a lesser penalty. I was so emotionally and psychologically unwell from the abuse and terrifying situation with the criminal case that I chose to say I was guilty to end the nightmare.
25. The judge sentenced me to twelve sessions of anger management classes, which I completed on September 14, 2015. I was also told there was an order of protection against me and that I could not have any contact with XXXXX, even though I was the one terrified to see him again.
26. I have since begun having psychiatric care at New York Presbyterian hospital, where I have been diagnosed with Post Traumatic Stress Disorder ("PTSD"). My doctor prescribed me medication to help me with my symptoms, which I still sometimes struggle to manage to this day.

CONCLUSION

27. I am afraid to return to Ecuador because I have already experienced so much violence, attacks and threats, even from the police, simply because I am a gay man living with HIV. I know if I return to Ecuador I will likely experience even worse mistreatment and or even killed. I also know that the Ecuadorian police would not help me. In fact, I believe they will instead hurt or torture me, since I was already beaten by them for being a gay man. I know be in imminent danger for my safety and life if I were forced to live in Ecuador.

I affirm that the foregoing has been translated to me from English to Spanish and is true and accurate to the best of my knowledge and recollection.

Date

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