


CA NO. 17-50195

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,
Plaintiff-Appellee,


v.

CESAR RAUL ACEVES,
Defendant-Appellant.

On Appeal from the United States District Court
For the Central District of California,
The Honorable George H. Wu, Presiding. 
CR NO. 15-00245-GW

EXCERPTS OF RECORD - VOLUME 2 OF 5



CUAUHTEMOC ORTEGA 
Federal Public Defender
ASHWINI S. MATE
Deputy Federal Public Defender
321 East 2nd Street
Los Angeles, California 90012
(213) 894-1417
Ashwini_Mate@fd.org

*Counsel for Defendant-
Appellant*



1 EILEEN M. DECKER
 United States Attorney
 2 LAWRENCE S. MIDDLETON
 Assistant United States Attorney
 3 KYLE J. RYAN (Cal. Bar No. 294550)
 Special Assistant United States Attorney
 4 General Crimes Section
 1400 United States Courthouse
 5 312 North Spring Street
 Los Angeles, California 90012
 6 Telephone: (213) 894-3159
 Facsimile: (213) 894-0142
 7 E-mail: kyle.ryan@usdoj.gov

8 Attorneys for Plaintiff
 UNITED STATES OF AMERICA

9 UNITED STATES DISTRICT COURT

10 FOR THE CENTRAL DISTRICT OF CALIFORNIA

11 UNITED STATES OF AMERICA,
 12 Plaintiff,
 13 v.
 14 CESAR RAUL ACEVES,
 15 Defendant.

No. CR 15-245-GW

GOVERNMENT'S OBJECTIONS TO
DEFENDANT'S PROPOSED JURY
INSTRUCTIONS

17 Plaintiff United States of America, by and through its counsel
 18 of record, the United States Attorney for the Central District of
 19 California and Special Assistant United States Attorney Kyle J. Ryan,
 20 hereby files its Objections to Defendant's Proposed Jury
 21 Instructions. (Dkt. 115.)

22 These objections are based on the attached memorandum of points
 23 and authorities, the files and records in this case, and such further

24 ///

25 ///

26 ///

27

28

1 evidence and argument as may be presented at any hearing in this
2 case.

3 Dated: March 2, 2017

Respectfully submitted,

4 EILEEN M. DECKER
5 United States Attorney

6 LAWRENCE S. MIDDLETON
7 Assistant United States Attorney
8 Chief, Criminal Division

9 /s/

10

KYLE J. RYAN
11 Special Assistant United States
12 Attorney

13 Attorneys for Plaintiff
14 UNITED STATES OF AMERICA
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 GOVERNMENT'S OBJECTION TO DEFENDANT'S DISPUTED INSTRUCTION NO. 1

2 The government objects to defendant's proposed instruction No. 1
3 insofar as it does not follow the Ninth Circuit Model Criminal Jury
4 Instructions. Defendant proposes two major modifications. First,
5 defendant proposes adding an additional element, namely that the
6 government must prove that defendant "knew he had been deported or
7 removed." Second, defendant proposes eliminating the word "alien"
8 from the alienage element.

9 Defendant's proposed instruction places an additional burden on
10 the government that is not supported by the statute or caselaw. The
11 "found in" portion of section 1326 is a general intent offense.
12 United States v. Rivera-Sillas, 417 F.3d 1014, 1020 (9th Cir. 2004).

13 In support of his theory, defendant cites United States v.
14 Gracidas-Ulibarry, 231 F.3d 1188, 1190 (9th Cir. 2000). In Gracidas-
15 Ulibarry, the Ninth Circuit concluded that "attempted" illegal
16 reentry, as opposed to the completed crime, is a specific intent
17 offense. In turn, the court explained that the following elements
18 apply to "attempted" illegal reentry: (1) the defendant had the
19 purpose, i.e., conscious desire, to reenter the United States without
20 the express consent of the Attorney General; (2) the defendant
21 committed an overt act that was a substantial step towards reentering
22 without that consent; (3) the defendant was not a citizen of the
23 United States; (4) the defendant had previously been lawfully denied
24 admission, excluded, deported or removed from the United States; and
25 (5) the Attorney General had not consented to the defendant's
26 attempted reentry. Id. at 1196. Even under the specific intent
27 theory discussed in Gracidas-Ulibarry, defendant's proposed
28 modification that defendant "knew" he had been deported from the

1 United States was conspicuously absent. There is no basis to add it
2 here.

3 Regarding the second modification, the Court has already ruled
4 that the use of the word "alien" is permissible during this trial.

5 As such, the government requests that the Court give the Ninth
6 Circuit Model Criminal Jury Instruction No. 9.8 without any
7 modifications.

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

1 GOVERNMENT'S OBJECTION TO DEFENDANT'S DISPUTED INSTRUCTION NO. 2

2 The government objects to defendant's proposed instruction no. 2
3 because it is confusing and sufficiently covered by Ninth Circuit
4 Jury Model Criminal Instructions Nos. 3.5 (reasonable doubt defined)
5 and 9.8 (substantive instruction for section 1326). The government
6 intends to offer several forms of proof regarding defendant's
7 alienage, including, but not limited to, defendant's Mexican birth
8 certificate, his motion for immediate removal filed with the
9 immigration court, the immigration judge's order of removal, and
10 other immigration documents submitted by defendant. To single out
11 and elevate the immigration judge's order of removal over the
12 remaining documents will needlessly confuse the jury.

13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 GOVERNMENT'S OBJECTION TO DEFENDANT'S DISPUTED INSTRUCTION NO. 3

2 The government objects to defendant's proposed instruction no. 3
3 because it is confusing and sufficiently covered by Ninth Circuit
4 Model Criminal Jury Instruction No. 9.8 (substantive instruction for
5 section 1326). Defendant cites United States v. Bahena-Cardenas, 411
6 F.3d 1067, 1074 (9th Cir. 2005). In that case, the Ninth Circuit
7 concluded that the government presented sufficient evidence of
8 physical removal based on the admission of the Form I-205, Warrant of
9 Removal/Deportation. Id. at 1075.

10 Here, the government intends to offer the Form I-205, Warrant of
11 Removal/Deportation, dated July 29, 2010, and the testimony of two
12 Deportation Officers who witnessed defendant's deportation to Mexico.
13 As such, this instruction regarding whether defendant left the
14 country voluntarily is not relevant and unduly confusing to the jury.

1 GOVERNMENT'S OBJECTION TO DEFENDANT'S DISPUTED INSTRUCTION NO. 4

2 The government objects to defendant's proposed instruction No. 4
3 insofar as it does not follow the Ninth Circuit Model Criminal Jury
4 Instructions. Ninth Circuit Model Criminal Jury Instruction No. 3.5
5 accurately and succinctly reflects Ninth Circuit precedent. See
6 United States v. Ruiz, 462 F.3d 1082, 1087 (9th Cir. 2006) (citing
7 United States v. Nelson, 66 F.3d 1036, 1045 (9th Cir. 1995)) (finding
8 no error in instructing the jury with the Ninth Circuit model
9 instruction for reasonable doubt).

10 Defendant seeks to add the following sentence at the end of the
11 model instruction: "If you view the evidence in the case as
12 reasonably permitting either of two conclusions - one of innocence,
13 the other of guilty - you must adopt the conclusion of innocence."
14 This proposed modification suggests that the jury could somehow be
15 convinced beyond a reasonable doubt of the defendant's guilt, but
16 still be required to conclude he is not guilty. The additional
17 sentence is unnecessary since, by definition, if the jury concluded
18 that the evidence reasonably permitted a conclusion of innocence the
19 jurors would be required to vote not guilty under the model
20 instruction. Conversely, the mandate that jurors vote guilty when
21 they conclude that the evidence proves guilt beyond a reasonable
22 doubt is proper on its own without the additional clarification
23 defendant seeks. The additional language is confusing and
24 unnecessary.

1 HILARY POTASHNER (Bar No. 167060)
 Federal Public Defender
 2 STEPHEN D. DEMIK (Bar. No. 221167)
 Stephen_Demik@fd.org
 Deputy Federal Public Defender
 3 DAVID MENNINGER (Bar No. 281460)
 David_Menninger@fd.org
 4 Deputy Federal Public Defender
 321 East 2nd Street
 5 Los Angeles, California 90012-4202
 Telephone: (213) 894-1891
 6 Facsimile: (213) 894-0081

7 Attorneys for Defendant
 8 CESAR ACEVES

9
 10 **UNITED STATES DISTRICT COURT**
 11 **CENTRAL DISTRICT OF CALIFORNIA**
 12 **WESTERN DIVISION**

13 UNITED STATES OF AMERICA,
 14
 15 Plaintiff,
 16 v.
 17 CESAR ACEVES,
 18 Defendant.

Case No. CR 15-245-GW

**CESAR ACEVES'S PROPOSED
 JURY INSTRUCTIONS (Annotated);
 MEMORANDUM OF LAW**

19
 20 Defendant Cesar Aceves respectfully requests that the Court give the attached
 21 instructions in its charge to the jury. Mr. Aceves requests leave to include additional
 22 instructions as may be appropriate in the course of the trial.

23 Respectfully submitted,

24 HILARY POTASHNER
 Federal Public Defender

25
 26 DATED: March 1, 2017

/s/ David Menninger

27 _____
 DAVID MENNINGER
 Deputy Federal Public Defender
 Attorney for CESAR ACEVES

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

COURT’S INSTRUCTION NO. _____

DEFENSE PROPOSED INSTRUCTION NO. 1

Mr. Aceves is charged in the indictment with being found in the United States after deportation without permission in violation of Section 1326(a) of Title 8 of the United States Code. In order for the defendant to be found guilty of that charge, the government must prove each of the following elements beyond a reasonable doubt:

First, Mr. Aceves was removed or deported from the United States;

Second, Mr. Aceves knew he had been deported or removed;

Third, thereafter, Mr. Aceves voluntarily entered the United States;

Fourth, after entering the United States the Mr. Aceves knew that he was in the United States and knowingly remained;

Fifth, Mr. Aceves was found in the United States without having obtained the consent of the Attorney General or the Secretary of the Department of Homeland Security to reapply for admission into the United States; and,

Sixth, Mr. Aceves was not a United States citizen at the time of his entry into the United States.

Ninth Circuit Model Criminal Jury Instructions, No. 9.8 (2010 ed.), modified for clarity and in light of *Elonis v. United States*, 135 S.Ct. 2009 (2015) (see attached memorandum of law).

1 COURT'S INSTRUCTION NO. _____

2 DEFENDANT'S PROPOSED INSTRUCTION NO. 2

3 The government has introduced evidence that Mr. Aceves was ordered deported
4 or removed by an immigration judge in 2010. The immigration judge's order of
5 deportation alone is insufficient as a matter of law to establish that Mr. Aceves was not
6 a United States citizen. The immigration judge was not required to find that Mr. Aceves
7 was not a United States citizen beyond a reasonable doubt. As I have instructed you, in
8 this criminal case the government bears the burden of proving beyond a reasonable
9 doubt that Mr. Aceves is not a United States citizen.

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27 *United States v. Sotelo*, 109 F.3d 1446, 1449 (9th Cir. 1997).

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

COURT'S INSTRUCTION NO. ____

DEFENDANT'S PROPOSED INSTRUCTION NO. 3

To find that Mr. Aceves was deported, the government must prove beyond a reasonable doubt that he was physically removed from the United States pursuant to an order of removal. To be physically removed, Mr. Aceves must have actually crossed the border and left the country. It is not sufficient for the government to prove merely that he was ordered to leave. It is also not sufficient for the government to prove that Mr. Aceves left the country voluntarily.

United States v. Bahena-Cardenas, 411 F.3d 1067, 1074 (9th Cir. 2005); *United States v. Ortiz-Lopez*, 385 F.3d 1202, 1204 (9th Cir. 2004).

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

COURT'S INSTRUCTION NO. ____

DEFENDANT'S PROPOSED INSTRUCTION NO. 4

Proof beyond a reasonable doubt is proof that leaves you firmly convinced the defendant is guilty. It is not required that the government prove beyond all possible doubt.

A reasonable doubt is a doubt based upon reason and common sense and is not based purely on speculation. It may arise from a careful and impartial consideration of all the evidence, or from lack of evidence.

If after a careful and impartial consideration of all the evidence, you are not convinced beyond a reasonable doubt that the defendant is guilty, it is your duty to find the defendant not guilty. On the other hand, if after a careful and impartial consideration of all the evidence, you are convinced beyond a reasonable doubt that the defendant is guilty, it is your duty to find the defendant guilty.

If you view the evidence in the case as reasonably permitting either of two conclusions -- one of innocence, the other of guilt -- you must adopt the conclusion of innocence.

Ninth Circuit Model Criminal Jury Instruction No. 3.5 (2010 ed.) (modified);
O'Malley, Grenig & Lee, Federal Jury Practice and Instructions (6th Ed. 2008), § 12.10
(last sentence).

1 **MEMORANDUM OF LAW REGARDING PROPOSED DEFENSE JURY**
2 **INSTRUCTION ONE**

3
4 **A. The government must prove that Mr. Aceves knew that he was deported**

5 The Ninth Circuit has apparently never considered whether, in an illegal reentry
6 prosecution, the government must prove that a defendant knew that he had previously
7 been deported or removed. But recent Supreme Court case law, coupled with the Ninth
8 Circuit’s *en banc* clarification of the offense’s *mens rea*, make clear that knowledge of
9 the prior deportation is required.

10 While a defendant need not know that his conduct is illegal, he “generally must
11 know the facts that make his conduct fit the definition of the offense.” *Elonis v. United*
12 *States*, 135 S.Ct. 2009 (2015). Accordingly, a criminal statute’s *mens rea* requirement
13 applies to all elements of the offense necessary to make his conduct a crime. *Id.* at
14 2011; *Flores-Figueroa v. United States*, 556 U.S. 646, 652 (2009) (describing usual
15 rule that mens rea applies to “each element” of the offense). In other words, if the
16 conduct would not be a crime without a given element, then the offense’s *mens rea*
17 must apply to that element. *Id.*; *see also Torres v. Lynch*, 136 S. Ct. 1619, 1631 (2016)
18 (explaining the general rule that a defendant must “know each fact making his conduct
19 illegal”).¹ That is true even when the “statute by its terms does not contain” any explicit
20 *mens rea* requirement. *United States v. X-Citement Video, Inc.*, 513 U.S. 64, 70
21 (1994). Thus, for example, in order to be guilty for possession of firearm with certain
22 dangerous features, the government must prove the defendant knew the gun had those
23 features--even if the statute does not contain an explicit *mens rea* requirement. *Staples*
24 *v. United States*. 511 U.S. 600, 603-4 (1994).

25
26
27 ¹ *Torres* articulates one exception--for jurisdictional elements--which does not
28 apply here. *See id.* at 1631.

1 In a 2001 *en banc* decision, the Ninth Circuit clarified that the *mens rea* required
2 for the instant offense--being a noncitizen found in the United States after deportation--
3 is knowledge. *United States v. Gracidas-Ulibarry*, 231 F.3d 1188, 1195-96 (9th Cir.
4 2001) (en banc) (stating illegal reentry is a general intent crime which requires
5 “knowledge”); *see also United States v. Salazar-Gonzalez*, 458 F.3d 851, 856 (9th Cir.
6 2006), *overruled in part on other grounds by Melendez-Diaz v. Massachusetts*, 129 S.
7 C.t 2527 (2009). Thus, “the defendant must know the facts that make his actions
8 illegal.” *Salazar-Gonzalez*, 458 F.3d at 856 (emphasis added). The specific issue in
9 *Salazar-Gonzalez* was whether the government had to prove that the defendant knew he
10 was in the United States. *Id.* The Court held that, because the statute required a *mens*
11 *rea* of general intent, the government needed to prove that the defendant knew he was
12 in the United States. *Id.*

13 *Salazar-Gonzalez* thus teaches that knowledge is the requisite scienter
14 requirement for the instant offense. Further, as *Elonis* and *Torres* instruct, a criminal
15 statute’s *mens rea* requirement must apply to all the statutory elements without which
16 the conduct at issue would not be a crime. It is not a crime for a noncitizen to be found
17 in United States without permission unless he has been previously deported. *See*
18 *Arizona v. United States*, 132 S. C.t. 2492, 2505 (2012) (“As a general rule, it is not a
19 crime for a removable alien to remain in the United States.”). A companion statute to §
20 1326 criminalizes unlawful *entry* into the United States, but it pointedly does not
21 criminalize being a noncitizen *found in* the United States without permission. *See* 8
22 U.S.C. § 1325. As Mr. Aceves is charged with being found in the United States without
23 permission, he would not be guilty of a crime *but for* his alleged prior deportation.

24 ///

25 ///

26 ///

27 ///

28

1 Thus, his alleged prior deportation is an element of the crime that “mak[es] his
2 [alleged] conduct illegal.” *Torres*, 136 S. Ct. at 1630. Accordingly, under the rule of
3 *Elonis*, the government must prove beyond a reasonable doubt that Mr. Aceves *knew*
4 that he was deported from the United States.

5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Respectfully submitted,
HILARY POTASHNER
Federal Public Defender

DATED: March 1, 2017

/s/ David Menninger

DAVID MENNINGER
Deputy Federal Public Defender
Attorney for CESAR ACEVES

1 HILARY POTASHNER (Bar No. 167060)
Federal Public Defender
2 DAVID MENNINGER (Bar No. 281460)
David_Menninger@fd.org
3 Office of the Federal Public Defender
321 East 2nd Street
4 Los Angeles, California 90012-4202
Telephone: (213) 894-1891
5 Facsimile: (213) 894-0081

6 Attorneys for Defendant
CESAR ACEVES

7
8
9 **UNITED STATES DISTRICT COURT**
10 **CENTRAL DISTRICT OF CALIFORNIA**
11 **WESTERN DIVISION**

12
13 UNITED STATES OF AMERICA,

14 Plaintiff,

15 v.

16 CESAR ACEVES,

17 Defendant.

Case No. 15-245-GW

**SUPPLEMENTAL CITATIONS IN
SUPPORT OF MOTION TO
DISMISS INDICTMENT UNDER 8
U.S.C § 1326(d); MEMORANDUM
OF POINTS AND AUTHORITIES;
EXHIBITS**

**Hearing Date: May 5, 2016
Hearing Time: 8:00 a.m.**

18
19
20
21 Mr. Cesar Aceves, by and through his counsel of record, David
22 Menninger, hereby submits this Supplemental Citations in Support of Motion to
23 Dismiss Indictment Under 8 U.S.C. § 1326(d).

Respectfully submitted,

HILARY POTASHNER
Federal Public Defender

24
25
26 DATED: May 2, 2016

/s/ David Menninger

27

David Menninger
Office of the Federal Public Defender
28 Attorney for CESAR ACEVES

SUPPLEMENTAL CITATIONS OF AUTHORITIES

1
2 At the April 28, 2016, the Court requested supplemental citations to authority.
3 Specifically, the Court stated that it was hoping that the parties could locate a case that
4 addresses a noncitizen's eligibility to reapply for adjustment as an immediate relative
5 under the following combination of facts:

- 6 • A Form I-130 for the noncitizen is approved when he is a minor and thus
7 an "immediate relative"
- 8 • The noncitizen applies for adjustment of status (Form I-485) and it is
9 denied
- 10 • By the time the adjustment application is denied, the noncitizen has now
11 reached adulthood

12 Stated differently, Mr. Aceves understands the Court to be seeking a case that
13 affirms that the combination of the passage of time and a denial of a previous
14 adjustment application do not affect the noncitizen's ability to apply for adjustment
15 based on a previously approved "immediate relative" I-130. Regrettably, Mr. Aceves
16 has been unable to locate a case that encompasses all of those facts in combination.
17 However, authorities previously cited by Mr. Aceves address each component of that
18 scenario.

19 First, *Matter of Avila-Perez*, 24 I. & N. Dec. 78, 78 (BIA 2007), makes clear that
20 the passage of time does not affect the validity of an approved "immediate relative" I-
21 130 petition. *See id.* (holding that a noncitizen remained an immediate relative, even
22 though he turned twenty-one in the years after his Form I-130 was approved but
23 unused).

24 Second, regulations make clear that the denial of an adjustment application does
25 not affect a noncitizen's ability to renew or refile that application in Immigration Court.
26 8 C.F.R. § 245.2 (a)(5)(ii); *see also Agyeman v. I.N.S.*, 296 F.3d 871, 880 (9th Cir.
27 2002) (explaining that applicant refiled for adjustment after previous application was
28 denied).

1 Given that neither the passage of time nor the denial of a previous adjustment
2 application separately affect the ability to file an adjustment application, there is
3 nothing to suggest that the combination of these two factors would have that effect.
4 Accordingly, Mr. Aceves submits that these authorities are sufficient to prove his
5 eligibility to apply for adjustment of status along with a waiver under Immigration and
6 Nationality Act § 212(h) for his sole conviction.

7 **PROPOSED TRIAL DATE**

8 At the hearing, the parties informed the Court of their intent to present a
9 stipulated continuance of the current May 16, 2016 trial date. The Court directed the
10 parties to indicate a proposed trial date. The parties have discussed the matter and
11 together propose the date of July 19, 2016

12 Respectfully submitted,

13 HILARY POTASHNER
14 Federal Public Defender

15
16 DATED: May 2, 2016

17 By /s/ David Menninger
18 DAVID MENNINGER
19 Office of the Federal Public Defender
20
21
22
23
24
25
26
27
28

1 EILEEN M. DECKER
 United States Attorney
 2 LAWRENCE S. MIDDLETON
 Assistant United States Attorney
 3 Chief, Criminal Division
 SHEILA NAGARAJ (Cal. Bar No. 268927)
 4 Assistant United States Attorney
 1100 United States Courthouse
 5 312 North Spring Street
 Los Angeles, California 90012
 6 Telephone: (213) 894-2690
 Facsimile: (213) 894-0141
 7 Email: sheila.nagaraj@usdoj.gov

8 Attorney for Plaintiff
 UNITED STATES OF AMERICA
 9

10 UNITED STATES DISTRICT COURT

11 FOR THE CENTRAL DISTRICT OF CALIFORNIA

12 UNITED STATES OF AMERICA,) CR 15-245-GW
 13)
 Plaintiff,) GOVERNMENT'S SECOND
 14) SUPPLEMENTAL BRIEFING IN
 v.) SUPPORT OF OPPOSITION TO
 15) MOTION TO DISMISS INDICTMENT
) UNDER 8 U.S.C. § 1326(d)
 16 CESAR ACEVES,)
) Hearing Date: 5/5/2016
 17 Defendant.) Hearing Time: 8:00 a.m.
)
 18)

19 Plaintiff, United States of America, by and through its
 20 counsel of record, the United States Attorney for the Central
 21 District of California and Assistant United States Attorney
 22 Sheila Nagaraj, hereby files its Second Supplemental Briefing in
 23 Opposition to the Motion to Dismiss the Indictment filed by
 24 defendant Cesar Raul Aceves ("defendant") on March 25, 2016
 25 (Dkt. 53).

26 The government's opposition is based on the attached
 27 memorandum of points and authorities, the files and records in
 28 this case, and any additional evidence and argument the Court

MEMORANDUM OF POINTS AND AUTHORITIES

1
2 Pursuant to the Court’s Order on April 28, 2016, the
3 government hereby files a brief second supplement to its
4 opposition to defendant’s motion to dismiss the indictment.
5 Specifically, the government addresses the Court’s query as to
6 whether a terminated Form I-485 (Application to Register
7 Permanent Residence or Adjust Status) may be considered in
8 isolation, separate from a previously approved Form I-130
9 (Petition for Alien Relative). Although there is a dearth of
10 case law addressing this particular factual question, the
11 government submits that a) a terminated Form I-485 cannot stand
12 alone to provide proof of an immediately available visa, as
13 required for a successful § 212(h) waiver; and b) even if that
14 were not the case, defendant still cannot show prejudice under
15 the third prong of 1326(d) insofar that he cannot establish he
16 would have been granted a § 212(h) waiver by the Immigration
17 Judge (“IJ”).

18 Under the plain language of 8 C.F.R. § 245.1(a), “[i]n
19 order for the USCIS to approve Form I-485, an immigrant visa
20 must be immediately available to the alien, which cannot usually
21 be obtained without approval of Form I-130. Thus, the USCIS
22 must first approve the Form I-130 petition classifying the alien
23 as an immediate relative and then separately approve the Form I-
24 485 application before an alien spouse, and his or children, can
25 have their status adjusted to lawful permanent resident.”
26 Robledo v. Chertoff, 658 F. Supp. 2d 688, 691 (D. Md. 2009)
27 (internal citation omitted). The government was unable to
28 locate any case law or statutory provision that permits a

1 terminated Form I-485 - which was associated with a previously
2 approved Form I-130 - to serve as the basis for a successful
3 § 1326(d) motion in which a defendant was able to establish
4 prejudice.

5 Indeed, the contrary appears to be true; this Circuit has
6 repeatedly held that "IJs are not expected to be clairvoyant;
7 the record before them must fairly raise the issue: Until the
8 alien himself or some other person puts information before the
9 judge that makes such eligibility [for relief] apparent, this
10 duty does not come into play." Moran-Enriquez v. INS, 884 F.2d
11 420, 422 (9th Cir. 1989); see also United States v. Lopez-
12 Velasquez, 629 F.3d 894, 900 (9th Cir. 2010) (holding that where
13 an alien was a beneficiary of the SAW program, this did not
14 raise an inference of § 212(c) eligibility). Since "an IJ's
15 duty is limited to informing an alien of a reasonable
16 possibility that the alien is eligible for relief at the time of
17 the hearing," Lopez-Velasquez, 629 F.3d at 901, and because an
18 IJ is not obligated to continue proceedings indefinitely to
19 allow for an alien to potentially obtain an avenue for relief,
20 United States v. Moriel-Luna, 585 F.3d 1191 (9th Cir. 2009),
21 defendant cannot establish prejudice where the waiting period
22 was *eighteen years* based on his stepfather's petition, and thus,
23 he had no immediately available visa. (Dkt. No. 56,
24 Government's Opposition at 9.) The IJ, operating on the record
25 before him, properly found defendant removable as charged, and
26 given defendant's serious prior felony conviction, which would
27 have required him to meet the heightened standard of
28 "exceptional and extremely unusual hardship," there was no

1 "plausible ground for relief from deportation" in this case.
2 See also United States v. Serrano-Guerra, 2013 WL 1626837 at *6
3 (S.D. Cal. Apr. 12, 2013) (unpublished) (finding defendant had
4 shown nothing more than "common results of deportation" in
5 denying § 1326(d) motion and holding that defendant could not
6 show he had a plausible ground for relief in the form of a
7 § 212(h) waiver).

8 Accordingly, the government submits that the Court should
9 deny defendant's motion in its entirety.

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 APPEARANCES OF COUNSEL:

2

3 ON BEHALF OF THE PLAINTIFF, UNITED STATES OF AMERICA:

4

U.S. DEPARTMENT OF JUSTICE

5

U.S. ATTORNEY'S OFFICE

6

BY: AMANDA KLOPF, AUSA
312 North Spring Street

7

Twelfth Floor

8

Los Angeles, CA 90012

9

ON BEHALF OF THE DEFENDANT:

10

FEDERAL PUBLIC DEFENDER'S OFFICE

11

BY: DAVID MENNINGER, DFPD

12

-and- BRIANNA MIRCHEFF, DFPD

13

321 East 2ND Street

14

Los Angeles, CA 90012-4202

15

16

17

18

19

20

21

22

23

24

25

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA

1 LOS ANGELES, CALIFORNIA; THURSDAY, APRIL 28, 2016

2 8:19 A.M.

3 - - - - -

4

5

6 THE COURT: Let me call the matter of United
7 States versus Aceves.

8 Let me have appearances.

9 MR. MENNINGER: David Menninger for the defendant
10 here with my colleague, Brianna Mircheff and the
11 defendant is present on bond.

12 THE COURT: All right. And for the government.

13 MS. KLOPF: Good morning, your Honor. Amanda
14 Klopf on behalf of the government. I am present with ICE
15 Special Agent Ron Oki.

16 THE COURT: Okay. Everybody have a seat.

17 This is a continuation on the defendant's
18 motion to dismiss the indictment under Section 1326(b).

19 I read the materials the including the
20 supplemental presentations or the submissions, and let me
21 indicate as follows: Let me go through this a little bit
22 more orderly than I did last time.

23 The defendant seeks to dismiss the present
24 indictment pursuant to 8, U.S.C., Section 1326(b) about
25 which requires three showings: One exhaustion of

1 available administrative remedies; two, that the
2 deportation proceedings at which the order was issued
3 deprived the defendant alien of opportunity for judicial
4 review; and, three, entry of the order was fundamentally
5 unfair.

6 Let me ask, does the government concede
7 Elements 1 and 2?

8 MS. KLOPF: Your Honor, the government didn't
9 address Elements 1 and 2 because Element 3 is persuasive
10 here.

11 THE COURT: So, in other words, the government's
12 portion is that it is not agreeing or conceding those
13 points. It is just putting all of of its eggs on Element
14 No. 3.

15 MS. KLOPF: Yes, your Honor. Given the lack of
16 information about the prior representation, the
17 government felt that focusing on the three where the
18 information is so specific that there is no prejudice
19 here, that the matter was resolved on that point rather
20 than trying to guess what had taken place with the prior
21 representation given the lack of information.

22 THE COURT: All right. Let me ask this, in this
23 type of situation, it is the defendant's initial burden
24 to establish, you know, all the elements. I presume that
25 the defense concedes that.

1 MR. MENNINGER: Yes, your Honor.

2 THE COURT: And I presume in this particular
3 situation what we are talking about is that the available
4 records -- well, the records aren't all available that
5 would establish the first two elements. I presume both
6 sides concede that.

7 MR. MENNINGER: Your Honor, I think the
8 information that is available actually establishes the
9 first and second point because it shows that the
10 immigration judge, sua sponte, waived respondent's appeal
11 rights making it impossible for him to appeal.

12 THE COURT: Let me ask, I think that was done on
13 the 27th of what?

14 MR. MENNINGER: I believe that's right. Let me me
15 double check.

16 THE COURT: We will double check together so it
17 will be a quadruple check. So it was the 27th of July,
18 2010.

19 Let me ask this, how do we know that there
20 wasn't a proceeding at which time the -- in other words,
21 he did appear with counsel on the 26th. Why wasn't there
22 any suggestion that there was an appearance on the 27th?

23 MR. MENNINGER: A couple of reasons, your Honor.
24 First, there is no notice of a hearing. Typically, when
25 a hearing is scheduled, a notice will be given. There

1 was no notice in the A file. The second is, your
2 Honor --

3 THE COURT: Again, that is an indication that the
4 records are not clear, not that, in fact, that it did not
5 happen because, again, we don't have any actual evidence
6 that says there was no proceeding at which the defendant
7 was present on the 27th. We are basically saying that
8 there is no record of that, and, normally, these records
9 are -- there should have been a record of it.

10 And so, therefore, we don't penalize the
11 defendant for the failure to prove that point. Although,
12 frankly, the defendant would have submitted an affidavit.
13 But I guess we are not going to require that at this
14 point.

15 MR. MENNINGER: So, your Honor, I would say that
16 is one piece of evidence. The other piece is that there
17 are no tapes of the proceeding. There is always tapes
18 taken. There is not a reporter.

19 THE COURT: Let me stop you. Let me ask the
20 representative from ICE. Are there always tapes of these
21 hearings? You need to speak into a microphone.

22 AGENT OKI: Typically, there is, but, in this
23 case, there is an actual letter that said that there was
24 no hearing and there were no tapes taken.

25 THE COURT: So when you say there was a letter,

1 what item of evidence are you referring to?

2 AGENT OKI: It came actually from the EOIR clerk.

3 MR. MENNINGER: Your Honor, if I may, it is
4 Exhibit D to our motion. I'm sorry. Not Exhibit D.

5 THE COURT: Sounds like D?

6 MR. MENNINGER: It is Exhibit F, your Honor.

7 THE COURT: Okay. All right.

8 Let me ask the representative from ICE, is it
9 normally the agency's practice that if there is a request
10 for an immediate removal by an alien that is represented
11 by counsel, that there is not a hearing held on that?

12 AGENT OKI: Yes. That's correct. If they request
13 immediate removal, there is not a hearing.

14 THE COURT: Why is that?

15 AGENT OKI: Because they are requesting immediate
16 removal. They are not requesting to see an immigration
17 judge. They are not requesting to be placed into formal
18 proceedings.

19 THE COURT: Okay. Let me ask, why is that a
20 deprivation of due process.

21 MR. MENNINGER: Okay. A couple of reasons, your
22 Honor. First off, the regulation which we cited
23 extensively in our briefing requires that in order for
24 someone to be removed without a hearing that the
25 stipulation specifically state that the alien does not

1 want a hearing. The opposite happened in the
2 stipulation. It asked for a hearing.

3 THE COURT: Let me ask the representative from
4 ICE, is he correct in that regard?

5 AGENT OKI: No, he is not. There is a motion
6 where he is waiving the hearing. This is actually a
7 motion for immediate removal which defendant actually
8 signed.

9 THE COURT: You are referring to item number?

10 MS. KLOPF: Exhibit C. And where he is
11 referencing that the signature is on the page that is
12 numbered Aceves 20. You can see on the top left-hand
13 corner of the proof of service. It is not the actual
14 motion, but it is on the proof of service.

15 THE COURT: Okay. Let me see.

16 So that the signature on page marked 20 which
17 accompanied the request for immediate removal, the
18 position of the government is that he signed that motion
19 for immediate removal and that signifies his agreement to
20 be removed without a hearing?

21 MS. KLOPF: No, your Honor. I don't think the
22 government would go quite so far but just that he was
23 cognizant of this, that he was aware this was being filed
24 on his behalf. So he had seen the motion for immediate
25 removal. So this wasn't something done in the absence of

1 his knowledge. While the motion itself is not signed by
2 him, the government's position is that he was aware of
3 what was happening. So there is not any implication that
4 he did not know about this motion for immediate removal.

5 THE COURT: Let me just ask, if it is the case
6 where he did sign off or at least he was aware that his
7 counsel was asking for immediate removal and that his
8 counsel was representing both that the defendant is
9 asking for immediate removal and that he is indicating
10 that he is aware that he is not eligible for some form of
11 relief, why is there a due process violation?

12 MR. MENNINGER: Your Honor, as laid out in our
13 briefing 8 CFR 1003.25 creates very specific
14 prerequisites to ordering an alien removed without a
15 hearing pursuant to the stipulation of counsel. Several
16 of those prerequisites were not met in this case. It
17 contains no statement that he was advised of his rights,
18 your Honor. It contains no waiver of appeal. And I
19 would add on top of that and aside from that, again, the
20 motion itself reflects that the former attorney
21 incorrectly appraised his eligibility for relief.

22 THE COURT: How do you know that it is incorrectly
23 appraised?

24 MR. MENNINGER: Because it says he is ineligible
25 for relief from removal, and that is just not correct,

1 your Honor. He was eligible.

2 THE COURT: No. He is ineligible unless he can
3 meet certain exceptions. Obviously, you can make the
4 statements that the attorney was not competent or
5 something of that sort, but there is no evidence that the
6 attorney did not evaluate the situation.

7 Now, he may have evaluated it incorrectly, but
8 there is no indication that there was a total lack of
9 representation or something of that sort because, again,
10 frankly, I have problems with your current attempts to
11 show that he was eligible for some form of relief.

12 So, you know, if the attorney discussing the
13 matter with his client reaches a conclusion that there
14 are no avenues of relief, then, where is the due process
15 violation?

16 MR. MENNINGER: Well, your Honor, I agree with you
17 that we don't know at all. The record is unclear as to
18 what the evaluation process was. Our argument is not on
19 that point. But I would respectfully disagree he was
20 eligible. I would disagree on the eligibility point,
21 your Honor.

22 THE COURT: We will get to that in a moment, but
23 it is not clear in this court's mind that he could show
24 eligibility by anything other than supposition.

25 Let me ask, when you say that 1003.25, are you

1 talking about -- which part of it are you talking about?

2 MR. MENNINGER: Give me one moment, your Honor.

3 THE COURT: Let me put it faster this way, let me
4 ask the representative from ICE, did the immigration
5 judge comply with all the requirements of 1003.25?

6 MS. KLOPF: Actually, your Honor, if I may address
7 this because the records are unclear here and we don't
8 have a complete picture of what did take place, this is
9 where we circle back to what is at the heart of the
10 matter which is the eligibility for the 212H and
11 quadruple waivers which I do think we have enough
12 information to know that neither would have been
13 plausibly available to the defendant.

14 THE COURT: All right. That answers the question.

15 All right. Then, I guess both sides are
16 focusing on Element No. 3 of 1326(d) which is the entry
17 that the order was fundamentally unfair. As to
18 establishing that the defendant must prove, one, a
19 violation of due process rights and, two, actual
20 prejudice, referring to such cases as United States
21 versus Cisneros-Rodriguez, 813 F.3d 748, at 757, the
22 government, again, is not conceding a violation of due
23 process rights but is putting all its eggs again in the
24 second aspect which is actual prejudice. And actual
25 prejudice can be shown by demonstrating that but for the

1 due process violation, the defendant had a plausible
2 grounds for relief from deportation. And that is, again,
3 from Cisneros Rodriguez at Page 761.

4 And also United States versus Pallares-Golan,
5 G-O-L-A-N, 359 F.3d 1088, at 1103, -04.

6 Now, Cisneros also says that the defendant
7 need not show that the relief was probable, but, sorry,
8 need not show that the relief probably would have been
9 granted but that the defendant must show that the relief
10 was more than merely possible.

11 And, here, the defendant is raising
12 two avenues for relief. First one, under 8, U.S.C.,
13 Section 1182(h) sometimes referred to as Section 212(h)
14 and also the Convention Against Torture which I will
15 refer to as CAT from now on, Senate Treaty Document No.
16 100-20 as implemented by 8, C.F.R., Section 208.18.

17 Generally, as provided in Section 1182(a)(2),
18 an alien convicted of a crime of moral turpitude is
19 deemed ineligible to receive a visa and ineligible to be
20 admitted into the United States, but Section 1182(h)
21 provides a waiver of the Section 1182 bar from among
22 other individuals, a child of a United States citizen or
23 LPR where the alien child is eligible for adjustment of
24 status and where the citizen or LPR shows that the
25 deportation would result in extreme hardship. That is

1 under 1182(h)(1)(B) and (h)(2) and also 8, C.F.R.,
2 1212.7(b).

3 Now, I presume both sides concede that the
4 only way of getting an adjustment of status is using a
5 application for adjustment of status. That is the only
6 way you can get the exercise of discretion under Section
7 1182(h). Both sides concede that; right?

8 MR. MENNINGER: Yes, your Honor. In order to
9 adjust, you need a 212(h) waiver.

10 THE COURT: And, here, does the government concede
11 that -- well, actually both sides, do both sides agree
12 that at the time of the 2010 removal proceedings that the
13 defendant had pending an application for adjustment of
14 status and a visa which is also required for relief. And
15 that is under section, I think it is 8, U.S.C., 1255(a)
16 and U.S. versus Moriel Luna, 585 F.3d, 1191 and 1197.

17 MS. KLOPF: Your Honor, the government does not
18 concede that there was a pending 485 application. The
19 485 application that defendant had submitted had been
20 terminated in 2009.

21 THE COURT: Okay.

22 MS. KLOPF: There is a I-130 in the defendant's A
23 file, but it is unclear from the A file if that is
24 actually still an active --

25 THE COURT: Well, that is the question. The

1 defense is making the argument that once you apply for an
2 I-130 and once it is granted and if you, at the time of
3 the original application, that the alien was a minor
4 child or sometimes referred to -- these groups of
5 individuals are sometimes referred to as immediate
6 relatives -- that it is presumed that there is a visa
7 available at that point.

8 So, therefore, if there was a pending I-130
9 and if it is granted which apparently there is a notation
10 that says something, I think, petition approved or
11 something to that effect, that, at that point, it is
12 assumed that because at that point in time, the I think
13 the defendant was a minor, that there would have been a
14 visa available for him.

15 MS. KLOPF: And, your Honor, the case cited by the
16 defense is a case where the I-130 and 485 had been
17 pending through the child's --

18 THE COURT: Well, you are going to a different
19 issue, though, but let me just ask the representative
20 from ICE, is the agency's position that if an I-130 is
21 granted, for an alien who at the time the application was
22 originally filed was an immediate relative and was a
23 child minor, and that was the reason why he or she was
24 considered to be an immediate relative, that there would
25 have been a visa available?

1 AGENT OKI: The I-130 just proves relationship.
2 That is all it does. Once you have that, it doesn't mean
3 that you are going to get a visa. You still have to file
4 the 485 and get that approved. So that just merely,
5 merely establishes relationship, husband, wife, father,
6 son. That is all it does.

7 THE COURT: So that is why there is a disagreement
8 between the government and the defense on this.

9 Let me ask, if the I-130 is approved or is, I
10 guess the proper word in the case is approved, that does
11 show the relationship, et cetera, et cetera, but the
12 agency's position is that there has to be a secondary
13 form that is filed which is the I-485. And once that is
14 granted, then the combination of the initially approved
15 I-130 and the approved 485 would mean that an immediate
16 relative would have a visa available?

17 AGENT OKI: That is correct.

18 THE COURT: Okay. What is the defense response to
19 that?

20 MR. MENNINGER: Your Honor, once the I-130 was
21 approved, he was eligible to file for adjustment.

22 THE COURT: The government is not disagreeing with
23 that point, but the government is saying that, in fact,
24 there was a I-485 filed almost simultaneously with the
25 application for the I-130. The problem is that it was

1 terminated. The I-485 was terminated, and, so,
2 therefore, that is the reason -- I mean, one could wonder
3 why there was never a grant of the visa in this
4 particular situation because, again, there was no
5 granting of the the I-485.

6 MR. MENNINGER: Right, your Honor, and the
7 regulations make clear that he was allowed to refile for
8 the I-485 in proceedings in conjunction with the 212(h)
9 waiver which has been our position all along.

10 THE COURT: But at that point in time, would that
11 have -- let me ask the agency representative, if, in
12 fact, an initial I-130 is filed along with an I-485 at a
13 period of time when the alien was a child and therefore
14 immediate relative, but, for some reason, after the I-130
15 is granted, for some reason, the I-485 is not granted and
16 it is terminated, if the alien reapplies for an I-485 but
17 at a period of time where he is now an adult, would that
18 application be treated as a situation where he would be
19 treated as a minor child even though he is now an adult
20 when he applies for the I-485?

21 AGENT OKI: Yes. At that point, he would refile
22 the I-130, the 485, but, now, since he is over 21, he
23 becomes a first preference. He is no longer an immediate
24 relative so the visa is no longer available. So he gets
25 in line, and depending on which country you are from, it

1 could be anywhere from 15 to 20 years.

2 THE COURT: I think the government showed proof
3 that it was actually 18 years at that point. Let me ask
4 the -- let me ask both sides, does either side have a
5 case on this point because it seems to me there should
6 have been a case on this point?

7 MR. MENNINGER: Right. Okay. So, your Honor,
8 it -- yes, your Honor. The case we cited, matter of
9 Avila Perez. So there is two points. One is that the
10 I-130 remained valid, and that is matter of Avila Perez.
11 And the second point is that the denial of the adjustment
12 application does nothing to the validity of the I-130
13 application. And that is made clear, your Honor, in
14 Agyeman V. INS.

15 THE COURT: Let me stop. The government is not
16 objecting to the validity of the I-130. In other words,
17 the I-130 supposedly establishes relationship, and there
18 is no doubt that the relationship was there and there is
19 no doubt, even though the government quibbled a little
20 bit, but there is no doubt that the relationship is a
21 relationship. So that is not the problem.

22 The question, however, is that the I-485, once
23 it is filed and if it is terminated, even though you can
24 refile again, the question is what effect does that have
25 if the period of time is lapsed for him to qualify as an

1 immediate relative? Because at that point, he is not an
2 immediate relative. So unless there was some rule that
3 is like along the lines of the Supreme Court's decision
4 in what is it, the unpronounceable cases that we have
5 here.

6 MR. MENNINGER: I believe your Honor is referring
7 to Scialabba, your Honor.

8 THE COURT: Glad you are having difficulty too.
9 There is a second part of that.

10 MR. MENNINGER: Cuellar de Osorio.

11 THE COURT: You have had practice. That, it seems
12 to me, is an open question because I don't know if this
13 issue has been addressed.

14 So I will give both sides one more opportunity
15 to give me whatever cases you have on that point. I will
16 give you a couple of days to give me something. And if
17 you have something, great. Don't give it to me now
18 because I I don't want to read it now in public because
19 my lips move. So I will wait until you give it to me,
20 and I will look at it later.

21 MS. KLOPF: Your Honor, could I just note that we
22 did research this issue, and it is a bit of a gray area.
23 We did find two cases where an I-130 was not honored, and
24 the person was required to get another one because what
25 the court in the Ninth Circuit said is that the ultimate

1 success of the visa application is contingent on the
2 filing of the 485. And as we have discussed at great
3 length here, a 485 would not be granted. That is the
4 actual adjustment of status.

5 THE COURT: Which case are you talking about now?
6 is that in your supplement?

7 MS. KLOPF: Yes. That is in the supplement. It
8 is at the bottom of Page 3, United States v.
9 Garcia-Gonzalez.

10 At the time of the defendant's removal, there,
11 he had an approved I-130 based on his United States
12 citizen father's petition. But, there, the panel noted
13 that the reaching of his priority date did not grant him
14 a visa. It merely allowed him to file.

15 THE COURT: But that situation is not quite the
16 same as here because, again, what we are talking about
17 here is that there was originally an I-485 that was filed
18 and then for some reason it was terminated.

19 MS. KLOPF: And, in our case law research, there
20 was nothing specifically on point here.

21 THE COURT: I will give you guys three extra days
22 to find me whatever else you want to give to me. If you
23 have given it to me already, then that is fine. But I am
24 giving both sides an opportunity for something more
25 because, frankly, I don't think what you have given me

1 answers that precise question.

2 MS. KLOPF: And, your Honor, if I just might note,
3 that while there may not be a case from our case law
4 research, there may not be anything instructive, but,
5 regardless, even if the government were to concede that a
6 visa was available --

7 THE COURT: I understand that. I just want to
8 make sure that I cover all bases for this one.

9 MS. KLOPF: Of course, your Honor.

10 THE COURT: All right. So, then, at this point in
11 time, then, assuming that for purposes of argument that
12 there was both a visa, application, all the stuff that he
13 is entitled, even if he establishes all that, he must
14 also demonstrate that his deportation would result in
15 extreme hardship to the U.S. citizen relative or LPR.

16 And, again, in this situation, looking at the
17 declaration that was submitted by his mother, I don't see
18 any extreme hardship. An extreme hardship is defined as
19 something more that would occur upon a normal deportation
20 proceeding including financial difficulties and, also,
21 emotional distress as a result of the separation. And,
22 here, I don't see anything more than that in this
23 particular instance.

24 MS. KLOPF: And, your Honor, if I just might note
25 because he had been convicted of a violent or dangerous

1 offense, the standard is actually exceptional and extreme
2 hardship.

3 THE COURT: Really, really hardship. And, also, I
4 would also note that at the time of the removal
5 proceedings, he had already been in jail for ten years
6 for the robberies. So, therefore, he was already
7 separated from his family, and he was also not supporting
8 the family. And so I don't understand where the extreme
9 hardship is.

10 MR. MENNINGER: May I address that, your Honor?

11 THE COURT: Sure.

12 MR. MENNINGER: So the Ninth Circuit has made
13 clear that the existence of family ties and the familial
14 bonds is the most important factor in determining
15 hardship. That is more important than any financial or
16 economic hardship. And when we are evaluating extreme
17 hardship and United States versus Arrieta I think makes
18 that clear. The emotional and familial bonds is the most
19 important point.

20 Also, your Honor, that the hardship that his
21 mother would have faced upon his deportation is far
22 beyond the normal because, specifically, because she has
23 had such a traumatic life history. And that is a factor
24 that has been held to be decisive in 212(h) cases, your
25 Honor.

1 THE COURT: Let me ask, she was separated from him
2 while he was in prison?

3 MR. MENNINGER: Not permanently separated, your
4 Honor. Deportation is permanent separation.

5 THE COURT: If he is in Mexico, she can go visit
6 him in Mexico.

7 MR. MENNINGER: Right, your Honor. In many cases,
8 that would be possible, but, here, we have a case where
9 she herself fled for her life, was afraid to go back to
10 Mexico and did not think that she would be safe at all in
11 Mexico. So, in this particular circumstance, your Honor,
12 it would be permanent separation.

13 THE COURT: That was what, like 1983, -85, -86?

14 MR. MENNINGER: Right.

15 THE COURT: She had those fears. Where is the
16 demonstration that her fears were rational in 2010?

17 MR. MENNINGER: Well, your Honor, she received
18 death threats, and she swore to that, your Honor.

19 THE COURT: In 1983 and 1985, yes.

20 MR. MENNINGER: But, your Honor, I don't think it
21 is reasonable to presume that someone who has had death
22 threats in a country and felt they needed to leave that
23 country for fear of their lives, even though it took
24 place, you know, years before, I think it is reasonable
25 for that person to emotionally feel that they are not

1 safe in that country. I don't think that is
2 unreasonable, your Honor. Moreover, she had --

3 THE COURT: Have you found a case that is even
4 remotely like this one?

5 MR. MENNINGER: Yes, your Honor. And I cited them
6 on Page 4 of the supplemental briefing: matter of S.B.,
7 your Honor, and matter of the name is redacted. These
8 are both cases that recognize that the prior history of
9 trauma by the qualifying relative is a decisive factor in
10 determining hardship.

11 THE COURT: But, again, this is just a separation.
12 And, so, those cases were not like this case.

13 MR. MENNINGER: I am not sure I understand.

14 THE COURT: What were you saying is the
15 similarity? I understand the general principle that if
16 there is extreme emotional hardship, and the operative
17 word is being extreme, due to something. But what is
18 that here?

19 MR. MENNINGER: How is that extreme emotional
20 hardship here, your Honor?

21 THE COURT: Yes. What is it? Is it just the fact
22 that she got death threats in '83 and '85, and then she
23 moved here to the United States. And she has a son she
24 takes him with her here. And the son is going to be
25 deported back to Mexico. The extreme emotional hardship

1 is what? That is not due from a normal situation where
2 there is a separation from a child.

3 MR. MENNINGER: No. But this is not the normal
4 separation because of her history of trauma, your Honor.
5 It is not just the death threats. It is also that she
6 was a victim of domestic violence. It is also that she
7 had a child with a near fatal heart condition.

8 And the evidence of the extreme emotional
9 hardship is evidenced by the fact that she signed a sworn
10 declaration stating that during this period she actually
11 sought out treatment for her psychological symptoms, and
12 I don't think that is just the normal result of
13 deportation, your Honor. I don't think the government
14 would argue that everyone who has a deported relative has
15 to go on psychological medication, your Honor.

16 THE COURT: All right.

17 MS. KLOPF: Your Honor, the government would argue
18 that this was the normal consequences of deportation.
19 While the defense does cite that she was a victim of
20 domestic violence, if I read the affidavit correctly,
21 that was years before that she was a victim of domestic
22 violence. It wasn't ongoing at the time.

23 But, furthermore, again, as I mentioned
24 earlier, because the defendant was convicted of a violent
25 and dangerous offense, he is subject to a higher standard

1 of exceptional and extremely unusual hardship. And I
2 think even in a normal case, this would be the standard
3 consequences of deportation where someone had been
4 incarcerated for 10 years prior to their deportation but
5 especially in light of the heightened standard. That
6 standard is just not met here.

7 THE COURT: All right.

8 MR. MENNINGER: If I may, your Honor. So there is
9 two standards that are overlapping, your Honor. It is
10 extreme hardship to the relative. And there is also the
11 exceptional and extremely unusual hardship, your Honor.
12 But that, that standard includes hardship to the
13 deportee. It also includes hardship to not just that
14 one relative. It is cumulative hardship to anyone
15 affected by the deportation.

16 So, in this case, we have someone who the
17 deportee himself had never lived in Mexico, had no family
18 in Mexico. He has multiple U.S. citizen relatives, all
19 who would be affected to some degree.

20 THE COURT: I had thought that one looks not -- I
21 mean, one looks at the hardship to the citizen or LPR.

22 MR. MENNINGER: Your Honor, I can provide a case
23 citation that is cited in our motion.

24 MR. MENNINGER: Page 14 of the motion,
25 Rivera-Peraza v. Holder. When we are talking about

1 exceptional and extremely unusual hardship, it includes
2 hardship to the applicant himself and all relatives.

3 THE COURT: Okay. Let me hear a response from the
4 government.

5 MS. KLOPF: Your Honor, statutorily, the waiver is
6 based on a showing that a U.S. citizen or lawful
7 permanent resident would suffer the extreme hardship.
8 And then it is raised to the heightened standard when
9 they are -- and I am not familiar with the facts of
10 Rivera-Peraza, but, here, even if we were to address the
11 defendant's hardship, he had been incarcerated for the
12 10 years prior to his deportation.

13 He had been separated from his family. He had
14 not been working. His family cannot show that his
15 deportation at that time created some extreme hardship
16 that was outside of the usual consequences of
17 deportation.

18 MR. MENNINGER: So, your Honor --

19 THE COURT: Let me ask, did the mother go to seek
20 psychological care when he was convicted and sentenced to
21 10 years?

22 MR. MENNINGER: Your Honor, I believe in her
23 declaration, she states that it was around the time that
24 the deportation was --

25 THE COURT: So, in other words, when her son was

1 in prison for 10 years, it didn't have such an adverse
2 effect on her?

3 MR. MENNINGER: I don't think the declaration says
4 that she was not -- did not have an adverse effect, but,
5 certainly, the thought of him being permanently
6 separated --

7 THE COURT: When you say permanently, I don't
8 understand what permanently separated is in this context.

9 MR. MENNINGER: Well, your Honor, the deportation
10 order was final and permanent, and as the government
11 alleges, he is an aggravated felon. It is actually under
12 the law that you are permanently barred from ever
13 reentering the United States.

14 THE COURT: But she is not permanently barred from
15 seeing him in Mexico.

16 MR. MENNINGER: That's correct, your Honor. Not
17 to keep rearguing the point, but I think that --

18 THE COURT: I understand the point.

19 MR. MENNINGER: Her fears of going back to Mexico
20 were valid in this. Even if -- I just think her
21 emotional fears, your Honor, were valid.

22 THE COURT: So, in other words, you are saying
23 that if somebody has an extreme attachment to someone
24 else, that that is extreme hardship.

25 MR. MENNINGER: Your Honor, the Ninth Circuit has

1 said that in United States versus Arrieta. It is on
2 point.

3 THE COURT: Okay. So any time one has a
4 particularly emotional relative, that is extreme
5 hardship.

6 MR. MENNINGER: Your Honor, when there is
7 particular circumstances. Your Honor, it is very clear
8 that you need to look at the specific factors that are
9 involved in the case. That is very clear under the case
10 law.

11 And I think the history of the trauma, the
12 extreme fears about going to Mexico, I think all of these
13 particular factors, and just not to repeat myself, your
14 Honor, but we are not deciding right now whether he is
15 eligible for this waiver or whether this court would
16 grant him this waiver. We are asking is it at least
17 plausible that the immigration court might have done
18 that.

19 THE COURT: No. But the immigration court would
20 have to be based upon the Attorney General's decision
21 because it is the Attorney General's decision in that
22 regard. So the question is would the Attorney General
23 have exercised the discretion in this particular
24 situation.

25 MR. MENNINGER: Whether it is plausible.

1 THE COURT: And, yes, but plausible is not
2 possible. Plausible is more than possible.

3 MR. MENNINGER: And it is less than probable, your
4 Honor, as your Honor stated earlier.

5 THE COURT: It is kind of almost like an 8-ball in
6 a way, isn't it.

7 MR. MENNINGER: It is not a demanding standard,
8 your Honor. The court has said there needs to be some
9 evidentiary basis of relief.

10 THE COURT: All right. The last one is whether or
11 not he establishes that he can fall under CAT. And,
12 again, I did look at the articles that were provided to
13 me by the defense.

14 Let me just ask, as to the articles, none of
15 them were written at the time of the removal proceedings
16 here. They are all written a couple of years afterwards
17 or many years afterwards; right?

18 MR. MENNINGER: I think most of them, your Honor,
19 are from around 2011 to 2012.

20 THE COURT: There is one from 2011. That is in
21 late 2011, and the other ones are going to be from 2013,
22 2015.

23 MR. MENNINGER: Your Honor can look at the exhibit
24 list. It does have all the dates.

25 THE COURT: Let me just put it this way, that is a

1 little bit of a problem. But, also, the problem is that
2 the decisions under CAT, they require more particularity
3 than what the defendant is alleging here.

4 And that is not to say that it is impossible
5 because there is a case, Maldonado versus Lynch, 786
6 F.3d, 1155 where an alien did establish a situation where
7 he feared that upon return, he would get, you know,
8 specifically, that the criminal element would be directed
9 at him. But that was because he had been deported two or
10 three times before, and, in each particular instance, he
11 had been attacked. So that was a sufficient showing.

12 But, here, if you look under the CAT factors
13 which include the number of times that the alien had been
14 victimized, in other words, past instances of torture,
15 whether or not the applicant could relocate to a
16 different part of the country, evidence of gross and
17 flagrant violations of human rights and other relevant
18 information, all those factors really don't play in this
19 particular situation in any way as to the particular
20 defendant here.

21 And, again, there are situations, for example,
22 where people have made an allegation that if they return
23 to Mexico that because of either their -- they look
24 affluent or something of that sort, that they may be
25 subject to the criminal element. Those cases have never

1 gone anywhere. And I cite to such cases as Delgado Ortiz
2 versus Holder, 600 F.3d, 1148, at 1151. So I don't see
3 the CAT factor here.

4 MR. MENNINGER: Can I address that, your Honor,
5 quickly?

6 THE COURT: Sure.

7 MR. MENNINGER: Again, as the case I cited heavily
8 in the supplemental brief, your Honor, Cole v. Holder, we
9 don't dispute that there is no past torture to the
10 applicant in this case.

11 THE COURT: That is not necessary, but if it
12 happened, it certainly is a good indication.

13 MR. MENNINGER: I don't dispute that it would be
14 helpful.

15 THE COURT: The problem here is if he would have
16 been subject to -- the fact that he was deported and he
17 was in Mexico and came back within three years,
18 three-and-a-half years, unscathed is, what can one say.

19 MR. MENNINGER: Your Honor, I don't believe any of
20 the presence or absence of what allegedly did or didn't
21 happen to my client in Mexico, there is no evidence in
22 the record on that point. So I don't think that is a
23 relevant consideration, your Honor.

24 THE COURT: Well, what can one say. All right. I
25 understand your position.

1 What else?

2 MR. MENNINGER: I would just say under Cole v.
3 Holder, your Honor, I think his case could be just as
4 strong as Cole v. Holder.

5 THE COURT: It is not. Let's put it this way, it
6 is not. I understand your argument, but it is not.

7 MR. MENNINGER: One additional thing I would point
8 out, your Honor, is that the Ninth Circuit reviews CAT
9 cases with a very deferential standard to the BIA. In
10 this case, we are actually doing the reverse. The Ninth
11 Circuit will only reverse the BIA when the BIA has made a
12 significant error. In this case, we are just saying, is
13 it at least possible, is there some evidentiary basis
14 upon which relief could be granted.

15 THE COURT: But I don't understand what the relief
16 is. Relief here, first of all, insofar as the fact that
17 he attempts to base his CAT claim on the fact that his
18 grandfather was murdered in 1983, his grandfather was a
19 police official, a director of police in an area with
20 high gang activity, doing antinarcotics activity. Again,
21 there is no indication that the fact that he had a
22 grandfather in 1983 that was murdered would have any
23 affect as to him. He was two years old at the time.

24 MR. MENNINGER: I'm sorry, your Honor?

25 THE COURT: He was two years old at the time

1 approximately.

2 MR. MENNINGER: That is true. That's correct,
3 your Honor. And the articles we cited show that family
4 members were targeted and that that specific criminal
5 element continued to control a wide swath of territory,
6 and I believe there is actually a map.

7 THE COURT: Why would they be concerned about the
8 grandfather's grandson who apparently they had never met
9 or never had any contact with? Why would they know that,
10 you know, he is back in Mexico?

11 MR. MENNINGER: Your Honor, once he is present in
12 Mexico, I mean --

13 THE COURT: His name is so distinctive that every
14 one with that last name is going to be known?

15 MR. MENNINGER: Your Honor, there is evidence that
16 the cartel do target family members.

17 THE COURT: Is there any evidence that if they
18 targeted family members in 1983 and 1985, that, in 2010,
19 when there is no intervening family being targeted in
20 Mexico that they would target somebody who returns to
21 Mexico.

22 MR. MENNINGER: Well, your Honor, actually, the
23 exhibits we cited -- so that is one piece is the
24 grandfather. The other piece is the evidence showing the
25 rash of violence specifically targeted to deportees who

1 are singled out because they carried these distinctive
2 Department of Homeland Security bags, that these criminal
3 elements knew what times these buses came, they knew
4 where they could find deportees.

5 In CAT, it is very clear. You can pile up
6 different factors that would subject someone to harm, and
7 our position in this case, your Honor, is that if you
8 look at all the factors which an immigration judge would
9 have been required to do if he were given the opportunity
10 to do this, there is some evidentiary basis upon which
11 relief would have been granted, your Honor.

12 THE COURT: I will refer to -- although, it is an
13 unpublished decision, I refer to Hernandez-Mendoza v.
14 Lynch, 616 F.Appx 311. It is a Ninth Circuit case from
15 2015.

16 MS. KLOPF: I'm sorry, your Honor. Could you
17 repeat the cite.

18 THE COURT: Yes. 616 F.Appx 311. And there it is
19 alleged that returnees to Mexico after years of permanent
20 residency in the United States would be targeted by
21 gangs.

22 MR. MENNINGER: Your Honor, I would just point out
23 that that sounds -- I haven't read that case, but that
24 sounds very much like it is a direct appeal from the BIA
25 in which case the Ninth Circuit is just saying did the

1 BIA grossly err in deciding there wasn't a CAT claim
2 here. And we are actually in the opposite situation
3 where would the BIA have grossly erred saying there was.
4 So I would distinguish the case on that basis, your
5 Honor.

6 THE COURT: If they are not persuaded by the
7 scenario, they are not persuaded by the scenario.

8 MR. MENNINGER: Your Honor, I think the cases are
9 clear that the Ninth Circuit has to be very deferential
10 to the BIA.

11 THE COURT: That is really strange because I don't
12 think the BIA would take the position that the Ninth
13 Circuit has been particularly deferential to them. But
14 be that as it may. What can one say.

15 Anything else from either side?

16 MS. KLOPF: Your Honor, I would just note also on
17 the CAT claim that the defendant would also have to prove
18 state action which we haven't discussed here, but there
19 is no proof of that as well and, furthermore, just that
20 the standard is more than just a possibility of relief,
21 that it requires an evidentiary basis.

22 And with a CAT claim, if a person is actually
23 applying for a CAT claim, they must show a greater than
24 50 percent likelihood that they would be tortured by
25 government or by state action or by complicit state

1 action.

2 THE COURT: Although, I think the Ninth Circuit
3 has held that if the government officials are aware of
4 the, you know, torture or the potential for torture, and
5 they do not take steps to do something about it, that can
6 be deemed sufficient.

7 MS. KLOPF: Oh. Yes, your Honor. But, here,
8 there is no evidence of that particularized threat of
9 torture with the compliance of state action or actual
10 state action.

11 THE COURT: All right. I will give you guys
12 three days to give me anything else in regards to the
13 additional citations. And I don't want anything more
14 than two pages. And give me that by, let's see, today is
15 Thursday. Give me that by close of business on Monday.

16 And let me ask, this matter is set for trial
17 on the 17th?

18 MS. KLOPF: Yes, it is, your Honor.

19 THE COURT: When is the pretrial? Did you guys
20 get me the stuff for the pretrial?

21 MR. MENNINGER: I believe we discussed, your
22 Honor, in the event the court does deny this motion, that
23 we will be filing a stipulation to continue the trial to
24 allow the parties to prepare.

25 THE COURT: All right.

1 MS. KLOPF: If we are all here, could we do it
2 orally on the record?

3 THE COURT: Let me ask, assume, arguendo, that I
4 deny the motion, when do you guys want to go to trial?

5 MR. MENNINGER: We hadn't totally discussed a
6 specific date, your Honor. And with respect to my
7 counterpart, I would prefer to do it just so I could
8 check with potential co counsel.

9 MS. KLOPF: We can meet and confer, your Honor,
10 and file a stipulation then.

11 THE COURT: Okay. Why don't we do this then. I
12 tell you what, why don't I have you guys come back next
13 Thursday. And I will make a ruling by that point in
14 time. And, also, if I deny the motion to dismiss, then
15 we can talk about scheduling. And just give me on Monday
16 with whatever you file, proposed dates for trial and
17 stuff of that sort. Okay.

18 MR. MENNINGER: Thank you, your Honor.

19 MS. KLOPF: Thank you, your Honor.

20 (Proceedings concluded.)
21
22
23
24
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE

I hereby certify that pursuant to Section 753, Title 28, United States Code, the foregoing is a true and correct transcript of the stenographically reported proceedings held in the above-entitled matter and that the transcript page format is in conformance with the regulations of the Judicial Conference of the United States.

Date: June 10, 2016

/s/ Katie Thibodeaux, CSR No. 9858, RPR, CRR

<p>AGENT ORI: [8] 6/21 7/1 7/11 7/14 8/4 14/25 15/16 16/20 MR. MENNINGER: [62] MS. KLOPF: [24] THE COURT: [89]</p>	<p>312 [2] 1/20 2/5 359 [1] 12/5 4 4202 [1] 2/12 436 [1] 1/20 485 [19] 13/18 13/19 14/16 15/4 15/13 15/15 15/24 16/1 16/5 16/8 16/12 16/15 16/16 16/20 16/22 17/22 19/2 19/3 19/17</p>	<p>after [2] 16/14 34/19 38 of 46 Page ID# 1643 again [17] 6/3 6/5 9/19 10/9 11/22 11/23 12/2 16/4 17/24 19/16 20/16 23/11 24/23 29/12 30/21 31/7 32/20 Against [1] 12/14 agency [1] 16/11 agency's [3] 7/9 14/20 15/12 Agent [1] 3/15 aggravated [1] 27/11 agree [2] 10/16 13/11 agreeing [1] 4/12 agreement [1] 8/19 Agyeman [1] 17/14 alien [12] 4/3 7/10 7/25 9/14 12/18 12/23 14/3 14/21 16/13 16/16 30/6 30/13</p>
<p>'83 [1] 23/22 '85 [1] 23/22</p>	<p>5 50 percent [1] 35/24 585 [1] 13/16</p>	<p>all [34] allegation [1] 30/22 alleged [1] 34/19 allegedly [1] 31/20 alleges [1] 27/11 alleging [1] 30/3 allow [1] 36/24 allowed [2] 16/7 19/14 almost [2] 15/24 29/5 along [3] 16/9 16/12 18/3 already [3] 19/23 21/5 21/6 also [19] 12/4 12/6 12/14 13/1 13/14 20/14 20/20 21/3 21/4 21/7 21/20 24/5 24/6 25/10 25/13 30/1 35/16 35/17 37/14</p>
<p>- -04 [1] 12/5 -85 [1] 22/13 -86 [1] 22/13 -and [1] 2/11</p>	<p>6 600 [1] 31/2 616 [2] 34/14 34/18</p>	<p>although [3] 6/11 34/12 36/2 always [2] 6/17 6/20 am [4] 3/14 19/23 23/13 26/9 AMANDA [2] 2/5 3/13 America [2] 1/6 2/3 among [1] 12/21 ANGELES [5] 1/14 1/20 2/6 2/12 3/1 another [1] 18/24 answers [2] 11/14 20/1 antinarcotics [1] 32/20 any [11] 5/22 6/5 9/3 20/18 21/15 28/3 30/19 31/19 32/22 33/9 33/17 anyone [1] 25/14 anything [6] 10/24 20/4 20/22 35/15 36/12 36/13 anywhere [2] 17/1 31/1 apparently [2] 14/9 33/8 appeal [4] 5/10 5/11 9/18 34/24 appear [1] 5/21 appearance [1] 5/22 appearances [2] 2/1 3/8 applicant [3] 26/2 30/15 31/10 application [12] 13/5 13/13 13/18 13/19 14/3 14/21 15/25 16/18 17/12 17/13 19/1 20/12</p>
<p>/ /s [1] 38/12</p>	<p>7 748 [1] 11/21 753 [1] 38/4 757 [1] 11/21 761 [1] 12/3 786 [1] 30/5</p>	<p>applies [1] 16/20 apply [1] 14/1 applying [1] 35/23 appraised [2] 9/21 9/23 approved [8] 14/10 15/4 15/9 15/10 15/14 15/15 15/21 19/11 approximately [1] 33/1 APRIL [2] 1/15 3/1 are [48] area [2] 18/22 32/19 aren't [1] 5/4 argue [2] 24/14 24/17 arguendo [1] 37/3 argument [4] 10/18 14/1 20/11 32/6</p>
<p>0 04 [1] 12/5</p>	<p>8 8-ball [1] 29/5 813 [1] 11/21 85 [1] 22/13 86 [1] 22/13 8:19 [1] 3/2</p>	<p>above [1] 38/7 above-entitled [1] 38/7 absence [2] 8/25 31/20 accompanied [1] 8/17 Aceves [3] 1/9 3/7 8/12 action [5] 35/18 35/25 36/1 36/9 36/10 active [1] 13/24 activity [2] 32/20 32/20 actual [8] 6/5 6/23 8/13 11/19 11/24 11/24 19/4 36/9 actually [16] 5/8 7/2 8/6 8/7 11/6 13/11 13/24 17/3 21/1 24/10 27/11 32/10 33/6 33/22 35/2 35/22</p>
<p>1 10 [2] 26/21 38/10 10 years [3] 25/4 26/12 27/1 100-20 [1] 12/16 1003.25 [3] 9/13 10/25 11/5 1088 [1] 12/5 1103 [1] 12/5 1148 [1] 31/2 1151 [1] 31/2 1155 [1] 30/6 1182 [6] 12/13 12/17 12/20 12/21 13/1 13/7 1191 [1] 13/16 1197 [1] 13/16 1212.7 [1] 13/2 1255 [1] 13/15 130 [19] 13/22 14/2 14/8 14/16 14/20 15/1 15/9 15/15 15/20 15/25 16/12 16/14 16/22 17/10 17/12 17/16 17/17 18/23 19/11 1326 [3] 3/18 3/24 11/16 14 [1] 25/24 15 [1] 17/1 15-245 [1] 1/8 17th [1] 36/17 18 [1] 17/3 1983 [5] 22/13 22/19 32/18 32/22 33/18 1985 [2] 22/19 33/18</p>	<p>9 90012 [2] 1/20 2/6 90012-4202 [1] 2/12 9858 [2] 1/19 38/12</p>	<p>add [1] 9/19 additional [2] 32/7 36/13 address [5] 4/9 11/6 21/10 26/10 31/4 addressed [1] 18/13 adjust [1] 13/9 adjustment [7] 12/23 13/4 13/5 13/13 15/21 17/11 19/4 administrative [1] 4/1 admitted [1] 12/20 adult [2] 16/17 16/19 adverse [2] 27/1 27/4 advised [1] 9/17 affect [1] 32/23 affected [2] 25/15 25/19 affidavit [2] 6/12 24/20 affluent [1] 30/24 afraid [1] 22/9</p>
<p>A A.M [1] 3/2 about [13] 3/24 4/16 5/3 9/4 11/1 11/1 19/5 19/16 25/25 28/12 33/7 36/5 37/15 above [1] 38/7 above-entitled [1] 38/7 absence [2] 8/25 31/20 accompanied [1] 8/17 Aceves [3] 1/9 3/7 8/12 action [5] 35/18 35/25 36/1 36/9 36/10 active [1] 13/24 activity [2] 32/20 32/20 actual [8] 6/5 6/23 8/13 11/19 11/24 11/24 19/4 36/9 actually [16] 5/8 7/2 8/6 8/7 11/6 13/11 13/24 17/3 21/1 24/10 27/11 32/10 33/6 33/22 35/2 35/22</p>	<p>A A.M [1] 3/2 about [13] 3/24 4/16 5/3 9/4 11/1 11/1 19/5 19/16 25/25 28/12 33/7 36/5 37/15 above [1] 38/7 above-entitled [1] 38/7 absence [2] 8/25 31/20 accompanied [1] 8/17 Aceves [3] 1/9 3/7 8/12 action [5] 35/18 35/25 36/1 36/9 36/10 active [1] 13/24 activity [2] 32/20 32/20 actual [8] 6/5 6/23 8/13 11/19 11/24 11/24 19/4 36/9 actually [16] 5/8 7/2 8/6 8/7 11/6 13/11 13/24 17/3 21/1 24/10 27/11 32/10 33/6 33/22 35/2 35/22</p>	<p>add [1] 9/19 additional [2] 32/7 36/13 address [5] 4/9 11/6 21/10 26/10 31/4 addressed [1] 18/13 adjust [1] 13/9 adjustment [7] 12/23 13/4 13/5 13/13 15/21 17/11 19/4 administrative [1] 4/1 admitted [1] 12/20 adult [2] 16/17 16/19 adverse [2] 27/1 27/4 advised [1] 9/17 affect [1] 32/23 affected [2] 25/15 25/19 affidavit [2] 6/12 24/20 affluent [1] 30/24 afraid [1] 22/9</p>
<p>2 20 [4] 8/12 8/16 12/16 17/1 2009 [1] 13/20 2010 [4] 5/18 13/12 22/16 33/18 2011 [3] 29/19 29/20 29/21 2012 [1] 29/19 2013 [1] 29/21 2015 [2] 29/22 34/15 2016 [3] 1/15 3/1 38/10 208.18 [1] 12/16 21 [1] 16/22 212 [4] 12/13 13/9 16/8 21/24 212H [1] 11/10 245 [1] 1/8 26th [1] 5/21 27th [4] 5/13 5/17 5/22 6/7 28 [3] 1/15 3/1 38/4 2ND [1] 2/11</p>	<p>3 311 [2] 34/14 34/18</p>	<p>add [1] 9/19 additional [2] 32/7 36/13 address [5] 4/9 11/6 21/10 26/10 31/4 addressed [1] 18/13 adjust [1] 13/9 adjustment [7] 12/23 13/4 13/5 13/13 15/21 17/11 19/4 administrative [1] 4/1 admitted [1] 12/20 adult [2] 16/17 16/19 adverse [2] 27/1 27/4 advised [1] 9/17 affect [1] 32/23 affected [2] 25/15 25/19 affidavit [2] 6/12 24/20 affluent [1] 30/24 afraid [1] 22/9</p>

<p>A</p> <p>around [2] 26/23 29/19</p> <p>Arrieta [2] 21/17 28/1</p> <p>articles [3] 29/12 29/14 33/3</p> <p>as [30]</p> <p>aside [1] 9/19</p> <p>ask [21]</p> <p>asked [1] 8/2</p> <p>asking [3] 9/7 9/9 28/16</p> <p>aspect [1] 11/24</p> <p>assume [1] 37/3</p> <p>assumed [1] 14/12</p> <p>assuming [1] 20/11</p> <p>attachment [1] 27/23</p> <p>attacked [1] 30/11</p> <p>attempts [2] 10/10 32/17</p> <p>attorney [7] 9/20 10/4 10/6 10/12 28/20 28/21 28/22</p> <p>ATTORNEY'S [1] 2/4</p> <p>AUSA [1] 2/5</p> <p>available [11] 4/1 5/3 5/4 5/8 11/13 14/7 14/14 14/25 15/16 16/24 20/6</p> <p>avenues [2] 10/14 12/12</p> <p>Avila [2] 17/9 17/10</p> <p>aware [5] 8/23 9/2 9/6 9/10 36/3</p>	<p>can [18] 8/12 10/2 10/3 13/13 21/13 22/13 22/14</p> <p>29/11 29/23 31/4 31/18 31/24 34/5 35/14 36/5 37/9 37/15</p> <p>cannot [1] 26/14</p> <p>care [1] 26/20</p> <p>carried [1] 34/1</p> <p>cartel [1] 33/16</p> <p>case [32]</p> <p>cases [12] 11/20 18/4 18/15 18/23 21/24 22/7 23/8 23/12 30/25 31/1 32/9 35/8</p> <p>CAT [12] 12/15 29/11 30/2 30/12 31/3 32/8 32/17 34/5 35/1 35/17 35/22 35/23</p> <p>CENTRAL [1] 1/2</p> <p>certain [1] 10/3</p> <p>certainly [2] 27/5 31/12</p> <p>CERTIFICATE [1] 38/1</p> <p>certify [1] 38/4</p> <p>Cesar [1] 1/9</p> <p>cetera [2] 15/11 15/11</p> <p>CFR [1] 9/13</p> <p>check [4] 5/15 5/16 5/17 37/8</p> <p>child [8] 12/22 12/23 14/4 14/23 16/13 16/19 24/2 24/7</p> <p>child's [1] 14/17</p> <p>circle [1] 11/9</p> <p>Circuit [10] 18/25 21/12 27/25 32/8 32/11 34/14 34/25 35/9 35/13 36/2</p> <p>circumstance [1] 22/11</p> <p>circumstances [1] 28/7</p> <p>Cisneros [3] 11/21 12/3 12/6</p> <p>Cisneros-Rodriguez [1] 11/21</p> <p>citation [1] 25/23</p> <p>citations [1] 36/13</p> <p>cite [3] 24/19 31/1 34/17</p> <p>cited [8] 7/22 14/15 17/8 23/5 25/23 31/7 33/3 33/23</p> <p>citizen [7] 12/22 12/24 19/12 20/15 25/18 25/21 26/6</p> <p>claim [5] 32/17 35/1 35/17 35/22 35/23</p> <p>clear [10] 6/4 10/23 16/7 17/13 21/13 21/18 28/7 28/9 34/5 35/9</p> <p>clerk [1] 7/2</p> <p>client [2] 10/13 31/21</p> <p>close [1] 36/15</p> <p>co [1] 37/8</p> <p>Code [1] 38/5</p> <p>cognizant [1] 8/23</p> <p>Cole [3] 31/8 32/2 32/4</p> <p>colleague [1] 3/10</p> <p>combination [1] 15/14</p> <p>come [1] 37/12</p> <p>competent [1] 10/4</p> <p>complete [1] 11/8</p> <p>compliance [1] 36/9</p> <p>complicit [1] 35/25</p> <p>comply [1] 11/5</p> <p>concede [7] 4/6 5/6 13/3 13/7 13/10 13/18 20/5</p> <p>concedes [1] 4/25</p> <p>conceding [2] 4/12 11/22</p> <p>concerned [1] 33/7</p> <p>concluded [1] 37/20</p> <p>conclusion [1] 10/13</p> <p>condition [1] 24/7</p> <p>confer [1] 37/9</p> <p>Conference [1] 38/9</p> <p>conformance [1] 38/8</p> <p>conjunction [1] 16/8</p> <p>consequences [3] 24/18 25/3 26/16</p> <p>consideration [1] 31/23</p> <p>considered [1] 14/24</p>	<p>contact [1] 33/9</p> <p>40/146 Page ID # 644</p> <p>context [1] 27/8</p> <p>contingent [1] 19/1</p> <p>continuation [1] 3/17</p> <p>continue [1] 36/23</p> <p>continued [1] 33/5</p> <p>control [1] 33/5</p> <p>Convention [1] 12/14</p> <p>convicted [4] 12/18 20/25 24/24 26/20</p> <p>corner [1] 8/13</p> <p>correct [7] 7/12 8/4 9/25 15/17 27/16 33/2 38/5</p> <p>correctly [1] 24/20</p> <p>could [11] 10/23 16/2 17/1 18/21 30/15 32/3 32/14 34/4 34/16 37/1 37/7</p> <p>counsel [7] 2/1 5/21 7/11 9/7 9/8 9/15 37/8</p> <p>counterpart [1] 37/7</p> <p>country [5] 16/25 22/22 22/23 23/1 30/16</p> <p>couple [4] 5/23 7/21 18/16 29/16</p> <p>course [1] 20/9</p> <p>court [8] 1/1 1/19 18/25 28/15 28/17 28/19 29/8 36/22</p> <p>court's [2] 10/23 18/3</p> <p>cover [1] 20/8</p> <p>created [1] 26/15</p> <p>creates [1] 9/13</p> <p>crime [1] 12/18</p> <p>criminal [4] 30/8 30/25 33/4 34/2</p> <p>CRR [1] 38/12</p> <p>CSR [2] 1/19 38/12</p> <p>Cuellar [1] 18/10</p> <p>cumulative [1] 25/14</p> <p>current [1] 10/10</p>
<p>B</p> <p>back [7] 11/9 22/9 23/25 27/19 31/17 33/10 37/12</p> <p>bags [1] 34/2</p> <p>ball [1] 29/5</p> <p>bar [1] 12/21</p> <p>barred [2] 27/12 27/14</p> <p>base [1] 32/17</p> <p>based [3] 19/11 26/6 28/20</p> <p>bases [1] 20/8</p> <p>basically [1] 6/7</p> <p>basis [5] 29/9 32/13 34/10 35/4 35/21</p> <p>be [38]</p> <p>because [28]</p> <p>becomes [1] 16/23</p> <p>been [24]</p> <p>before [3] 22/24 24/21 30/10</p> <p>behalf [4] 2/3 2/9 3/14 8/24</p> <p>being [4] 8/23 23/17 27/5 33/19</p> <p>believe [6] 5/14 18/6 26/22 31/19 33/6 36/21</p> <p>between [1] 15/8</p> <p>beyond [1] 21/22</p> <p>BIA [8] 32/9 32/11 32/11 34/24 35/1 35/3 35/10 35/12</p> <p>bit [4] 3/21 17/20 18/22 30/1</p> <p>bond [1] 3/11</p> <p>bonds [2] 21/14 21/18</p> <p>both [12] 5/5 9/8 11/15 13/3 13/7 13/11 13/11 17/4 18/14 19/24 20/12 23/8</p> <p>bottom [1] 19/8</p> <p>BRIANNA [2] 2/11 3/10</p> <p>brief [1] 31/8</p> <p>briefing [3] 7/23 9/13 23/6</p> <p>burden [1] 4/23</p> <p>buses [1] 34/3</p> <p>business [1] 36/15</p>	<p>claim [5] 32/17 35/1 35/17 35/22 35/23</p> <p>clear [10] 6/4 10/23 16/7 17/13 21/13 21/18 28/7 28/9 34/5 35/9</p> <p>clerk [1] 7/2</p> <p>client [2] 10/13 31/21</p> <p>close [1] 36/15</p> <p>co [1] 37/8</p> <p>Code [1] 38/5</p> <p>cognizant [1] 8/23</p> <p>Cole [3] 31/8 32/2 32/4</p> <p>colleague [1] 3/10</p> <p>combination [1] 15/14</p> <p>come [1] 37/12</p> <p>competent [1] 10/4</p> <p>complete [1] 11/8</p> <p>compliance [1] 36/9</p> <p>complicit [1] 35/25</p> <p>comply [1] 11/5</p> <p>concede [7] 4/6 5/6 13/3 13/7 13/10 13/18 20/5</p> <p>concedes [1] 4/25</p> <p>conceding [2] 4/12 11/22</p> <p>concerned [1] 33/7</p> <p>concluded [1] 37/20</p> <p>conclusion [1] 10/13</p> <p>condition [1] 24/7</p> <p>confer [1] 37/9</p> <p>Conference [1] 38/9</p> <p>conformance [1] 38/8</p> <p>conjunction [1] 16/8</p> <p>consequences [3] 24/18 25/3 26/16</p> <p>consideration [1] 31/23</p> <p>considered [1] 14/24</p>	<p>D</p> <p>dangerous [2] 20/25 24/25</p> <p>date [3] 19/13 37/6 38/10</p> <p>dates [2] 29/24 37/16</p> <p>DAVID [2] 2/10 3/9</p> <p>days [3] 18/16 19/21 36/12</p> <p>de [1] 18/10</p> <p>death [4] 22/18 22/21 23/22 24/5</p> <p>deciding [2] 28/14 35/1</p> <p>decision [4] 18/3 28/20 28/21 34/13</p> <p>decisions [1] 30/2</p> <p>decisive [2] 21/24 23/9</p> <p>declaration [4] 20/17 24/10 26/23 27/3</p> <p>deemed [2] 12/19 36/6</p> <p>defendant [24]</p> <p>defendant's [5] 3/17 4/23 13/22 19/10 26/11</p> <p>DEFENDER'S [1] 2/10</p> <p>defense [7] 4/25 14/1 14/16 15/8 15/18 24/19 29/13</p> <p>deferential [3] 32/9 35/9 35/13</p> <p>defined [1] 20/18</p> <p>degree [1] 25/19</p> <p>Delgado [1] 31/1</p> <p>demanding [1] 29/7</p> <p>demonstrate [1] 20/14</p> <p>demonstrating [1] 11/25</p> <p>demonstration [1] 22/16</p> <p>denial [1] 17/11</p> <p>deny [3] 36/22 37/4 37/14</p> <p>DEPARTMENT [2] 2/4 34/2</p> <p>depending [1] 16/25</p> <p>deportation [17] 4/2 12/2 12/25 20/14 20/19 21/21 22/4</p>
<p>C</p> <p>C.F.R [2] 12/16 13/1</p> <p>CA [2] 2/6 2/12</p> <p>CALIFORNIA [4] 1/2 1/14 1/20 3/1</p> <p>call [1] 3/6</p> <p>came [3] 7/2 31/17 34/3</p>		

deportation... [10] 24/13
 24/18 25/3 25/4 25/15 26/12
 26/15 26/17 26/24 27/9
 deported [4] 23/25 24/14
 30/9 31/16
 deportee [2] 25/13 25/17
 deportees [2] 33/25 34/4
 deprivation [1] 7/20
 deprived [1] 4/3
 determining [2] 21/14 23/10
 DFPD [2] 2/10 2/11
 did [19] 3/22 5/21 6/4 9/4
 9/6 10/6 11/4 11/8 18/22
 18/23 19/13 22/10 26/19 27/4
 29/12 30/6 31/20 34/25 36/19
 didn't [3] 4/8 27/1 31/20
 different [3] 14/18 30/16
 34/6
 difficulties [1] 20/20
 difficulty [1] 18/8
 direct [1] 34/24
 directed [1] 30/8
 director [1] 32/19
 disagree [2] 10/19 10/20
 disagreeing [1] 15/22
 disagreement [1] 15/7
 discretion [2] 13/6 28/23
 discussed [4] 19/2 35/18
 36/21 37/5
 discussing [1] 10/12
 dismiss [3] 3/18 3/23 37/14
 dispute [2] 31/9 31/13
 distinctive [2] 33/13 34/1
 distinguish [1] 35/4
 distress [1] 20/21
 DISTRICT [3] 1/1 1/2 1/4
 DIVISION [1] 1/2
 do [13] 5/19 9/22 11/11
 13/11 33/16 34/9 34/10 36/5
 36/5 37/1 37/4 37/7 37/11
 Document [1] 12/15
 does [13] 4/6 7/25 13/10
 13/17 15/2 15/6 15/10 17/4
 17/12 17/24 24/19 29/24
 36/22
 doesn't [1] 15/2
 doing [2] 32/10 32/20
 domestic [3] 24/6 24/20
 24/21
 don't [29]
 done [3] 5/12 8/25 28/17
 double [2] 5/15 5/16
 doubt [3] 17/18 17/19 17/20
 due [8] 7/20 9/11 10/14
 11/19 11/22 12/1 23/17 24/1
 during [1] 24/10

E
 each [1] 30/10
 earlier [2] 24/24 29/4
 East [1] 2/11
 economic [1] 21/16
 effect [4] 14/11 17/24 27/2
 27/4
 eggs [2] 4/13 11/23
 either [3] 17/4 30/23 35/15
 element [6] 4/9 4/13 11/16
 30/8 30/25 33/5
 elements [5] 4/7 4/9 4/24
 5/5 34/3
 eligibility [4] 9/21 10/20
 10/24 11/10
 eligible [7] 9/10 10/1 10/11
 10/20 12/23 15/21 28/15
 else [5] 19/22 27/24 32/1
 35/15 36/12
 emotional [8] 20/21 21/18

23/16 23/19 23/25 24/8 27/21
 emotionally [1] 22/25
 enough [1] 11/11
 entitled [2] 20/13 38/7
 entry [2] 4/4 11/16
 EOIR [1] 7/2
 err [1] 35/1
 erred [1] 35/3
 error [1] 32/12
 especially [1] 25/5
 establish [3] 4/24 5/5 30/6
 establishes [5] 5/8 15/5
 17/17 20/13 29/11
 establishing [1] 11/18
 et [2] 15/11 15/11
 evaluate [1] 10/6
 evaluated [1] 10/7
 evaluating [1] 21/16
 evaluation [1] 10/18
 even [10] 16/19 17/19 17/23
 20/5 20/13 22/23 23/3 25/2
 26/10 27/20
 event [1] 36/22
 ever [1] 27/12
 every [1] 33/13
 Everybody [1] 3/16
 everyone [1] 24/14
 evidence [11] 6/5 6/16 7/1
 10/5 24/8 30/16 31/21 33/15
 33/17 33/24 36/8
 evidenced [1] 24/9
 evidentiary [4] 29/9 32/13
 34/10 35/21
 example [1] 30/21
 exceptional [4] 21/1 25/1
 25/11 26/1
 exceptions [1] 10/3
 exercise [1] 13/6
 exercised [1] 28/23
 exhaustion [1] 3/25
 exhibit [5] 7/4 7/4 7/6 8/10
 29/23
 exhibits [1] 33/23
 existence [1] 21/13
 extensively [1] 7/23
 extra [1] 19/21
 extreme [19] 12/25 20/15
 20/18 20/18 21/1 21/8 21/16
 23/16 23/17 23/19 23/25 24/8
 25/10 26/7 26/15 27/23 27/24
 28/4 28/12
 extremely [3] 25/1 25/11
 26/1

F
 F.3d [5] 11/21 12/5 13/16
 30/6 31/2
 F.Appx [2] 34/14 34/18
 faced [1] 21/21
 fact [9] 6/4 15/23 16/12
 23/21 24/9 31/16 32/16 32/17
 32/21
 factor [4] 21/14 21/23 23/9
 31/3
 factors [6] 28/8 28/13 30/12
 30/18 34/6 34/8
 facts [1] 26/9
 failure [1] 6/11
 fall [1] 29/11
 familial [2] 21/13 21/18
 familiar [1] 26/9
 family [10] 21/7 21/8 21/13
 25/17 26/13 26/14 33/3 33/16
 33/18 33/19
 far [2] 8/22 21/21
 faster [1] 11/3
 fatal [1] 24/7
 father [1] 15/5

father's [1] 19/12
 feared [1] 30/7
 fears [5] 22/15 22/16 27/19
 27/21 28/12
 FEDERAL [1] 2/10
 feel [1] 22/25
 felon [1] 27/11
 felt [2] 4/17 22/22
 file [8] 6/1 13/23 13/23
 15/3 15/21 19/14 37/10 37/16
 filed [7] 8/23 14/22 15/13
 15/24 16/12 17/23 19/17
 filing [2] 19/2 36/23
 final [1] 27/10
 financial [2] 20/20 21/15
 find [3] 18/23 19/22 34/4
 fine [1] 19/23
 first [7] 5/5 5/9 5/24 7/22
 12/12 16/23 32/16
 flagrant [1] 30/17
 fled [1] 22/9
 Floor [1] 2/6
 focusing [2] 4/17 11/16
 follows [1] 3/21
 foregoing [1] 38/5
 form [3] 9/10 10/11 15/13
 formal [1] 7/17
 format [1] 38/8
 former [1] 9/20
 found [1] 23/3
 frankly [3] 6/12 10/10 19/25
 fundamentally [2] 4/4 11/17
 furthermore [2] 24/23 35/19

G
 G-O-L-A-N [1] 12/5
 gang [1] 32/20
 gangs [1] 34/21
 Garcia [1] 19/9
 Garcia-Gonzalez [1] 19/9
 general [2] 23/15 28/22
 General's [2] 28/20 28/21
 Generally [1] 12/17
 GEORGE [1] 1/3
 get [7] 10/22 13/6 15/3 15/4
 18/24 30/7 36/20
 gets [1] 16/24
 getting [1] 13/4
 give [14] 11/2 18/14 18/15
 18/16 18/16 18/17 18/19
 19/21 19/22 36/11 36/12
 36/14 36/15 37/15
 given [6] 4/15 4/21 5/25
 19/23 19/25 34/9
 giving [1] 19/24
 Glad [1] 18/8
 go [7] 3/21 8/22 22/5 22/9
 24/15 26/19 37/4
 going [8] 6/13 14/18 15/3
 23/24 27/19 28/12 29/21
 33/14
 Golan [1] 12/4
 gone [1] 31/1
 Gonzalez [1] 19/9
 good [2] 3/13 31/12
 got [1] 23/22
 government [23]
 government's [2] 4/11 9/2
 grandfather [4] 32/18 32/18
 32/22 33/24
 grandfather's [1] 33/8
 grandson [1] 33/8
 grant [3] 16/3 19/13 28/16
 granted [10] 12/9 14/2 14/9
 14/21 15/14 16/15 16/15 19/3
 32/14 34/11
 granting [1] 16/5
 gray [1] 18/22

G
great [2] 18/17 19/2
greater [1] 35/23
gross [1] 30/16
grossly [2] 35/1 35/3
grounds [1] 12/2
groups [1] 14/4
guess [4] 4/20 6/13 11/15
15/10
guys [5] 19/21 36/11 36/19
37/4 37/12
GW [1] 1/8

H
had [29]
hadn't [1] 37/5
half [1] 31/18
hand [1] 8/12
happen [2] 6/5 31/21
happened [2] 8/1 31/12
happening [1] 9/3
hardship [30]
harm [1] 34/6
has [19] 15/12 16/9 18/13
21/12 21/22 21/24 22/21
23/23 24/14 24/14 25/18
27/23 27/25 28/3 29/8 32/11
35/9 35/13 36/3
have [46]
haven't [2] 34/23 35/18
having [1] 18/8
he [72]
hear [1] 26/3
hearing [11] 5/24 5/25 6/24
7/11 7/13 7/24 8/1 8/2 8/6
8/20 9/15
hearings [1] 6/21
heart [2] 11/9 24/7
heavily [1] 31/7
heightened [2] 25/5 26/8
held [4] 7/11 21/24 36/3
38/6
helpful [1] 31/14
her [10] 22/9 22/16 23/24
24/4 24/11 26/22 26/25 27/2
27/19 27/20
here [30]
hereby [1] 38/4
Hernandez [1] 34/13
Hernandez-Mendoza [1] 34/13
herself [1] 22/9
high [1] 32/20
higher [1] 24/25
him [14] 5/11 9/2 14/14
17/25 19/13 19/14 22/1 22/6
23/24 27/5 27/15 28/16 30/9
32/23
himself [2] 25/17 26/2
his [24]
history [4] 21/23 23/8 24/4
28/11
Holder [5] 25/25 31/2 31/8
32/3 32/4
Homeland [1] 34/2
Honor [94]
HONORABLE [1] 1/3
honored [1] 18/23
how [3] 5/19 9/22 23/19
however [1] 17/22
human [1] 30/17
husband [1] 15/5

I
I'm [3] 7/4 32/24 34/16
I-130 [19] 13/22 14/2 14/8
14/16 14/20 15/1 15/9 15/15
15/20 15/25 16/12 16/14
16/22 17/10 17/12 17/16

17/17 18/23 19/11
16/5 16/8 16/12 16/15 16/16
16/20 17/22 19/17
ICE [6] 3/14 6/20 7/8 8/4
11/4 14/20
immediate [18] 7/10 7/13
7/15 8/7 8/17 8/19 8/24 9/4
9/7 9/9 14/5 14/22 14/24
15/15 16/14 16/23 18/1 18/2
immigration [6] 5/10 7/16
11/4 28/17 28/19 34/8
implemented [1] 12/16
implication [1] 9/3
important [3] 21/14 21/15
21/19
impossible [2] 5/11 30/4
incarcerated [2] 25/4 26/11
include [1] 30/13
includes [3] 25/12 25/13
26/1
including [2] 3/19 20/20
incorrectly [3] 9/21 9/22
10/7
indicate [1] 3/21
indicating [1] 9/9
indication [4] 6/3 10/8
31/12 32/21
indictment [2] 3/18 3/24
individuals [2] 12/22 14/5
ineligible [4] 9/24 10/2
12/19 12/19
information [6] 4/16 4/18
4/21 5/8 11/12 30/18
initial [2] 4/23 16/12
initially [1] 15/14
INS [1] 17/14
insofar [1] 32/16
instance [2] 20/23 30/10
instances [1] 30/14
instructive [1] 20/4
intervening [1] 33/19
involved [1] 28/9
is [270]
isn't [1] 29/6
issue [3] 14/19 18/13 18/22
issued [1] 4/2
it [102]
item [2] 7/1 8/9
its [2] 4/13 11/23
itself [2] 9/1 9/20

J
jail [1] 21/5
judge [5] 1/4 5/10 7/17 11/5
34/8
judicial [2] 4/3 38/9
July [1] 5/17
June [1] 38/10
just [31]
JUSTICE [1] 2/4

K
KATIE [2] 1/19 38/12
keep [1] 27/17
kind [1] 29/5
KLOPF [2] 2/5 3/14
knew [2] 34/3 34/3
know [13] 4/24 5/19 9/4 9/22
10/12 10/17 11/12 18/12
22/24 30/7 33/9 33/10 36/4
knowledge [1] 9/1
known [1] 33/14

L
lack [3] 4/15 4/21 10/8
laid [1] 9/12
lapsed [1] 17/25

last [3] 3/22 29/10 33/14
later [1] 18/20
law [4] 19/19 20/3 27/12
28/10
lawful [1] 26/6
least [3] 9/6 28/16 32/13
leave [1] 22/22
left [1] 8/12
left-hand [1] 8/12
length [1] 19/3
less [1] 29/3
let [32]
let's [2] 32/5 36/14
letter [2] 6/23 6/25
life [2] 21/23 22/9
light [1] 25/5
like [7] 7/5 18/3 22/13 23/4
23/12 29/5 34/24
likelihood [1] 35/24
line [1] 16/25
lines [1] 18/3
lips [1] 18/19
list [1] 29/24
little [3] 3/21 17/19 30/1
lived [1] 25/17
lives [1] 22/23
longer [2] 16/23 16/24
look [7] 18/20 28/8 29/12
29/23 30/12 30/23 34/8
looking [1] 20/16
looks [2] 25/20 25/21
LOS [5] 1/14 1/20 2/6 2/12
3/1
LPR [4] 12/23 12/24 20/15
25/21
Luna [1] 13/16
Lynch [2] 30/5 34/14

M
made [4] 17/13 21/12 30/22
32/11
make [4] 10/3 16/7 20/8
37/13
makes [1] 21/17
making [2] 5/11 14/1
Maldonado [1] 30/5
many [2] 22/7 29/17
map [1] 33/6
marked [1] 8/16
materials [1] 3/19
matter [10] 3/6 4/19 10/13
11/10 17/8 17/10 23/6 23/7
36/16 38/7
may [9] 7/3 10/7 11/6 20/3
20/4 21/10 25/8 30/24 35/14
me [50]
mean [5] 15/2 15/15 16/2
25/21 33/12
medication [1] 24/15
meet [2] 10/3 37/9
members [3] 33/4 33/16 33/18
Mendoza [1] 34/13
MENNINGER [2] 2/10 3/9
mentioned [1] 24/23
merely [4] 12/10 15/4 15/5
19/14
met [3] 9/16 25/6 33/8
Mexico [18] 22/5 22/6 22/10
22/11 23/25 25/17 25/18
27/15 27/19 28/12 30/23
31/17 31/21 33/10 33/12
33/20 33/21 34/19
microphone [1] 6/21
might [3] 20/2 20/24 28/17
mind [1] 10/23
minor [4] 14/3 14/13 14/23
16/19
MIRCHEFF [2] 2/11 3/10

<p>M</p> <p>moment [2] 10/22 11/2</p> <p>Monday [2] 36/15 37/15</p> <p>moral [1] 12/18</p> <p>more [11] 3/22 12/10 18/14 19/24 20/19 20/22 21/15 29/2 30/2 35/20 36/13</p> <p>Moreover [1] 23/2</p> <p>Moriel [1] 13/16</p> <p>morning [1] 3/13</p> <p>most [3] 21/14 21/18 29/18</p> <p>mother [3] 20/17 21/21 26/19</p> <p>motion [15] 3/18 7/4 8/5 8/7 8/14 8/18 8/24 9/1 9/4 9/20 25/23 25/24 36/22 37/4 37/14</p> <p>move [1] 18/19</p> <p>moved [1] 23/23</p> <p>much [1] 34/24</p> <p>multiple [1] 25/18</p> <p>murdered [2] 32/18 32/22</p> <p>must [4] 11/18 12/9 20/13 35/23</p> <p>my [4] 3/10 18/19 31/21 37/6</p> <p>myself [1] 28/13</p>	<p>one could [1] 16/2</p> <p>one plausible [1] 25/25</p> <p>one from [1] 29/20</p> <p>one is [1] 29/10</p> <p>one looks [2] 25/20 25/21</p> <p>one moment [1] 11/2</p> <p>one more [1] 18/14</p> <p>one piece [2] 6/16 33/23</p> <p>one relative [1] 25/14</p> <p>one say [3] 31/18 31/24 35/14</p> <p>one with [1] 33/14</p> <p>ones [1] 29/21</p> <p>ongoing [1] 24/22</p> <p>only [3] 13/4 13/5 32/11</p> <p>open [1] 18/12</p> <p>operative [1] 23/16</p> <p>opportunity [4] 4/3 18/14 19/24 34/9</p> <p>opposite [2] 8/1 35/2</p> <p>orally [1] 37/2</p> <p>order [6] 4/2 4/4 7/23 11/17 13/8 27/10</p> <p>ordering [1] 9/14</p> <p>orderly [1] 3/22</p> <p>original [1] 14/3</p> <p>originally [2] 14/22 19/17</p> <p>Ortiz [1] 31/1</p> <p>Osorio [1] 18/10</p> <p>other [12] 4/11 5/20 6/16 10/24 12/22 17/16 26/25 27/22 29/21 30/14 30/17 33/24</p> <p>our [9] 7/4 7/23 9/12 10/18 16/9 19/19 20/3 25/23 34/7</p> <p>out [5] 9/12 24/11 32/8 34/1 34/22</p> <p>outside [1] 26/16</p> <p>over [1] 16/22</p> <p>overlapping [1] 25/9</p>	<p>placed [1] 7/17</p> <p>plausible [5] 12/1 28/17 28/25 29/1 29/2</p> <p>plausibly [1] 11/13</p> <p>play [1] 30/18</p> <p>point [28]</p> <p>points [2] 4/13 17/9</p> <p>police [2] 32/19 32/19</p> <p>portion [1] 4/12</p> <p>position [8] 8/18 9/2 14/20 15/12 16/9 31/25 34/7 35/12</p> <p>possibility [1] 35/20</p> <p>possible [5] 12/10 22/8 29/2 29/2 32/13</p> <p>potential [2] 36/4 37/8</p> <p>practice [2] 7/9 18/11</p> <p>precise [1] 20/1</p> <p>prefer [1] 37/7</p> <p>preference [1] 16/23</p> <p>prejudice [4] 4/18 11/20 11/24 11/25</p> <p>prepare [1] 36/24</p> <p>prerequisites [2] 9/14 9/16</p> <p>presence [1] 31/20</p> <p>present [5] 3/11 3/14 3/23 6/7 33/11</p> <p>presentations [1] 3/20</p> <p>PRESENTING [1] 1/4</p> <p>presume [5] 4/24 5/2 5/5 13/3 22/21</p> <p>presumed [1] 14/6</p> <p>pretrial [2] 36/19 36/20</p> <p>principle [1] 23/15</p> <p>prior [5] 4/16 4/20 23/8 25/4 26/12</p> <p>priority [1] 19/13</p> <p>prison [2] 22/2 27/1</p> <p>probable [2] 12/7 29/3</p> <p>probably [1] 12/8</p> <p>problem [5] 15/25 17/21 30/1 30/1 31/15</p> <p>problems [1] 10/10</p> <p>proceeding [4] 5/20 6/6 6/17 20/20</p> <p>proceedings [9] 1/13 4/2 7/18 13/12 16/8 21/5 29/15 37/20 38/6</p> <p>process [7] 7/20 9/11 10/14 10/18 11/19 11/23 12/1</p> <p>proof [4] 8/13 8/14 17/2 35/19</p> <p>proper [1] 15/10</p> <p>proposed [1] 37/16</p> <p>prove [3] 6/11 11/18 35/17</p> <p>proves [1] 15/1</p> <p>provide [1] 25/22</p> <p>provided [2] 12/17 29/12</p> <p>provides [1] 12/21</p> <p>psychological [3] 24/11 24/15 26/20</p> <p>public [2] 2/10 18/18</p> <p>purposes [1] 20/11</p> <p>pursuant [3] 3/24 9/15 38/4</p> <p>put [3] 11/3 29/25 32/5</p> <p>putting [2] 4/13 11/23</p>
<p>N</p> <p>name [3] 23/7 33/13 33/14</p> <p>near [1] 24/7</p> <p>necessary [1] 31/11</p> <p>need [5] 6/21 12/7 12/8 13/9 28/8</p> <p>needed [1] 22/22</p> <p>needs [1] 29/8</p> <p>neither [1] 11/12</p> <p>never [5] 16/3 25/17 30/25 33/8 33/9</p> <p>next [1] 37/12</p> <p>Ninth [10] 18/25 21/12 27/25 32/8 32/10 34/14 34/25 35/9 35/12 36/2</p> <p>no [36]</p> <p>none [1] 29/14</p> <p>normal [7] 20/19 21/22 24/1 24/3 24/12 24/18 25/2</p> <p>normally [2] 6/8 7/9</p> <p>North [2] 1/20 2/5</p> <p>not [71]</p> <p>notation [1] 14/9</p> <p>note [5] 18/21 20/2 20/24 21/4 35/16</p> <p>noted [1] 19/12</p> <p>nothing [2] 17/12 19/20</p> <p>notice [3] 5/24 5/25 6/1</p> <p>now [11] 10/7 12/6 12/15 13/3 16/17 16/19 16/22 18/17 18/18 19/5 28/14</p> <p>number [2] 8/9 30/13</p> <p>numbered [1] 8/12</p>	<p>P</p> <p>page [7] 8/11 8/16 12/3 19/8 23/6 25/24 38/7</p> <p>pages [1] 36/14</p> <p>Pallares [1] 12/4</p> <p>Pallares-Golan [1] 12/4</p> <p>panel [1] 19/12</p> <p>part [3] 11/1 18/9 30/16</p> <p>particular [10] 5/2 16/4 20/23 22/11 28/7 28/13 28/23 30/10 30/19 30/19</p> <p>particularity [1] 30/2</p> <p>particularized [1] 36/8</p> <p>particularly [2] 28/4 35/13</p> <p>parties [1] 36/24</p> <p>past [2] 30/14 31/9</p> <p>penalize [1] 6/10</p> <p>pending [4] 13/13 13/18 14/8 14/17</p> <p>people [1] 30/22</p> <p>Peraza [2] 25/25 26/10</p> <p>percent [1] 35/24</p> <p>Perez [2] 17/9 17/10</p> <p>period [4] 16/13 16/17 17/25 24/10</p> <p>permanent [5] 22/4 22/12 26/7 27/10 34/19</p> <p>permanently [6] 22/3 27/5 27/7 27/8 27/12 27/14</p> <p>person [3] 18/24 22/25 35/22</p> <p>persuaded [2] 35/6 35/7</p> <p>persuasive [1] 4/9</p> <p>petition [2] 14/10 19/12</p> <p>picture [1] 11/8</p> <p>piece [4] 6/16 6/16 33/23 33/24</p> <p>pile [1] 34/5</p> <p>place [3] 4/20 11/8 22/24</p>	<p>Q</p> <p>quadruple [2] 5/17 11/11</p> <p>qualify [1] 17/25</p> <p>qualifying [1] 23/9</p> <p>question [7] 11/14 13/25 17/22 17/24 18/12 20/1 28/22</p> <p>quibbled [1] 17/19</p> <p>quickly [1] 31/5</p> <p>quite [2] 8/22 19/15</p>
<p>O</p> <p>objecting [1] 17/16</p> <p>Obviously [1] 10/3</p> <p>occur [1] 20/19</p> <p>off [2] 7/22 9/6</p> <p>offense [2] 21/1 24/25</p> <p>OFFICE [2] 2/4 2/10</p> <p>official [2] 1/19 32/19</p> <p>officials [1] 36/3</p> <p>Oh [1] 36/7</p> <p>Okay [12] 3/16 7/7 7/19 7/21 8/15 13/21 15/18 17/7 26/3 28/3 37/11 37/17</p> <p>Oki [1] 3/15</p> <p>old [2] 32/23 32/25</p> <p>once [7] 14/1 14/2 15/2 15/13 15/20 17/22 33/11</p> <p>one [23]</p> <p>One additional [1] 32/7</p>	<p>R</p> <p>raised [1] 26/8</p>	<p>R</p> <p>raised [1] 26/8</p>

<p>R raising [1] 12/11 rash [1] 33/25 rather [1] 4/19 rational [1] 22/16 reaches [1] 10/13 reaching [1] 19/13 read [4] 3/19 18/18 24/20 34/23 really [4] 21/3 21/3 30/18 35/11 reapplies [1] 16/16 rearguing [1] 27/17 reason [5] 14/23 16/2 16/14 16/15 19/18 reasonable [2] 22/21 22/24 reasons [2] 5/23 7/21 receive [1] 12/19 received [1] 22/17 recognize [1] 23/8 record [5] 6/8 6/9 10/17 31/22 37/2 records [5] 5/4 5/4 6/4 6/8 11/7 redacted [1] 23/7 reentering [1] 27/13 refer [3] 12/15 34/12 34/13 referencing [1] 8/11 referred [3] 12/13 14/4 14/5 referring [4] 7/1 8/9 11/20 18/6 refile [3] 16/7 16/21 17/24 reflects [1] 9/20 regard [2] 8/4 28/22 regardless [1] 20/5 regards [1] 36/12 regulation [1] 7/22 regulations [2] 16/7 38/8 relationship [7] 15/1 15/5 15/11 17/17 17/18 17/20 17/21 relative [13] 14/22 14/24 15/16 16/14 16/24 18/1 18/2 20/15 23/9 24/14 25/10 25/14 28/4 relatives [3] 14/6 25/18 26/2 relevant [2] 30/17 31/23 relief [17] 9/11 9/21 9/25 10/11 10/14 12/2 12/7 12/8 12/9 12/12 13/14 29/9 32/14 32/15 32/16 34/11 35/20 relocate [1] 30/15 remained [1] 17/10 remedies [1] 4/1 remotely [1] 23/4 removal [15] 7/10 7/13 7/16 8/7 8/17 8/19 8/25 9/4 9/7 9/9 9/25 13/12 19/10 21/4 29/15 removed [3] 7/24 8/20 9/14 repeat [2] 28/13 34/17 reported [1] 38/6 reporter [2] 1/19 6/18 REPORTER'S [1] 1/13 representation [3] 4/16 4/21 10/9 representative [6] 6/20 7/8 8/3 11/4 14/19 16/11 represented [1] 7/10 representing [1] 9/8 request [3] 7/9 7/12 8/17 requesting [3] 7/15 7/16 7/17 require [2] 6/13 30/2 required [3] 13/14 18/24 34/9 requirements [1] 11/5</p>	<p>requires [3] 3/25 7/23 35/21 research [3] 11/19 11/20 20/4 residency [1] 34/20 resident [1] 26/7 resolved [1] 4/19 respect [1] 37/6 respectfully [1] 10/19 respondent's [1] 5/10 response [2] 15/18 26/3 result [4] 12/25 20/14 20/21 24/12 return [2] 30/7 30/22 returnees [1] 34/19 returns [1] 33/20 reverse [2] 32/10 32/11 review [1] 4/4 reviews [1] 32/8 right [20] rights [5] 5/11 9/17 11/19 11/23 30/17 Rivera [2] 25/25 26/10 Rivera-Peraza [2] 25/25 26/10 robberies [1] 21/6 Rodriguez [2] 11/21 12/3 Ron [1] 3/15 RPR [1] 38/12 rule [1] 18/2 ruling [1] 37/13</p> <p>S</p> <p>S.B [1] 23/6 safe [2] 22/10 23/1 said [4] 6/23 18/25 28/1 29/8 same [1] 19/16 say [9] 6/15 6/25 10/25 27/7 30/4 31/18 31/24 32/2 35/14 saying [7] 6/7 15/23 23/14 27/22 32/12 34/25 35/3 says [5] 6/6 9/24 12/6 14/10 27/3 scenario [2] 35/7 35/7 scheduled [1] 5/25 scheduling [1] 37/15 Scialabba [1] 18/7 seat [1] 3/16 second [5] 5/9 6/1 11/24 17/11 18/9 secondary [1] 15/12 section [11] 3/18 3/24 12/13 12/13 12/16 12/17 12/20 12/21 13/6 13/15 38/4 Security [1] 34/2 see [7] 7/16 8/12 8/15 20/17 20/22 31/2 36/14 seeing [1] 27/15 seek [1] 26/19 seeks [1] 3/23 seems [2] 17/5 18/11 seen [1] 8/24 Senate [1] 12/15 sentenced [1] 26/20 separated [6] 21/7 22/1 22/3 26/13 27/6 27/8 separation [6] 20/21 22/4 22/12 23/11 24/2 24/4 service [2] 8/13 8/14 set [1] 36/16 Several [1] 9/15 she [23] should [2] 6/9 17/5 show [9] 10/11 10/23 12/7 12/8 12/9 15/11 26/14 33/3 35/23 showed [1] 17/2 showing [3] 26/6 30/11 33/24 showings [1] 3/25</p>	<p>shown [1] 11/25 showing [4] 4/11 side [2] 17/4 35/15 sides [9] 5/6 11/15 13/3 13/7 13/11 13/11 17/4 18/14 19/24 sign [1] 9/6 signature [2] 8/11 8/16 signed [4] 8/8 8/18 9/1 24/9 significant [1] 32/12 signifies [1] 8/19 similarity [1] 23/15 simultaneously [1] 15/24 since [1] 16/22 singled [1] 34/1 situation [12] 4/23 5/3 10/6 16/4 16/18 19/15 20/16 24/1 28/24 30/6 30/19 35/2 situations [1] 30/21 so [45] some [11] 9/10 10/11 16/14 16/15 18/2 19/18 25/19 26/15 29/8 32/13 34/10 somebody [2] 27/23 33/20 someone [6] 7/24 22/21 25/3 25/16 27/23 34/6 something [12] 8/25 10/5 10/9 14/10 14/11 18/16 18/17 19/24 20/19 23/17 30/24 36/5 sometimes [3] 12/13 14/4 14/5 son [4] 15/6 23/23 23/24 26/25 sorry [4] 7/4 12/7 32/24 34/16 sort [4] 10/5 10/9 30/24 37/17 sought [1] 24/11 sounds [3] 7/5 34/23 34/24 speak [1] 6/21 Special [1] 3/15 specific [5] 4/18 9/13 28/8 33/4 37/6 specifically [5] 7/25 19/20 21/22 30/8 33/25 sponte [1] 5/10 Spring [2] 1/20 2/5 standard [10] 21/1 24/25 25/2 25/5 25/6 25/12 26/8 29/7 32/9 35/20 standards [1] 25/9 state [6] 7/25 35/18 35/25 35/25 36/9 36/10 stated [1] 29/4 statement [1] 9/17 statements [1] 10/4 states [19] 1/1 1/4 1/6 2/3 3/7 11/20 12/4 12/20 12/22 19/8 19/11 21/17 23/23 26/23 27/13 28/1 34/20 38/5 38/9 stating [1] 24/10 status [5] 12/24 13/4 13/5 13/14 19/4 statutorily [1] 26/5 stenographically [1] 38/6 steps [1] 36/5 still [2] 13/24 15/3 stipulation [5] 7/25 8/2 9/15 36/23 37/10 stop [2] 6/19 17/15 strange [1] 35/11 Street [3] 1/20 2/5 2/11 strong [1] 32/4 stuff [3] 20/12 36/20 37/17 sua [1] 5/10 subject [4] 24/25 30/25 31/16 34/6 submissions [1] 3/20 submitted [3] 6/12 13/19</p>
---	---	--

S
submitted... [1] 20/17
success [1] 19/1
such [4] 11/20 21/23 27/1
31/1
suffer [1] 26/7
sufficient [2] 30/11 36/6
suggestion [1] 5/22
supplement [2] 19/6 19/7
supplemental [3] 3/20 23/6
31/8
supporting [1] 21/7
supposedly [1] 17/17
supposition [1] 10/24
Supreme [1] 18/3
sure [4] 20/8 21/11 23/13
31/6
swath [1] 33/5
swore [1] 22/18
sworn [1] 24/9
symptoms [1] 24/11

T
take [3] 11/8 35/12 36/5
taken [3] 4/20 6/18 6/24
takes [1] 23/24
talk [1] 37/15
talking [6] 5/3 11/1 11/1
19/5 19/16 25/25
tapes [4] 6/17 6/17 6/20
6/24
target [2] 33/16 33/20
targeted [5] 33/4 33/18
33/19 33/25 34/20
tell [1] 37/12
ten [1] 21/5
ten years [1] 21/5
terminated [6] 13/20 16/1
16/1 16/16 17/23 19/18
territory [1] 33/5
than [12] 3/22 4/20 10/24
12/10 20/22 21/15 29/2 29/3
30/3 35/20 35/23 36/14
Thank [2] 37/18 37/19
that [310]
that's [4] 5/14 7/12 27/16
33/2
their [3] 22/23 25/4 30/23
them [4] 23/5 29/15 29/18
35/13
then [12] 10/14 11/15 15/14
19/18 19/23 20/10 20/11
23/22 26/8 37/10 37/11 37/14
there [78]
therefore [5] 6/10 14/8 16/2
16/13 21/6
these [8] 6/8 6/20 14/4 23/7
28/12 34/1 34/2 34/3
they [25]
THIBODEAUX [2] 1/19 38/12
thing [1] 32/7
think [28]
this [54]
those [6] 4/12 9/16 22/15
23/12 30/18 30/25
though [5] 14/19 16/19 17/19
17/23 22/23
thought [2] 25/20 27/5
threat [1] 36/8
threats [4] 22/18 22/22
23/22 24/5
three [8] 3/25 4/4 4/17
19/21 30/10 31/17 31/18
36/12
three days [1] 36/12
three extra [1] 19/21
three showings [1] 3/25
three times [1] 30/10

three where [1] 4/17
three years [1] 31/18
three-and-a-half [1] 31/18
through [2] 3/21 14/17
THURSDAY [4] 1/15 3/1 36/15
37/13
ties [1] 21/13
time [21]
times [3] 30/10 30/13 34/3
Title [1] 38/4
today [1] 36/14
together [1] 5/16
too [1] 18/8
took [1] 22/23
top [2] 8/12 9/19
torture [6] 12/14 30/14 31/9
36/4 36/4 36/9
tortured [1] 35/24
total [1] 10/8
totally [1] 37/5
transcript [3] 1/13 38/6
38/7
trauma [3] 23/9 24/4 28/11
traumatic [1] 21/23
treated [2] 16/18 16/19
treatment [1] 24/11
Treaty [1] 12/15
trial [4] 36/16 36/23 37/4
37/16
true [2] 33/2 38/5
trying [1] 4/20
turpitude [1] 12/18
Twelfth [1] 2/6
two [11] 4/1 5/5 11/19 12/12
17/9 18/23 25/9 30/9 32/23
32/25 36/14
two avenues [1] 12/12
two cases [1] 18/23
two elements [1] 5/5
two or [1] 30/9
two pages [1] 36/14
two points [1] 17/9
two standards [1] 25/9
two years [2] 32/23 32/25
type [1] 4/23
Typically [2] 5/24 6/22

U
U.S [7] 1/19 2/4 2/4 13/16
20/15 25/18 26/6
U.S.C [3] 3/24 12/12 13/15
ultimate [1] 18/25
unclear [3] 10/17 11/7 13/23
under [11] 3/18 12/12 13/1
13/6 13/15 27/11 28/9 29/11
30/2 30/12 32/2
understand [9] 20/7 21/8
23/13 23/15 27/8 27/18 31/25
32/6 32/15
unfair [2] 4/5 11/17
UNITED [18] 1/1 1/4 1/6 2/3
3/6 11/20 12/4 12/20 12/22
19/8 19/11 21/17 23/23 27/13
28/1 34/20 38/5 38/9
unless [2] 10/2 18/2
unpronounceable [1] 18/4
unpublished [1] 34/13
unreasonable [1] 23/2
unscathed [1] 31/18
until [1] 18/19
unusual [3] 25/1 25/11 26/1
up [1] 34/5
upon [6] 20/19 21/21 28/20
30/7 32/14 34/10
using [1] 13/4
usual [1] 26/16

V
valid [3] 17/10 27/20 27/21

validity [2] 17/12 17/16
45/22/4
45/24/8
13/16 21/17 28/1 30/5 31/2
very [7] 9/13 28/7 28/9 32/9
34/5 34/24 35/9
victim [3] 24/6 24/19 24/21
victimized [1] 30/14
violation [5] 9/11 10/15
11/19 11/22 12/1
violations [1] 30/17
violence [4] 24/6 24/20
24/22 33/25
violent [2] 20/25 24/24
visa [13] 12/19 13/14 14/6
14/14 14/25 15/3 15/16 16/3
16/24 19/1 19/14 20/6 20/12
visit [1] 22/5

W
wait [1] 18/19
waived [1] 5/10
waiver [7] 9/18 12/21 13/9
16/9 26/5 28/15 28/16
waivers [1] 11/11
waiving [1] 8/6
want [6] 8/1 18/18 19/22
20/7 36/13 37/4
was [88]
wasn't [5] 5/20 5/21 8/25
24/22 35/1
way [7] 11/3 13/4 13/6 29/6
29/25 30/19 32/5
we [41]
well [10] 5/4 10/16 13/11
13/25 14/18 22/17 27/9 31/24
33/22 35/19
were [13] 6/24 9/16 20/5
22/16 23/12 23/14 26/10
27/20 27/21 29/12 29/15 33/4
34/9
WESTERN [1] 1/2
what [29]
whatever [3] 18/15 19/22
37/16
when [16] 5/24 6/25 10/25
16/13 16/20 21/16 25/25 26/8
26/20 26/25 27/7 28/6 32/11
33/19 36/19 37/4
where [22]
whether [5] 28/14 28/15
28/25 29/10 30/15
which [25]
while [4] 9/1 20/3 22/2
24/19
who [8] 14/21 22/21 24/14
25/16 25/19 33/8 33/20 33/25
why [11] 5/21 7/14 7/19 9/11
14/23 15/7 16/3 33/7 33/9
37/11 37/12
wide [1] 33/5
wife [1] 15/5
will [15] 5/16 5/17 5/25
10/22 12/14 18/14 18/15
18/19 18/20 19/21 32/11
34/12 36/11 36/23 37/13
within [1] 31/17
without [3] 7/24 8/20 9/14
wonder [1] 16/2
word [2] 15/10 23/17
words [6] 4/11 5/20 17/16
26/25 27/22 30/14
working [1] 26/14
would [56]
written [2] 29/15 29/16
WU [1] 1/3

Y
years [16] 17/1 17/3 21/5

y

years... [13] 22/24 24/21
25/4 26/12 26/21 27/1 29/16
29/17 31/17 31/18 32/23
32/25 34/19
yes [14] 4/15 5/1 7/12 13/8
16/21 17/8 19/7 22/19 23/5
23/21 29/1 34/18 36/7 36/18
you [57]
your [98]

1 EILEEN M. DECKER
 United States Attorney
 2 LAWRENCE S. MIDDLETON
 Assistant United States Attorney
 3 Chief, Criminal Division
 AMANDA J. KLOPF (Cal. Bar No. 260678)
 4 Assistant United States Attorney
 General Crimes Section
 5 1200 United States Courthouse
 312 North Spring Street
 6 Los Angeles, California 90012
 Telephone: (213) 894-7635
 7 Facsimile: (213) 894-0141
 E-mail: amanda.j.klopf@usdoj.gov

8 Attorneys for Plaintiff
 9 UNITED STATES OF AMERICA

10 UNITED STATES DISTRICT COURT

11 FOR THE CENTRAL DISTRICT OF CALIFORNIA

12 UNITED STATES OF AMERICA,
 13 Plaintiff,
 14 v.
 15 CESAR RAUL ACEVES,
 16 Defendant.

No. CR 15-00245-GW

GOVERNMENT'S SUPPLEMENTAL
OPPOSITION TO MOTION TO DISMISS
INDICTMENT
 Hearing Date: April 28, 2016
 Time: 8:00 a.m.
 Place: Courtroom of the
 Honorable George H. Wu

18 Plaintiff United States of America, by and through its counsel
 19 of record, the United States Attorney for the Central District of
 20 California and Assistant United States Attorney Amanda J. Klopf,
 21 hereby files its Supplemental Opposition to the Motion to Dismiss the
 22 Indictment filed by defendant Cesar Raul Aceves on March 25, 2016
 23 (Docket Entry ("DE") 53).

24 The government's opposition is based on the attached memorandum
 25 of points and authorities, the government's initial Opposition (DE
 26 //
 27 //

1 MEMORANDUM OF POINTS AND AUTHORITIES

2 I. INTRODUCTION

3 On May 5, 2015, defendant Cesar Raul Aceves ("defendant") was
4 charged in an indictment with Deported Alien Found in the United
5 States, in violation of 8 U.S.C. § 1326(a), (b)(2). (DE 11).¹ On
6 March 24, 2016, defendant filed a motion to dismiss the indictment
7 (DE 53), claiming that he was denied due process during his removal
8 hearing because he did not have a hearing, and therefore was not
9 advised by an Immigration Judge ("IJ") of his potential eligibility
10 for (1) adjustment to permanent resident status with a waiver under
11 Immigration and Nationality Act § 212(h) or (2) relief from removal
12 under the United Nations Convention Against Torture ("CAT"). (MTD at
13 14). On April 7, 2016, the government filed an opposition to
14 defendant's motion to dismiss the indictment. (DE 56). On April 14,
15 2016, defendant filed a reply in support of his motion to dismiss the
16 indictment. (DE 60). Defendant claims that had he known of the
17 existence of § 212(h) or CAT relief, he would have applied for and
18 may have been granted relief. (MTD at 14, 17, 20). On April 17,
19 2016, this Court held a status conference and ordered supplemental
20 briefing.²

21 As discussed in the government's opposition, even assuming that
22 defendant's due process rights were violated, defendant suffered no

23 _____
24 ¹ "DE" refers to Docket Entry - a document filed by one of the
25 parties in this case (unless another is identified) - and is followed
26 by the number at which the document appears in the case docket.
27 "MTD" refers to defendant's Motion to Dismiss.

28 ² The government apologizes for the late filing of this
supplemental briefing. The government misunderstood the court and
believed the filing date was Wednesday, April 27, 2016. Upon review
of the docket, the government realized the filing deadline was April
26, 2016.

1 prejudice, because he was not, in fact, eligible for either a
2 § 212(h) waiver or CAT relief. Accordingly, the Court should deny
3 defendant's motion to dismiss the indictment.

4 **II. Defendant Cannot Establish that He Plausibly Would Have Been**
5 **Granted a Waiver under § 212(h)**

6 Before relief under § 212(h) can be granted, the applicant must
7 have filed a concurrent application for adjustment of status under
8 Section 245 of the INA (8 U.S.C. § 1255(a)) and must show that he has
9 an immediately available visa. Even where a defendant can show that
10 he has concurrently applied for an adjustment of status and has an
11 immediately available visa, he still must show "great actual or
12 prospective injury" or "extreme impact" on the citizen family member,
13 beyond the "common results of deportation" for a § 212(h) waiver to
14 be granted. United States v. Arce-Hernandez, 163 F.3d 559, 564 (9th
15 Cir. 1998), as amended on denial of reh'g (Mar. 11, 1999) (citing
16 Shooshtary v. INS, 39 F.3d 1049, 1051 (9th Cir. 1994)).

17 Defendant argues he had an immediately available visa based upon
18 an I-130 filed by his stepfather in 1997 when he was a minor. (MTD
19 at 5, citing MTD Exh. B.) Defendant argues that because his
20 stepfather applied for a petition for him in 1997 when he was a
21 minor, he would not fall into a waiting list category if he filed
22 another petition for adjustment of status on the basis of the same I-
23 130. Scialabba v. Cuellar de Osorio, 134 S. Ct. 2191, 2199-200,
24 reh'g denied sub nom. Scialabba v. de Osorio, 135 S. Ct. 22 (2014).
25 In Scialabba, the application for adjustment of status at issue was
26 still pending, unlike here, where the application for adjustment of
27 status had been denied. (Gov't Opp. Exh. 5.)

28

1 Even if arguably defendant did have an immediately available
2 visa, defendant cannot show that he had filed a concurrent
3 application for adjustment of status. As discussed above,
4 defendant's prior application for adjustment of status was denied in
5 2009. (Gov't Opp. Exh. 5.) If the prior I-130 was still viable,
6 defendant still would have had to file another I-485 petition for
7 adjustment of status. The facts of this case closely mirror that of
8 the defendant in United States v. Caudillo-Infante, 233 Fed. Appx.
9 619 (9th Cir. 2007) (unpublished). There, the defendant attempted to
10 raise a claim that based on his father's filing of an I-130 petition
11 on his behalf in 1992, the IJ erred by failing to advise him of
12 potential eligibility for relief. Id. at 622. The Ninth Circuit
13 held that the defendant failed to show that he could have obtained
14 adjustment of status because, among other reasons, the defendant was
15 an alien who had not been inspected and admitted or paroled into the
16 United States, and additionally did not demonstrate that a visa was
17 immediately available. Id. The Court further held that an *approved*
18 I-130, which defendant here did not have at the time of his removal
19 hearing - "does not confer lawful immigration status," but is rather
20 a "prerequisite for the nonresident alien to later file a Form I-
21 485." Id. at n.3.

22 Similarly, United States v. Garcia-Gonzalez, 791 F.3d 1175, 1178
23 (9th Cir. 2015), is instructive. In Garcia-Gonzalez, the defendant
24 was removed pursuant to an expedited removal under 8 U.S.C. § 1225(b)
25 in September 2012. Id. At the time of his removal, he had an
26 approved I-130 based on his United States citizen father's petition.
27 Id. Even though the defendant's visa priority date had been reached
28 in June 2007, as the panel noted, "[t]he reaching of Garcia's

1 priority date did not grant him a visa; it merely allowed him to file
2 a visa application. The ultimate success of his visa application was
3 contingent on him demonstrating admissibility." Id. at n.4 (citing
4 Scialabba).

5 Accordingly, regardless of the potential availability of a visa,
6 as discussed in much greater detail in the government's opposition,
7 defendant's argument falls short because even with a potentially
8 available visa, he cannot establish that he plausibly would have been
9 granted a waiver of admissibility under § 212(h). Defendant is an
10 aggravated felon, and therefore the relevant regulations require that
11 waivers for "violent or dangerous" offenses meet a heightened
12 standard for the positive exercise of discretion. Thus, defendant
13 would have been required to show "exceptional and extremely unusual
14 hardship" caused by deportation. (MTD at 14, citing 8 C.F.R.
15 § 1212.7(d)). He could not have met that burden, as the only
16 evidence he cites to is nothing more than the "common results of
17 deportation." Arce-Hernandez, 163 F.3d at 564 (citing Shooshtary v.
18 INS, 39 F.3d 1049, 1051 (9th Cir. 1994)). Further, all evidence of
19 extreme hardship that defendant posits in support of his motion to
20 dismiss is belied by the fact that in the approximate 10 years prior
21 to defendant's deportation, he was incarcerated. See United States
22 v. Muro-Inclan, 249 F.3d 1180, 1186 (9th Cir. 2001).³

23
24 ³ A challenge under 8 U.S.C. § 1326(d) is not a direct appeal,
25 and thus, a defendant's reliance on cases involving direct review of
26 removal orders should not be accorded undue weight. See, e.g.,
27 United States v. Vidal-Mendoza, 705 F.3d 1012, 1019 (9th Cir. 2012)
28 ("Moreover, Vidal-Mendoza's interpretation would effectively
transform a § 1326(d) collateral challenge into a direct appeal,
because it would require courts to apply intervening changes in the
law to the IJ's removal order in every case. But we do not review a
collateral challenge to a removal order in the same manner as we
(footnote cont'd on next page)

1 Therefore, defendant cannot show that he was eligible for a
2 § 212(h) waiver.

3 **III. CONCLUSION**

4 In light of defendant's inability to make a showing of
5 plausibility as to both a potential § 212(h) waiver and any relief
6 under a CAT claim, defendant subsequently cannot establish prejudice.
7 Thus, defendant's collateral attack on defendant's 2010 removal under
8 8 U.S.C. § 1326(d) necessarily fails. His motion should be denied.

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

review that order on a petition for review.") (internal citation omitted).

1 HILARY POTASHNER (Bar No. 167060)
Federal Public Defender
2 DAVID MENNINGER (Bar No. 281460)
David_Menninger@fd.org
3 Office of the Federal Public Defender
321 East 2nd Street
4 Los Angeles, California 90012-4202
Telephone: (213) 894-1891
5 Facsimile: (213) 894-0081

6 Attorneys for Defendant
CESAR ACEVES

7
8
9 **UNITED STATES DISTRICT COURT**
10 **CENTRAL DISTRICT OF CALIFORNIA**
11 **WESTERN DIVISION**

12
13 UNITED STATES OF AMERICA,

14 Plaintiff,

15 v.

16 CESAR ACEVES,

17 Defendant.

Case No. 15-245-GW

**SUPPLEMENTAL BRIEFING IN
SUPPORT OF MOTION TO
DISMISS INDICTMENT UNDER 8
U.S.C § 1326(d); MEMORANDUM
OF POINTS AND AUTHORITIES;
EXHIBITS**

**Hearing Date: April 28, 2016
Hearing Time: 8:00 a.m.**

18
19
20
21 Mr. Cesar Aceves, by and through his counsel of record, David
22 Menninger, hereby submits this Supplemental Briefing in Support of Motion to Dismiss
23 Indictment Under 8 U.S.C. § 1326(d).

Respectfully submitted,

HILARY POTASHNER
Federal Public Defender

24
25
26 DATED: April 26, 2016

/s/ David Menninger

27

David Menninger
Office of the Federal Public Defender
28 Attorney for CESAR ACEVES

MEMORANDUM OF POINTS AND AUTHORITIES

I. ARGUMENT

A. The Government does not dispute that Mr. Aceves’s Due Process rights were violated

The government has not disputed that the Immigration Court violated Mr. Aceves’s Due Process rights. Gov’t Opp. at 2-4.¹ In fact, none of the multiple violations alleged by Mr. Aceves have been challenged by the government, including that the Immigration Court:

- Ordered Mr. Aceves removed without any evidence that he had been advised of rights in the proceeding, in violation of 8 C.F.R. § 1003.25(b)
- Failed to inquire whether Mr. Aceves himself consented to immediate removal, in violation of 8 C.F.R. § 1003.25(b)(6)
- Ignored the Motion’s explicit request for a hearing, *see* MTD Exhibit C (“[R]espondent prays that a hearing be set...”).
- *Sua sponte* waived Mr. Aceves’s appeal rights for him, preventing him from seeking administrative exhaustion or judicial review, *see Matter of Shih*, 20 I&N Dec. 697, 699 (BIA 1993).²

Because these violations are undisputed, the only question that remains is whether Mr. Aceves has shown that these violations rendered his 2010 removal proceedings “fundamentally unfair,” requiring dismissal of the instant indictment. *See* 8 U.S.C. § 1326(d)(3). He has made that showing.

¹ “Gov’t Opp” refers to the Government’s Opposition to the Motion to Dismiss the Indictment (Dkt. 56). “MTD” refers to Mr. Aceves’s Motion to Dismiss the Indictment (Dkt. 53).

² The Immigration Judge *sua sponte* marked that Mr. Aceves had waived his appeal rights. Once a noncitizen’s appeal rights have been waived, he cannot later withdraw that waiver before the BIA. *Matter of Shih*, 20 I&N Dec. 697, 699 (BIA 1993); *see Garcia v. Lynch*, 786 F.3d 789 (9th Cir. 2015) (Berzon, J., dissenting) (criticizing this interpretation). Moreover, the waiver of appeal makes the Immigration Judge’s decision final, enabling immediate deportation. *See Shih*, 20 I&N Dec. at 699.

1 **B. Mr. Aceves was prima facie eligible for adjustment of status, provided**
2 **he could obtain a § 212(h) waiver**

3 An approved “immediate relative” I-130 “provides prima facie evidence that the
4 alien is eligible for adjustment as an immediate relative of a United States citizen.”
5 *Agyeman v. I.N.S.*, 296 F.3d 871, 880 (9th Cir. 2002); *see also Vasquez de Alcantar v.*
6 *Holder*, 645 F.3d 1097, 1098 (9th Cir. 2011). Contrary to the government’s assertion at
7 the hearing, no separate “visa” document is issued; rather, the approved I-130 itself is
8 proof of the applicant’s adjustment eligibility. *See Agyeman*, 296 F.3d at 880.

9 The passage of time does not affect the validity of an I-130 approved for an
10 immediate relative. In *Matter of Avila-Perez*, 24 I. & N. Dec. 78, 78 (BIA 2007), the
11 applicant’s approved I-130 sat unused for years; in the meantime, he turned twenty-one.
12 *Id.* The BIA held that this passage of time did not affect the validity of the approved I-
13 130 and that the applicant remained eligible to immediately file for adjustment as an
14 immediate relative. *Id.*; *see also Scialabba v. Cuellar de Osorio*, 134 S.Ct. 2191, 2200
15 (2014) (explaining that if an I-130 is filed when the beneficiary is a minor immediate
16 relative, he remains an immediate relative “throughout the immigration process”).

17 At the hearing, the government appeared to contend that because Mr. Aceves’s
18 previous adjustment application is marked “terminated,” he lost his eligibility for
19 adjustment. That is incorrect. An approved I-130 petition is unaffected by the denial of
20 a subsequent adjustment application; after an adjustment application is denied, an
21 applicant remains free to file a new adjustment application based on the same I-130.
22 *See Agyeman v. I.N.S.*, 296 F.3d 871, 880 (9th Cir. 2002) (explaining that applicant
23 refiled for adjustment after previous application was denied).³ In fact, the relevant
24

25 ³ The adjustment application has a handwritten notation that it was “terminated,”
26 but it is far from clear that note means that the adjustment application was denied. *See*
27 *Gov’t Opp. Exhibit 5*. When USCIS denies an adjustment application, it must notify the
28 applicant and provide reasons for the denial. 8 C.F.R. § 245.2 (a)(5)(i). Mr. Aceves’s
USCIS “Alien Registration File” or “A File” does not contain any such notice.
However, even assuming that USCIS had actually denied the adjustment application,

1 regulations specifically provide that if an application for adjustment is denied, the
 2 applicant is allowed to renew that adjustment application before an Immigration Judge.
 3 8 C.F.R. § 245.2 (a)(5)(ii) (“No appeal lies from the denial of an [adjustment]
 4 application by the director, but the applicant, if not an arriving alien, retains the right to
 5 renew his or her application in proceedings...”); *Agyeman*, 296 F.3d at 880.

6 Under these authorities, Mr. Aceves’s approved immediate-relative I-130 petition
 7 showed his “prima facie eligib[ility]” for adjustment. *Agyeman*, 296 F.3d at 880. The
 8 passage of time did not affect that eligibility. *Matter of Avila-Perez*, 24 I. & N. Dec. at
 9 78. And even if his previous adjustment application had been denied, he remained
 10 eligible to either file a new adjustment application or simply renew the previously filed
 11 adjustment application in Immigration Court. 8 C.F.R. § 245.2 (a)(5)(ii). Thus,
 12 provided Mr. Aceves could obtain a § 212(h) waiver for his sole conviction, he was
 13 eligible to adjust to permanent resident status.

14 **C. It is plausible that an Immigration Judge would have found that Mr.**
 15 **Aceves’s mother would suffer extreme emotional and psychological**
 16 **hardship upon his deportation**

17 **1. Family ties are “the most important factor” in determining**
 18 **hardship for § 212(h) waiver purposes**

19 When considering a plausible claim for § 212(h) relief in the context of a §
 20 1326(d) motion, the Ninth Circuit has held that “the existence of family ties in the
 21 United States is *the most important factor* in determining hardship.” *United States v.*
 22 *Arrieta*, 224 F.3d 1076, 1082 (9th Cir. 2000) (emphasis added). Under *Arrieta*,
 23 “preservation of family unity” is the paramount consideration, more weighty than any
 24 potential financial hardship. *Id.* Moreover, in evaluating direct immigration court
 25 appeals, the Ninth Circuit has stated that the emotional effect of separation from
 26

27 Mr. Aceves remained eligible to either renew that application or file a new application
 28 in the Immigration Court. 8 C.F.R. § 245.2 (a)(5)(ii).

1 family--without more--can in certain circumstances establish a requisite showing of
2 hardship. *Mejia-Carrillo v. I.N.S.*, 656 F.2d 520, 522 (9th Cir. 1981); *Cerillo-Perez v.*
3 *I.N.S.*, 809 F.2d 1419 (9th Cir. 1987); *see also Figueroa-Rincon v. I.N.S.*, 770 F.2d 766,
4 767 (9th Cir. 1985) (recognizing claim based on “emotional and psychological
5 hardship”).

6 *Arrieta*’s central focus on the costs of family disruption is not in tension with the
7 principle that the extreme hardship is more than just the typical results of deportation.
8 *See United States v. Arce-Hernandez*, 163 F.3d 559, 564 (9th Cir. 1998). Deportees
9 may be temporary visitors or long-time residents, and many may not have strong family
10 ties in the United States. Acknowledging that the extreme hardship inquiry needs to
11 focus on the particular factors at issue in each case, *Arrieta*’s holding recognizes certain
12 factors present in particular cases might make the disruption of family bonds rise to the
13 level of extreme or unusual hardship. *See Arrieta*, 224 at 1082-83. Under *Arrieta*, Mr.
14 Aceves could have shown in 2010 that his permanent separation from his mother, Ms.
15 Angelica Gutierrez, would have qualified as the type of exceptional emotional and
16 psychological hardship that merits relief under § 212(h).

17 **2. Ms. Gutierrez’s history of trauma would present a decisive factor**
18 **in evaluating her emotional and psychological hardship**

19 In considering the degree of psychological hardship caused by disruption of
20 family ties, a qualifying relative’s history of trauma is often a decisive factor. *See, e.g.,*
21 *Matter of S-B-*, 2015 WL 9426403 (AAO Dec. 8, 2015); *Matter of [Redacted]*, 2010
22 WL 6526792 (AAO July 6, 2010). These decisions recognize that trauma survivors
23 may have heightened psychological vulnerabilities, and rupturing family ties is often
24 particularly destructive to their emotional stability and well-being; for that reason, a
25 history of trauma might make an otherwise “typical” deportation into an event that
26 causes extreme emotional hardship. The facts of *Matter of S-B-* are particularly
27 illustrative. In that case, USCIS’s Administrative Appeals Office found that the
28

1 applicant's mother's history of domestic violence was the key factor in meeting the
2 requisite hardship showing, entitling the applicant to § 212(h) relief. *See id.* at *4.

3 If given the opportunity in 2010, Mr. Aceves could have shown that the
4 emotional and psychological harms to his lawful permanent resident mother established
5 satisfied the required hardship showing. According to her sworn declaration, the trauma
6 Ms. Gutierrez has suffered in her life has been anything but usual:

- 7 • Her father disappeared and was suspected murdered (MTD Exhibit H ¶¶ 5-
8 7)
- 9 • She personally received death threats and had to flee her home country
10 (MTD Exhibit H ¶¶ 7-8)
- 11 • She was later the victim of domestic violence (MTD Exhibit H ¶¶ 7-8)
- 12 • Her youngest son suffered near-fatal heart defects (MTD Exhibit H ¶ 11)

13 It is certainly plausible that an Immigration Judge could have found that this Ms.
14 Gutierrez's uniquely traumatic life history left particularly vulnerable to the
15 psychological hardships of separation from her eldest son, who played a central role in
16 his family. And Ms. Gutierrez's emotional hardships were not merely theoretical: she
17 has stated in her sworn declaration that the emotional turmoil she felt during this period
18 led her to seek out treatment and that she was prescribed medication for her
19 psychological symptoms. *See* MTD Exhibit H ¶¶ 26-27. In light of the unusual
20 combination of factors in this case, it is plausible that an Immigration Judge could have
21 found that Ms. Gutierrez's documented psychological harms satisfied the heightened
22 hardship showing.

23 **3. Mr. Aceves's previous imprisonment does not bar his claim of**
24 **hardship**

25 Furthermore, the fact that Mr. Aceves faced deportation after serving a prison
26 sentence does not lessen the extreme psychological hardship his mother faced. Mr.
27 Aceves's imprisonment removed him from the family home for a finite period, but it
28 did not sever the family relationship. Mr. Aceves remained in California, and Ms.

1 Gutierrez was able to visit him regularly. *See* MTD Exhibit H ¶¶ 22-25. Together, the
2 family counted down the days until their reunification. *See id.*

3 Unlike his term of imprisonment, deportation meant Ms. Gutierrez's *permanent*
4 separation from her son. With three U.S. citizen children and a U.S. citizen spouse, Ms.
5 Gutierrez could not realistically relocate to Mexico without massive familial
6 disruptions--not to mention the real danger and emotional toll of returning to a country
7 she had fled for her life. *See* MTD Exhibit H ¶¶ 2, 16. And unlike in prison, Ms.
8 Gutierrez also feared for her son's life in the country she had fled. *See* MTD Exhibit H
9 ¶¶ 2, 16.⁴ Mr. Aceves's finite and close-by imprisonment does not render implausible
10 that Ms. Gutierrez could establish that his permanent banishment to Mexico would
11 cause her unusual hardship.

12 Accordingly, the claim of hardship to Ms. Gutierrez falls squarely within the
13 range of claims that an Immigration Judge might deem worthy of a § 212(h) waiver.
14 Based on this evidence, immigration attorney David Gardner has concluded that Mr.
15 Aceves could have plausibly obtained § 212(h) relief. *See* MTD Exhibit H ¶¶ 17-21.
16 Thus, Mr. Aceves has shown prejudice with this application.

17 **D. Under *Cole v. Holder*, Mr. Aceves could have plausibly obtained CAT**
18 **relief based on particular factors that would have made him susceptible**
19 **to serious physical harm in Mexico**

20 In adjudicating CAT claims, Immigration Judges must consider all of the
21 relevant factors that may combine to subject an applicant to a high risk of torture. 8
22 C.F.R. § 1208.16(c)(3). Although the applicant must articulate specific factors that
23 combine to create a particularized threat of torture, there is no requirement that the
24 applicant has suffered torture in the past. *Id.* The Ninth Circuit case *Cole v. Holder*, 659
25 F.3d 762 (9th Cir. 2011), demonstrates how an applicant can present a plausible CAT

26
27 ⁴ The country conditions reports submitted herein show just how reasonable Ms.
28 Gutierrez's fear was. *See generally supra* Section 1.D and Exhibits A-O.

1 claim even in the absence of past torture. In that case, the applicant had never
 2 experienced a threat of torture in his home country, as he had lived in the United States
 3 since childhood. *Id.* at 764. Nonetheless, he was able to articulate a credible claim that
 4 criminal organizations or rogue police officers would likely torture him based on his
 5 appearance, including his tattoos and skin tone, and his perceived gang membership. *Id.*
 6 at 765-766.

7 Were he given the chance, Mr. Aceves could have presented a claim for CAT
 8 relief as strong as that in *Cole*. Like the applicant in that case, Mr. Aceves could point
 9 to a particular set of factors, including his status a recent deportee, his lack of ties in
 10 Mexico, his tattoos, and his family's history of being targeted by drug cartels, that
 11 would place him at the risk of serious harm. In his declaration, expert immigration
 12 attorney David Gardner concluded it was plausible that Mr. Aceves could show the
 13 requisite likelihood of torture by pointing to extensive country conditions materials. *See*
 14 MTD Exhibit G ¶¶ 25-26. Mr. Aceves here references some of those reports that could
 15 corroborate his claim.

16 **1. Mr. Aceves could have introduced voluminous country conditions**
 17 **evidence to corroborate the likelihood of serious physical harm in**
 18 **Mexico**

19 During the time that Mr. Aceves was facing deportation proceedings in El Paso,
 20 Texas, reports abounded of targeted violence by “violent thugs” and drug gangs”
 21 against deportees returned across the Texas-Mexico border. Jason Beaubien, *Mexican*
 22 *Deportees Strain Cities South of the Border*, NPR, November 9, 2011, attached as
 23 Exhibit A. A religious leader described the danger in stark terms:

24 ‘Deporting people here is like *sending them into a trap ... to*
 25 *be hunted down,*’ said Father Francisco Gallardo, a Roman
 26 Catholic priest who oversees the diocese's shelters in
 Matamoros and Reynosa.

27 Richard Marosi, *Deportees to Mexico's Tamaulipas preyed upon by gangs*, LOS
 28 ANGELES TIMES, September 8, 2012, attached as Exhibit B (emphasis added). Multiple

1 sources reported that mass graves were found throughout the area, filled with the bodies
2 of deportees. *See id.*; Aaron Nelsen & Jeremy Roebuck, *Immigrants are being deported*
3 *into danger*, SAN ANTONIO EXPRESS-NEWS, October 5, 2013, attached as Exhibit C;
4 AMNESTY INTERNATIONAL, *Migrants in Mexico at Risk of Mass Kidnapping, Torture,*
5 *Abuse*, July 15, 2011, attached as Exhibit D; Kate Kilpatrick, *Into the arms of the*
6 *cartels: Deported Mexicans sent to city ruled by fear*, AL-JAZEERA ENGLISH, October
7 16, 2014, attached as Exhibit E. Sources described “cartel henchmen ... round[ing] up”
8 deportees upon their arrival in Mexico. *See* SAN ANTONIO EXPRESS-NEWS (Exhibit C).
9 The Los Angeles Times described multiple incidents of targeted violence:

10 Several migrants have been kidnapped from bus platforms,
11 including one woman who was pulled by the hair into a
12 waiting car. Getting on a bus is no guarantee of safety. In
13 May, a deportee was hauled off a bus. His battered body was
 found on a highway south of the city. In the station, gang
 members sidle up to migrants and ask questions.

14 LOS ANGELES TIMES (Exhibit B). Observers specifically noted that cartels members
15 often tortured deportees. AMNESTY INTERNATIONAL (Exhibit D); LOS ANGELES TIMES,
16 (Exhibit B). One man showed reporters how his fingers were deformed after cartel
17 members had smashed them with a hammer. *Id.* A U.S.-Mexico border researcher said
18 he’d “never seen so many people that were clearly afraid for their lives.” AL-JAZEERA
19 ENGLISH (Exhibit E) (quoting principal investigator of Ford Foundation study).

20 According to these reports, criminal groups specifically targeted deportees, who
21 were marked by the “clear plastic Homeland Security bags” that they carried. Maria
22 Ines Zamudio, *Fear and loathing at the border*, THE CHICAGO REPORTER, Sept. 1, 2013
23 (Exhibit F).⁵ The cartels employed sophisticated methods to single out these
24 individuals:

25
26
27 ⁵ To be sure, the violence placed everyone at risk, including U.S. citizen visitors,
28 as evidenced by the State Department’s extensive travel warnings in place during this
period. *See* Al-Jazeera English (Exhibit E) (discussing the travel warnings).

1 Lookouts track new arrivals *from the moment they enter*
2 *Mexico*. Gunmen intercept deportees at migrant shelters and
3 buses and outside money-transfer businesses. They hold them
4 for ransom, recruit them into gangs, sometimes assault,
5 torture and "disappear" them. Church-run shelters and social
6 service groups, once safe ground, no longer are.

7 LOS ANGELES TIMES (Exhibit B). There were multiple reports of deportees being
8 dragged out of buses and shelters at gunpoint. *See id.* (noting that fifteen migrants were
9 forced out of a shelter at gunpoint); AL-JAZEERA ENGLISH (Exhibit E); AMNESTY
10 INTERNATIONAL (Exhibit D). Those who were identified as Americanized became
11 particularly "easy prey." WASHINGTON OFFICE ON LATIN AMERICA, *Border Security*
12 *and Migration: A Report from South Texas*, January 23, 2013, attached as Exhibit G.
13 Because of their lack of ties in Mexico, Americanized individuals "are in the worst of
14 worlds because they are so vulnerable." SAN ANTONIO EXPRESS-NEWS (Exhibit C); *see*
15 *also* John Stanton, *The Deported: Life on the Wrong Side of the Border for Repatriated*
16 *Mexicans*, BUZZFEED, December 19, 2013, attached as Exhibit H (noting that
17 "Americanized" deportees were singled out for violence); Alaisdair Baverstock, *Raised*
18 *in America, dumped in Mexico*, THE DAILY MAIL ONLINE, May 29, 2015, attached as
19 Exhibit I (noting that Americanized individuals stand out in Mexican border towns). To
20 the criminal organizations, these deportees are particularly "kidnapable," because their
21 United States families will pay ransom for their safety. *See* LOS ANGELES TIMES
22 (Exhibit B). Multiple reports also noted that individuals with tattoos were particularly
23 vulnerable from violence from the criminal groups and from harassment from corrupt
24 police forces. *See* DAILY MAIL ONLINE (Exhibit I); Anna Cearley, *Deportees are linked*
25 *to Mexico Crime Rate*, SAN DIEGO UNION TRIBUNE, September 12, 2004, attached as
26 Exhibit J.

27 According to multiple accounts, the corruption of police forces in these regions
28 fed into the violence against deportees. Reports noted that deportees were subject to
"increasing police brutality" and extortion from police officials. *See* SAN DIEGO UNION
TRIBUNE (Exhibit J); BUZZFEED (Exhibit H); NPR (Exhibit A). Observers noted that

1 even at the level of official policy, state actors made essentially no effort to prevent
2 violence against deportees. *See* SAN ANTONIO EXPRESS NEWS (Exhibit C) (“Mexico's
3 answer to violence against migrant deportees has been notable only by its absence.”).

4 The intensity of the violence, and the characteristics that would make Mr. Aceves
5 a particular target, suggest that he could show that he would be at danger just as soon as
6 he crossed the border.⁶ To be sure, the Immigration Judge would have to consider his
7 capacity to avoid the violence at the border and safely relocate to another part of the
8 country. However, CAT applicants need not prove that relocation is impossible.
9 *Maldonado v. Lynch*, 786 F.3d 1155, 1164 (9th Cir. 2015). Furthermore, when
10 evaluating potential internal relocation in the context of fear-based claims of relief,
11 courts must consider the reasonableness of relocation, including any financial, cultural,
12 or logistical barriers to relocating to different parts of the country. *Melkonian v.*
13 *Ashcroft*, 320 F.3d 1061 (9th Cir. 2003).

14 Without any real history or family in Mexico, it is difficult to imagine where Mr.
15 Aceves could reasonably locate. Those border towns where he is closest to his
16 American family are plainly dangerous. The one region where he had lived in
17 Mexico—Guadalajara—remains to this day a den of the very forces responsible for his
18 grandfather’s demise. A recent report shows that the man linked to his grandfather’s
19 murder--Rafael Caro-Quintero--continues to control a vast network in that area. *See*
20 *Duncan Tucker, The City of Guadalajara is the Money Laundering Capital of Mexico,*
21 *VICE NEWS*, June 14, 2015, attached as Exhibit K; *see also* Jason McGaham, *Why is a*
22 *cartel kingpin getting early release in the U.S.?*, *THE DAILY BEAST*, April 15, 2016,
23 attached as Exhibit L. Reports show that that particular cartel and associated groups
24

25 ⁶ During this period, deportees and advocacy organization urged the Department
26 of Homeland Security to stop the practice of deporting individuals to the most
27 dangerous cities in Mexico. *See* AMNESTY INTERNATIONAL (Exhibit D); LOS ANGELES
28 *TIMES* (Exhibit B). These pleas went largely unheeded. *See* AMNESTY INTERNATIONAL
(Exhibit D); LOS ANGELES *TIMES* (Exhibit B).

1 control a wide swath of the country, from the El Paso border down to Guadalajara. John
2 Burnett et al, *Mexico Seems to Favor Sinaloa Cartels in Drug War*, NPR, May 19,
3 2010, attached as Exhibit M. Moreover, there is plentiful evidence showing that cartels
4 continue to exact violent retribution against families of perceived enemies. Rory
5 Carroll, *Mexican marine's family gunned down by drug cartel*, THE GUARDIAN,
6 December 23, 2009, attached as Exhibit N; Anne-Marie O'Connor & William Booth,
7 *Mexican drug cartels targeting and killing children*, WASHINGTON POST, April 9, 2011,
8 attached as Exhibit O. And in the words of a Congressman and former federal
9 prosecutor, these groups have "absolutely" have been assisted by corrupt police and
10 military forces in the area. See NPR (Exhibit M).

11 II. CONCLUSION

12 The question is not whether Mr. Aceves has *now* shown that he was entitled to
13 relief from deportation in 2010. Rather, the question is whether there is any harm from
14 the undisputed Due Process violations he suffered. These Due Process violations
15 require dismissal of the indictment if Mr. Aceves can "establish some evidentiary basis
16 on which relief could have been granted." *United States v. Raya-Vaca*, 771 F.3d 1195,
17 1207 (9th Cir. 2014). He has made that showing. Accordingly, the Court should grant
18 the motion and dismiss the indictment.

19 Respectfully submitted,

20 HILARY POTASHNER
21 Federal Public Defender

22
23 DATED: April 26, 2016

24 By /s/ David Menninger
25 DAVID MENNINGER
26 Office of the Federal Public Defender
27
28

EXHIBIT LIST

- 1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
- A. Jason Beaubien, *Mexican Deportees Strain Cities South of the Border*, NPR, November 9, 2011.
 - B. Richard Marosi, *Deportees to Mexico's Tamaulipas preyed upon by gangs*, LOS ANGELES TIMES, September 8, 2012
 - C. Aaron Nelsen & Jeremy Roebuck, *Immigrants are being deported into danger*, SAN ANTONIO EXPRESS-NEWS, October 5, 2013
 - D. AMNESTY INTERNATIONAL, *Migrants in Mexico at Risk of Mass Kidnapping, Torture, Abuse*, July 15, 2011
 - E. Kate Kilpatrick, *Into the arms of the cartels: Deported Mexicans sent to city ruled by fear*, AL-JAZEERA ENGLISH, October 16, 2014
 - F. Maria Ines Zamudio, *Fear and loathing at the border*, THE CHICAGO REPORTER, Sept. 1, 2013
 - G. WASHINGTON OFFICE ON LATIN AMERICA, *Border Security and Migration: A Report from South Texas*, January 23, 2013
 - H. John Stanton, *The Deported: Life on the Wrong Side of the Border for Repatriated Mexicans*, BUZZFEED, December 19, 2013
 - I. Alaisdair Baverstock, *Raised in America, dumped in Mexico*, THE DAILY MAIL ONLINE, May 29, 2015
 - J. Anna Cearley, *Deportees are linked to Mexico Crime Rate*, SAN DIEGO UNION TRIBUNE, September 12, 2004
 - K. Duncan Tucker, *The City of Guadalajara is the Money Laundering Capital of Mexico*, VICE NEWS, June 14, 2015
 - L. Jason McGaham, *Why is a cartel kingpin getting early release in the U.S.?*, THE DAILY BEAST, April 15, 2016
 - M. John Burnett et al, *Mexico Seems to Favor Sinaloa Cartels in Drug War*, NPR, May 19, 2010
 - N. Rory Carroll, *Mexican marine's family gunned down by drug cartel*, THE GUARDIAN, December 23, 2009, attached as Exhibit N
 - O. Anne-Marie O'Connor & William Booth, *Mexican drug cartels targeting and killing children*, WASHINGTON POST, April 9, 2011

Exhibit A



LATIN AMERICA

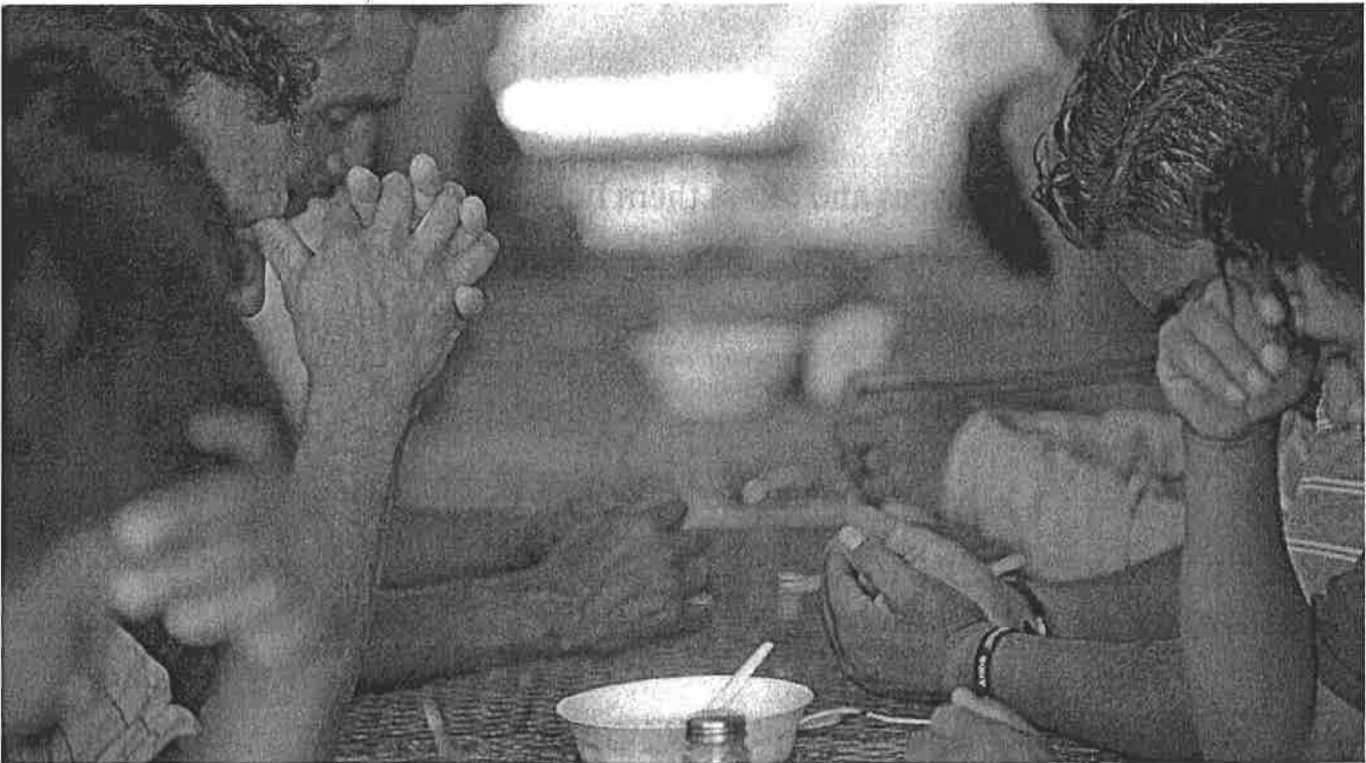
Mexican Deportees Strain Cities South Of The Border

Listen · 5:16 Queue Download
Transcript

November 9, 2011 · 2:52 PM ET
Heard on All Things Considered



JASON BEAUBIEN



A group of illegal immigrants from Central America deported from the United States eat at a shelter near the Mexico-U.S. border, in Nogales, Sonora, Mexico, July 28, 2010. Last year, the U.S. deported a record number of immigrants — and the Mexican border towns where they are being released face serious problems coping with the influx.

Alfredo Estrella/AFP/Getty Images

For many Mexican migrants who've just been deported from the United States, the border city Reynosa is where the American Dream dies.

Maria Nidelia Avila Basurto is a Catholic nun who heads a church-run shelter for deportees in Reynosa, in the northeast corner of Mexico, just across from McAllen, Texas.

"Many of them arrive with nothing," she says. "We have to give them everything — clothes, shoes, everything."

Last year, the U.S. deported a record number of immigrants. Almost 400,000 people who were in the country illegally were arrested and sent back to their home countries.

The vast majority were Mexicans, and many were released into dangerous cities like Reynosa. The city is struggling to deal with the thousands of deportees who arrive each month and are vulnerable to violent thugs, drug gangs and corrupt officials.

Temporary Assistance

Avila's shelter feeds the deportees and offers them bunks to sleep in, but only for three nights, then they have to leave. In the past, the shelter was shut during the day. Residents were expected to go out and search for work or try to line up help from relatives.

“

Many of them arrive with nothing. We have to give them everything — clothes, shoes, everything.

Catholic nun Maria Nidelia Avila Basurto, who runs a shelter for Mexicans deported from the U.S.

But Reynosa has gotten so dangerous over the past couple of years that now, rather than the deportees being locked out of the shelter during the day, they're locked in.

Avila says that when the deportees were out during the day, many of them were abducted, beaten or robbed. But by keeping them in the shelter, the nun says, they've been able to avoid that.

Mexican kidnapping gangs often target people who have family in the United States under the assumption that most can quickly raise a ransom of \$500 or \$1,000.

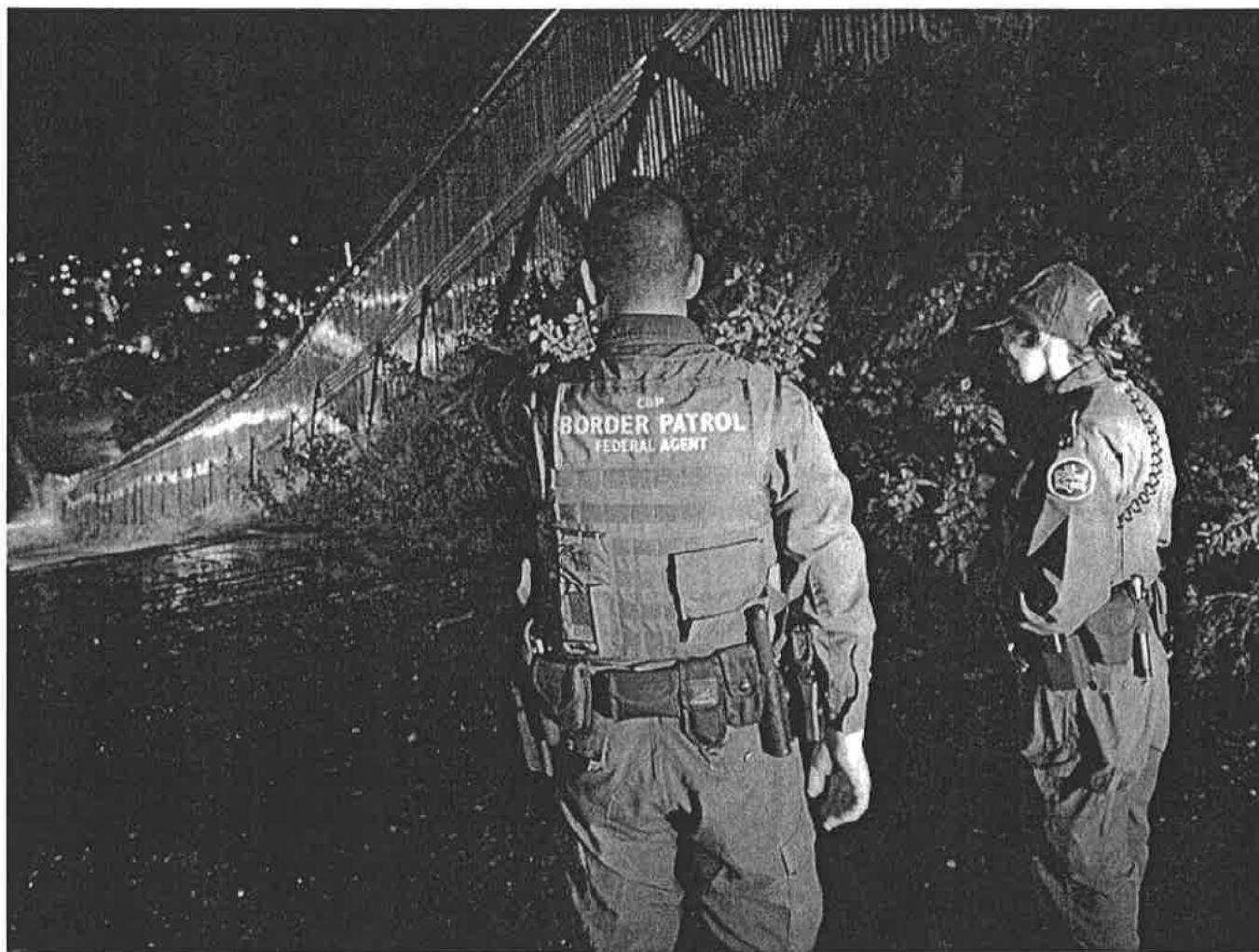
This part of Mexico isn't dangerous just for migrants. Even the former mayor and his son were kidnapped over the summer.

Avila says her problem is that the number of deportees continues to rise, making it harder for the shelter to help them make the transition back into Mexico.

Deportation Numbers Growing

Lately the deportations are happening every day, she says. Many days, 100 or 120 are released by U.S. immigration officials at the international bridge adjacent to downtown Reynosa. For some of them, this is their first taste of freedom after serving lengthy criminal sentences in the U.S. Others were picked up for drunk driving or traffic offenses.

Santana Castrejon Alvarez, 58, said he was arrested after being caught using a fake Social Security number.



U.S. Border Patrol agents patrol along the border fence between Arizona and Mexico, July 28, 2010.

Mark Ralston/AFP/Getty Images

"In the United States, everyone buys fake documents. Everyone. Unfortunately, I bought them too, like everyone else," he said.

Castrejon says he spent much of his 21 years in the U.S. working at a McDonald's in Chicago. He also worked in a plastics factory and a pizza restaurant. Castrejon had just started a new job, and the employer turned him in to the Immigration and Customs Enforcement agency.

He says he has no intention of staying in Mexico and plans to try to cross again illegally into the U.S.

"Here, I don't know where to go because all my family is still over there in Chicago. My wife, my sister, nieces, nephews — everyone," he says.

For the deportees who do decide to stay in Mexico, they face more than just the perilous streets of Reynosa. Jobs are scarce. The minimum wage is the equivalent of \$5 a day. And corruption is rampant.

Deportees Need Mexican Documents

Many of the deportees arrive in Reynosa with no form of identification. As the drug war has spread in Mexico, so have security checkpoints. It's nearly impossible to move through the country without a picture ID. Volunteers from a local human rights group make temporary credentials for anyone who needs them.

The volunteers have just returned from the printer and are distributing them to the deportees.

Jose Elejarza Maldonado with the Center for Border Studies and Human Rights in Reynosa says that without some form of identification, the returning migrants will fall prey to corrupt officials.

Elejarza says his group regularly gets complaints that corrupt police and other authorities steal from these individuals.

The Mexican government does help deportees with one-way bus tickets to their home states, and the U.S. government has started flying more of them into Central Mexico, but still thousands end up being exiled each month into violent border cities such as Reynosa.

Migrant advocates here say that roughly 30 percent of the deportees immediately turn around and head north. They'd rather take their chances with the U.S. Border Patrol than venture out into an environment where they could get beaten, robbed, kidnapped or worse.

Related NPR Stories

Crossing The Border: A Case For Legalizing Drugs Nov. 4, 2011

Crossing Mexico: A Journey Of Grave Perils Sept. 15, 2011

Business Booms On Border Despite Violence Aug. 4, 2011

© 2016 npr

Exhibit B

LOCAL

Deportees to Mexico's Tamaulipas preyed upon by gangs



Matamoros, Mexico — Deportees file across the Gateway International Bridge over the Rio Grande from Brownsville, Texas. (Don Bartlett / Los Angeles Times)

By **Richard Marosi**, *Los Angeles Times*

SEPTEMBER 8, 2012, 6:46 PM

M ATAMOROS, MEXICO — They stuck together, walking slowly on busted sidewalks, approaching corners warily. They hurried past smoky taco stands and fleabag hotels. Nobody strayed.

Deported from Southern California the night before, the 20 men had gotten a few hours of fitful sleep at the bus station of this lawless border city. Now they just wanted to get out of town.

"We were moving as one, like a ball," said Rodrigo Barragon, 35, formerly a construction worker in Los Angeles. "But when I looked back, the ball had a tail."

PHOTOS: Mexican deportees face a dangerous future

Five men were following them. Up ahead, three vehicles screeched to a stop, blocking their way down Avenida Washington. The migrants scattered, tearing through streets and alleyways, clutching small bags that held their belongings.

Hours later, they straggled through the door of the Diocese of Matamoros migrant shelter, beneath an image of the Virgin of Guadalupe. A plaque beside the entryway bore a dedication: "To the 72 murdered migrants and to those we know nothing about," men and women who were massacred or who simply disappeared.

Even this shelter couldn't guarantee safety: Fifteen residents were dragged away at gunpoint on Christmas Eve from the dining room where the newcomers now stood.

FULL COVERAGE: Without a country

The men headed deeper into the compound, through an open yard surrounded by razor-wire fence, to the dormitory. There, they found a man sprawled on the floor, his legs bloodied and bruised.

The migrants had been flown 1,500 miles to the Texas-Mexico border as part of a U.S. enforcement program aimed at making it harder for them to return. Many were deported after traffic violations or drunk driving arrests exposed their undocumented status, or after repeatedly entering the country illegally.

Now, they joined in prayer, then quietly ate dinner.

"I feel like something bad can happen at any time," said Serafin Salazar, formerly a car mechanic in El Monte.

::

U.S. immigration authorities have sharply increased deportations to one of Mexico's most fiercely contested drug-war battlegrounds, the northeastern state of Tamaulipas, where few migrants have any connections or family.

Repatriations to the besieged border cities of Matamoros, Reynosa and Nuevo Laredo jumped nearly fivefold to 124,729 last year from 25,376 in 2006, according to Mexico's National Institute of Migration. More than one-fourth of all deportees from the U.S. are sent to Tamaulipas, even as violence here escalates.

Deportees arriving in Matamoros are schooled quickly about the dangers they will face. The moment these 20 men crossed Gateway International Bridge from Brownsville, Texas, orange-shirted agents from Grupo Beta, the Mexican migrant safety force, gathered them for a lecture:

Criminal gangs consider you rich targets.

They will try to get phone numbers of your relatives in the U.S. for ransoms.

Dial 0 after making calls on public phones so previously dialed numbers can't be accessed....

Some of the new arrivals scribbled phone numbers backward, in case they fell into the wrong hands. They stuffed the pieces of paper into their shoes. Then they squeezed onto the Grupo Beta pickup trucks, which whisked them to the city bus station.

Stay inside, the agents told them, promising to pick them up in the morning and help arrange discounted bus fares for trips home. Many of the migrants were heading to towns and cities deep in Mexico's interior, a two-day bus ride away.

But the Grupo Beta agents, busy handling more repatriations, never returned for these men. They were now at the mercy of organized crime groups that have gripped Tamaulipas.

Lookouts track new arrivals from the moment they enter Mexico. Gunmen intercept deportees at migrant shelters and buses and outside money-transfer businesses. They hold them for ransom, recruit them into gangs, sometimes assault, torture and "disappear" them. Church-run shelters and social service groups, once safe ground, no longer are.

"Deporting people here is like sending them into a trap ... to be hunted down," said Father Francisco Gallardo, a Roman Catholic priest who oversees the diocese's shelters in Matamoros and Reynosa.

Tamaulipas, sharing a 150-mile border with Texas, is a battleground between the Gulf Cartel and the paramilitary-style Zetas. Warring groups have blockaded highways, launched grenade attacks against government buildings and confronted Mexican military units in firefights that have left cities shrouded in smoke.

Organizations trying to document the migrants' plight have been chased out. A human rights group in Nuevo Laredo shut down last year after receiving threats. Local journalists have stopped covering cartel-related crime after at least 13 reporters were kidnapped or slain in recent years.

Many police departments have been disbanded. Criminal gangs have seized control of major streets and highways, as well as transportation hubs including bus stations. On a highway leading to Matamoros in 2010, 72 migrants, most of them from Central America, were massacred after being hauled off a bus. The bodies of some 200 other migrants have since been found in clandestine graves. Many northbound migrants now avoid the region, leaving criminal gangs with a new prey: deportees.

The Mexican government successfully petitioned U.S. authorities to reduce deportations to violence-plagued Ciudad Juarez, across from El Paso. But the change merely increased deportations to Tamaulipas.

Last year, 21 illegal immigrants at a detention center in New Mexico enlisted the help of migrant and civil-rights groups in asking authorities not to deport them across the Texas border, for their safety. The efforts failed. All were expelled through Texas, 10 of them to Tamaulipas, according to U.S. Immigration and Customs Enforcement, which said detainees are not permitted to specify where they will be deported.

Most paths out of Matamoros lead through the downtown bus station, a low-slung, yellow building bustling with vendors, travelers and gang crews. Several migrants have been kidnapped from bus platforms, including one woman who was pulled by the hair into a waiting car. Getting on a bus is no guarantee of safety. In May, a deportee was hauled off a bus. His battered body was found on a highway south of the city.

In the station, gang members sidle up to migrants and ask questions. Those with deep ties to the U.S. are deemed *secuestrable*, or "kidnapable." Young migrants are potential recruits.

The gangs' dominion is absolute. "When I go and look for somebody, they approach me and say, 'You can't take anybody because everyone in the bus station is accounted for,'" said Gallardo, the priest. "They call the shots.... They decide who comes and who goes."

Outsiders rarely escape notice. Two men identified by several migrants as gang members interrupted a Times reporter conducting interviews. The one said to be the boss, a neatly dressed man in his mid-30s, sported a silver thumb ring and a new Puma watch. He said he had been deported from Chicago for a drunk driving offense last year.

Breezing through the corridor, flashing an easy smile, he told migrants they had nothing to fear, that the gang was there to protect migrants from the Zetas.

But he was firm on the rules: The charge was \$500, he said, for anyone trying to reenter the U.S. through gang-controlled territory. As he made the rounds, heavily tattooed men hovered nearby, wielding walkie-talkies that migrants said were used to summon convoys of gunmen.

The boss didn't seem to sympathize with the plight of the migrants — they had committed crimes, he noted. "The U.S. opens its doors and we close them on ourselves," he said.

Unlike many deportees, he felt no urge to return to the U.S.

"We're doing just fine here," he said, chuckling with an underling.

::

A shelter run by a priest ought to be one of the safest places in Mexico. In Matamoros, it's one of the more dangerous. Grupo Beta agents stopped taking people to the Diocese of Matamoros shelter months ago after kidnappings and assaults in and around the compound escalated.

But the 20 deportees who arrived July 10 had nowhere else to go after they were left at the bus station by Grupo Beta and nearly captured by gang members on nearby streets.

"I was scared to death," said David Espinoza, 28, formerly a construction worker in Oregon, who was sitting inside the fenced compound. "I ran like the devil."

"More like Speedy Gonzalez," joked Octavio Ordaz, 43, formerly a welder in Sacramento.

The shelter was spotless and offered showers and clotheslines and plates spilling over with beans. But small comforts couldn't ease the dread.

Gang lookouts on bicycles prowled the street. Just a week earlier, gunmen armed with AK-47s marched through the front door and forced residents to take their shirts off. They were looking for rival gang tattoos. One gunman tried to persuade the men to join their ranks. "I used to be just like you," he said. "You don't have to go to the U.S. to make money."

The newcomers now worried about their tattoos, mostly homages to children or long-forgotten girlfriends. Would they be misinterpreted? They still needed to take risky walks around the city, to collect money transfers from family members. They wondered if they would ever get out of Matamoros.

The man with the scarred legs lay on the floor next to his crutches. He told the new arrivals he had been mistaken for a Zeta the week before, kidnapped, beaten and driven from safe house to safe house. He said he shared the back seat of the car with the corpse of a man who had been tortured to death.

The deportees reminded each other not to walk the streets alone. "They are like the wolves and we're the sheep," said Carlos Valdivia Núñez, 43, who was a day laborer in Huntington Beach before being deported. "If you leave the herd, they go and attack. You can't wander off."

As the sun dipped and mosquito swarms buzzed the compound, more deportees walked through the front door. Sympathetic city bus drivers had given them free rides across the city, they said.

By nightfall, a head count showed that they were one short of the original 20. Missing was a boyish-looking 30-year-old from Tijuana wearing a green checkered shirt over his portly frame. Maybe he caught a long-distance bus or made it to the Grupo Beta office, a few migrants offered.

"We never saw him again after the chase," said Salazar, the former El Monte mechanic. "Who knows where they grabbed him?"

At 9 p.m. the lights went out. As the men slipped under clean sheets, an elderly security guard made the rounds. He was unarmed. The only thing keeping out intruders was a metal screen door.

Floor fans whirred beside the neatly made bunk beds. The men tried to sleep.

richard.marosi@latimes.com

Times researcher Cecilia Sanchez in Mexico City contributed to this report.

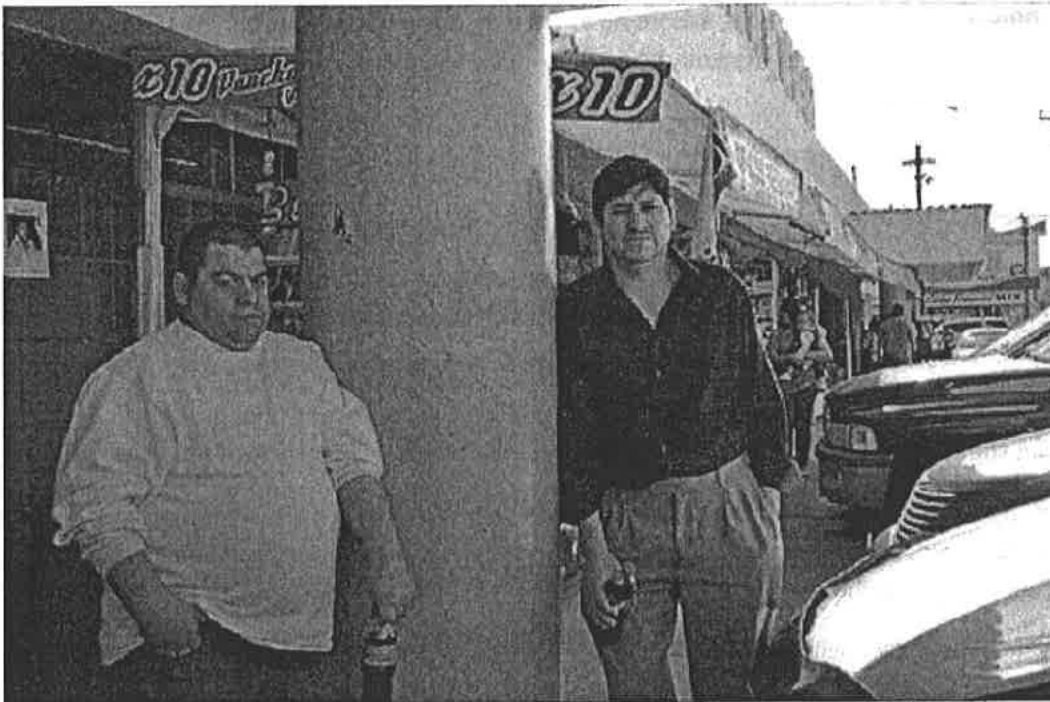
The U.S. has deported more than 1 million illegal immigrants since 2008. This is one in a series of occasional stories chronicling the people and communities affected.

Copyright © 2016, Los Angeles Times

This article is related to: Illegal Immigrants, Politics and Government, Crime, Law and Justice, Highway and Road Transportation, Religion and Belief, Immigration, Kidnapping

Fear and loathing at the border

By María Inés Zamudio | September 1, 2013



Reynaldo Hernandez (left) and Eduardo Ruiz stand outside a bus station after spending the night there. The men were deported from Illinois to Matamoros, Tamaulipas, Mexico. Photo by María Inés Zamudio.

Reynaldo Hernandez lay on the cold floor of a bus station with his eyes open. The deportee from Illinois was in Matamoros, Mexico, more than 500 miles away from his home in the state of Guanajuato. He had no money to continue his journey. And after a nearly two-day bus trip from a detention center in Wisconsin to the U.S.-Mexican border, he was exhausted, but didn't dare sleep.

Hernandez carried that burden until the next morning. The heavy-set immigrant stood outside the bus station, trying to figure out a way to get home before he got into trouble with one of the drug cartels operating in Matamoros.

"I don't feel safe here," said Hernandez, who was deported after living for seven years in downstate Bloomington. "I couldn't sleep all night thinking about [members of the cartels]. I'm afraid of what can happen at night. They can kidnap me because they think I'm coming from up north and I have money with me."

He wore a gray sweater and blue jeans. His hair was greasy, his face a bit dirty. He hadn't showered in days. For protection, he stayed close to other deportees, like Eduardo Ruiz of Indiana. "It's been 15 years since I've been back" to Mexico, said Ruiz, who was deported after he was arrested for driving under the influence. "No one in Mexico feels safe. There's so much crime here."

Together, Hernandez and Ruiz looked for ways to earn enough money to buy a \$65 bus ticket. But a day's work yields only a few dollars in this city. Without money or a viable way to get home, they were stuck.

In mid-March, *The Chicago Reporter* traveled to Matamoros and spent four days in the area to interview deportees like Hernandez and Ruiz at a bus station and an immigrant shelter. According to the Consulate General of Mexico in Chicago, Matamoros is among three border cities where U.S. Immigration and Customs Enforcement drops off deportees from its Chicago "area of responsibility," a region that includes six Midwest states.

In 2012, more than 62,000 deportations were made to Matamoros, a sevenfold increase from 2008, according to the Center of Migration Studies, a research department within the Mexican Secretary of the Interior that tracks migration in and out of Mexico. An additional 59,700 deportations were made to the other two cities, Nuevo Laredo and Reynosa, in 2012.

Immigrant advocates and researchers of the region's violence say the three cities are rife with danger for deportees. Drug cartels fight each other for territory while the Mexican army tries to curb the violence without much success. Deportees become targets for theft, extortion and kidnapping. Some are even recruited to work for the cartels.

In 2012, Nuevo Laredo had 89.1 homicides per 100,000 residents, according to the Executive Office of the National System of Public Safety, a Mexican agency that compiles crime statistics. Matamoros and Reynosa had rates of 33.5 and 30.9 homicides per 100,000 residents, respectively.

By comparison, Mexico City's rate was 16.9 homicides per 100,000 residents.

From 2011 to 2012, the three cities had a total of 49 recorded cases of kidnappings, while Mexico City had none.

Immigrants shouldn't be deported to dangerous cities, said Angelica Kelley, vice president for immigration policy at the Washington D.C.-based Center for American Progress, a liberal think tank. "The government should be taking into account security conditions when deporting people," she said.

Deporting immigrants to a city where the government can't protect them violates international law, said Grace Meng, a researcher in the U.S. Program at Human Rights Watch, a New York City-based advocacy group.

"The international standard is very clear. The state has to have the ability to protect its people. This is a crucial issue," Meng said. "There's been many reports of people not trusting the government's ability to protect them. How can we deport immigrants to those cities when law enforcement officials can't keep them safe?"

U.S. officials choose every "port of entry" in consultation with the Mexican government, said Gail Montenegro, a public affairs officer for U.S. Immigration Customs and Enforcement, an agency of the U.S. Department of Homeland Security. The agency "is committed to ensuring the safety and welfare of individuals who are being removed," Montenegro said in a written statement.

The Mexican government, however, isn't fully satisfied with the arrangement, said Mercedes del Carmen Guillen, Mexico's assistant secretary of population, migration and religious issues. "The Mexican government has insisted on the need to revise the cities where people are deported," Guillen said in a written statement. "We have to recognize that repatriated immigrants don't receive [the] attention they need once they are deported."

Peter Boogaard, deputy press secretary at homeland security, said the U.S. government arranged with Mexico to create a joint pilot program last year that sends limited numbers of deportees by air to Mexico City. It was made a "permanent initiative" on April 18. "This ongoing bilateral effort between both governments reflects our mutual commitment to strong and effective enforcement of both nations' immigration laws and prioritizes the humane treatment of detainees throughout the removal process," he said.

In the end, immigration officials only look at the bottom line when deporting immigrants, said Guadalupe Correa-Cabrera, a professor of government at the University of Texas at Brownsville.

"These people are just being dumped at the border because it is easier and cheaper for the government," said Correa-Cabrera, who is writing a book about the Zetas drug cartel and violence in the Mexican state of Tamaulipas. "The U.S. government is washing their hands off of this problem."

An earlier version of an immigration reform bill that passed the U.S. Senate in June contained an amendment mandating that the immigration agency consider the rates of violent crime in picking deportation locations. But the provision didn't make it into the final bill. "There were some concerns raised by some ... senators, and it became clear it wasn't going to pass," explained Ian Koski, communications director for U.S. Sen. Chris Coons, the Delaware Democrat who sponsored the amendment.

But a portion of Coons' amendment that survived still prohibits nighttime deportations. "These are truly dangerous situations," Koski said. "We shouldn't be punishing [deportees]. We are simply returning them."

At press time, the U.S. House of Representatives was considering its version of the immigration reform bill. U.S. Rep. Jan Schakowsky, a Democrat whose 9th District includes Chicago's north lakefront and northern suburbs, said she would support an amendment similar to Senator Coons'. Deportees "are very vulnerable, and it is hard to understand why they would be deported in the middle of the night to a dangerous place," she said.

Schakowsky said the best way to deal with the issue is by sharply decreasing the number of deportations—by confining the operation to criminals. "It is really discouraging to see such high number of deportations," she said.

* * *

The Brownsville and Matamoros Express Bridge connects the quiet, small city of Brownsville, Texas, to Matamoros. As you walk away from the bridge and into Mexico, the scenery quickly changes. Members of the Mexican military walk around holding assault rifles.

Welcome to Matamoros, a city torn apart by fighting between two cartels—the Zetas and the Matamoros-based Gulf Cartel. Correa-Cabrera explained that the Zetas used to work for the Gulf Cartel, until the relationship ruptured in 2010. In September, the capture of the Gulf Cartel's leader, Capo Jorge Eduardo Costilla Sanchez, left a power vacuum and triggered more violence. The situation has kept residents in fear and immigrants in danger of being recruited or kidnapped, Correa-Cabrera said.

Despite the violence, the city is lively during the day. During the Reporter's visit to the downtown area, dozens of people walked through the open-air market. The city's economy depends on its neighbor to the north—the United States. Many of the residents work for one of the city's 122 manufacturing plants, according to the City of Matamoros' website.

In this city, one must follow unspoken rules to stay alive, residents told the Reporter. Don't ask questions about the violence. Don't use words used to identify the cartels—including the letter "Z," which, in Spanish, is the name of one of the cartels. Don't acknowledge newer-model sports utility vehicles and pickup trucks—typically driven by cartel members—on the streets. And one of the most important: Trust no one.

Correa-Cabrera said the city has no functional law enforcement authority. It doesn't have a police department; it was dismantled by the federal government after rampant corruption was found. Hoping to curb the violence, the government sent in the military in June 2011. The soldiers can be seen around town walking or standing on top of blue trucks and holding assault rifles. Gun battles in Matamoros often erupt between the Zetas, Gulf Cartel and federal authorities, sometimes lasting several hours.

Crime data fail to show what's really going on, as crime is severely underreported in Mexico, studies show. In fact, 78 percent of victims don't report crimes to the proper authorities, according to "Victimization, Incidents and the Dark Numbers in Mexico" by the Citizens Institute for Studies on Insecurity, a Mexico City-based group that researches crime and security issues. The study was based on a March 2009 survey of 70,000 homes across Mexico, in both rural towns and urban areas.

A March 10 shootout in Reynosa is a prime example. Heavy gunfire paralyzed the city for hours. Associated Press reporter Christopher Sherman traveled there to write about it. He visited the morgue and several funeral homes. He reported that between 35 and 50 people were killed, but only two—a cab driver and an 8-year-old boy—were officially counted as victims.

The danger for immigrants has increased, as cartels target them for robbery and kidnapping, Correa-Cabrera said. The cartels hire "halcones"—or "hawks"—as informants. The hawks can be anyone: a cab driver, a government official, the guy selling tacos at the street food stand or even fellow "immigrants" trying to cross the border, she said.

Between 2010 and 2012, a team of Arizona researchers interviewed 1,113 recent deportees in cities along the U.S.-Mexico border—Tijuana, Nogales, Ciudad Juárez and Nuevo Laredo. They found that about 12 percent of the deportees were robbed, and another 7 percent were kidnapped by gangs, smugglers and cartels, according to the report, "In the Shadow of the Wall: Family Separation, Immigration Enforcement and Security," produced by the Center for Latin American Studies at the University of Arizona.

Teresa Delgadillo Reséndiz is in charge of Migrant House, a temporary shelter for deportees in Matamoros. Migrants there have been beaten for several reasons, she said. For example, when deportees' families wire them money to buy a bus ticket, the immigrants become prey for robbers.

Delgadillo's shelter can house up to 200 immigrants for about three days, until they can find a way back to their hometowns. But the shelter can't accommodate all of the people who are deported to Matamoros from the United States, she said.

"The other day, we had 230 people deported in one day," Delgadillo said, adding that she's noticed an upward trend in recent years.

Elsewhere in the state of Tamaulipas, dangers still abound. In 2010, the Mexican navy found a mass grave at a ranch in San Fernando, about 87 miles from Matamoros, the *Houston Chronicle* reported. Arturo Chávez, Mexico's attorney general, said it contained the bodies of 72 immigrants from Mexico and Central America—people killed by the Zetas, the newspaper reported. And in April, the Mexican military found another mass grave at the same ranch. It contained more than 200 bodies of immigrants, according to the *Chronicle*.

The underreporting of crimes has made it nearly impossible to know how many people have been slain in this war. But most estimates by journalists are between 60,000 and 70,000 people, Correa-Cabrera said. It is difficult to document homicides, as the cartels often hide the bodies of those cut down by the violence, she added.

It shouldn't have to be this dangerous for deportees when they are returned to Mexico, said Jeremy Slack, co-author of "In the Shadow of the Wall."

"It's a cruel way to deport people," he said. Measures could be taken to enhance the safety of deportees without spending much additional money, he added, such as sending them to safer cities along the California border. "The difference in cost of sending them to Tijuana instead of Matamoros is minimal," he said. "The security conditions at each city should be reviewed all the time. If you're seeing massacres of immigrants on one side of the border, it is a safe bet that you shouldn't send people to that place."

Correa-Cabrera said a better alternative would be to drop off deportees in Mexico City, the country's capital. "That's because organized crime hasn't really touched the city," she said. "Also, the transportation system in Mexico City is much more effective, and immigrants would have a viable way to get home."

That was the idea behind the creation of the bilateral effort that flies deportees to Mexico City. The program is equipped to handle two weekly flights, each transporting more than 100 deportees, Montenegro said. It costs the U.S. government about \$500 per deportee, placing the estimated annual cost at more than \$5 million. Still, the program has a limited impact; at its current pace, it would have covered an estimated 5 percent of immigrants deported to Mexico in fiscal year 2012.

* * *

Back at the bus station, on the Reporter's second day in Matamoros, Hernandez and Ruiz were nowhere to be found. But there was another group of 30 or so deportees from places like Florida, Pennsylvania and Illinois.

Alejandro Mota, a deportee from west-suburban Mount Prospect, was among them. He stood outside drinking coffee and eating a piece of the bread that volunteers from a local church had brought for deportees.

Mota, who wore a grey sweater and pants, said he had been sleeping in the bus station for two nights. He had no clue how long he would stay. When he finished eating, the only thing on his mind was to figure out a way to get back to his hometown of Acapulco. The problem, he said, was that he couldn't reach family members. The \$25 in his pocket was quickly disappearing.

When asked about the violence, he smiled and tried to dismiss the risks.

Back in Mount Prospect, Mota lived with his wife and son. But he was arrested after he got into a fight with his wife's "lover," he said. He was convicted on an assault charge and sentenced to three years in prison. After he completed his sentence, he was deported.

"I wanted to see my son before being deported. He's 10 years old, and I hadn't seen him" during the time he was in prison, Mota said. Now he stood outside the station, even farther away.

"I just want to find a way to communicate with my family. I don't feel comfortable here," he said. He planned on staying at the bus terminal for the time being. "We have nowhere else to go."

He hadn't left the station for two days. "It is dangerous out there," he said. "None of the deportees know this city. We don't trust this city."

The only thing she had left was the hope that Doc could get out of the city alive.

Contributing: Deysi Cuevas and Leah Varjacques.

*Support for this story was provided by the [Fund for Investigative Journalism \(http://fij.org/\)](http://fij.org/). An accompanying radio edition was produced in conjunction with *Fronteras: The Changing America Desk*, a public radio collaboration in the Southwest focusing on the border, immigration and changing demographics. The segment, produced by Mike Puente, can be [streamed online \(http://bit.ly/tcrborder\)](http://bit.ly/tcrborder).*

Exhibit C

San Antonio Express-News
Only \$1 per Week / All Digital Access
 Save Today
 ExpressNews.com | eEdition | iPad app

Immigrants are being deported into danger

By Aaron Nelsen and Jeremy Roebuck | October 5, 2013 | Updated: October 5, 2013 11:27pm

1

MATAMOROS, Mexico — At all hours day or night, and often without warning, the United States sends deportees by the busload to this violent border city.


They arrive with little more than the clothes on their backs and a handful of personal items carried in plastic bags, making them easily identifiable and even easier targets for dangerous criminal organizations.

When Jaime Jaime Macias, 45, first arrived here, he considered swimming across the Rio Bravo — as the Rio Grande is called in Mexico — back to Texas until he saw the body of a woman floating along the river's

4 new updates for you

For the next two weeks, he shared the

University Children's Health Stars



Come be a part of a revolutionary endeavor to establish San Antonio as a landmark for excellence in pediatric care.

A partnership for advanced pediatric care

Children's Health UT kids MAGNET RECOGNIZED 2015 RANKING: U.S. News & World Report #1 HOSPITAL IN SAN ANTONIO #10 IN TEXAS

floor of a bus terminal with dozens of other deportees, scraping together money for a bus ticket to Tijuana and never straying from the relative safety of Mexican marines who guard the building.

“What options do I have here?” asked Macias, wearing a soiled white T-shirt and a cross around his neck. “Kill myself for \$12 a day or go to work for the mafia? It costs \$500 just to get close to the river.”

The United States' deportation pipeline — including its largest detention centers and most active immigration courts — funnels migrants detained from all over the country through South Texas.

As a result, cities just across the Rio Grande in Tamaulipas have become a natural destination for repatriation.

Statistics kept by the Mexican secretary of the interior show increasing numbers of deportees in recent years — at a time when the region has become a battleground in a war between the Matamoros-based Gulf Cartel and its former foot soldiers, the Zetas, in Nuevo Laredo.

The criminal groups have fought violently during the past seven years for control of valuable drug and immigrant smuggling routes into the United States.

Into this morass, the United States returned more than 62,000 deportees to Matamoros last year — seven times the number repatriated to the city just four years earlier. Reynosa and Nuevo Laredo, farther west, saw about 60,000 repatriations between them in 2012.

Left in the dark

One in 5 deportees reported they were dropped off between 10 p.m. and 5 a.m., a survey conducted earlier this year by the University of Arizona shows. Many had harrowing tales of being robbed, kidnapped, threatened and in some cases approached to work for the cartels.

The threats faced by deportees and migrants along the border had been an afterthought in the larger immigration debate until the gruesome discovery in August 2010 of a grave filled with 72 bodies.

Many of the dead were thought to be migrants, though not all have been identified, near the central Tamaulipas city of San Fernando. A year later, more plots were unearthed nearby with more than 200 additional dead.

Federal authorities quickly pinned the deaths on members of the Zetas while survivors shared stories of being dragged off buses by gunmen and offered a choice: join them or die.

Since taking office in December, President Enrique Peña Nieto has pledged to reduce these types of violent acts, and yet Tamaulipas remains Mexico's top state for kidnappings per capita — just days ago, 73 migrants were freed by Mexican authorities in Reynosa — while Matamoros' murder rate has exceeded Mexico City's by fivefold.

“The situation for migrants in Mexico is grave,” said Father Francisco Gallardo, who manages Casa del Migrante, the Matamoros Catholic diocese shelter for migrants and deportees.

During the peak of the violence a couple of years ago, armed men stormed into the shelter, forcibly removing a dozen of the youngest able-bodied men. There hasn't been such a brazen attack since, but the dangers persist.

Lately, cartel henchmen have been rounding up deportees they find walking the streets and leaving them at the shelter with a message: “We don't want to see strangers around, much less strange men, if we do, they will be hurt.”

For the tens of thousands deported to Matamoros every year, the Mexican National Institute of Migration provides a quick orientation at the bridge and a free ride to the bus terminal, where they are given a discounted bus fare to the Mexican destination of their choosing.

The recent addition of a small office in a corner of the bus terminal, a partnership between the diocese and the Tamaulipas Institute for Migrantes, offers an additional layer of support, but there is no safety net to catch those unable to develop a plan beyond a few days.

“We have people with nothing to do and nowhere to go, it's a social and legal problem,” Gallardo said.

Gabriel Galindo is one of Matamoros' aimless deportees.

After more than three decades in Indiana, his former life is a cruel reminder of the family he left behind and absence of one in Mexico. He sold a pocket radio for 30 pesos — slightly more than \$3 — which he used to buy medicine for his arms and legs, covered in bug bites from sleeping out in the open.

“I was thinking of going back,” the 60-year-old Galindo said of the time he had a sudden impulse to dive into the Rio Bravo. But any hopes of reaching the other side were quickly dashed by two men who pulled a gun on him for getting too close to the river. “They told me, 'The next time we see you, you're gonna be a dead man.'”

Under most circumstances, the migrant shelter in Matamoros limits visits to no more than three days; however, the rules occasionally are bent to accommodate men like Juan Ines Alanis.

Chronically ill and entirely dependent on his sister in Brownsville for financial support, Alanis, 39, is all too familiar with his surroundings. First deported to Matamoros in 2009, Alanis was held for ransom and severely beaten.

“They smashed my fingers with a hammer,” he said, holding out deformed fingertips.

Even if he wanted to start over again in Mexico, Alanis lacks a Unique Population Registry Code or personal ID, making him ineligible for social benefits. He's another soul cut loose from its moorings.

In spite of his many problems, Alanis is lucky compared to some. Also hanging in the balance are the lives of thousands who barely speak Spanish and are ill-equipped to navigate their new environment.

“This is a phenomenon in need of a national policy that looks at how these people can be reincorporated into the country and lead productive lives,” said Mariana Rodriguez Mier y Terán, undersecretary of human rights for the General Secretariat of Government in Tamaulipas. “Without family or a command of the language, these people are in the worst of worlds because they are so vulnerable.”

Trying to make it

Waiting patiently outside the shelter and wearing ratty clothes, his worldly possessions waded in a sack at his side, Jorge Martinez, 20, had been traveling between Nuevo Laredo, Matamoros and Reynosa for weeks, trying to find his way. His parents took him from Mexico to Houston as a small boy. Now back in country he scarcely understood, Martinez was struggling to find his place.

So far, Martinez had resisted the advances of criminal networks, but he didn't know if his luck would hold up much longer.

“I'm just trying to make it and stay out of trouble,” he said.

If the draw of family isn't enough, the lack of job prospects on the border compel many to attempt a return to the U.S., ultimately reinforcing the criminal networks.

Despite returning hundreds of deportees per day into well-trodden smuggling routes, Nicole Navas, a spokeswoman for U.S. Immigration and Customs Enforcement, said the agency remains committed to “ensuring the safety and welfare of individuals who are being removed from the United States.”

Navas cited the Interior Repatriation Initiative, a program relaunched in July under a joint agreement with Mexico in hopes of bypassing this dangerous stretch of the border.

Twice weekly, ICE planes shuttle up to 135 Mexican nationals from a government airfield in El Paso to Mexico City, where social service agents are ready to greet them with bus tickets to other interior cities. Mexicans from northern border states are not eligible.

After two months, barely 2,000 people have been flown to Mexico City, compared to the nearly 65,000 deported to cities in Tamaulipas through the first seven months of this year.

“The goal is to reduce recidivism and border violence by returning Mexican nationals to their cities of origin, where there is a higher likelihood that they will reintegrate themselves back into their communities rather than fall victim to human trafficking or other crimes in Mexican border towns,” Navas said.

Members of Congress also have attempted to address some of the dangers. Early versions of the U.S. Senate immigration overhaul contained an amendment from U.S. Sen. Chris Coons, D-Del., that would have required ICE to consider violent crime rates when deciding where to deport migrants.

Though his proposal did not make it into the final bill, another Coons suggestion — limiting nighttime deportations — remains.

Still, the extent to which the United States can intervene may be limited.

In a series of emails sent among top ICE officials during 2009 negotiations over the Mexico City repatriation flights, John P. Torres, the agency's then-deputy assistant secretary for operations, wrote that the Mexican government remained skeptical of “appearing complicit in the United States government's repatriation programs.”

“Current Mexican policy considers any attempt to restrict or compel the movement of Mexican nationals within the geographic boundaries of Mexico as unconstitutional,” he said.

In more recent negotiations over the flights, Mexico's Foreign Ministry expressed concerns over U.S. plans to make such repatriation flights mandatory, a condition that they feared could violate the rights of Mexican nationals who were taken to the country's

interior against their will.

While deporting people in the middle of the night when there's no one to receive them certainly is irresponsible, anthropologist Teresa Elizabeth Cueva-Luna says, Mexico's answer to violence against migrant deportees has been notable only by its absence.

“The Mexican government response has been to minimize or deny the situation,” said Cueva-Luna, a researcher at the College of the Northern Border in Matamoros.

Cueva-Luna has studied the shattered lives of recent deportees, the majority of whom express a strong desire to return to the U.S. — a treacherous journey that in Tamaulipas typically begins in Reynosa.

Though a comparatively small number of people are deported to Reynosa, smuggling routes have increasingly shifted to this crowded metropolis south of McAllen, funneling to the city desperate people looking for a way across the border.

One evening in late September, as the sun was setting beyond the river in Matamoros, a fresh group of 30 deported men changed out of white T-shirts and gray sweatpants into street clothes.

A group of nearly a dozen piled onto the bed of a government truck en route to the bus terminal. Someone in the truck shouted at a man hurriedly lacing up his shoes if he wanted a ride.

“Yes,” he called back. “I’m going home.”

anelsen@express-new.net



Aaron Nelsen
Rio Grande Valley
Bureau | San Antonio

Express-News



Jeremy Roebuck
Senior Reporter

Exhibit D

Migrants in Mexico at Risk of Mass Kidnapping, Torture, Abuse



BY SARNATA REYNOLDS

July 15, 2011 at 12:17 PM



"To put this in perspective, more people are dying in Mexico than Afghanistan." –General Barry McCaffrey



Pictures of migrants whose relatives have no news of since they left for the US @ Ronaldo Schmidt/AFP/Getty Images

Despite a violent "war on drugs" that started five years ago, Mexicans are experiencing an increase in organized crime and drug-related violence along the Mexican border. Other criminals are not the only, perhaps even primary, target of violence.

As it has become more difficult to conduct drug trafficking due to efforts from the Mexican government, organized crime is targeting migrants from Southern Mexico and Central Americans who are attempting to reach the United States.

Already poor, **migrants are kidnapped, some are tortured and many are held hostage** until their families in the United States provides tens of thousands of dollars, raised in communities and second mortgages on their homes. If a migrant does not have family in the U.S. who can pay for her/his release, the migrant may well be tortured and killed as an example to other kidnapped migrants and their families on the phone.

After two years of extensive research, Amnesty International found that **six in ten female migrants traveling through Mexico are likely to be raped** on the journey. Kidnapping is not targeted only at those moving north, however, Mexican immigrants being deported at the southern border are also expressing fear of a serious threat to their human rights.

On July 8, 2011, at least forty-one people were killed in a twenty-four hour period in three concurrent attacks. In Monterrey, in northeast Mexico, twenty people were massacred in a popular nightclub. Hours later, eleven people were found shot to death outside of Mexico City. The next morning, ten decapitated bodies were found in the truck of a car in Torreon, a city in the center of the country.

In the last five years, **40,000 people have been killed** in the "war on drugs" in Mexico. The violence, however, is deeply concentrated in a few different cities. As of 2010, 20 percent of murders occurred in Ciudad Juarez, while another 16 percent occurred in Culiacan, Tijuana and Chihuahua, all areas near the southern border of the U.S. While spillover violence into the U.S. does not seem to be occurring, in these areas, the government does not seem able to protect the human rights of all residents to life and liberty.

Even though Chihuahua was the deadliest city in Mexico in 2009, Immigration and Customs Enforcement (ICE) continues to deport Mexican nationals to this city. The State Department has also issued a travel advisory against non-essential travel to Chihuahua, and to Coahuila and Tamaulipas, two other Mexican states where ICE continues deportations at a high rate.

These deportation policies demonstrate callous disregard for the lives of migrants who are easy targets for organized crime and may be forcibly conscripted into drug trafficking or held for ransom. In 2010, seventy-two migrants' bodies were found shot to death along the Mexican side of the Texas border.

Customary international law does not permit refoulement (returning someone to a place where her life or freedom are at serious risk), and the United States has an obligation to ensure that it is not repatriating immigrants to places where violence is likely.

By warning U.S. citizens not to travel to Chihuahua, Coahuila, Tamaulipas, and other northern states in Mexico, the U.S. is acknowledging the serious risks of harm in these areas.

In contravention of its responsibilities, however, ICE does not take adequate steps to ensure the well-being of immigrants after their repatriation to Mexico.

In a response to an inquiry by the organization No More Deaths, an ICE spokesperson responded,

"While ICE recognizes the current situation relating to violence in Mexico, the agency is not in the practice of allowing detainees to request repatriation to specific locations in Mexico. ICE makes every effort to work closely with the Government of Mexico to ensure the safe and orderly repatriation of all detainees."

The hollowness of this promise is evident in the deaths that occurred during the period that **twenty-one Mexican men begged to be deported anywhere but the states of Chihuahua, Tamaulipas and Coahuila.**

This week's shocking violence reminds all of us of the incredible risks and sacrifices that migrants take on a daily basis to raise their families out of poverty. While the rebuttal may be that they should just wait their turn for a visa, most poor people around the world have no access to the U.S. visa program, and the demand for jobs in the agricultural, domestic, and industry far outstrips the meager amount of visas available.

For most there is no choice but to make the harrowing journey without the explicit permission of the U.S. government, but at the same time its implicit consent to migrants taking up jobs that have an unfulfilled labor demand. U.S. immigration law fails entirely to address the need for workers in certain fields and as a result migrants are forced to make dangerous journeys and enter the U.S. easily exploited by some malevolent employers to work in dangerous and dirty conditions.

If found deportable, the least the U.S. government could do is ensure that they are not returned to kidnapping and torture by organized crime who sit waiting for deportees at the Mexican border.

Download our action: *Migrants at risk of mass kidnapping*

This entry was posted in **Americas, Refugee and Migrant Rights, Torture, USA** and tagged **communities at risk, immigration enforcement, immigration reform, individuals at risk, legislative and policy reform, mexico, migrant workers, Violence against Women** by **Sarnata Reynolds**. Bookmark the **permalink** [<http://blog.amnestyusa.org/americas/migrants-in-mexico-at-risk-of-mass-kidnapping-torture-abuse/>].

Related Posts

5th Anniversary of Police Assaults on Women in Mexico
[<http://blog.amnestyusa.org/americas/5th-anniversary-of-police-assaults-on-women-in-mexico/>]

Migrants in Mexico Still in Great Danger
[<http://blog.amnestyusa.org/americas/migrants-in-mexico-still-in-great-danger/>]

Migrants in Mexico: Invisible Victims of Abuse
[<http://blog.amnestyusa.org/americas/migrants-in-mexico-invisible-victims-of-abuse/>]



About Sarnata Reynolds

S

[VIEW ALL POSTS](#) [RSS FEED](#)

AIUSA welcomes a lively and courteous discussion that follow our Community Guidelines. Comments are not pre-screened before they post but AIUSA reserves the right to remove any comments violating our guidelines.

Comments (10)

Sort by: **Date** Rating Last Activity



Elena Cal · 249 weeks ago

0

"Customary international law does not permit refoulement (returning someone to a place where her life or freedom are at serious risk), and the United States has an obligation to ensure that it is not repatriating immigrants to places where violence is likely."

Reply



Elena Cal · 249 weeks ago

0

"Customary international law does not permit refoulement (returning someone to a place where her life or freedom are at serious risk), and the United States has an obligation to ensure that it is not repatriating immigrants to places where violence is likely."

Reply



Elena Cal · 249 weeks ago

0

"Customary international law does not permit refoulement (returning someone to a place where her life or freedom are at serious risk), and the United States has an obligation to ensure that it is not repatriating immigrants to places where violence is likely."

Reply



RoseAnne Craig · 249 weeks ago

0

Please stop this abuse of poor Mexican migrants. We need to remember that our ancestors came from other countries, many of them escaping religious or political persecution, and treat these humans with compassion.

Reply



RoseAnne Craig · 249 weeks ago

0

Please stop this abuse of poor Mexican migrants. We need to remember that our ancestors came from other countries, many of them escaping religious or political persecution, and treat these humans with compassion.

Reply



RoseAnne Craig · 249 weeks ago

0

Please stop this abuse of poor Mexican migrants. We need to remember that our ancestors came from other countries, many of them escaping religious or political persecution, and treat these humans with compassion.

Reply



John Randolph · 249 weeks ago

0

When are the people of Mexico and the US going to get mad enough to put an end to this nightmare?

The entire US / Mexican immigration and drug enforcement programs are designed to fail. The elite on both side of the border profit from his failure. Meanwhile, the US middle class pays through taxes many innocent Mexicans pay with their lives.

Read this article. Professor James Petras explains the greed underlying this scam:
<http://petras.lahaine.org/?p=1855>

40,000 dead in Mexico since 2006. How many more have to die before something is done about this?

We could peacefully align with the 12 million or so undocumented in this country and shut both bring both these "governments" to their knees.

We are just as guilty as they are by remaining silent and/or doing nothing.
<http://twopesos-protestfortheundocumented.blogspot...>

Reply



John Randolph · 249 weeks ago

0

When are the people of Mexico and the US going to get mad enough to put an end to this nightmare?

The entire US / Mexican immigration and drug enforcement programs are designed to fail. The elite on both side of the border profit from his failure. Meanwhile, the US middle class pays through taxes many innocent Mexicans pay with their lives.

Read this article. Professor James Petras explains the greed underlying this scam:
<http://petras.lahaine.org/?p=1855>

40,000 dead in Mexico since 2006. How many more have to die before something is done about this?

We could peacefully align with the 12 million or so undocumented in this country and shut both bring both these "governments" to their knees.

We are just as guilty as they are by remaining silent and/or doing nothing.
<http://twopesos-protestfortheundocumented.blogspot...>

Reply



John Randolph · 249 weeks ago

0

When are the people of Mexico and the US going to get mad enough to put an end to this nightmare?

The entire US / Mexican immigration and drug enforcement programs are designed to fail. The elite on both side of the border profit from his failure. Meanwhile, the US middle class pays through taxes many innocent Mexicans pay with their lives.

Read this article. Professor James Petras explains the greed underlying this scam:
<http://petras.lahaine.org/?p=1855>

40,000 dead in Mexico since 2006. How many more have to die before something is done about this?

We could peacefully align with the 12 million or so undocumented in this country and shut both bring both these "governments" to their knees.

We are just as gully as they are by remaining silent and/or doing nothing.
<http://twopesos-protestfortheundocumented.blogspot...>

Reply



laurentiu · 105 weeks ago

0

It's incredible what poverty will do to people. It rips out the soul out of them and makes them act like animals.

Reply

Post a new comment

Enter text right here!

Comment as a Guest, or login:

facebook

Name

Email

Website (optional)

Displayed next to your comments:

Not displayed publicly.

If you have a website, link to it here.

Subscribe to

None ▾

Submit Comment

Exhibit E

(/)



Today's To-Do:
TO BE AWESOME!
Click, Pick and Make it Stick

Nature Made

Available at your local **SUPERCENTER**

U.S. (/TOPICS/TOPIC/CATEGORIES/US.HTML)

KATE KILPATRICK / AL JAZEERA AMERICA

Into the arms of the cartels: Deported Mexicans sent to city ruled by fear

Border crossers increasingly returned to dangerous cities where they're easy prey for ruthless criminal organizations


October 16, 2014 5:00AM ET

by **Kate Kilpatrick (/profiles/k/kate-kilpatrick.html)**

NUEVO LAREDO, Mexico — As the sun goes down, an unmarked white bus with tinted windows backs up to an iron gate on a small back street that stops short at the Juárez-Lincoln International Bridge

(<https://www.google.com/maps/@27.5021663,-99.50367,3a,15y,88.06h,85.44t/data=!3m4!1e1!3m> which connects Laredo, Texas, to Nuevo Laredo, Mexico. The gate is opened just enough to allow the men who step off the bus to slip through one by one as they're escorted across the line on the bridge that marks the boundary between the U.S. and Mexico.

This little road offers a snapshot of the hazy world of U.S. immigration policy along the Southwestern border, where zero-tolerance deterrence programs like Operation Streamline (<http://america.aljazeera.com/articles/2014/10/15/laredo-texas-immigrationoperationstreamline.html>), which prosecutes border crossers with punitive criminal rather than civil charges, and the Alien Transfer Exit Program (ATEP), in which immigrants are repatriated to border cities up to 100 miles or more from where they crossed, create disparate and seemingly arbitrary penalties for immigrants who enter the country illegally. Both programs fall under the Consequence Delivery System (<http://www.dhs.gov/news/2011/10/04/written-testimony-cbp-house-homeland-security-subcommittee-border-and-maritime>) of U.S. Customs and Border Protection (CBP).

Share Tweet  The explicit goal of ATEP is to disrupt immigrants' connections to specific smuggling networks by transferring them to a different border sector and presumably unfamiliar terrain. But according to a 2013 Border Security report (<http://fas.org/sgp/crs/homsec/R42138.pdf>) from the Congressional Research Service, "lateral repatriation appears to do little to discourage people from re-entering the United States."

Instead of deterring future migration, advocates say, ATEP increasingly places desperate and penniless deportees into the hands of ruthless criminal organizations eager to prey on them. Unlucky ones might get dropped off here on the Juárez-Lincoln Bridge in the middle of the night.

Nuevo Laredo is the third-largest city in the Mexican state of Tamaulipas, after Reynosa and Matamoros, which are also popular drop-off cities for deported immigrants. While Laredo is a relatively safe (<http://www.city-data.com/crime/crime-Laredo-Texas.html>) border city, the homicide rate in its sister city Nuevo Laredo is 10 times higher.

The U.S. Department of State warns U.S. citizens



The crossing between Laredo, Texas, and Nuevo Laredo, Mexico. Kate Kilpatrick / Al Jazeera America

(<http://travel.state.gov/content/passports/english/alertswarnings/mexico-travel-warning.html>) to defer nonessential travel to the entire state of Tamaulipas. “The number of reported kidnappings for Tamaulipas is among the highest in Mexico,” the August update stated, “and the number of U.S. citizens reported to the consulates in Matamoros and Nuevo Laredo as being kidnapped, abducted or disappearing involuntarily in the first half of 2014 has also increased.”

According to Mexico’s National Institute of Statistics (<http://www.inegi.org.mx/>), the number of homicides in Tamaulipas jumped from 266 in 2008 to 1,561 in 2012. And while fewer than 5 percent of repatriations were to Tamaulipas in 2006 (http://www.wola.org/files/Beyond_the_Border_Buildup_FINAL.pdf), the state has received more than 31 percent (http://www.politicamigratoria.gob.mx/es_mx/SEGOB/V_Repatriacion_de_mexicanos_de_EUA) of them so far this year.

In August 2010, 72 migrants were massacred (<http://www.borderlandbeat.com/2010/08/zetas-massacre-72-illegal-immigrants-in.html>) by the Zetas criminal organization in San Fernando in Tamaulipas. The following year authorities discovered 47 mass graves (<http://www.eluniversal.com.mx/estados/83584.html>) in the same town, with remains of nearly 200 migrants, travelers and bus passengers who had been kidnapped. In 2011 Mexican armed forces rescued 120 migrants (<http://www.eluniversal.com.mx/notas/764459.html>) who had been kidnapped in Tamaulipas while trying to reach the U.S.

Case 2:15-cr-00245-GW Document 62-1 Filed 04/26/16 Page 34 of 37 Page ID #:431
Maureen Meyer, director of the Washington Office on Latin America (WOLA), said the U.S. and Mexican governments have recently taken steps to minimize the risks that migrants face at the border, such as limiting deportations to mostly daylight hours.

“Tamaulipas ... probably has the most severe security risks for migrants — migrants deported, kidnapped, recruited [into cartels], robbed,” she said. “Even taking the bus home means a bus ride through states where people have been taken off buses.”

According to the State Department travel warning, “No highway routes through Tamaulipas are considered safe.” The local police force was disbanded in July 2011 (<https://www.osac.gov/pages/contentreportdetails.aspx?cid=12763>) because of widespread corruption issues.

Despite the tenuous security situation, Tamaulipas has received more deportees than any other state in Mexico so far this year, and Nuevo Laredo has received more than any other city. As of August, more than 27,000 immigrants have been repatriated to Nuevo Laredo this year.

“It’s a totally different experience to get dropped off in Tamaulipas or Coahuila than to be dropped off in Sonora or Baja California,” said Jeremy Slack, referring to the pronounced lack of security in those northeastern Mexican states. Slack, the principal investigator on the Migrant Border Crossing Study, a project funded by the Ford Foundation, spent three months living at a migrant shelter in Nuevo Laredo while conducting research in late 2013.

“When [I’m] doing research on migration issues, people disappear frequently. People go away,” he said. “But I’ve never seen so many suspicious circumstances, and I’ve never seen so many people that were clearly afraid for their lives.”

He said freshly deported migrants are regularly recruited by cartels to watch the Rio Grande to make sure no one crosses without paying the fee. They are promised 8,000 pesos a week (\$590), to be paid at the end of the first month.

“People would start doing it, and then they would just disappear,” said Slack.

“When [I’m] doing research on migration issues, people disappear frequently. People go away. But I’ve never seen

so many suspicious circumstances, and I've never seen so many people that were clearly afraid for their lives.'”

— Jeremy Slack

researcher, Migrant Border Crossing Study project

Standing against a wall outside the Tamaulipas Institute for Migrants



The Tamaulipas Institute for Migrants in Nuevo Laredo assists people who have been returned to Mexico. Despite profound security issues, Nuevo Laredo has received more deportees than any other city in Mexico this year. Kate Kilpatrick / Al Jazeera America

(<http://tamaulipas.gob.mx/perfiles/migrantes/itm/>) in Nuevo Laredo, within sight of the U.S.-Mexico border, was a man who gave his name as Carlos Aguilar López. However, aliases are common around here as a layer of protection from rampant kidnappings and extortion, and no immigration or criminal records for Aguilar were later located. The institute, opened in 2011, receives deportees and helps them connect with their families, find temporary shelter and receive money wires for bus fares home.

Lopez said he's 39, lives in New Brunswick, New Jersey, has lived in the U.S. since he was 13 and was deported to Nuevo Laredo five days earlier after serving a seven-month sentence in San Antonio for illegal re-entry. He said he was picked up during an ICE raid at the construction site where he worked. He said that his only criminal record is for immigration offenses and that his wife, Aida, and four children are U.S. citizens.

“They depend on me. I was getting \$36 an hour working as a junior carpenter,” he said. “We never get help from food stamps. I work hard to support my family.”

Lopez said he's still in Laredo because he's waiting for a good "connection" — a trafficker — to take him back into the U.S. But with multiple immigration offenses, he faces big risks. If he gets caught, he believes he's looking at 15 to 24 months in jail.

"Believe me, I'm scared. I don't want to go back to jail," he said. "It's hard for us because we're put with people who got 15 to 20 years. It's really hard to deal with those guys."

The United States' Southwest border strategy has been criticized for funneling migrants through the most dangerous desert terrains, where increasing number die (<http://america.aljazeera.com/features/2014/9/5-days-on-borderbrookscounty.html>) from dehydration and exposure on sprawling ranches in Texas and Arizona. ATEP, in recent years, has had the effect of funneling them into some of the most dangerous cities on the Mexico side upon their return.



A deported man who gave his name as Carlos Aguilar López outside the Tamaulipas Institute for Migrants. He hopes to reunite with his wife and children in New Jersey. Kate Kilpatrick / Al Jazeera America

A migrant picked up in South Texas may be sent to relatively safe Mexicali, while another picked up in Arizona or California or released from detention in Chicago or North Carolina might be sent to a city in Tamaulipas.

"The problem is, it really comes down to a lot of stuff said to be up to the individual agent's discretion, which is kind of code for 'There is no plan,' which opens things up to a lot of

abuse," said Slack. "If an agent can subjectively decide who gets a criminal charge and who doesn't, that's not OK. That's not how our justice system works. If an agent can individually decide, 'I don't like you, I'm sending you to Tamaulipas,' that's not OK."

There were about 30,000 more deportations than apprehensions along Mexico's northeastern border, according to "Border Security and Migration," a 2012 report from WOLA. In fiscal year 2012, 32,772 Mexicans were apprehended in Laredo, and 41,575 were deported to Nuevo Laredo.

"We've tried to get answers about this — why they're sending people there and not somewhere else," he said. "There might be practical reasons in terms of where things are located and how contracts are set up, but they're not apparent, and there's no one from DHS or ICE or CBP who has been able to give an answer, at least in my experience with them."

Neither the DHS nor the public affairs office for the CBP in Laredo responded to Al Jazeera's requests for clarification.

Slack's research suggests deportees with significant prison records are more likely to be sent to Tamaulipas. Perhaps of greater concern, though, is when migrants from states like Sinaloa or Michoacán, where rival cartels yield significant power, are sent to Tamaulipas. They're at particular risk of getting kidnapped, interrogated or disappeared out of suspicion they work for rival cartels and are trying to invade Zetas or Gulf territory.

"That's one of the big problems with ATEP," Slack said. "You take [migrants] from one area and bring [them] to another area where [they] might be considered an enemy combatant."

But even for men like Lopez, who said he's from Oaxaca, Nuevo Laredo can be a miserable place to lie low and try to make financial arrangements to return. He said he took a construction job two days earlier, but a full day's work paid only 120 pesos (about \$9).

"With that money, I'm not gonna do nothing supporting my family if I bring them here," he said. "Worse [are] all the criminals here."

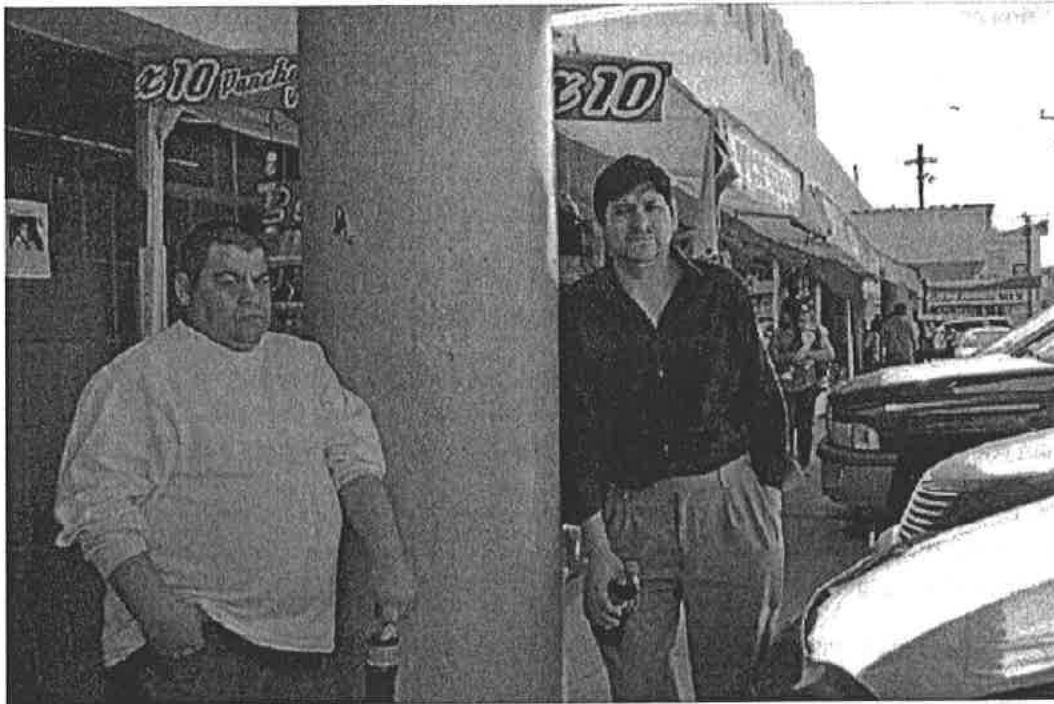
So for now, he's stuck alone in Tamaulipas, weighing the desire to support his family with the fear of getting caught for something he — like most Mexican immigrants who enter the U.S. illegally — doesn't see as wrong.

"I'm really disappointed because I feel more American than Mexican," Lopez said. "I don't know why they don't just give me a chance."

Exhibit F

Fear and loathing at the border

By María Inés Zamudio | September 1, 2013



Reynaldo Hernandez (left) and Eduardo Ruiz stand outside a bus station after spending the night there. The men were deported from Illinois to Matamoros, Tamaulipas, Mexico. Photo by María Inés Zamudio.

Reynaldo Hernandez lay on the cold floor of a bus station with his eyes open. The deportee from Illinois was in Matamoros, Mexico, more than 500 miles away from his home in the state of Guanajuato. He had no money to continue his journey. And after a nearly two-day bus trip from a detention center in Wisconsin to the U.S.-Mexican border, he was exhausted, but didn't dare sleep.

Hernandez carried that burden until the next morning. The heavy-set immigrant stood outside the bus station, trying to figure out a way to get home before he got into trouble with one of the drug cartels operating in Matamoros.

"I don't feel safe here," said Hernandez, who was deported after living for seven years in downstate Bloomington. "I couldn't sleep all night thinking about [members of the cartels]. I'm afraid of what can happen at night. They can kidnap me because they think I'm coming from up north and I have money with me."

He wore a gray sweater and blue jeans. His hair was greasy, his face a bit dirty. He hadn't showered in days. For protection, he stayed close to other deportees, like Eduardo Ruiz of Indiana. "It's been 15 years since I've been back" to Mexico, said Ruiz, who was deported after he was arrested for driving under the influence. "No one in Mexico feels safe. There's so much crime here."

Together, Hernandez and Ruiz looked for ways to earn enough money to buy a \$65 bus ticket. But a day's work yields only a few dollars in this city. Without money or a viable way to get home, they were stuck.

In mid-March, *The Chicago Reporter* traveled to Matamoros and spent four days in the area to interview deportees like Hernandez and Ruiz at a bus station and an immigrant shelter. According to the Consulate General of Mexico in Chicago, Matamoros is among three border cities where U.S. Immigration and Customs Enforcement drops off deportees from its Chicago "area of responsibility," a region that includes six Midwest states.

In 2012, more than 62,000 deportations were made to Matamoros, a sevenfold increase from 2006, according to the Center of Migration Studies, a research department within the Mexican Secretary of the Interior that tracks migration in and out of Mexico. An additional 59,700 deportations were made to the other two cities, Nuevo Laredo and Reynosa, in 2012.

Immigrant advocates and researchers of the region's violence say the three cities are rife with danger for deportees. Drug cartels fight each other for territory while the Mexican army tries to curb the violence without much success. Deportees become targets for theft, extortion and kidnapping. Some are even recruited to work for the cartels.

In 2012, Nuevo Laredo had 89.1 homicides per 100,000 residents, according to the Executive Office of the National System of Public Safety, a Mexican agency that compiles crime statistics. Matamoros and Reynosa had rates of 33.5 and 30.9 homicides per 100,000 residents, respectively.

By comparison, Mexico City's rate was 16.9 homicides per 100,000 residents.

From 2011 to 2012, the three cities had a total of 49 recorded cases of kidnappings, while Mexico City had none.

Immigrants shouldn't be deported to dangerous cities, said Angelica Kelley, vice president for immigration policy at the Washington D.C.-based Center for American Progress, a liberal think tank. "The government should be taking into account security conditions when deporting people," she said.

Deporting immigrants to a city where the government can't protect them violates international law, said Grace Meng, a researcher in the U.S. Program at Human Rights Watch, a New York City-based advocacy group.

"The international standard is very clear. The state has to have the ability to protect its people. This is a crucial issue," Meng said. "There's been many reports of people not trusting the government's ability to protect them. How can we deport immigrants to those cities when law enforcement officials can't keep them safe?"

U.S. officials choose every "port of entry" in consultation with the Mexican government, said Gail Montenegro, a public affairs officer for U.S. Immigration Customs and Enforcement, an agency of the U.S. Department of Homeland Security. The agency "is committed to ensuring the safety and welfare of individuals who are being removed," Montenegro said in a written statement.

The Mexican government, however, isn't fully satisfied with the arrangement, said Mercedes del Carmen Guillen, Mexico's assistant secretary of population, migration and religious issues. "The Mexican government has insisted on the need to revise the cities where people are deported," Guillen said in a written statement. "We have to recognize that repatriated immigrants don't receive [the] attention they need once they are deported."

Peter Boogaard, deputy press secretary at homeland security, said the U.S. government arranged with Mexico to create a joint pilot program last year that sends limited numbers of deportees by air to Mexico City. It was made a "permanent initiative" on April 18. "This ongoing bilateral effort between both governments reflects our mutual commitment to strong and effective enforcement of both nations' immigration laws and prioritizes the humane treatment of detainees throughout the removal process," he said.

In the end, immigration officials only look at the bottom line when deporting immigrants, said Guadalupe Correa-Cabrera, a professor of government at the University of Texas at Brownsville.

"These people are just being dumped at the border because it is easier and cheaper for the government," said Correa-Cabrera, who is writing a book about the Zetas drug cartel and violence in the Mexican state of Tamaulipas. "The U.S. government is washing their hands off of this problem."

An earlier version of an immigration reform bill that passed the U.S. Senate in June contained an amendment mandating that the immigration agency consider the rates of violent crime in picking deportation locations. But the provision didn't make it into the final bill. "There were some concerns raised by some ... senators, and it became clear it wasn't going to pass," explained Ian Koski, communications director for U.S. Sen. Chris Coons, the Delaware Democrat who sponsored the amendment.

But a portion of Coons' amendment that survived still prohibits nighttime deportations. "These are truly dangerous situations," Koski said. "We shouldn't be punishing [deportees]. We are simply returning them."

At press time, the U.S. House of Representatives was considering its version of the immigration reform bill. U.S. Rep. Jan Schakowsky, a Democrat whose 9th District includes Chicago's north lakefront and northern suburbs, said she would support an amendment similar to Senator Coons'. Deportees "are very vulnerable, and it is hard to understand why they would be deported in the middle of the night to a dangerous place," she said.

Schakowsky said the best way to deal with the issue is by sharply decreasing the number of deportations—by confining the operation to criminals. "It is really discouraging to see such high number of deportations," she said.

* * *

The Brownsville and Matamoros Express Bridge connects the quiet, small city of Brownsville, Texas, to Matamoros. As you walk away from the bridge and into Mexico, the scenery quickly changes. Members of the Mexican military walk around holding assault rifles.

Welcome to Matamoros, a city torn apart by fighting between two cartels—the Zetas and the Matamoros-based Gulf Cartel. Correa-Cabrera explained that the Zetas used to work for the Gulf Cartel, until the relationship ruptured in 2010. In September, the capture of the Gulf Cartel's leader, Capo Jorge Eduardo Costilla Sanchez, left a power vacuum and triggered more violence. The situation has kept residents in fear and immigrants in danger of being recruited or kidnapped, Correa-Cabrera said.

Despite the violence, the city is lively during the day. During the Reporter's visit to the downtown area, dozens of people walked through the open-air market. The city's economy depends on its neighbor to the north—the United States. Many of the residents work for one of the city's 122 manufacturing plants, according to the City of Matamoros' website.

In this city, one must follow unspoken rules to stay alive, residents told the Reporter. Don't ask questions about the violence. Don't use words used to identify the cartels—including the letter "Z," which, in Spanish, is the name of one of the cartels. Don't acknowledge newer-model sports utility vehicles and pickup trucks—typically driven by cartel members—on the streets. And one of the most important: Trust no one.

Correa-Cabrera said the city has no functional law enforcement authority. It doesn't have a police department; it was dismantled by the federal government after rampant corruption was found. Hoping to curb the violence, the government sent in the military in June 2011. The soldiers can be seen around town walking or standing on top of blue trucks and holding assault rifles. Gun battles in Matamoros often erupt between the Zetas, Gulf Cartel and federal authorities, sometimes lasting several hours.

Crime data fail to show what's really going on, as crime is severely underreported in Mexico, studies show. In fact, 78 percent of victims don't report crimes to the proper authorities, according to "Victimization, Incidents and the Dark Numbers in Mexico" by the Citizens Institute for Studies on Insecurity, a Mexico City-based group that researches crime and security issues. The study was based on a March 2009 survey of 70,000 homes across Mexico, in both rural towns and urban areas.

A March 10 shootout in Reynosa is a prime example. Heavy gunfire paralyzed the city for hours. Associated Press reporter Christopher Sherman traveled there to write about it. He visited the morgue and several funeral homes. He reported that between 35 and 50 people were killed, but only two—a cab driver and an 8-year-old boy—were officially counted as victims.

The danger for immigrants has increased, as cartels target them for robbery and kidnapping, Correa-Cabrera said. The cartels hire "halcones"—or "hawks"—as informants. The hawks can be anyone: a cab driver, a government official, the guy selling tacos at the street food stand or even fellow "immigrants" trying to cross the border, she said.

Between 2010 and 2012, a team of Arizona researchers interviewed 1,113 recent deportees in cities along the U.S.-Mexico border—Tijuana, Nogales, Ciudad Juárez and Nuevo Laredo. They found that about 12 percent of the deportees were robbed, and another 7 percent were kidnapped by gangs, smugglers and cartels, according to the report, "In the Shadow of the Wall: Family Separation, Immigration Enforcement and Security," produced by the Center for Latin American Studies at the University of Arizona.

Teresa Delgadillo Reséndiz is in charge of Migrant House, a temporary shelter for deportees in Matamoros. Migrants there have been beaten for several reasons, she said. For example, when deportees' families wire them money to buy a bus ticket, the immigrants become prey for robbers.

Delgadillo's shelter can house up to 200 immigrants for about three days, until they can find a way back to their hometowns. But the shelter can't accommodate all of the people who are deported to Matamoros from the United States, she said.

"The other day, we had 230 people deported in one day," Delgadillo said, adding that she's noticed an upward trend in recent years.

Elsewhere in the state of Tamaulipas, dangers still abound. In 2010, the Mexican navy found a mass grave at a ranch in San Fernando, about 87 miles from Matamoros, the *Houston Chronicle* reported. Arturo Chávez, Mexico's attorney general, said it contained the bodies of 72 immigrants from Mexico and Central America—people killed by the Zetas, the newspaper reported. And in April, the Mexican military found another mass grave at the same ranch. It contained more than 200 bodies of immigrants, according to the *Chronicle*.

The underreporting of crimes has made it nearly impossible to know how many people have been slain in this war. But most estimates by journalists are between 60,000 and 70,000 people, Correa-Cabrera said. It is difficult to document homicides, as the cartels often hide the bodies of those cut down by the violence, she added.

It shouldn't have to be this dangerous for deportees when they are returned to Mexico, said Jeremy Slack, co-author of "In the Shadow of the Wall."

"It's a cruel way to deport people," he said. Measures could be taken to enhance the safety of deportees without spending much additional money, he added, such as sending them to safer cities along the California border. "The difference in cost of sending them to Tijuana instead of Matamoros is minimal," he said. "The security conditions at each city should be reviewed all the time. If you're seeing massacres of immigrants on one side of the border, it is a safe bet that you shouldn't send people to that place."

Correa-Cabrera said a better alternative would be to drop off deportees in Mexico City, the country's capital. "That's because organized crime hasn't really touched the city," she said. "Also, the transportation system in Mexico City is much more effective, and immigrants would have a viable way to get home."

That was the idea behind the creation of the bilateral effort that flies deportees to Mexico City. The program is equipped to handle two weekly flights, each transporting more than 100 deportees, Montenegro said. It costs the U.S. government about \$500 per deportee, placing the estimated annual cost at more than \$5 million. Still, the program has a limited impact; at its current pace, it would have covered an estimated 5 percent of immigrants deported to Mexico in fiscal year 2012.

* * *

Back at the bus station, on the Reporter's second day in Matamoros, Hernandez and Ruiz were nowhere to be found. But there was another group of 30 or so deportees from places like Florida, Pennsylvania and Illinois.

Alejandro Mota, a deportee from west-suburban Mount Prospect, was among them. He stood outside drinking coffee and eating a piece of the bread that volunteers from a local church had brought for deportees.

Mota, who wore a grey sweater and pants, said he had been sleeping in the bus station for two nights. He had no clue how long he would stay. When he finished eating, the only thing on his mind was to figure out a way to get back to his hometown of Acapulco. The problem, he said, was that he couldn't reach family members. The \$25 in his pocket was quickly disappearing.

When asked about the violence, he smiled and tried to dismiss the risks.

Back in Mount Prospect, Mota lived with his wife and son. But he was arrested after he got into a fight with his wife's "lover," he said. He was convicted on an assault charge and sentenced to three years in prison. After he completed his sentence, he was deported.

"I wanted to see my son before being deported. He's 10 years old, and I hadn't seen him" during the time he was in prison, Mota said. Now he stood outside the station, even farther away.

"I just want to find a way to communicate with my family. I don't feel comfortable here," he said. He planned on staying at the bus terminal for the time being. "We have nowhere else to go."

He hadn't left the station for two days. "It is dangerous out there," he said. "None of the deportees know this city. We don't trust this city."

The only thing I had left was the local newspaper that I'd make it out of the city at five.

Contributing: Deysi Cuevas and Leah Varjacques.

*Support for this story was provided by the Fund for Investigative Journalism (<http://fij.org/>). An accompanying radio edition was produced in conjunction with *Fronteras: The Changing America Desk*, a public radio collaboration in the Southwest focusing on the border, immigration and changing demographics. The segment, produced by Mike Puente, can be streamed online (<http://bit.ly/tcrborder>).*

Exhibit G



WASHINGTON OFFICE ON LATIN AMERICA

Celebrating 30 years of promoting democracy, human rights and social justice in Latin America.

Border Security and Migration: A Report from South Texas

By Adam Isacson and Maureen Meyer, Senior Associates

Since 2011, WOLA staff have carried out research in six different zones of the U.S.-Mexican border, meeting with U.S. law enforcement officials, human rights and humanitarian groups, and journalists, as well as with Mexican officials and representatives of civil society and migrant shelters in Mexico. As part of this ongoing work, the authors spent the week of November 26-30, 2012 in south Texas, looking at security and migration trends along this section of the U.S.-Mexico border. Specifically, we visited Laredo, McAllen, and Brownsville, Texas, and Matamoros, Mexico.



We found that unlike other sections of the border, the south Texas sections have seen an increase, not a decrease, in apprehensions, particularly of non-Mexican migrants; migrant deaths have dramatically increased; and there are fewer accusations of Border Patrol abuse of migrants. We also found that the Zetas criminal organization's control over the area may be slipping and drug trafficking appears to have increased, yet these U.S. border towns are safer than they have been in decades. Lastly, in spite of the ongoing violence on the Mexican side of the border and the failure of the Mexican government to reform local and state police forces, U.S. authorities are increasingly repatriating Mexicans through this region, often making migrants easy prey for the criminal groups that operate in these border cities.

Bucking the migration trend: One of the biggest changes along the entire U.S.-Mexico border since the mid-2000s has been a sharp reduction in the number of migrants being apprehended by U.S. law enforcement (and thus, probably, a similarly sharp drop in migrants who are crossing the border). The area we visited, however—especially the southernmost region (the Border

Patrol's Rio Grande Valley Sector)—bucked this trend in 2012: it saw a sharp increase in the flow of migrants this year. While official 2012 numbers aren't out yet, the Rio Grande Valley Sector experienced a 60 to 70 percent increase in apprehensions of migrants over 2011, to somewhere around 100,000.

“Other than Mexicans”: Virtually all of this growth in migration, officials say, consists of “OTMs,” local authorities’ shorthand for “Other than Mexican”—chiefly, citizens of Honduras, Guatemala, and El Salvador. For the first time in any U.S.-Mexico border sector, non-Mexicans made up the majority of this year’s annual total of apprehended migrants in the Rio Grande Valley. The security crisis of Central America’s “Northern Triangle” countries, along with ongoing poverty and lack of employment opportunities, were the reasons most frequently cited by the officials and experts with whom we spoke. It is remarkable that Central Americans are increasingly traveling through this vector instead of trying to cross elsewhere; though it is the shortest distance from Central America, the Mexican state of Tamaulipas is notorious for the frequency and brutality of violence that criminal groups commit against migrants, including the August 2010 massacre of 72 migrants, mostly Central American, in San Fernando, Tamaulipas, just 100 miles from the U.S. border.



Border fence and Rio Grande, Brownsville, Texas

Migrant deaths are way up in south Texas: Despite the danger on the Mexican side, the Tamaulipas-Texas border still appears to be attractive to migrants. Currently the Rio Grande Valley sector has 52 miles of fence along 317 miles of riverfront border, and the crossing is increasingly deadly. Some migrants drown in their attempt to cross the swift river: An even larger number are dying of dehydration and exposure in the dry scrublands north of the border towns. Once past the border, migrants seek to continue northward—toward Houston, Dallas, and further on—where employment opportunities are greater. Doing so, though, requires leaving the roads and walking many miles through arid, shadeless terrain in order to avoid Border Patrol and Texas Department of Public Safety (DPS) checkpoints. Many migrants begin this long walk already dehydrated after days of neglect in a smuggler’s “safe house.” The bodies of about 127

migrants were recovered in 2012 in Brooks County (an hour north of the border) alone, nearly double the grim 2011 number and similar to the 150-200 annual deaths normally recorded in Arizona, where the tragedy gets more attention.

The Zetas' control is strong, but perhaps slipping: On the U.S. side, when we asked residents when they had last crossed into their sister towns in Mexico, the answer was invariably “years.” Very few visitors go to Nuevo Laredo, Reynosa, or Matamoros; in fact, a large number of wealthy and upper-middle-class residents of those towns has moved across the border into the U.S. towns, taking their businesses (including prominent shops and restaurants) with them. Nuevo Laredo had seen a spike in drug-related violence in 2005 when the Zetas, who were then acting as the enforcer arm of the Gulf cartel, battled with the Sinaloa cartel for control over the area. The Zetas' split with their former bosses in the Gulf cartel caused violence to rise again, reaching horrific levels in Nuevo Laredo and other border cities in 2010. The bloodshed remained frequent after that, as the Zetas went well beyond drugs to include control over networks of extortion, migrant smuggling (we were told that smugglers must pay whoever controls the border area a toll of about US\$500 per migrant), kidnapping, and other highly predatory activity. The population of these cities has been hit very hard; waves of violence, including shootouts in broad daylight in the center of town, have claimed many innocent lives following the takedowns of top Zetas leaders or internal disputes.

This was the first border region where we were warned beforehand that it was inadvisable to cross the border. This was for our own security but also for that of the non-governmental leaders, like migrant shelter personnel, with whom we'd be seen. However, directors of migrant shelters in all three cities said that things had cooled a bit in recent months, and thus it was safe to pay short visits, which we did in Matamoros. The October killing of Zetas boss Heriberto Lazcano and apparent ascent of Miguel Treviño (“Z-40”) have not increased violence in Reynosa and Matamoros, apparently, though overall levels remain extremely high. We heard, though, that violence is worse lately in Nuevo Laredo and further west in Coahuila state.

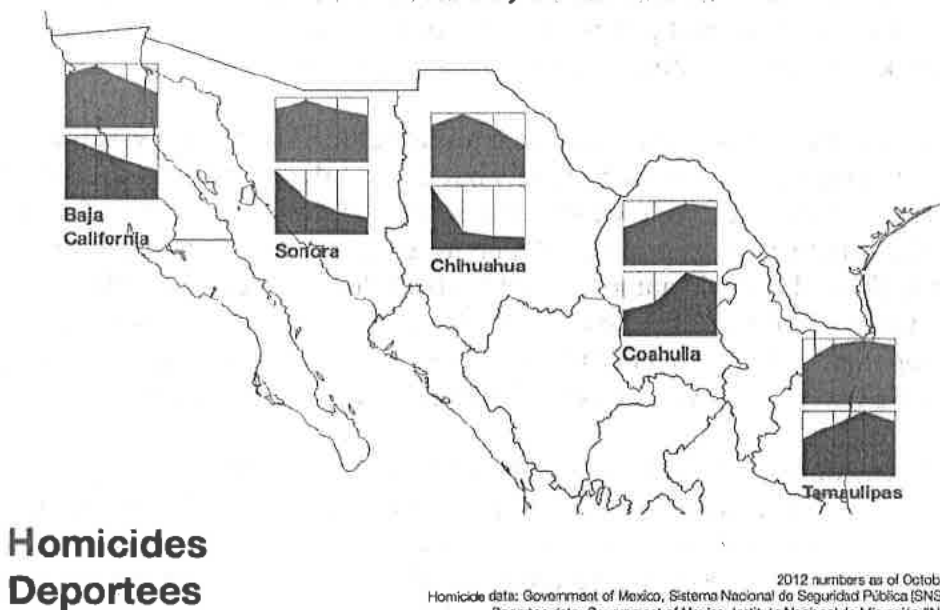
U.S. law enforcement officials coincided in their estimation that the Zetas' grip over this region was slipping a bit, both due to the group's own divisions and possible inroads from the larger Sinaloa cartel. They saw an increase in drug seizures as evidence of looser control, an indication that different groups were seeking to slip drugs into the United States through routes that had previously been locked down. This is an ominous bit of news; if a vacuum of organized crime control has opened up, violence may flare up again in Northeastern Mexico. These vacuums are rarely filled peacefully.

Despite the region's security crisis, **the U.S. government continues to deport apprehended migrants to these Mexican border cities in large numbers.** Mexican migration authorities have counted more than 58,000 deportees arriving in Matamoros alone in 2012. In this city, agents of the Grupo Beta—Mexico's National Migration Institute's search and rescue unit—told us that rather than rescuing migrants in distress, their main task is now protecting repatriated migrants. In addition to Mexicans detained in the interior of the United States and deported by Immigration and Customs Enforcement (ICE), the relatively new U.S. Customs and Border Protection's Alien Transfer Exit Program (ATEP) deports some detained migrants “laterally” by sending them to Mexican border towns hundreds of miles from where they were captured in

order to break the link between the migrant and his smuggler. Most migrants apprehended in south Texas who end up being deported through ATEP get sent on a near-daily flight 1,000 miles westward to Calexico, California, from which they are sent into the relatively low-crime city of Mexicali, Baja California. However, a smaller but very troubling number of ATEP migrants are still detained elsewhere and deported into Matamoros. As they arrive in this unfamiliar city, these deportees face a high probability of being preyed upon—or even recruited—by the criminals who control illegal activity. That U.S. authorities would be moving migrants from elsewhere along the border and deporting them into high-risk Matamoros is inexplicable.

In fact, a review of data from Mexican security and migration authorities reveals a troubling trend: as border zones become less secure, they receive more deportees. In every Mexican border state that saw an increase in homicides since 2009, deportations from the United States also increased. In Mexican states where homicides declined, deportations also declined.

Homicide and U.S. Deportation Trends, by Mexican State, 2009-2012



These data don't indicate something as nefarious as U.S. migration authorities deliberately placing deportees in harm's way. And we understand that there are many factors that influence the number of deportations per sector, such as the number of ICE removals, ATEP, and apprehensions of migrants by the Border Patrol in each sector. However, the numbers do indicate that U.S. migration authorities either aren't taking security risks into account when they deport people, or if they are, that they are not even close to keeping up to date on Mexico's shifting patterns of violence.



Migrant shelter, Matamoros, Mexico

Mexico's state and local level security forces remain profoundly unreformed: Not long after the government of former Mexican President Felipe Calderón deployed the military to this territory to take on the cartels, the municipal police forces of Nuevo Laredo, Reynosa, and Matamoros were all but disbanded. These police were seen as incorrigibly controlled by organized crime, and we universally heard similar complaints about the Tamaulipas state police who continue to patrol these cities. Distrust of these police is very high. Mexico's Federal Police, meanwhile, do not yet have a strong presence in this zone. Of all security forces, the Mexican armed forces (Army and Marines) are the least distrusted. Regardless of political leanings, Mexicans in this zone support the military presence in their border towns due to an utter lack of other options. While they certainly don't back the military unconditionally, they view them as far more likely to protect them. It is the military that confronts the criminal groups in these cities, with shootouts and blockades (*bloqueos*, in which criminals hijack a large vehicle and park it across a busy road to impede military pursuers) a frequent occurrence. In Matamoros, we had to drive around a bus that had been parked across an intersection hours earlier. When we asked U.S. law enforcement officials which Mexican security forces they interacted with most frequently, they uniformly cited the military or the federal Attorney General's office (*Procuraduría General de la República*, PGR).

Drug trafficking has generally increased: Laredo, where Interstate 35 begins its route to Dallas and up to Minneapolis, is the United States' busiest land port, with about 7,000 trucks per day crossing into and out of Mexico. This much commercial traffic also means a lot of drug trafficking, a big reason why the Nuevo Laredo *plaza* is fought over so intensely. Continuing a trend that goes back at least to 2005, U.S. law enforcement continues to increase the amount of drugs it seizes in the Laredo and Rio Grande Valley sectors, though there is some variation by type of drug. The increases mean that agents are getting better at stopping drugs, but they also

tell us that the big buildup of U.S. border security measures is not deterring traffickers. Heroin seizures, we were told, are up dramatically in the Laredo sector. Authorities have also begun to encounter large quantities of something new: liquid methamphetamine. In the Rio Grande Valley sector, seizures of marijuana are up from about 400,000 pounds in 2008 to over 1 million pounds in 2011. Drugs like heroin, meth, cocaine, and synthetics, for which even small quantities fetch sky-high profits, are principally trafficked through official border crossings. Marijuana, which is much bulkier, is more frequently smuggled across the Rio Grande in rural areas.

There is no “spillover” violence: More drugs have not meant more violence on the U.S. side of the border. The broad consensus among all we interviewed—police chiefs, federal law-enforcement officials, journalists, activists, and the helpful staff of the Laredo Convention and Visitors’ Bureau (creators of the www.laredoissafe.com campaign)—all agreed that the towns on the U.S. side are safer than they have been in decades. Crime statistics bear this out: murder and most other violent crime rates are lower in Laredo, McAllen, and Brownsville than in Texas’s principal cities. Residents voiced annoyance with politicians in Austin and Washington, including members of Congress from non-border districts, who portray their towns as a “war zone” in order, in their view, to pursue anti-immigration agendas. They contend that their words discourage tourism and hurt business.

There have been a few incidents of what could be called “border violence” or “spillover violence”: a handful of murders that could be gangland hits, and some “safe houses” hiding dozens of northward-bound migrants, who in some cases may be unable to leave until relatives send extortion payments. The main crime concern in these U.S. border cities is an increase in kidnappings and home invasions; these, however, appear to be the work of U.S.-based, not Mexican, perpetrators. In rural areas, ranchers say that they feel menaced by drug or migrant traffickers crossing their lands, but incidents have been exceedingly infrequent; a more immediate concern is the increasing number of bodies of migrants, dead of dehydration and exposure, appearing on ranchlands.

Allegations of abuse are less frequent here than in Arizona and California: Relations between Border Patrol and the local community—including rights advocates and humanitarian groups—were much less confrontational in these sectors than we had seen in Arizona and California. Allegations of migrants abused in detention (assaulted, denied food and water, held in stress positions, having belongings stolen) were much less frequent, though advocates said that these remained a concern. In the Rio Grande Valley sector, Border Patrol even leaves water at the rescue beacons in rural migrant corridors in an effort to reduce dehydration deaths, a practice that Border Patrol’s Tucson, Arizona sector discourages, despite the fact that simple measures like this one could save lives. Most complaints of abuse or improper use of force were leveled not at Border Patrol but at the Texas DPS, which carries out its own border operations and, in late October, fired on a truckload of migrants from a helicopter near McAllen, killing two Guatemalan citizens. Some interviewees expressed strong dismay about a September incident in which a Border Patrol agent in a boat allegedly responded to rock-throwers by firing on a picnicking family on the Mexico side of the Rio Grande, killing the father. In recent memory, they said, they had not faced such use-of-force issues with Border Patrol in their sector.

Exhibit H

BuzzFeed

News Videos Quizzes Food DIY More v Get Our News App



TOP STORIES

The Deported: Life On The Wrong Side Of The Border For Repatriated Mexicans

For Mexicans in the U.S. sent "home" thanks to increased enforcement of American immigration laws, the country they're returning to is far more dangerous than the one they initially escaped. They wind up in border towns like Tijuana, Nogales, and Juárez, separated from their families, with no money, no identity, and nowhere to go.

posted on Dec. 19, 2013, at 6:56 p.m.



John Stanton
BuzzFeed News Reporter

THE DEPORTED



Photograph by Chris Beva

It's still early morning when we get off the tram from San Diego at the official port of entry into Mexico in Tijuana. After wandering through the maze of halls — all of which have progressively heavily armed soldiers listlessly loitering — tourists and Mexican day laborers alike have to cross “El Conector,” a pedestrian bridge over a sewage ditch the width of a football field.

Each day hundreds of buses pull through this militarized checkpoint — as well as similar ones at Nogales, Mexicali, Juárez, and other border towns — carefully screened and logged by well-armed guards before groaning to a stop. The doors creak open, and American law enforcement officers roughly usher their human cargo — discarded by their adopted country and unwanted by their homeland — out onto the unfamiliar pavement.

The Deputy: Life On The Wrong Side Of The Border For Repatriated Mexicans BuzzFeed News

In the last five years more than 1.5 million undocumented migrants have been deported under the Obama administration, which has prioritized deportation in an effort to demonstrate its commitment to “border security” while pursuing legislation designed to provide the estimated 11 million undocumented migrants a path to citizenship. While the impacts of deportation on America may seemingly end at the border, for the deported — in Tijuana, for instance, deportation rates range from 200 to 500 repatriated Mexican citizens every day, while in Nogales 50, 150, or more — it means a whole new set of life-threatening challenges.

Crossing the border into Tijuana, you can't help but see the filthy expanse known as El Bordo. Steep concrete walls stretch off into the distance in either direction, the remnants of the Tijuana River forming a shimmering spine. The detritus of humanity is strewn across its width and length: tires worn bald, hopelessly broken appliances too far gone for salvage, shopping carts rusted at the guts, plastic bags of every size, shape, and color, and every bit of garbage in between. Among this debris, repatriated Mexicans eke out what meager existence they can.

Some seek out the shelter of the sewer pipes that feed the “river.” More broad-ceilinged aqueducts than pipes, these outlets provide security for deportees who grope through the darkness, raw sewage, and, for rats, a dry place to sleep every night.

“It's scary, it's not a nice place, you can get killed,” says Jose, a Mexican who spent most of his adult life in the U.S. before being deported a few years ago. “People will kill you for your shoes. I feel scared when I sleep. I sleep sometimes during the day.”

Others stay below the bridges that cross the sewage ditch, shelter from the brutal northern Mexican sun as well as a defensive position in case of local police raids, which are frequent. (Last spring, the area was cleared by authorities so it wouldn't be such an eyesore for tourists.)



John Stanton / BuzzFeed

But prime real estate comes with price: Drug dealers control the territory under El Connector and other bridges, and unless deportees pay or work for them, the dealers are looking for drug mules to force across the border, fodder for Tijuana's bustling sex trade, or even for kidnapping victims that can be used to squeeze whatever money their families in Mexico or the U.S. may have.

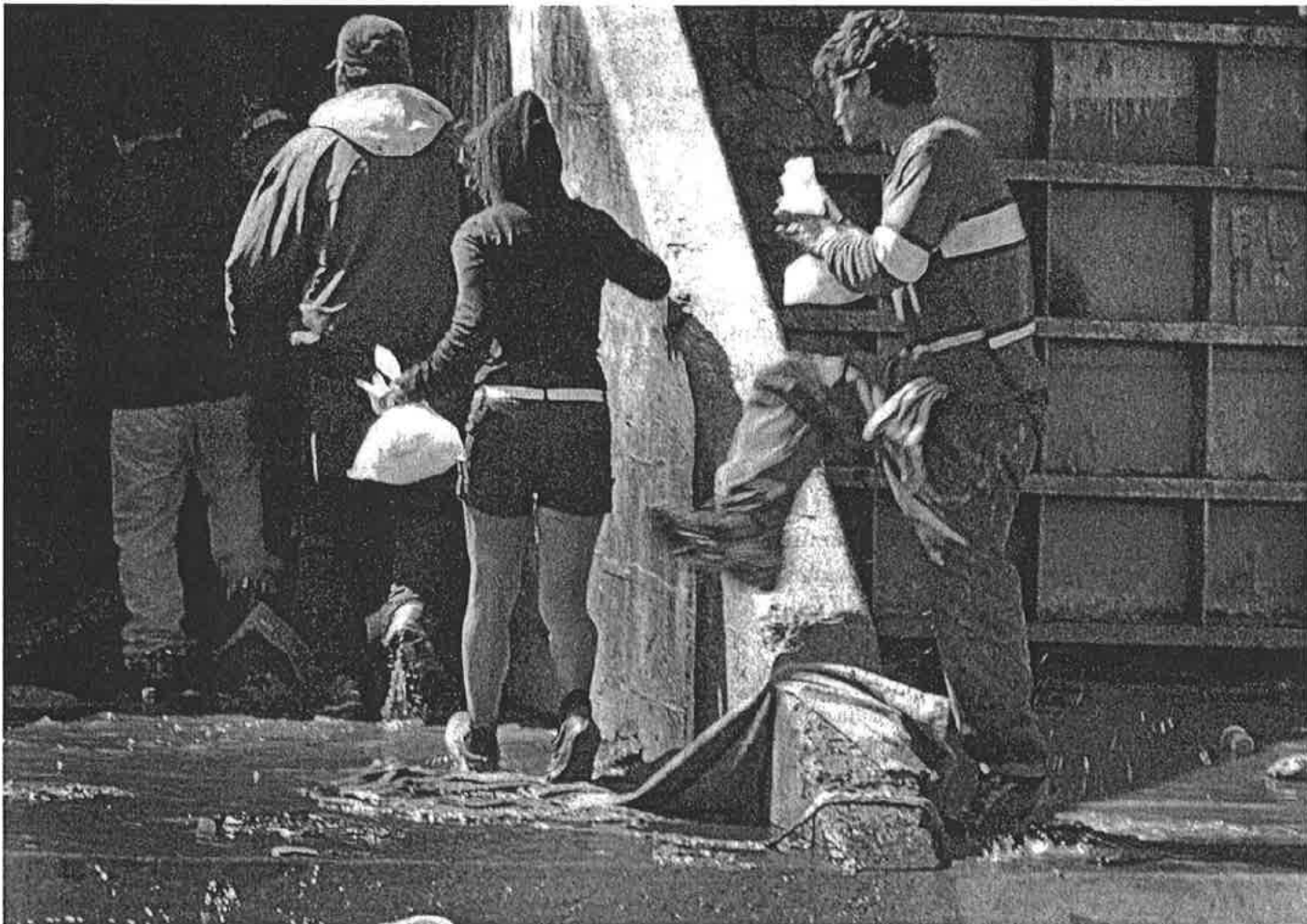
There's also the cult of Santa Muerte — St. Death — commonly associated with the armed wings of the drug cartel. Many gangs use the iconic image of Santa Muerte holding the Earth in one hand and the scales of justice in another in tattoos. Deportees tell stories of a cult wandering the streets after dark in Tijuana. "They kill people all the time ... if there are *hijos* [children], they take them to sacrifice," Jose claims. It's not an uncommon story to hear from deportees in Tijuana, and when asked about the rumors, aide workers in the city simply shrug.

For those who don't fall in with the drug dealers and gangs, or who don't quickly succumb to the harsh realities of life in El Bordo, there are few choices. Some band together in small camps along the banks of the ditch, building crude shelters of sun-faded plastic tarps strung between piles of trash, huddling in the shade by day, shaking in the cold darkness

of night, always anticipating the strike of a fist or boot. “The deportees in the canal are living in some of the worst conditions I’ve ever seen,” says Steffanie Strathdee, a researcher with the University of California at San Diego who’s also worked along the Pakistan–Afghanistan border, Islamabad, and inner-city Baltimore. “Nobody should have to live like this.”

The Mexican government offers only nominal assistance to recent deportees: Shelters run by the state take repatriated Mexicans in only for a couple weeks, and because many of them have no Mexican identification, finding work or accessing other services is nearly impossible. The few rays of hope these deportees find — Jesuits and nuns, medical researchers unwilling to turn a blind eye to the despair, and the handful of Mexican and American civilians unable to ignore it — are overwhelmed by the darkness. If illegal immigration is a tidal wave of humanity, then deportation is the riptide, tearing drug dealers, day laborers, restaurant managers, cousins, and mothers from the roots they’ve laid down in the U.S. and washing them back.

And while activists have successfully drawn attention to the price families torn apart by deportation in the U.S. pay as a result of the escalated enforcement, few Americans have ever even thought about what happens when deportees cross the border back into their “home.”



“The deportees in the canal are living in some of the worst conditions I’ve ever seen,” says Steffanie Strathdee. “Nobody should have to live like this.”

Photograph by Chris Bava

It’s just before 10 a.m., and already all of the rusty folding chairs in the waiting room of Healthy Frontiers in Tijuana, known as HFit, are occupied. Many of those waiting have obvious physical problems: cuts and bruises from fights, sunken eyes from malnutrition, and thin arms with weak veins popping from drug abuse. Doctors at the clinic say gangrene is not uncommon.

“I call them invisible people,” says Dr. Jose Luis Burgos, a physician and University of California at San Diego professor who helps run the clinic.



A volunteer doctor and Jose Luis Burgos at the Healthy Frontiers clinic in Tijuana. *John Stanton / BuzzFeed*

HFit is mostly staffed by doctors from UCSD and the Universidad Autónoma de Baja California School of Medicine, and is open only on Saturdays due to lack of financing. A dozen or so medical students stand to the side, listening as the doctors and professors who run the clinic give them the rundown of the day's work while the deportees who have come seeking assistance look on.

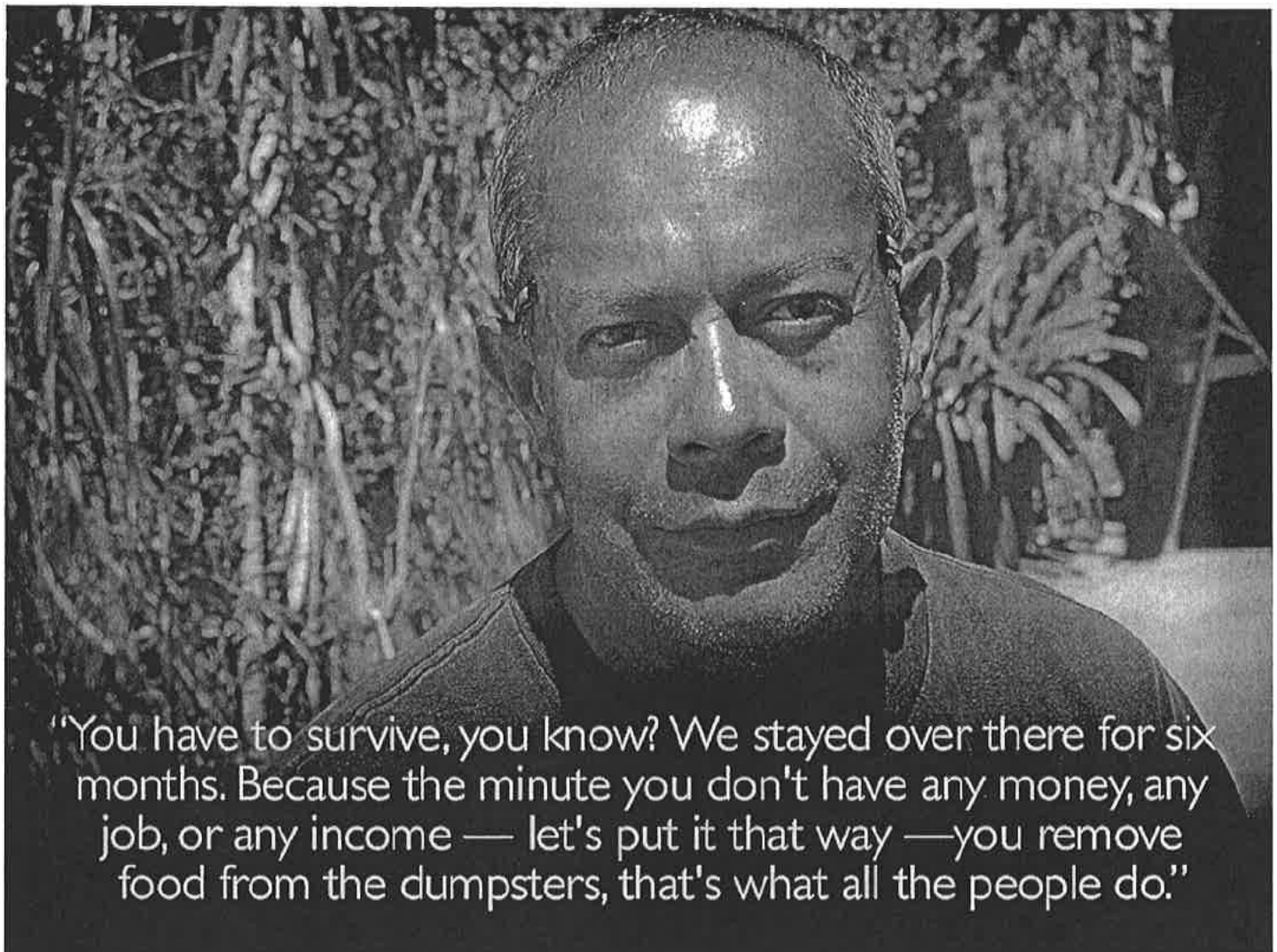
It's a struggle for the doctors and medical students here as they work in the oppressive heat with few basic necessities.

The "waiting room" is nothing more than a worn tarp stretched across the clinic's driveway, and offices have been turned into makeshift examination rooms and triage areas. What medicine they can scrounge together from donations is kept in a back storage room with no climate control. If that hopelessness bothers them, the students and doctors don't let it show.

Researchers from the two schools originally set up the clinic as part of their research into HIV and other communicable diseases among deportees, but it quickly became the equivalent of an urban MASH unit. Doctors hope to eventually buy a building to run the clinic out of seven days a week, and they are in the process of purchasing a tattoo removal machine to rid deportees of gang insignia that marks them as prey for gangs.

"In my study, male injection-drug users who were deportees had a four-fold higher risk of HIV infection compared to other male drug injectors who were not deported," says Strathdee, who also works with the clinic. "Deporting people with actively communicable diseases like TB is of particular concern."

Although the Mexican government provides HIV drugs to its citizens, only state-run hospitals can distribute them. The closest clinic offering HIV medications is miles away. "For many of them, it's hard to get out," says Burgos. "They have to work, or their [pimp] won't let them go."



John Stanton / BuzzFeed

“Once [I] get into Mexico, I say, ‘Well, this is Tijuana. This is my country. I’m free again,’” says a 52-year-old deportee named Gerardo in a hoarse whisper as he leans back into his chair and smooths the wrinkles out of his secondhand *Terminator* T-shirt. “But no. You’re worse here.” His eyes well up.

Once just another patient at the clinic strung out on drugs and the despair of life as a deportee in Tijuana, Gerardo is now sober and volunteering at the clinic. “I used to do drugs, but I’m clean now. I’m trying to be good. I’m working here with these guys for three months. So I’m going to save as much as possible and see if I can go and rent myself a room with a co-worker here and see if we can make it happen.”

Like many deportees, Gerardo ended up in El Bordo after his short stint in the state-run shelter. But after two years there, Gerardo says he’s recently moved into an encampment for deportees. It’s safe, he says, and is providing a desperately needed alternative for people like him looking for a way out.

It was no big deal to cross the border into Southern California in 1994, when Gerardo did. Then 33, Gerardo had attended high school and some college, where he'd learned to speak English, but Mexico's economy was terrible. In his years in the States he had many jobs — as a seasonal fruit and vegetable picker, in an office, at a gas station, at a 7-11 — and was also periodically unemployed. For more than a decade, though, he was employed at an IHOP up near Lodi, working his way up from dishwasher to server to, eventually, a crew chief. "I was making \$3,000 every other week. That was good money for me."

That ended with the recession. And then in May 2011, Gerardo's world changed forever: "I was going out to breakfast with friend, he got into problem with the police ... he was driving without a license, he has no paperwork in his truck at the time, he doesn't know how to speak or read in English or in Spanish, nothing."

The police found Gerardo's fake driver's license, Social Security card, and the credit cards he'd gotten using them and charged him with credit card fraud. In theory, that might not have meant deportation, as the Obama administration has made a concerted effort to focus on deporting violent criminals and felons. With the proper counsel, he could have had his sentence reduced to a misdemeanor. But his public defender never even tried, and Gerardo found himself before an incredulous judge who asked him how he got so many credit cards. "I said, 'I have 798 points.' The judge said, 'You have [better] credit than me ... even though I'm legal and a citizen, I don't have that score.'"

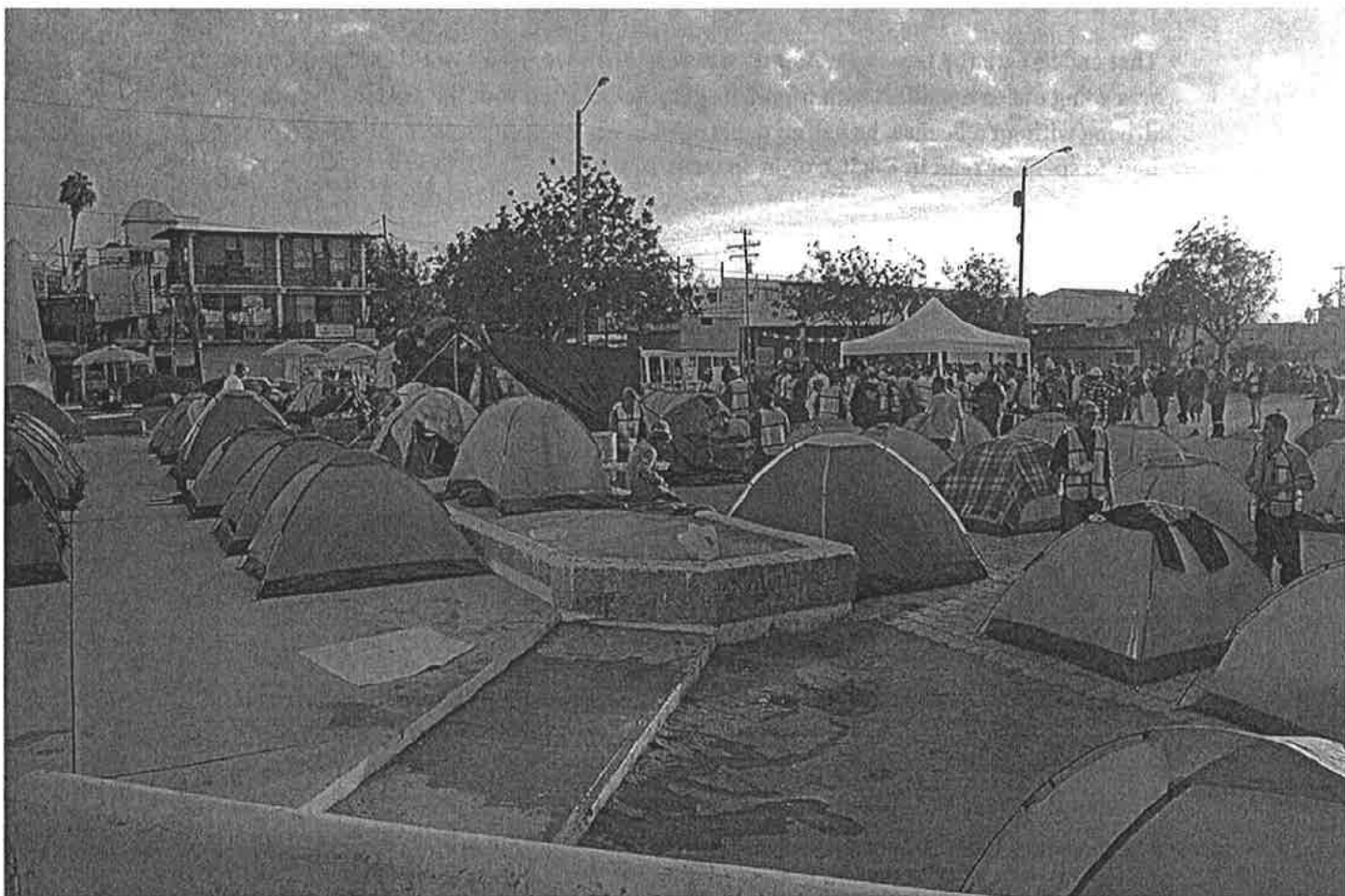
With that, Gerardo was on a plane to San Diego to be returned to Mexico. ("The flight attendants are mean to you because you're on an immigration plane ... they call you 'motherfucker' because you cannot answer back.") Shortly after midnight he and several dozen other Mexicans unloaded from a bus into the foreign streets of Tijuana. Like most of the others, he'd never been to the city. He didn't know anyone, he had no papers, no money, and no hope. After two weeks in a state-sponsored shelter, he was on the streets.

Cartel men and drug dealers will "force you to work, to take away things from the people, and then run away with the things," he says. And good luck getting help from the authorities — they treat the deported as a problem to be swept violently under the rug.

Although he was technically "illegal" in Mexico because he lacked the proper papers and identification to get work, he found a job at a local market peeling tomatoes. "I get paid 10 pesos. It's about 90 cents a case. There's one day's job, then two days or three days, then it stops for weeks, so we cannot survive with that. And then we have to move to the canal and sometimes they tried to put the drugs on you, or kill you. There's a lot of suicides over there. You have to survive, you know? We stayed over there for six months. Because the

minute you don't have any money, any job, or any income — let's put it that way — you remove food from the dumpsters, that's what all the people do.”

When asked if he would cross again, his answer is unequivocal. “I would like to go back, yes. Since I'm alone in this world, I don't care. I don't care no more. If I have a chance to go and run, I'll do it. I miss America.”



Erin Faulk / BuzzFeed

The camp city where Gerardo is staying is in the long-forgotten Plaza Constitución park, known among some of the deportees as “La Mapa” because of a sculpture featuring an outline of Mexico. In the memorial's shadow, dozens of donated nylon tents are lined up in neat rows. The park is situated next to the highway that makes up one of El Bordo's boundaries, and is only a few blocks from Avenida Revolución, Tijuana's main tourist drag.

American and Mexican activists with Angeles Sin Fronteras set it up in August, after local police raided El Bordo, driving residents out of the canal and into the nearby

neighborhoods. Founded in 2010, Angeles Sin Fronteras originally focused on Mexicali, one of the largest deportation hubs on the border, where the group fought with authorities over conditions for deportees. Increasing police brutality and the desperate conditions of El Bordo have brought them to Tijuana.

Unlike El Bordo, where a heavy silence hangs over the encampments of deported, the tent city sounds alive: People talk and laugh over their food, argue about chores, and play pickup games of soccer. It's a welcome respite.

"Here in Tijuana it is really difficult," Hugo Castro, the charismatic leader of the encampment, says as volunteers serve beans, tortillas, and other staples one evening a few weeks after the encampment was established. "Many deportees were facing assaults, kidnaps, and police extortion and intimidation," he says.

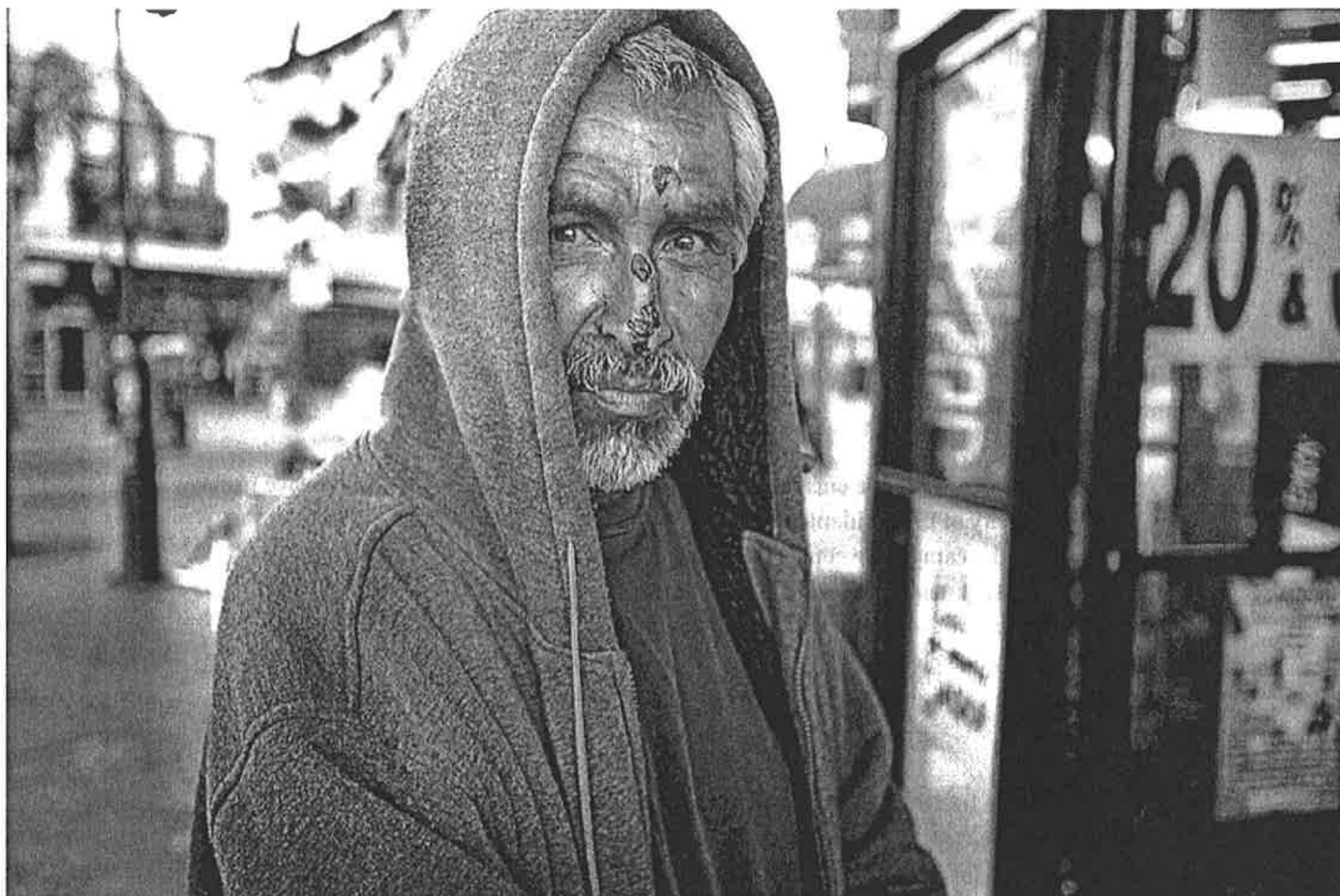
As many as 200 come to the encampment every evening for a meal and a safe place to stay. The vast majority of the residents are middle-age men, and as the sun begins to set they hurry around the camp — sweeping the narrow alleys between tents, finishing meals, cleaning dishes. Outside the perimeter, dozens more men and women loiter in small groups. "We don't have enough tents, so some are sleeping on the concrete under blankets," Castro explains, pointing to four-foot-high piles of rough mover's blankets.

Residents of the tent city are required to help with upkeep — duties that include sweeping the grounds, cooking meals, cleaning up trash, running security, and tending to a small garden Castro has planned. They're also not allowed to use drugs or alcohol in the camp.

In Tijuana, like Mexicali, the group has had confrontations with local authorities; the camp has been set up illegally. And despite Castro's authority among the deportees, even here there are dangers. Deported gang members — obvious from their face tattoos, khaki shorts, knee-high socks, and vacant stares — loiter around the edges, watching everyone and everything that goes on.

Castro, an American citizen, insists that the plight of the deportees isn't simply a problem for Mexico, which is ill-equipped to deal with the numbers being sent back every day. The U.S. government "doesn't care, and the Mexican government doesn't care," he says. "Our government is not applying the values that made us a great nation."

“[The cartels] actually kidnap the migrants and try to extort them,” explains one social worker. “So that’s something we’re trying to avoid.”



Photograph by Chris Bava

Three days and 500 miles to the east later, a cool fog from the night’s rain hangs over the “industrial” port of entry between Nogales, Ariz., and Nogales, Sonora. Tractor-trailers rumble through the gates, their bellies full of products from the nearby maquiladoras and produce from farms. And more than a few have pounds of crystal meth, weed, heroin, or cocaine carefully concealed in hidden compartments, axles, and other hollowed-out parts, destined for cities across the U.S.

A worn “Bienvenidos a Nogales Sanora” sign hangs above the road leading to the border, and slums stretch to up the rugged hills to the west a few blocks from the border. A hunched Mexican man sweeps the sidewalk in front of an unassuming concrete building that seems to be built into the rugged hillside to the east. The heat and humidity of late summer in north central Mexico is starting to overtake

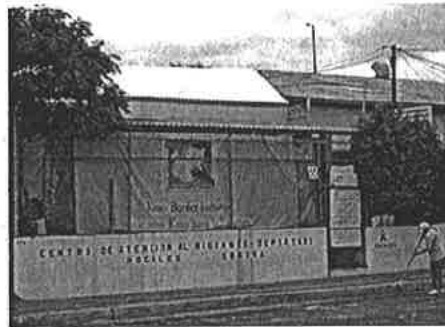


John Stanton / BuzzFeed

the mist as a small woman dressed in plain clothes — one of the sisters who helps run the soup kitchen — unlocks the heavy steel door.

Early each morning and evening, newly repatriated Mexicans line up silently outside the soup kitchen. Kino Border Initiative, a nonprofit binational organization run by the Jesuits and the Missionary Sisters of the Eucharist, established “El Comedor” in 2008 in an effort to help the increasing number of deportees flooding Nogales.

“Everyone was kind of really hungry, and they realized what they really need is a soup kitchen,” says Marla Conrad, a social worker with the group. Standing inside the doorway as volunteers prepare breakfast, Marla smiles happily when I ask if she’s a volunteer. “I’m lucky, I get paid to do this,” she says cheerily.



John Stanton / BuzzFeed

Outside, a line of 50 or so men and women have lined up for the morning’s breakfast. Police officers lean against their vehicle, scrutinizing the queue, watching on as each is briefly interviewed by one of the priests or nuns who run the kitchen. Given cartel activity in the neighborhood, the Jesuits and sisters have been forced to ensure those they are serving aren’t spies looking for easy marks or collecting phone numbers to use in extortion schemes later. “They actually kidnap the migrants and try to extort them,” Conrad later explains. “So that’s something we’re trying to avoid.” One of the volunteers beckons her onto the street

where a Mexican man and woman are waiting.

When I find her inside a few minutes later, she apologizes for leaving me. “They were looking for their brother,” she explains. He’d come north as part of the constant flow of Mexicans migrating into the U.S., and had injured his ankle after crossing the border. The group he was with had left him behind in the Arizona desert. It may sound harsh, but it’s not uncommon. With no realistic options for medical assistance and barely enough provisions to survive the desert for a day or two if they’re lucky, groups of migrants are often forced to leave injured companions behind.

His friends had gotten word to his family, hoping the border patrol had found him. But it had been 11 days since his group had left him — far too long for anyone to realistically survive the desert alone and injured, even during August’s rainy season.

Between 50 and 180 deportees are served at each sitting by the small handful of Jesuits, Sister Missionaries of the Eucharist, and local volunteers. "Two meals a day, seven days a week, 365 days a year, because they're deporting 365 days a year," quips Father Peter Neeley, one of the Jesuits who helped start El Comedor.

Dozens of men and women sit at the benches, eating ham and cheese sandwiches and communal bowls of beans. Some carry the clear plastic Homeland Security bags that mark them as the recently deported. Others have casts on ankles or wrists, wounds they picked up during their failed border crossing or flight from authorities.

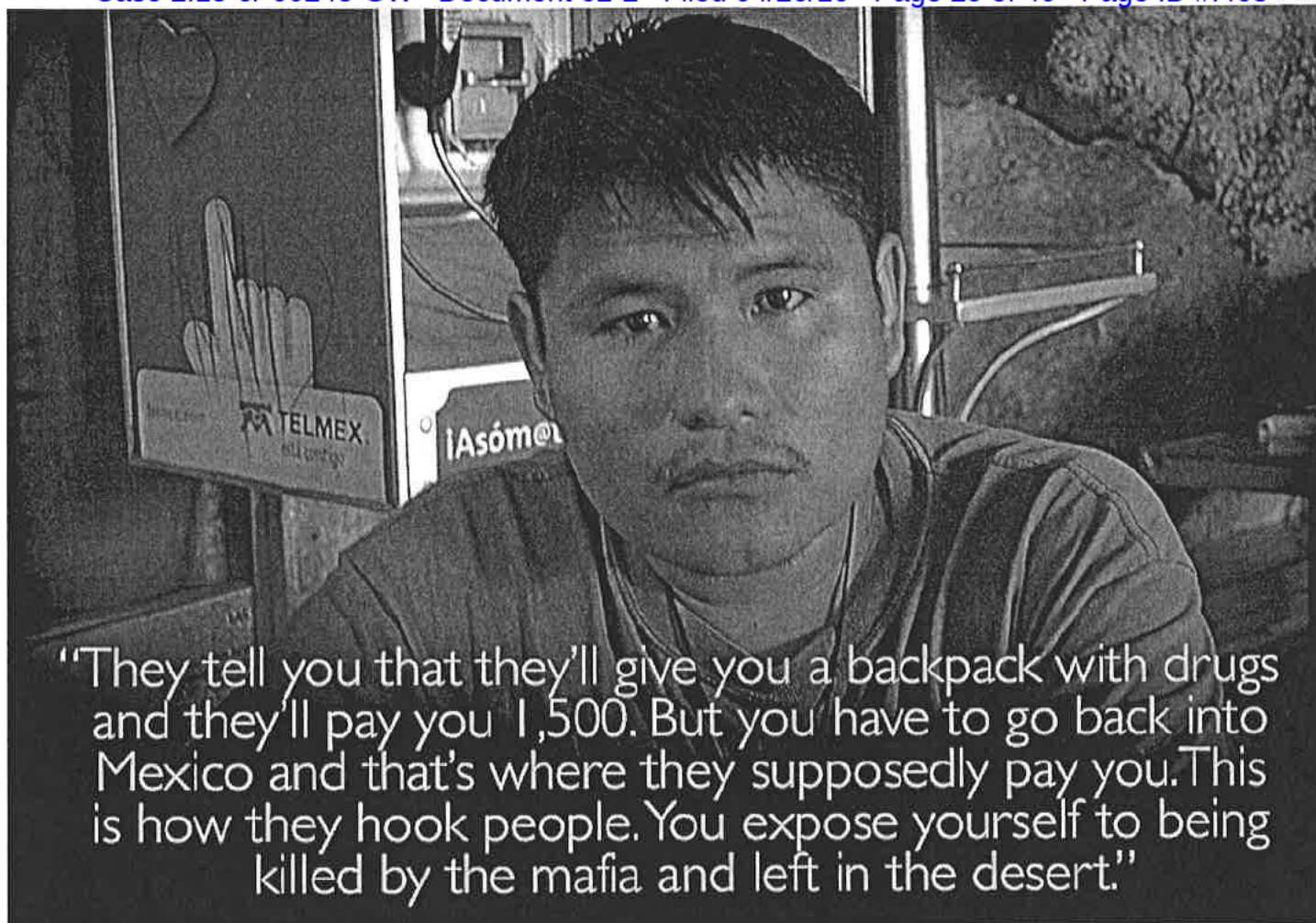
The room is tense. There's no talking, and the deportees eye one other, the staff, and the giant American in the corner taking notes with suspicion. A sister moves to the front of the room, and announces that it's one of the cooks' birthday today. All eyes turn toward the cramped kitchen, and a beaming Mexican woman waves as the nun leads the room in a verse of "Happy Birthday." "This is the second birthday she's spent here," Conrad says to me as everyone sings a second verse.

The sister then leads the deportees through a "brain exercise," essentially a game of Simon Says. "It helps to kind of relax people," Conrad explains of the morning ritual. And it does; after several rounds, the deportees are laughing, talking, even smiling.

"What we have, we share. Sometimes we don't have enough, but we give what we can," she tells them before giving them an explicit warning: After breakfast is done, don't go to the west. "It's all very controlled by the mafia."

After breakfast, some of the deportees will head down the street to a bus depot, though they're warned cartel men will be there watching. Others will go to the Grupo Beta station, a state-sponsored assistance facility that helps deportees return to their home states and provides basic medical care.

Most of the women will be taken to a women's shelter run by the sisters nearby. Although the shelter isn't exactly a secret, the nuns refuse to say exactly where it's located and they don't allow outside men in. Meanwhile, many of the men will end up on the other side of town at San Juan Bosco Shelter, which has been helping migrants, and now increasingly deportees, for three decades.



"They tell you that they'll give you a backpack with drugs and they'll pay you 1,500. But you have to go back into Mexico and that's where they supposedly pay you. This is how they hook people. You expose yourself to being killed by the mafia and left in the desert."

John Stanton / BuzzFeed

Miguel arrived in Nogales just hours before he speaks to me, brought to this foreign city in the late-night drop-off of deportees, after his third failed attempt to cross in two months.

Originally from Tehuantepec, Oaxaca, Miguel was, like many migrants, looking not only for a way to provide a better life for his family and to escape the violence of the Mexican drug war — he was also motivated by a desire to not repeat the brutal, abusive patterns of his father. "I come from an unstable home. My dad is an alcoholic, and my mom was the one who helped me through. I am not a bum or a person who is no good for the society, because in one way, that's what I live through with him, I never liked his ways. My mom realized that she shouldn't have been with him. One time I saw him hitting her and I confronted him, I was like 5 years old. So it hurts that I can't provide for my children, to not have that stability that I didn't have."

Before trying to cross the border, Miguel took his family to Morelos, hoping to find work. But the cartels in Morelos control virtually everything, Miguel said, and finding legitimate work can be difficult. He decided to try to cross to the U.S., to find a way to support his kids while he was still physically able. "In my case, I am 28 — in a few years, maybe my

body will tell me, 'No more.'"

Gathering up what money he could, he traveled north to the state of Sonora and the town of Altar, a notorious stronghold of the cartels that is a hub for drug and human trafficking. When he arrived, cartel soldiers demanded a 5,000-peso entrance fee (about \$385) to the city. "So I paid the 5,000 pesos. That money is now lost."

In fact, this first attempt to cross wasn't thwarted by the U.S. border patrol, but by the cartels, which at the time were focusing their energies on bringing drugs, and not migrants, across the border into Arizona. "They tell you that they'll give you a backpack with drugs, approximately 25 kilos, and they'll pay you 1,500 [dollars]. But they don't make payment in the U.S., you have to go back into Mexico and that's where they supposedly pay you. You say, 'OK, I will receive money and they'll take me to where I want to go.' This is how they hook people. You expose yourself to being killed by the mafia and left in the desert."

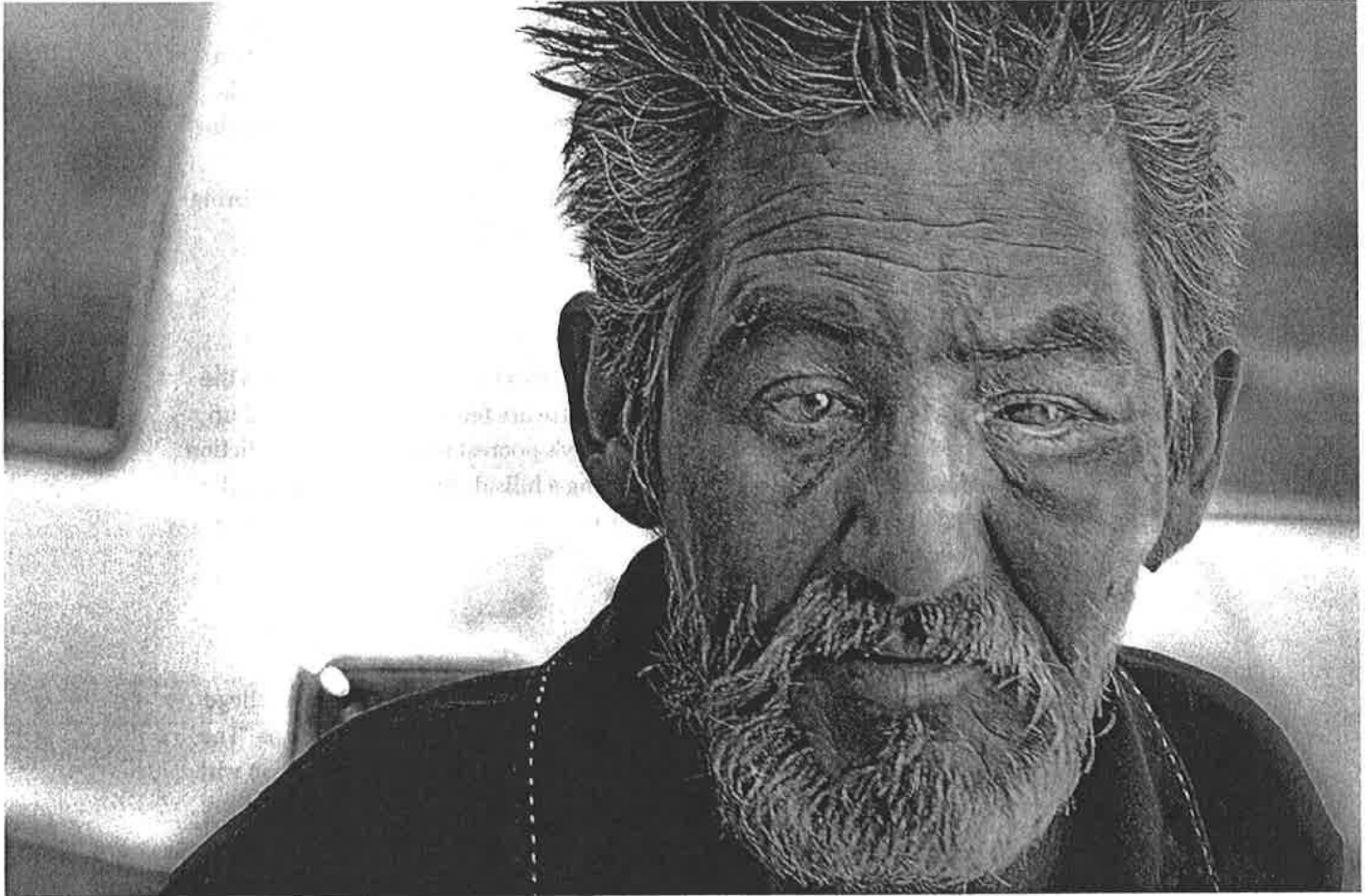
So Miguel left to go to Naco, Sonora, and tried jumping the fence on his own. He was quickly picked up by the border patrol and deported back to Mexico through Mexicali. After making his way back to Sonora, Miguel crossed again, jumping the fence and meeting a coyote in the U.S. who took him to a trailer in the desert south of Tucson.

"I stayed for eight days, locked up, with little food and little water. They wouldn't let us look out the window, and to go the bathroom you had to crawl. When I got there, there were [28] people there already. Sometimes we would eat instant soups — it was a small portion, for all the people, one meal a day, and faucet water. [On the eighth day] the guy in charge came by in his truck, with another immigrant ... five minutes after he came out, the border patrol arrived."

On his third crossing in two months, Miguel was arrested in a car driven by a coyote and cut a deal with federal officials to testify against him in exchange for not being charged with illegally crossing, which could have landed him in jail for years. After 10 days in custody, he was sent back here.

As we're talking, he receives a phone call on one of the temporary cell phones the Jesuits have handed out. It's his wife and daughter. I ask him long it's been since he's seen his daughters, who are 5 and 1. "Three months," he said, tears streaming down his face. His 5-year-old had told him she's "saving a chocolate for me" for when he returns home.

I ask him if he's going to try to cross again. "I am going to return to Morelos ... It's very disappointing, the little money we have back at home, you come and you waste it here and sometimes you end up being a drug addict or owing money in order to cross. So now, I will return with more debt than I already had. But I know I will be with my family."



Even the simple act of obtaining a wire transfer from a loved one can become a life or death situation. Deportees are obvious targets.

Photograph by Chris Bava

Nogales residents Juan Francisco Loureiro Herrera and his wife Gilda turned their family's abandoned warehouse into a shelter one evening in the winter of 1982 after discovering hundreds of migrants huddling in the cold outside the shoe store they own.

"Once we opened the store, we started talking to the people, we listened to their stories.

Most haven't eaten in days," says Herrera. "We promised to help them; they said there were more at the park. We went to the park and saw there were approximately 170 more people and became really worried because it wasn't just that so many people were suffering, [but that] nobody was doing anything to help them."

Over time, Herrera and his family slowly rebuilt the warehouse, constructed bunk beds for people staying in the shelter, and added a kitchen and dining room area. They've also arranged for lawyers and psychologists to provide their services to deportees. Since then, more than a million people have slept in the shelter, he says, explaining that while in the beginning most were migrants heading north, in recent years they've helped an increasing number of deportees. "We thought that this migration phenomena would come to be resolved, but after 31 years, it is still the same ... [But] in this way, we've been able to bring a little bit of solution to this problem that we've lived with all these years."

Still, the shelters are only a temporary fix. For those who don't arrange to either cross the border again or find a way back to their home states, there are few options. Many end up sleeping in public parks or abandoned houses in the city's poorest sections. Drug addiction is a problem, and dozens of deportees have begun using a hillside graveyard to sleep: The graves provide secluded, flat surfaces to sleep, and the steep incline gives them plenty of time to run if the police or cartel men approach.

While state sponsored, the Grupo Beta office is dangerous: Activists and deportees allege the cartels openly use it as a way to identify people to kidnap, while a man known as "The Barber" has allegedly used it as a hunting ground for vulnerable women to prey upon with promises of clean clothes, a new haircut, and a hot meal.

Even the simple act of obtaining a wire transfer from a loved one can become a life-or-death situation. Deportees are obvious targets: Their clothes often make them stand out, and they carry what few possessions they brought with them in clear plastic DHS bags. If they have identification to actually pick up their money, exiting the bank can result in a robbery.

But most don't arrive in Mexico with any identification, and the cartels prey on them, agreeing to obtain the money for them for a "fee." Occasionally they return with a fraction of the money that had been wired. Most of the time, they simply take it all.

Hoping to help deportees avoid being robbed, Lupita Aguirre and her husband Juan have begun working with a nonprofit group called No More Deaths to make sure they get their money — and a bus ticket home. "We started because more than anything, people are

The Deported: Life On The Wrong Side Of The Border For Repatriated Mexicans - BuzzFeed News

deported without any documents,” Aguirre says, explaining that “a lot of people getting money out were being robbed or charged very high rates of interest.”

So, for the last year and a half, NMD has operated a cell phone bank of sorts out of a bus depot parking lot. Deportees can use the phones to call someone either in the U.S. or Mexico and arrange to have money deposited into the Aguirres’ bank account. Once the money arrives, Aguirre takes the deportee to a bank to take out the money, and then to a bus when it is ready to leave. “If this service didn’t exist, people would just be stuck here,” she says.

As we talk, two men — their clean, new clothes marking them clearly as not being deportees — hover a few feet away, intently listening to our conversation. After a few minutes, they move off, but continue to watch us, and I find out later that they were cartel men, wary of the American asking questions.

While the impacts of deportation on America may seemingly end at the border, for the deported — in Tijuana, deportation rates range from 200 to 500 repatriated Mexican citizens every day — it means a whole new set of life-threatening challenges.



Photograph by Chris Bava

Despite the violence endemic to the border towns, the sex trade remains one of the few consistent draws for many Americans. Each night, American men cross into Mexico to visit special zones, often within walking distance of the border crossing, to visit strip clubs, brothels, or to troll men and women working storefronts.

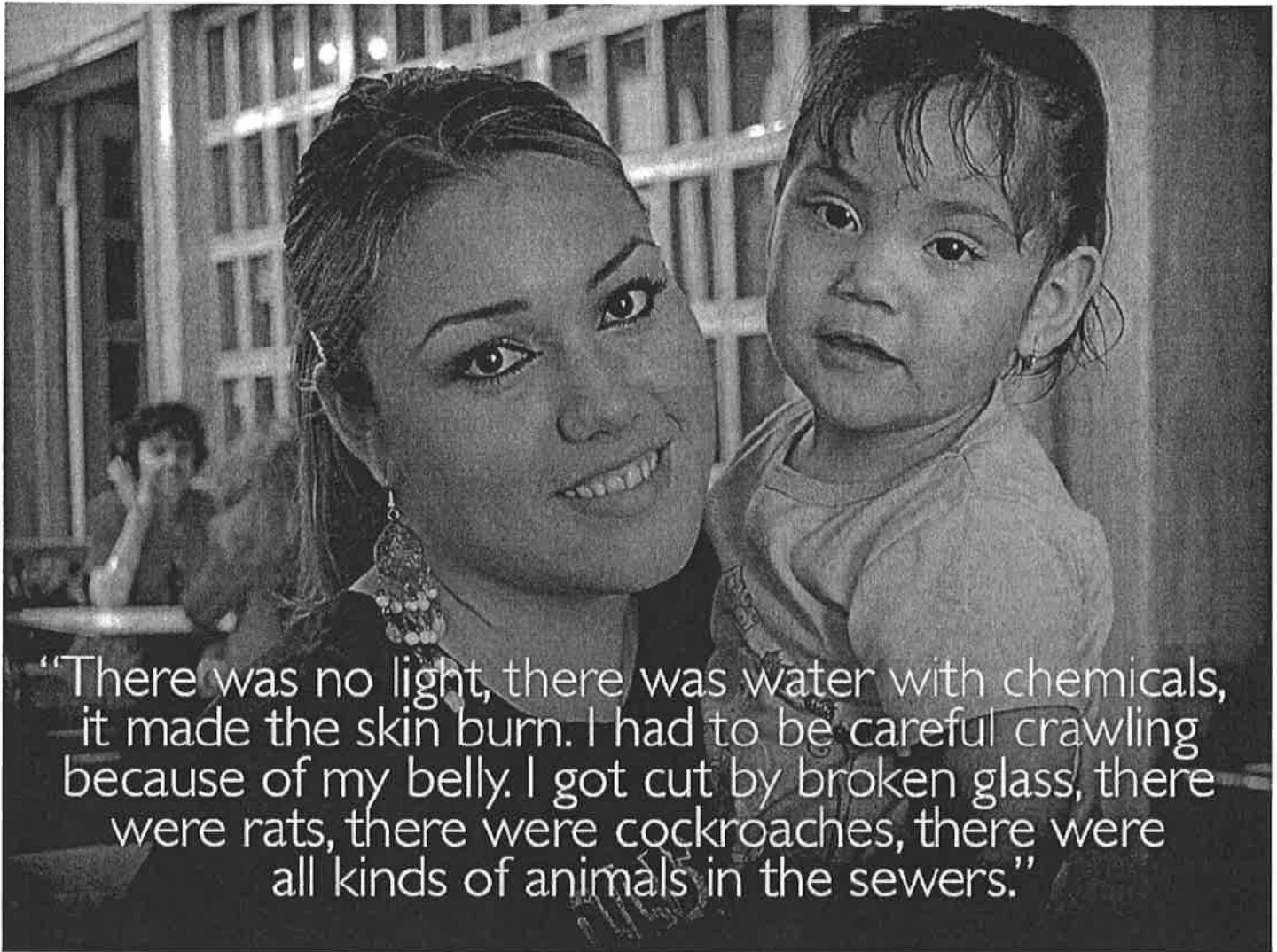
I meet Maria, a young Mexican girl who looked to be in her mid-twenties, at Studio 69, a strip club a few blocks from the downtown Nogales crossing. Street touts outside entice clients with promises of no cover, a free tequila shot, and the friendliest girls in town. The club's wood paneling, wide stage, comfortable couches, and DJ spinning the latest

American hits would have fit in perfectly in any upscale strip club in the U.S.

But the club's menu — explained to me by one of the waitstaff — probably wouldn't: In addition to \$20 lap dances, there was also the opportunity to take one of the dancers to a back room "with a nice clean bed for an hour. Eighty bucks and I'll give two free condoms."

After I'd dutifully downed my free tequila shot, the waiter eventually sends Maria my way. Unlike most of the girls, she speaks some English. Although she is clearly uncomfortable talking, she acknowledges that some of the girls who worked in the clubs and brothels were deportees, but it is hard to say how many "because they move us from town to town. So you don't get bored."

As we chat, Maria begins to cry. "My 5-month-old. He died yesterday," she says. When it becomes clear I'm not a paying customer, she quickly composes herself, and gets back to working the room.



“There was no light, there was water with chemicals, it made the skin burn. I had to be careful crawling because of my belly. I got cut by broken glass, there were rats, there were cockroaches, there were all kinds of animals in the sewers.”

John Stanton / BuzzFeed

A few days later, I arrive in El Paso and cross into Juárez to meet Claudia, a young deportee originally from this dangerous town. The violence of the drug war hangs over everything along the border, and nowhere more than Juárez. For more than a decade, this city of 1.5 million residents was the epicenter of drug violence. More than 9,000 people were killed in the city between 2007 and 2011, and it's been plagued by scores of brutal rapes and murders of young women since the 1990s. We pile into her battered early 1990s station wagon — along with her son, daughter, and a friend who will translate — and head to the business strip of Juárez.

Today, while most of the city may resemble the backdrop of any number of B-movie Westerns set in a dusty Mexican border town, Juárez's business district is gleaming: Tall glass buildings branded with the names of American multinational companies rise above the streets, and well-appointed hotels cater to the needs of foreigners in town to check on their investments in the local maquiladoras. There's even a Wendy's and a fancy mall.

Over coffee, the mother of three tells me her story. After her mother died, Claudia, then 16, moved to the U.S. using a “shopping visa,” which allows Mexicans living along the border to make day trips into the U.S. Living in Denver, she worked with an aunt who ran a food truck catering to construction jobs. She had two boys while living in the States, and made regular trips to and from Juárez to visit family and check on the family home. But in 2010, things changed as she was waiting to cross back into the U.S. after a visit to Juárez.

“They took away my visa,” she says. “When I was living in Colorado, working selling food at the construction sites, I was given a ticket for not having a proper permit. And that appeared in the system [because] I had a court appearance and had failed to go. I was here alone, with the kids, and now pregnant again, it was a difficult situation. The only thing I knew how to do was nails and cook meals.”

As the violence escalated in the 2000s and the city’s economy collapsed, hundreds of wealthy Juárez citizens moved across the Rio Grande into El Paso, while untold numbers of other residents began crossing the border illegally on a nightly basis. Claudia decided to try to move back to the U.S. as well.

The border between El Paso and Juárez is, at best, porous: Despite miles of fencing, steel walls, and the constant presence of the border patrol, each night untold numbers of Mexican migrants literally run across the shallow Rio Grande and disappear into the city’s sprawling neighborhoods. Claudia tried this route several times, but being pregnant made it difficult to run, and after several near misses decided to give up on the overland route.

Desperate, she contacted a coyote who “told me we could try to cross through a ‘tunnel’ and that I would have to walk 15 minutes and there wouldn’t be any problem.” The coyotes took Claudia to the border in a group of 20 migrants. Once they entered the tunnels, they would be locked in, making turning around impossible. And the “walk” quickly turned into crawling as the migrants navigated tight sewage pipes, slowly making their way in the pitch black further under the city. It was cramped for everyone, but at six months pregnant, the pipes closed in tight around her.

“I had to keep going. There was no light, there was water with chemicals, who knows what kind, it made the skin burn. We had to cross hunched over, crawling — I had to be careful because of my tummy ... I got cut and scratched by broken glass, there were rats, there were cockroaches, there were all kinds of animals in the sewers,” she says, pointing out scars on her hands and arms that are still visible.

Halfway through the crossing, a diabetic man with high blood pressure in front of Claudia

collapsed. Unable to turn around, Claudia desperately began pushing his unconscious body in the dark.

“My hands were bleeding, my knees, I started having contractions, I started feeling weak. I couldn’t push him forward anymore and asked the guy behind me to help. Because the tunnel was small, only one person could crawl through at a time, the guy behind me said that either he would cross over me, or we will stay here and die. There wasn’t a lot of oxygen. He asked me to rub mud over my body so he can slide over, that he might be crushing me and the baby, that maybe the baby would come out, but that if he didn’t do this we would all die.”

Eventually, the two were able to get the man’s body a mere five meters through the tunnel before they came to the exit. Bruised, bleeding, and suffering from premature labor contractions, Claudia emerged from the sewer into the El Paso night to find herself in a dark alley. While the other migrants scrambled to hide in dumpsters until their ride could arrive, she was in no shape to climb the metal bins, and collapsed in a dark corner, where border agents found her a few minutes later.

“The patrol asked me to get up, but I couldn’t, and he noticed I was bleeding [from the contractions] so he called an ambulance in El Paso and took me to Las Palmas Hospital—Medical Center.”

At the hospital, doctors stabilized Claudia and stopped her contractions, and bound fractures in both her wrists and one elbow before sending her to the local jail. “Once they took me to the cell, there were others there, around eight women, and they offered me food, coffee, they were really nice to me. But I didn’t want to eat anything, I was worried, and worried for my kids I had left with my dad.”

And while at the hospital doctors had put antibiotic cream on the cuts and rat bites, they hadn’t done a thorough job of cleaning them. “After talking to the other girls there, one of them noticed that [my] arm was beyond red, it was more like black from the infection. I couldn’t stand the pain, it was swollen. She said, ‘We have to take [the bandage] off because if it gets worse you can get gangrene.’”

The woman, a nurse from Mexico, said that they had to go to the jail infirmary and steal whatever bandages and medicines they could to treat her wounds. “I took gauze and antibiotic cream ... we were not allowed to take medications back to the cell, they could only be used at the infirmary, but I took some back anyway.” The nurse and some of the other women in the cell took Claudia into the showers and began scrubbing her wounds.

The Reporter: Life On The Wrong Side Of The Border For Repatriated Mexicans. BuzzFeed News

After a month in jail, Claudia was deported back to Juárez.

Though murder rates in Juárez have dropped off significantly in the last several years as the Sinaloa cartel has taken control of much of the border and a new government in Mexico City has taken power, the damage has been done. Unlike other border towns where entrepreneurial locals sell trinkets, sombreros, and pictures with donkeys painted as zebras, Juárez's main downtown crossing is desolate, aside from a handful of men touting local pharmacies' Viagra prices. The violence has become so bad, even those seeking out cheap or illegal sex have long stopped coming to Juárez, leaving only the Mexican pharmacies to draw El Paso residents looking for cheap prescription drugs across the heavily militarized border.

And the collapse in the city's murder rate after 2011 may be little more than a breather: Martin Orquiz, a reporter with the newspaper *El Diario* who has covered crime and corruption for two decades, warned the violence will return. "It is going to be waves. Up and down, up and down. Because there are many bad people here, and their way of life is to take advantage of the rest of us," he says.

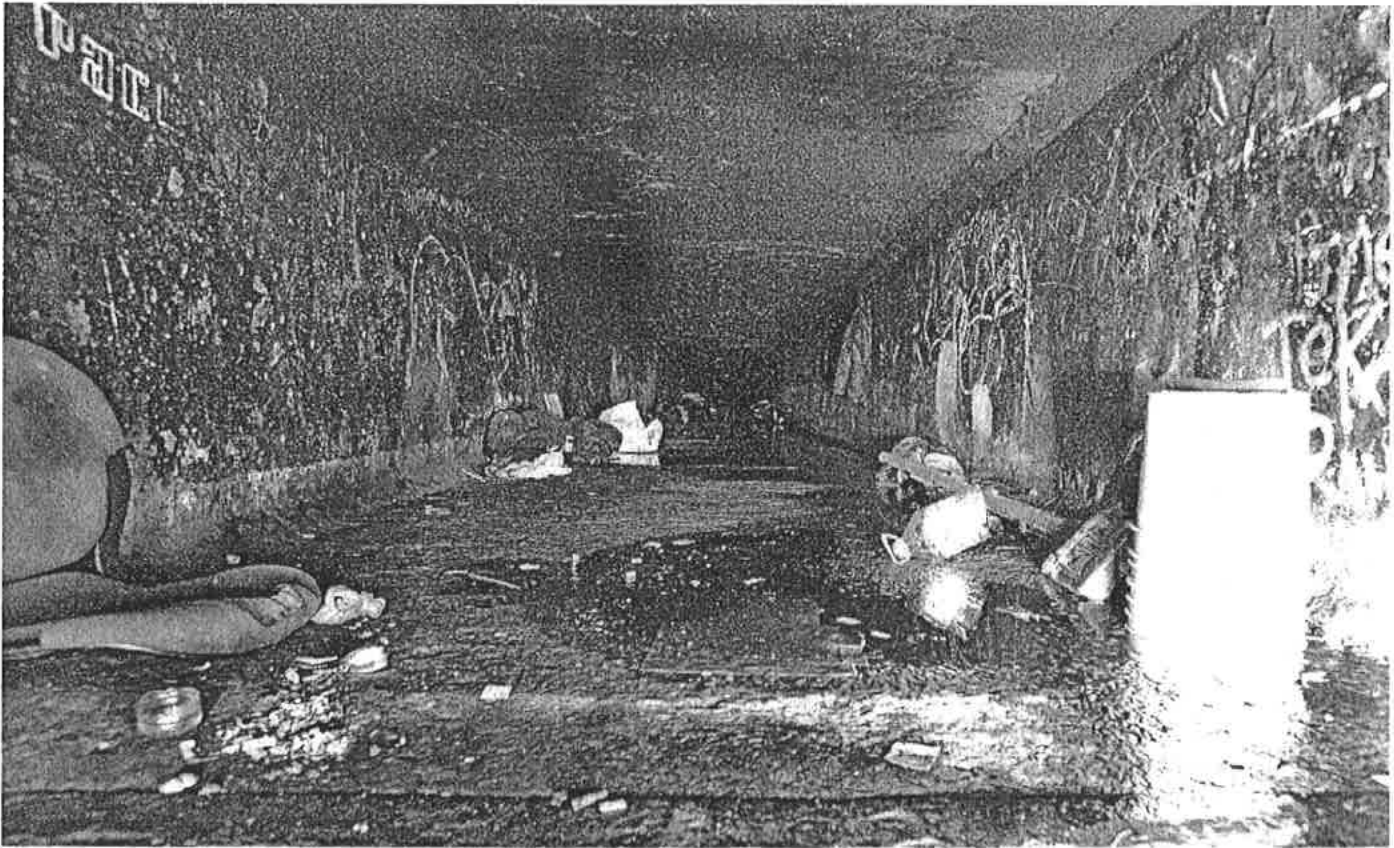
The situation for deportees along the border isn't likely to change anytime soon. Short of a dramatic upswing in the Mexican economy or the U.S. abandoning the efforts to control immigration — neither of which are likely to occur — deportations will continue. Although the U.S. has begun deporting some Mexicans to their home states, reducing the number of deportees in border cities, the flights are expensive, sporadic, and represent only a small part of the deported population.

Even if Congress passes comprehensive immigration reform providing citizenship to the millions of undocumented immigrants already in the U.S., that would be only a temporary fix. The sheer size of the border makes an impregnable border impossible, and the determination of migrants to enter the country at any cost ensures a steady flow of undocumented people in the future.

Claudia says that while she would like to be back in the U.S., she's not going to try crossing again, even if it means living in constant fear. She was attacked in broad daylight recently. "I would love to be there [in the U.S.] because of the kids," she says, corralling her son Nathan and daughter Valentina, who are playing among the coffee shop's tables, oblivious to the difficulties and danger all around them.

I ask her if she's nervous about raising them here. "Nervous? Yes," she says, stroking Valentina's hair. "I am afraid to be here because of my kids, because of all that has

happened, because I am alone. I am afraid to be here. But I have no other options. I have no one else.”



Photograph by Chris Bava

John Stanton is the Washington, D.C. bureau chief for BuzzFeed News. In 2014, Stanton was a recipient of the National Press Foundation's 2014 Dirksen Award for distinguished reporting of Congress. Contact John Stanton at john.stanton@buzzfeed.com.

More ▾



NEXT ON BUZZFEED NEWS

The Insane Conspiracy Theory That Mexico's President...

Phone boring?
Get the BuzzFeed app.



GET IT ON
Google play

Get The BuzzFeed Android App For Free!

The best of BuzzFeed in your pocket.

BuzzFeed Contributor
BuzzFeed Promotions

BuzzFeedNEWS

In The News Today

- Ukraine is marking 30 years since the Chernobyl disaster, the worst nuclear plant accident in history.
- Five Atlantic states are holding presidential primaries today and

Exhibit I

Daily Mail .com

Home | U.K. | News | Sports | U.S. Showbiz | Australia | Femail | Health | Science | Money | Video | Travel | Columnists

Latest Headlines | News | World News | Arts | Headlines | Pictures | Most read | News Board | Wires

Login

AdChoices

- **Andres Herrera was born in Mexico but moved to America when he was a little boy where he grew up**
- **But when after his release from jail he was deported back to Mexico - his country of birth**
- **Andres speaks no Spanish and knew no one in Mexico. His family in the US**
- **He is one of 20,000 former American citizens living in Zona Norte, Mexico**
- **They spent their lives in the United States and Mexico is foreign country**
- **Half of drugs smuggled into US go through gang-controlled Zona Norte**
- **'Nine out of ten' deportees are drug addicts and 'many have HIV or syphilis'**

By ALASDAIR BAVERSTOCK IN TIJUANA FOR MAILONLINE

PUBLISHED: 03:04 EST, 29 May 2015 | UPDATED: 05:56 EST, 29 May 2015

94

shares

65

View comments

A stone's throw from the neon lights of Tijuana's bars and clubs, Andres Herrera was down a dingy alley injecting himself with heroin and crystal meth – bought with money stolen at gunpoint from a tourist that day.

'I have to get a fix every five hours or I'm likely to do something even worse,' his native California accent trembled as he fumbled his forearm to find an unscarred vein.

'I'm planning to cross back illegally into the US soon. Even if they catch me, prison over there is a lot better than life here in the Zona Norte.'

Scroll down for video

- Pregnancy while using Skyla is uncommon but can be life threatening and may result in loss of pregnancy or fertility. Ovarian cysts may occur but usually disappear.
- Bleeding and spotting may increase in the first 3 to 6 months and remain irregular. Periods over time usually become shorter, lighter, or may stop.

Skyla does not protect against HIV or STDs.

Only you and your healthcare provider can decide if Skyla is right for you. Skyla is available by prescription only.

For important risk and use information about Skyla, please see the Full Prescribing Information.



Like Daily Mail

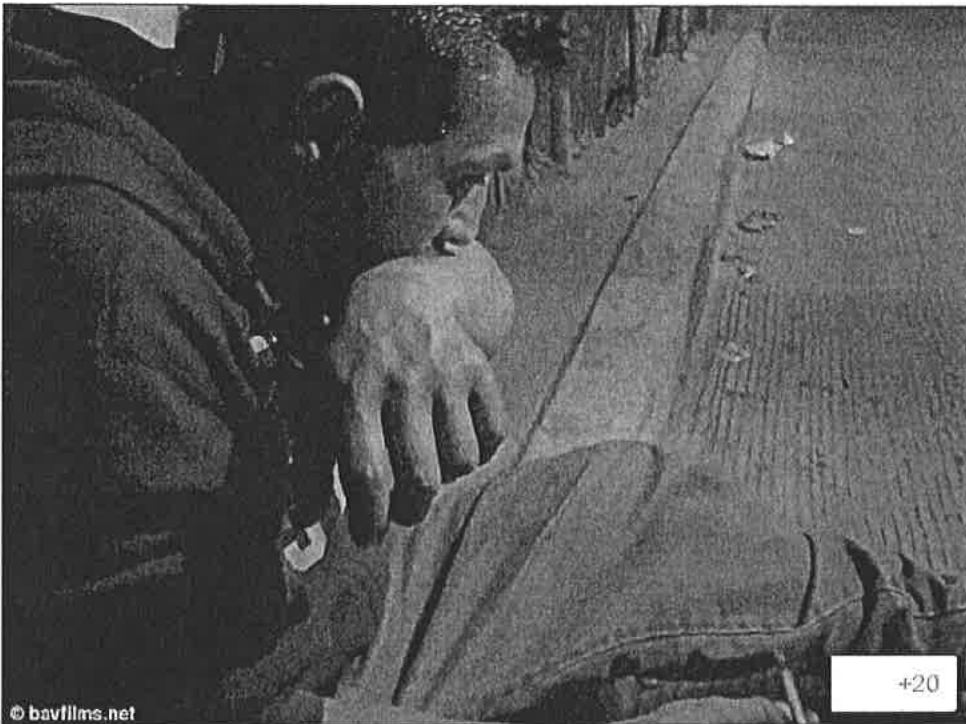
Follow @DailyMail

Follow Daily Mail

+1 Daily Mail

FEMAIL TODAY

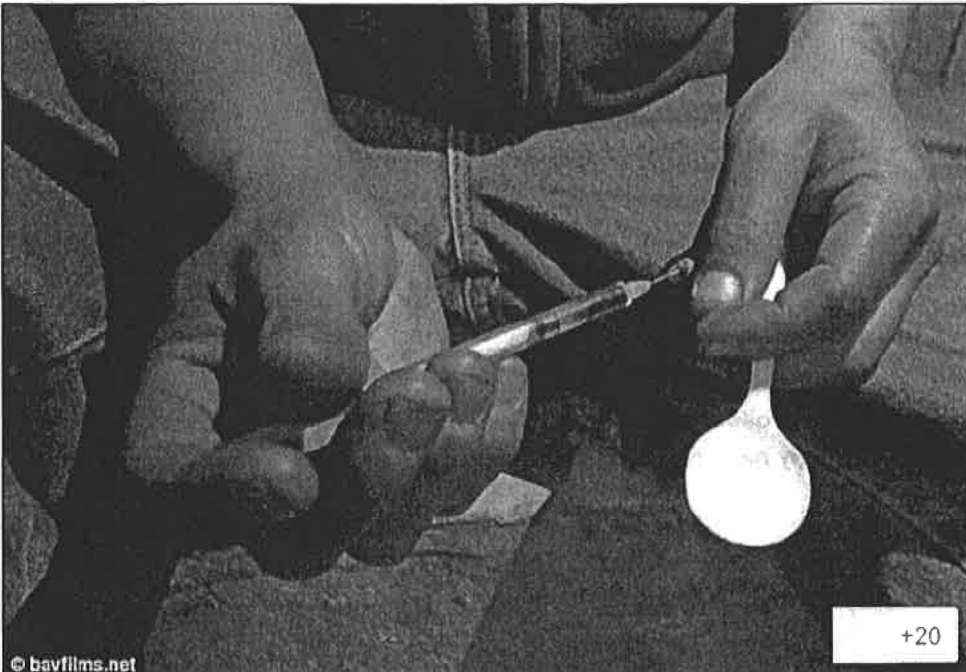
Kelly Ripa comes out



© bavfilms.net

+20

Slum: Andres Herrera (pictured) is one of 20,000 Mexican-born criminals who living in the dilapidated Zona Norte district after he was deported back to the country of his birth for committing a crime - even though they spent most of their lives in America



© bavfilms.net

+20

Dilapidated: Zona Norte is 'all gangs, violence, drugs and poverty' according to a man who owns a tailoring business beside the alley where Andres was taking drugs (pictured)

guns blazing on return to Live saying ABC apologized for moving Michael Strahan to GMA without letting her know then fights backs tears



Rita Ora shares cryptic film poster about 'beautiful, rich woman whose husband has no interest in her' amid Beyonce and Jay Z cheating drama

'She's more curvy than that and everybody knows it': Beyonce in new Photoshop storm after fans hit out at W picture Another controversy?



Scott Disick parties the night away in NYC with model Megan Blake Irwin... who spills out of top and suffers embarrassing wardrobe malfunction



Pregnant Bar Refaeli shows off her blossoming baby bump in a purple bikini as she relaxes on holiday Supermodel is expecting her first child



No wonder she caught his eye! Introducing stunning Brigitte Bardot lookalike model Megan Irwin who's spending time with Kourtney's ex Scott Disick



'Saying NO doesn't make you scared or frigid, it makes you smart': Victoria's Secret model pens an open letter to her teenage fans on sexting



'No truth': Rachel Roy breaks her silence to DENY being Jay Z's 'mistress' from new Beyoncé song about Infidelity Tense times



Not moving in together! Kylie Jenner, 18, 'is helping beau Tyga, 26, find a rental near her Calabasas mansion after he was evicted from Hollywood home'



Tour bus owner sues Scott Weiland's estate for \$150,000 claiming the late singer shot up the vehicle Accident allegedly happened in 2013

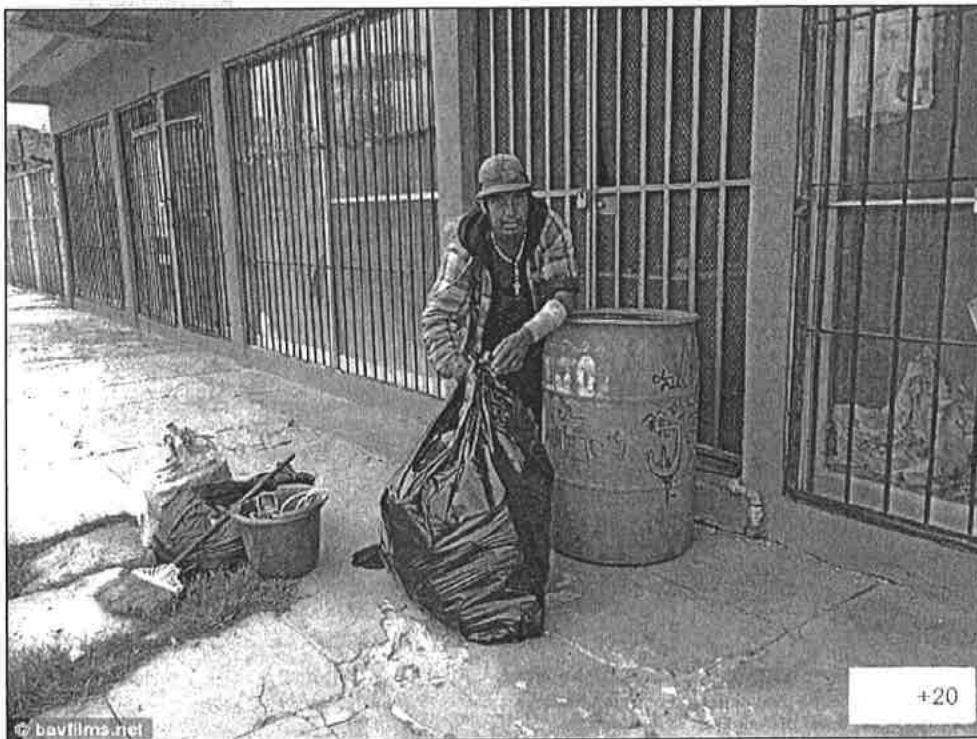




© bavfilms.net

+20

Close: Andres and other criminals now reside in the drug-riddled district of Zona Norte (pictured) in Tijuana where only a fence separates them from their adopted home in the United States



© bavfilms.net

+20

Desperate: Drug-addicts like Alejandro Martinez rummage through waste bins for food and plastic bottles to sell to recycling centres in the drug-riddled area

Split! LeAnn Rimes' ex-husband Dean Sheremet is divorcing his wife Sarah Silver after five years of marriage
35-year-old chef



Advertisement

But will she have a Jonas Brother? Kevin wife Danielle announce they are expecting baby No2... and share snap of daughter Alena in 'big sister' T-shirt



The Audi A3 Starting at \$30,900*

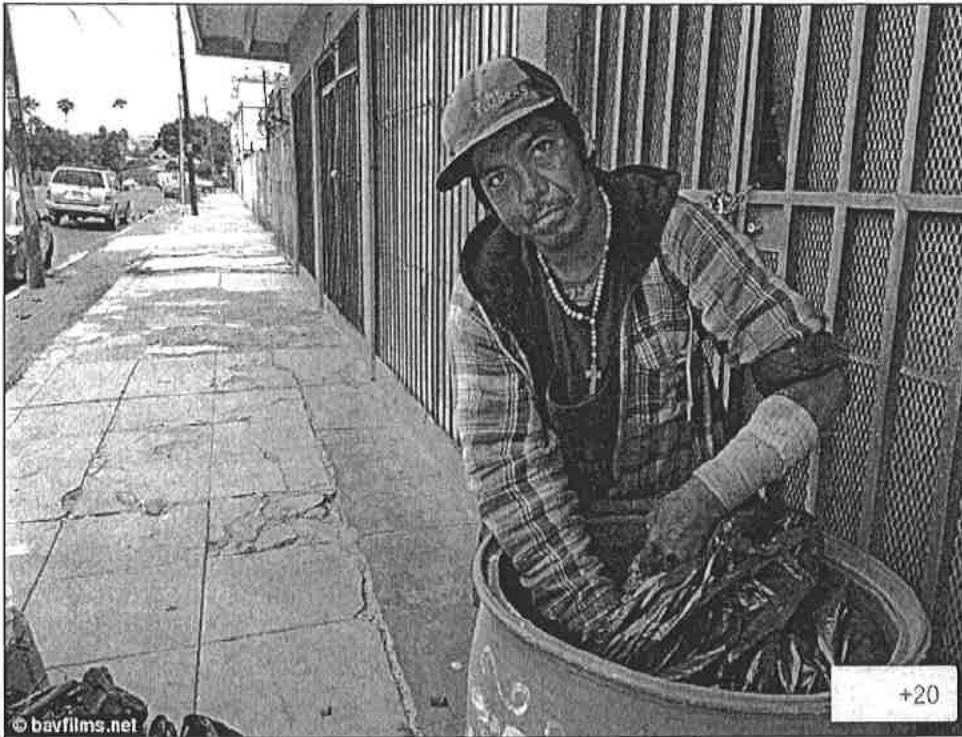
Visit your local Audi dealer.

Find your A3

The couple that exercises together... Amy Adams shows off her figure in skintight leggings as she joins husband Darren Le Gallo for morning workout



Bonnie And Clyde's Faye Dunaway, 75, looks unrecognisable from her screen siren



Homeless: People who end up in Zona Norte like Alejandro 'take drugs to forget, but they end up taking drugs just to survive and doing whatever they can to get hold of them,' a local government worker told MailOnline



Kicked out: The majority of the 600,000 people who have been deported to the Mexican state of Baja California in the last five years - where Tijuana (pictured) is the largest city - spent most of their lives in America

SHARE THIS ARTICLE

RELATED ARTICLES



Gun battle on Mexican ranch leaves at least 42 cartel...



Sinaloa cartel's top enforcer 'Chino Antrax' comes clean...

Andres is one of 20,000 Mexican-criminals, who were taken across the border to America as babies where they grew up:

But despite speaking no Spanish and having never lived there, once they served time in jail, America washed its hands of them - and sent them back to Mexico.

Most of the men like Andres end up on drugs living in the crime-ridden district of Zona Norte in Tijuana - directly beside the triple fence that separates their adopted home of the United States from Mexico.

days as she steps out on shopping trip
Slower pace of life now



Nameplate of painting which featured the word 'negro' was frantically hidden by aides just moments before William and Kate entertained the Obamas at their home

Michael Strahan 'was sick of being bullied off-air by Kelly Ripa after he stole the limelight', sources claim ahead of on-screen reunion of estranged co-hosts

Karlie Kloss puts on a very leggy display in a leather kilt and flat chunky boots as she heads out to dinner in New York
Channeling own style

'He was a member of our family': Kid Rock expresses grief after his assistant is killed in ATV crash outside singer's sprawling Nashville home

Reese Witherspoon looks effortlessly chic as she dresses her slim frame in a crisp shirt and white jeans for casual stroll
Dressed down chic



Home Top

Time to dust off the horns! Angelina Jolie set to reprise her villainous role in Disney's Maleficent 2
News was a surprise to many



Rita Ora makes bold statement in the EXACT Gucci outfit worn by Beyonce in her music video... after she's accused of affair with singer's husband Jay Z



Did Kylie Jenner wreck

Ninety percent of the Zona Norte deportees are drug addicts, and all are waiting for their opportunity to sneak back over the border and go 'home'.

Just over half of the total narcotics that are smuggled into the US go through the Tijuana border region.

The brutal Sinaloa Cartel that controls criminal activity throughout north-west Mexico has turned the once-peaceful 'North District' into a drug-ridden hell hole.

'It was very peaceful here when I was a child,' local businessman Roberto Martinez told MailOnline.

Roberto owns a tailoring business beside the alley where Andres was injecting 'speedy' – the name given to the mix of heroin and methamphetamine that is preferred by many drug users in Tijuana.

'Now it's all gangs, violence, drugs and poverty,' he lamented. 'I stay out of it. What happens on the other side of my shop door I'm not interested in.'

The dilapidation of the Zona Norte is extreme. Local landmarks consist of graffiti-covered houses and burned-out cars.

Drug-addicts rummage through waste bins for food and plastic bottles to sell to recycling centres.

Drug paraphernalia is everywhere: syringes strewn on the pavements, spoons used to prepare intravenous drugs sit on windowsills, street market stalls sell Snickers bars alongside crack-pipes.

'Tijuana will suck you dry': Deportees struggle for survival



another car? Starlet flaunts her figure in yellow bikini... as her velvet wrapped Mercedes is pictured being towed away



Paris Hilton 'splits from her millionaire boyfriend Thomas Gross after one year of dating' It's all over for the socialite and her man

James with the good hair! Corden dons a satin bra and blonde wig as he parodies Beyonce's Lemonade with LemonJames Hilarious take on the video



Plaid's the way to do it! All Larter keeps it casual in a checked shirt and white jeans as she runs errands with her cute children Looked happy and chill



PICTURED: Rachel Roy entering her \$2million LA home after cancelling event amid Beyonce fan backlash over claims of affair with Jay Z



'They paid you to mix it up': Wendy Williams suggests Rachel Roy could be on 'Beyonce and Jay Z's payroll' to boost album sales Controversial comments



It's good to be bad! Cheerful Emma Stone steps out for lunch as Disney confirms she'll play Cruella de Vil in 101 Dalmatians spin-off Exciting times ahead



Solange and the smile that says I've been vindicated! How THAT elevator bust-up with Jay Z finally makes sense after Beyonce's lyrics about affair



Rita Ora becomes latest star accused of having an affair with Jay Z... as fans claim racy lemon bra selfie proves she's 'Becky' mentioned in Beyoncé's Lemonade



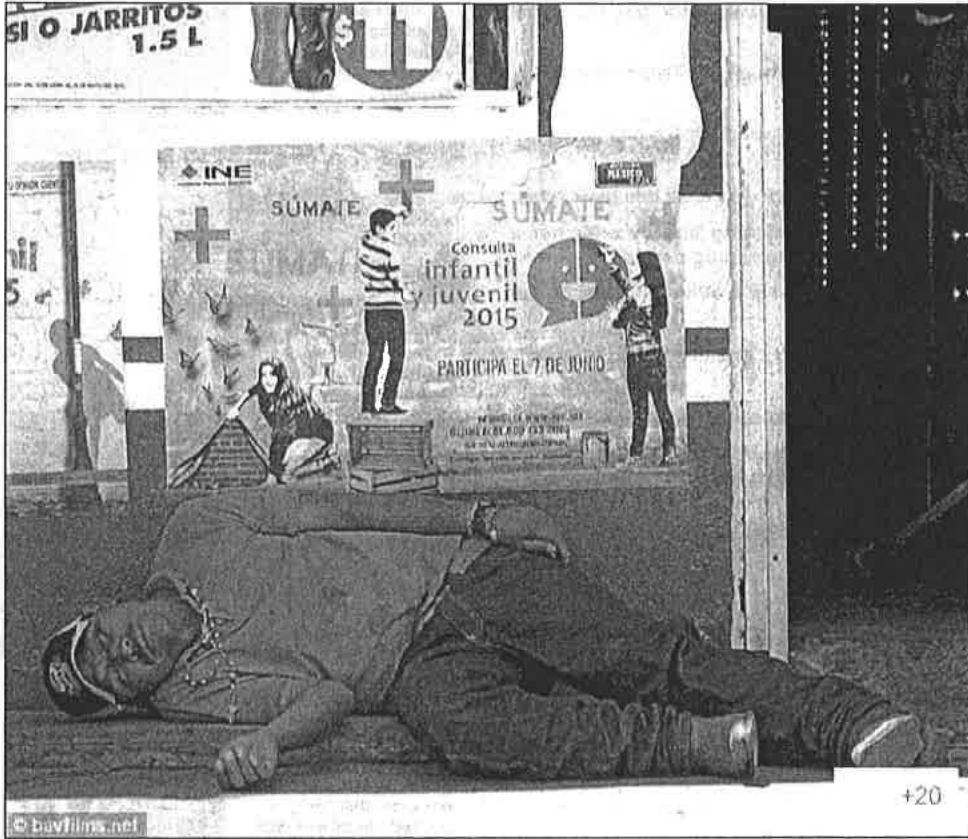
Brooklyn Beckham shares another sweet snap with rumoured girlfriend Chloe Grace Moretz as they continue to hint at romance 17-year-old superstar



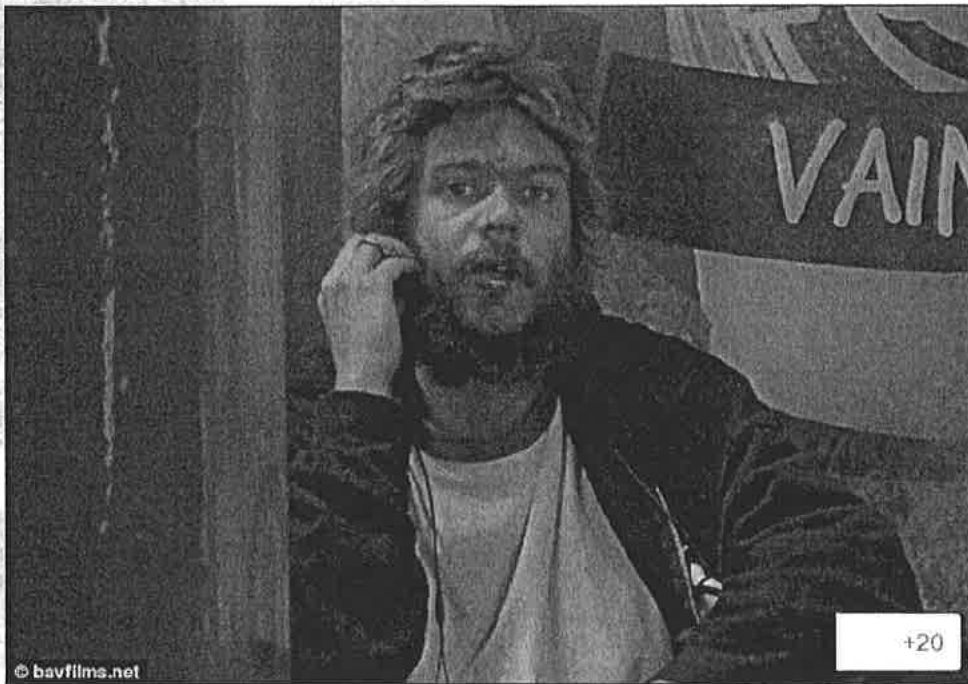
0:00 / 4:15



Mexican born criminals who grow up in the US and then deported back to Mexico Daily Mail Online



Junkie: Over 60 per cent of people living in Zona Norte (pictured) are drug addicts, according to a local policeman



Gangland: Over half of drugs smuggled into America go through the Tijuana border region where around 60 per cent of people are drug addicts like this US man, who did not want to be named

Can't hide those curves! Khloe Kardashian smolders in camouflage bodysuit as she promotes hair extension line She's a style chameleon



'My agent didn't call Beyonce back!' Model Winnie Harlow reveals how she landed a cameo in Lemonade - but it was so top-secret, she nearly said no



This is the life! David Beckham shoots commercial on a luxury \$40 million mega yacht in Miami with beautiful blonde in plunging black dress



It's Instagram official! Smitten Louis Tomlinson kisses girlfriend Danielle Campbell in first selfie with the actress and calls himself 'lucky' in Los Angeles



Pregnant Ginnifer Goodwin covers her bump in stripes for hand-in-hand stroll with husband Josh Dallas in LA Not long now!



'SPOILERS: GoT's still rubbish, but with boobs and that': New episode of Game of Thrones faces backlash from fans angry the plot deviates from George R. R. Martin's books



Jedi in training! Daisy Ridley shows off her lightsaber skills and her muscles as she trains with stunt team on the set of Star Wars: Episode VIII



A perfect playground for Prince George! The Duchess of Cambridge is set to cut the ribbon on Hampton Court's new Henry VIII-inspired children's attraction



Always on the move! Ivanka Trump heads to Miami just one month after giving birth to son Theodore to launch a Trump spa with ribbon cutting ceremony

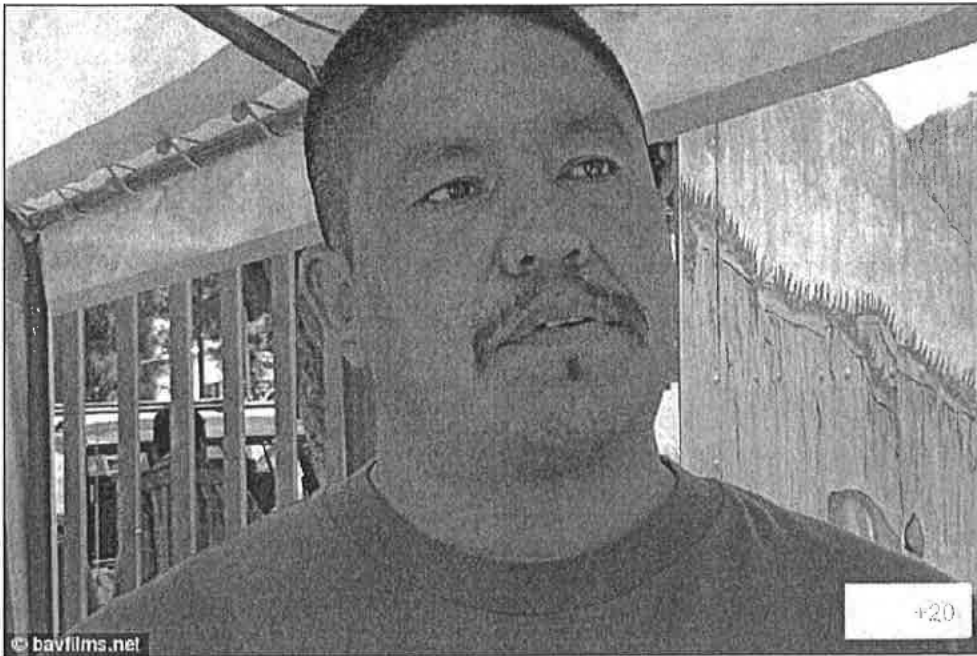


Linda a groupie? No, but she was VERY liberated about sex, writes PHILIP NORMAN in his major new biography of Paul McCartney



No Hail Mary this time! Doug Flutie matches previous best with

Exhibit J



Crime: Israel Hinoso is a former Sinaloa cartel member who used to shoot up heroin mixed with crystal meth and tequila but has since reformed

Cartel lookouts are present on every corner, masked gangsters openly carry pistols in their waistbands and drug dealers hiss from behind barred windows, flashing tinfoil-wrapped packets of heroin for five dollars apiece.

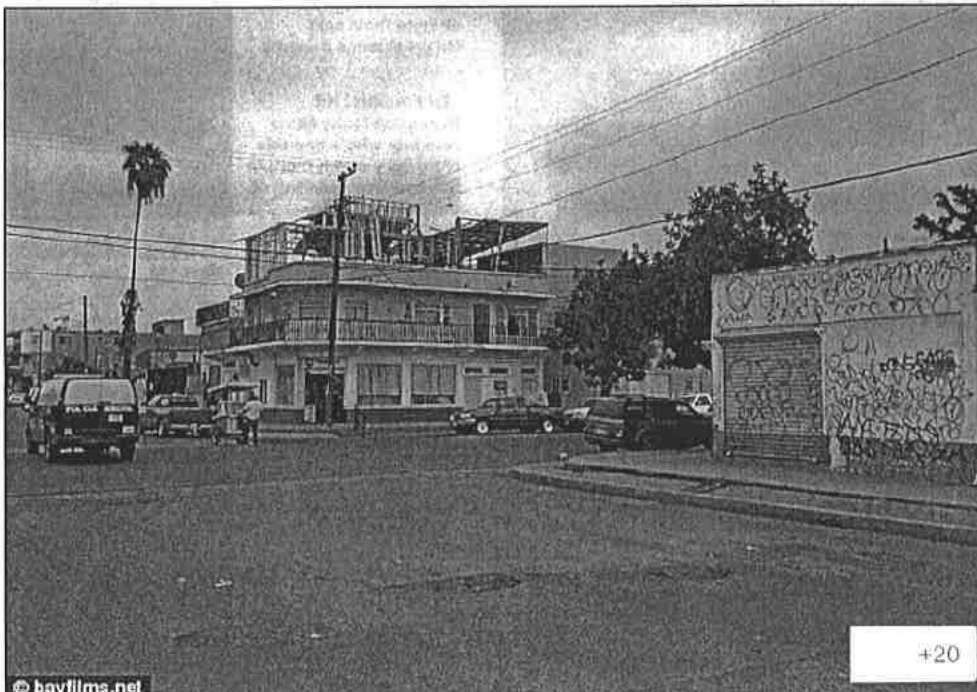
'Around 60 per cent of the people who live here are drug addicts,' a local police officer told MailOnline. 'If we're talking in terms of the deportees, nine out of ten are junkies.'

1,700 people regularly attend the local council's weekly needle exchange, which sets up its stall along the neighbourhood's main street. 70 per cent of the people who trade in their syringes have hepatitis C. Many others carry syphilis and HIV.

Over the past five years, over 600,000 people have been deported to the Mexican state of Baja California, where Tijuana is the largest city.

36 per cent of these deportees remain in the Mexican borderlands, the majority of which have spent most of their lives in the United States.

Known to the locals as 'chicanos', a pejorative term for Mexican-Americans, they are rejected by Tijuana society, and without Mexican paperwork that will allow them legal employment, many turn to drugs and eventually to crime.



Jobs: Deportees living in the north Mexican area are known to the locals as 'chicanos' and turn to drugs and crime because they do not have Mexican paperwork which allows them to get a job

Bollywood dance but football legend still gets boot from DWTS



'An undeniable music icon': Christina Aguilera and Adam Levine lead tributes to Prince as final 11 perform on The Voice
Beautiful tributes

Damian Lewis tries out a hipster beard and man-cleavage as he rocks funky new facial fuzz and unbuttoned shirt at Heathrow



Personal etchings Queen Victoria didn't want you to see: Intimate sketches drawn by the fiercely private monarch



Brooke Burke covers her slender frame in a casual khaki romper suit with bright yellow accessories after salon visit



Prince 'struggled with constant money problems' despite selling 100million records in his lifetime The hitmaker's lavish lifestyle 'partly to blame'



Prince's life in HAIR: Illustrator charts the singer's iconic locks over 35 years - from tumbling curls to funky Afros
Illustrator Gary Card



David Bowie's teenage daughter Lexi seen for first time since singer's tragic death as she steps out with model mom Iman in New York City



That'll get some motors running! Charli XCX displays her cleavage in risqué bikini and thigh-high boots in new video Vroom Vroom Super-saucy clip



No hard feelings! Mischa Barton shows off her dance-toned legs in thigh-high slit dress as she reunites with former DWTS castmembers



Disney announces Emma Stone to play



Drugs: Nine out of ten deportees who end up living in the dangerous district are junkies, according to a local policeman (pictured)



Dangerous: Sinaloa Cartel lookouts are everywhere in Zona Norte (pictured) where masked gangsters openly carry pistols in their waistbands

Cruella de Vil in movie spin-off while Emily Blunt will take on Mary Poppins
New live-action movies



EXCLUSIVE: I've got this thing for you'; Chauffeur reveals Sheena Easton flipped out when Prince gave her 'silent treatment' on their date

Never seen Game of Thrones? Then keep resisting the hype: CHRISTOPHER STEVENS says fantasy drama has lost its energy and is now a repetitive round of formulaic scenes



Jennifer Garner shows off her natural glow as she goes make-up free in casual clothes for coffee date with a pal
Fresh-faced as ever



Angelina Jolie covers her slender figure in chic grey ensemble as she dines with politician William Hague in London... as husband Brad Pitt films Allied



'We love each other very much': Dougie Poynter insists he and Ellie Goulding are 'still the best of friends' despite their split
On great terms it seems



Dr Faustus: Kit Harington looks like a nice boy who's capable of so very much more in this modern re-telling of the morality tale
Supernatural powers



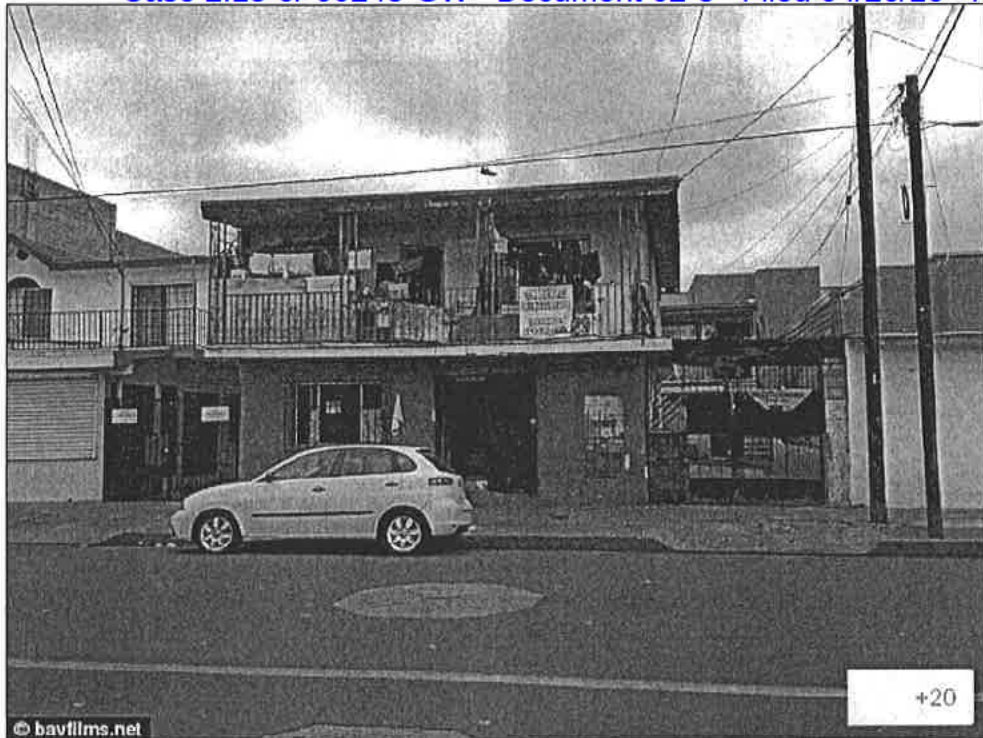
Eighties icons Michael Douglas and Gloria Estefan both receive The Actors Fund's Medal of Honor in NYC
Prestigious event



Christian Bale and wife Sibi look like giddy teenagers as they hold hands on family outing in Beverly Hills
Have been married for 16 years



Chris Rock, 51, walks hand-in-hand with 32-year-old girlfriend Megalyn Echikunwoke through Central Park in NYC



Disease: Thousands turn out to the local council's weekly needle exchange (not pictured) where 70 per cent of those who trade in their syringes have hepatitis C and many others carry syphilis and HIV

'I couldn't get a decent job here because of my tattoos, so I turned to the easy money in crime,' said Mario Villarino, who worked for the Sinaloa Cartel in Tijuana for eight years after being deported for armed robbery.

Mario says he made many contacts during his three year stretch in federal prison and already had a job waiting for him in Tijuana when he was finally deported.

Starting as a debt collector, he worked his way up the gang hierarchy until he was running the local kidnapping racket.

'I did terrible things, and nothing ever happened to me because the cartel controls things here,' he said.

When he finally entered a rehabilitation centre to deal with his drug use, he became a Christian missionary and remained in Zona Norte helping the constant stream of fresh deportees.

'I don't want to be here, but I hurt so many people with kidnappings and violence that I have to try and make things right.'

'It's very easy to slip into the criminal life here because we're outsiders,' he said, speaking at La Roca refuge where he now receives the recently deported.

'You get desperate and turn to crime. The deportees define this neighbourhood now, but they've also changed it completely.'

'The largest problem they face is that, as we say, "they're not from here, nor from there",' local government deportee program director Rosario Lozada told MailOnline.

“ I couldn't get a decent job here because of my tattoos, so I turned to the easy money in crime... I did terrible things, and nothing ever happened to me because the cartel controls things here ”

Mario Villarino, deportee and former gang member



Not Playing It Cool! Ashley Tisdale holds hands with husband Christopher French after jetting in from birthday break in Mexico She looked leggy

Glamorous Sofia Vergara has her famous features covered by her hair after unfortunate gust in LA She's easy and breezy...

'She could squash me like a bug': Terri Irwin's estranged sister Patricia Raines claims the siblings haven't spoken in two years and she lives 'in fear of her'

Pretty in pink! Eva Herzigova shows off her supermodel figure in a slinky silk shirt and tailored trousers for talk at China Exchange Pictured in London

No dad bod here! Buff Eddie Cibrian and bikini girl LeAnn Rimes put on another sizzling display in Mexico Wore a teeny, tiny brown bikini for the jaunt

Pregnant Bar Refaeli cheekily draws attention to her pert behind rather than her baby bump as she poses for sultry bathroom selfie Israeli beauty

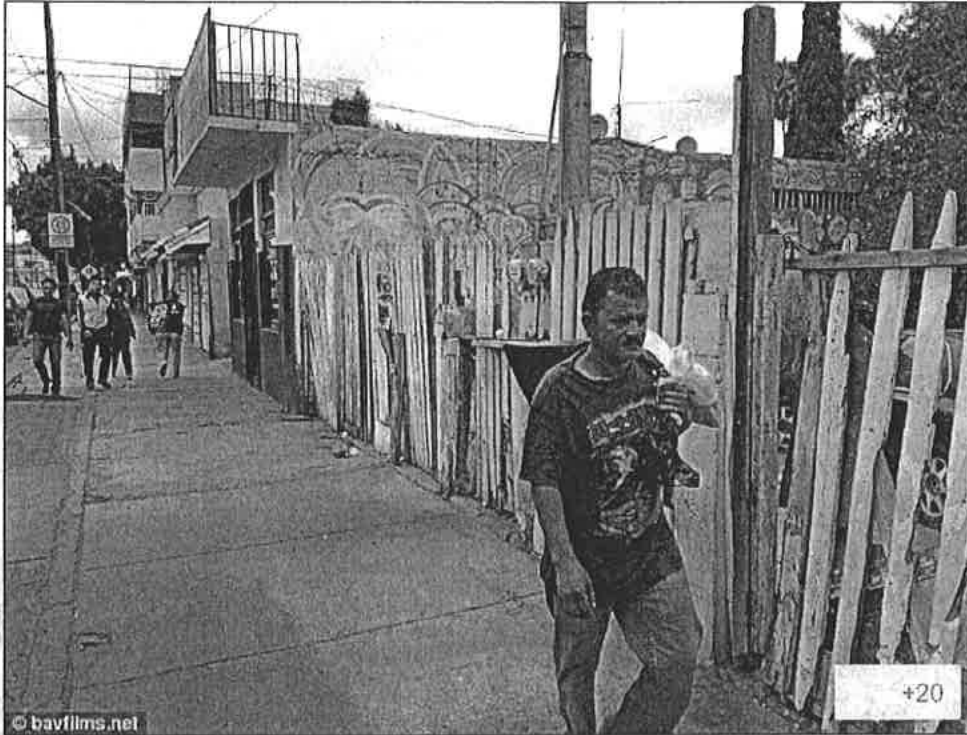
PICTURE EXCLUSIVE: Even Halle Berry can have a bad day! Actress emerges with a nasty blemish on chin as she touches down at London Heathrow

Those shoes are meant for walking! Courteney Cox has her hands full as she carries her trainers... after rekindling romance with Johnny McDaid

Back in the Slythering! Harry Potter star Josh Herdman is virtually unrecognisable after taking a break from acting to become a CAGE FIGHTER

Erlin Andrews settles lawsuit with Marriott Hotels for undisclosed sum after contesting \$55million payout in





© bavfilms.net

Temptation: One man who was deported to Tijuana (pictured) for robbery and worked for the Sinaloa Cartel who control the region says it is 'very easy to slip into the criminal life'



© bavfilms.net

Run down: The district is filled with 'dollar-a-night crack dens' (pictured) where the region's many drug addicts can spend the night 'no questions asked'

nude video case



Not her best look!
Katie Holmes dons drab blouse and matching skirt as she attends Ray Donovan screening in Hollywood
Looked a bit dowdy



Prince protégé Sheena Easton, 56, is almost unrecognisable during shopping trip in Las Vegas as she pays tribute to her 'warm and generous' friend



Supermodel Elle Macpherson, 52, says an 'alkaline body' is the key to her ageless appearance, as she insists the diet is not just another fad



Just a quick change! Ariana Grande shows off her girly side in blush before switching to black for her performance on Jimmy Fallon



Back to business! Kanye West returns to the office in casual attire of untucked black T-shirt and distressed jeans
After a weekend of partying at a wedding



Naomi Watts, Amanda Seyfried, and Michael Cera among the confirmed cast of Showtime's Twin Peaks reboot



Petal power! Helen Mirren shines in floral print dress as she supports honoree Morgan Freeman at Chaplin Award Gala



House hunting? Liam Hemsworth is reportedly looking at a love nest for him and rumored fiancée Miley Cyrus next to his brother Chris Hemsworth in Australia



Look away now, Bradley! Irina Shayk smoulders as she cosies up to male model in sultry Vogue photoshoot in New York



And... action! Liam Hemsworth films



Shelter: The crack dens (pictured) charge a dollar for a dirty mattress and many deportees who arrive in Mexico stay there

'These people end up very resentful of society, and that can create an individual who is a danger to society.'

'They start to take drugs to forget, but they end up taking drugs just to survive and doing whatever they can to get ahold of them.'

The district is filled with drug dens masquerading as deportee refuges. These establishments charge a dollar per night for a dirty mattress behind a closed door and no further questions. It's these places where many of the deportees stay when they arrive.

The Zona Norte borders on Coahuila, a tourist district of Tijuana filled with bars that welcomes thousands of visitors from the United States every weekend.

Local police warn against straying too far from the bright lights, but those tourists who find themselves on the wrong side of the tracks often become easy prey for the gangsters.

Many of the deportees in the Zona Norte, despite hailing from different parts of Mexico, say they stay in Tijuana waiting for their chance to illegally cross back into the United States.

'My father's in Guadalajara, but I've never even been to visit him,' says Moses Vasquez, 36, who was taken to Pasadena when he was just a month old and was deported last year.

'Mexico has nothing for me and the further I go from the border, the more I feel that I'll never go back.'

'You've got to wait for a few days of cloudy weather,' he told MailOnline at the soup kitchen where he works, 'that's when you've got your best chance as the border patrol's instruments don't work as well'.

'I like Mexico, but I'm an American,' he says. 'The hardest thing about being deported is being separated from your family.'

'The justice system has to take the human consequences of deportation into account. It has caused suffering on both sides of the border.'

“These people end up very resentful of society, and that can create an individual who is a danger to society... They start to take drugs to forget, but they end up taking drugs just to survive and doing whatever they can to get ahold of them”

Rosario Lozada, director of local government deportee program

brother Chris and surfing pro Kelly Slater ride giant waves in Byron Bay
Wet and wild



Don't Cry AxII GNR star Rose reveals his broken foot will be healed 'In a couple of weeks' he uses scooter for support at LAX
Guns N' Roses singer

'My perfect afternoon!' Jennifer Lopez snuggles with her twins Max and Emme for a cute selfie after solo shopping trip in LA
Looked very happy



PIERS MORGAN: Jay-Z's not the only one who needs to be nervous about Beyonce, the born-again-black woman with a political mission



Terry Richardson dresses up his twins to snap a rare photo of the one-month-olds - after posting image of his girlfriend pumping breast milk



The friendly exes club! Jude Law's former flames Catherine Harding and Rachel Bourlier enjoy a cosy catch-up



Ageless beauty Uma Thurman looks youthful as she arrives in London just days ahead of celebrating her 46th birthday
Visited Claridges hotel



SPOILER: Jon Snow cheated death? Sansa escape? Which character killed off first? 10 questions answered in Game Of Thrones return, by JIM SHELLEY

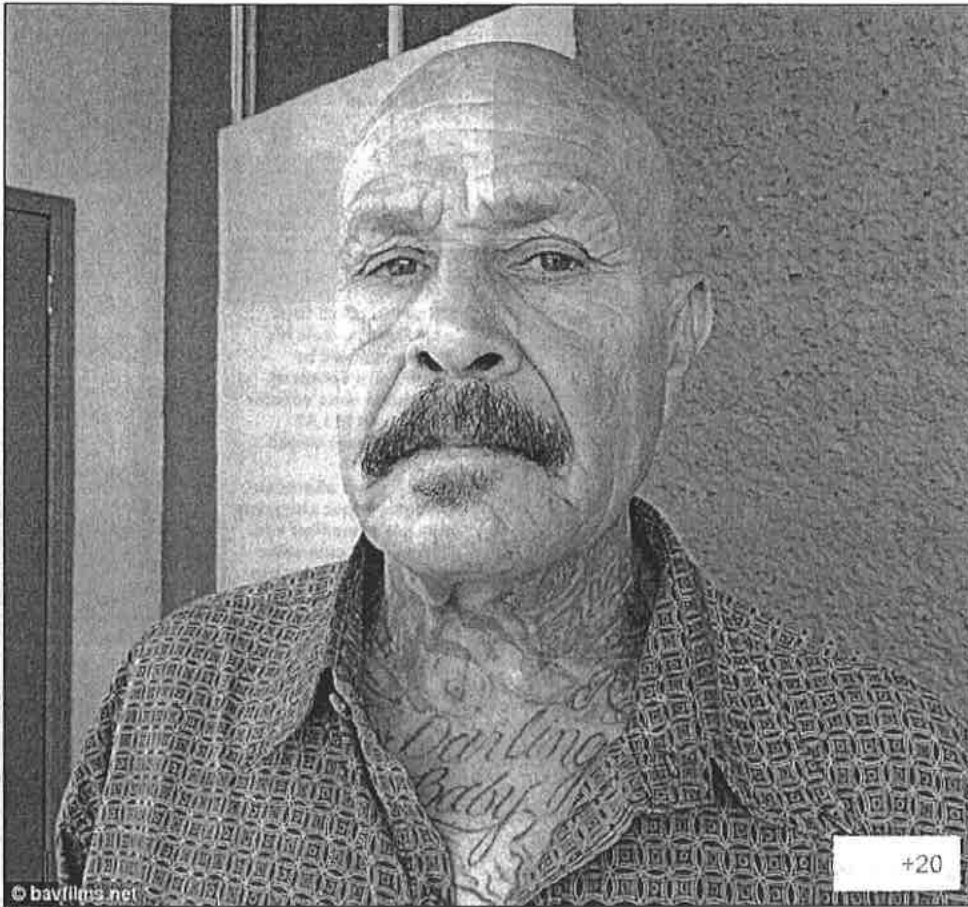


Arya surprised to see me? Maisie Williams shocks Game Of Thrones fans as she crashes their season six viewing party
Star guest

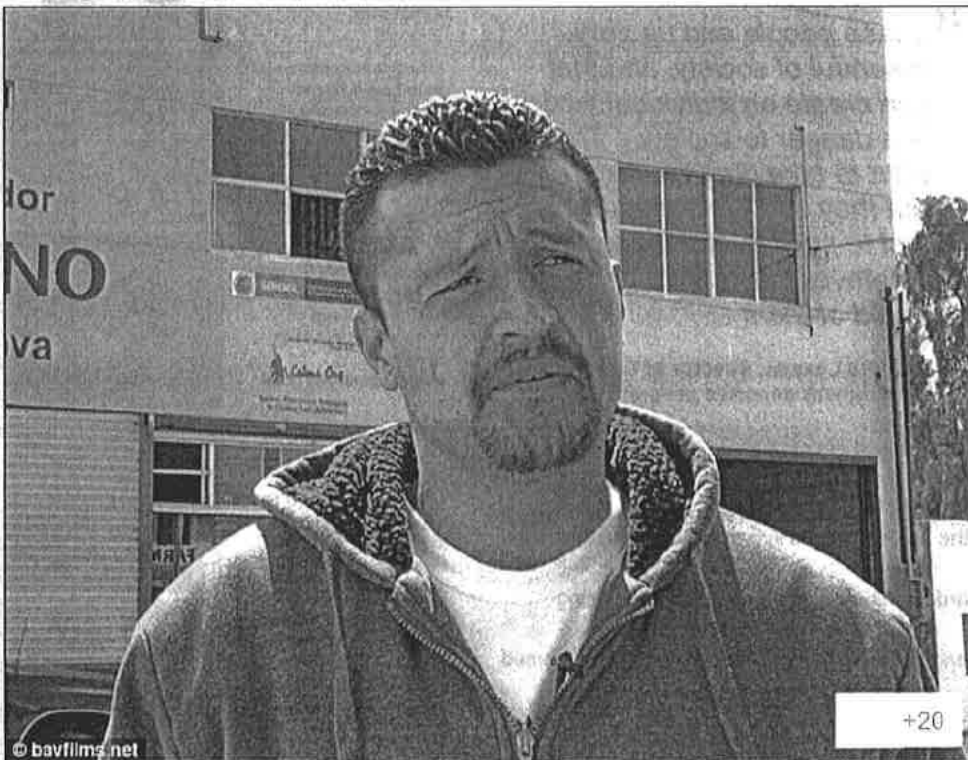


It's over! Zac Efron splits from girlfriend Sami Miro... and deletes all photos of her from his Instagram
All evidence of her is now gone





Criminal: Mario Villarino (pictured), who was deported to Mexico for committing a robbery, says he could not get a job in Mexico because of his tattoos, so he turned to 'the easy money in crime'



Home: Moses Vasquez (pictured), who has lived in America since he was one month old and was deported to Mexico last year, says the country of his birth means nothing to him

Taking style tips from Kylie? Blac Chyna steps out in sporty crop top and leggings after patching things up with her future sister-in-law New-found friendship



Pedal power: Singer Cody Simpson goes shoeless as he cycles around town after partying at Coachella Barefoot on a bike



A Jenner-ous trade! Kendall swaps her Range Rover for a Ferrari after she switches cars with younger sister Kyle



That's cheeky! Victoria's Secret model Shanina Shaik shows off her pert posterior in a high cut bikini as she poses on a balcony overlooking the beach



Ivanka Trump beams with joy while cradling baby Theodore as she poses with her husband Jared, daughter Arabella and son Joseph in their first official photo



Kissing like teenagers! Christie Brinkley, 62, looks thrilled as boyfriend John Mellencamp, 64, plants smooch on her lips as they leave NYC hotel



He's a kid at heart! Justin Bieber enjoys break from Purpose World Tour by spending time with pals at Chicago park Playing around



Top fear: Chris Evans is labelled more volatile than Top Gear predecessor Jeremy Clarkson after leaving producer in tears following outbursts



Padma Lakshmi is pretty in peach strapless number as she attends opening night of Fully Committed on Broadway Looked fantastic



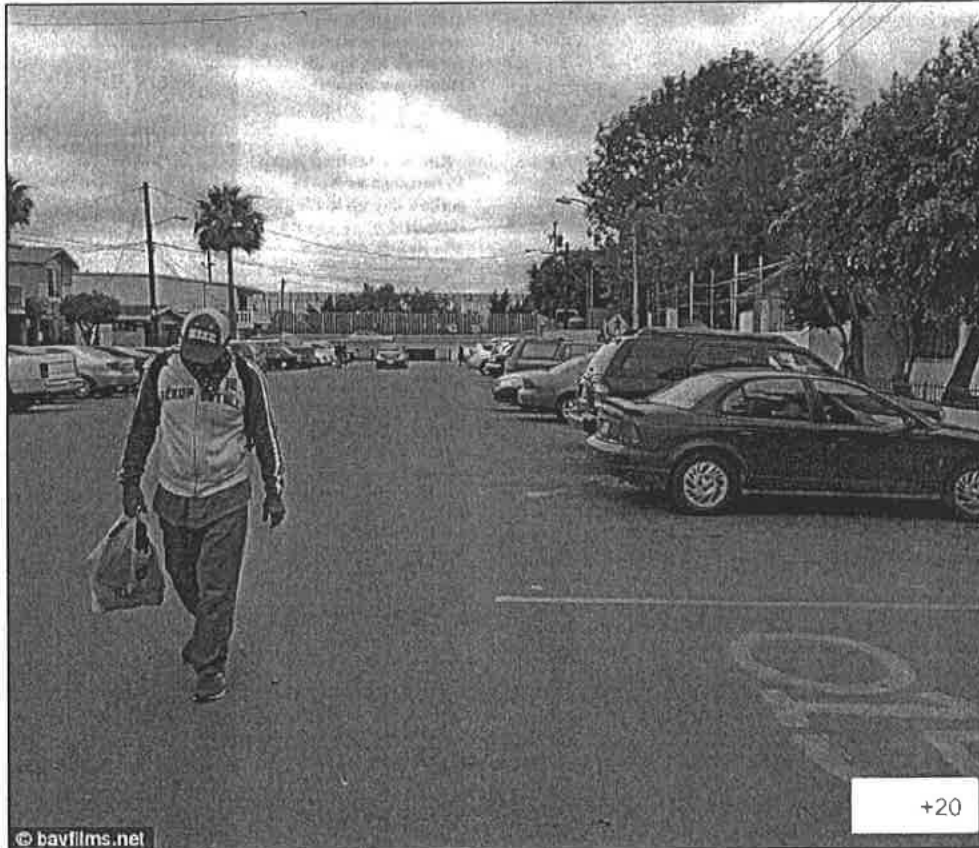
Good hair day! Emma Roberts shows off freshly styled tresses after visiting a salon in Hollywood Stopped by Nine Zero One salon



Missing her old life? Kourtney Kardashian, 37, shares SIX sexy bikini throwback snaps



Visit: The Zona Norte borders on the tourist district of Coahuila (pictured) where thousands of Americans visit every weekend



Return: Many of the deportees in the Zona Norte (pictured) say they stay in Tijuana waiting for their chance to cross back illegally into the United States

'Immigration law is definitely ripe for review,' US deportation defence attorney Edward Haase told MailOnline in his offices in San Diego, California. 'Both sides have a compelling argument.'

'If it just affected that one person I could almost condone it. However, it affects the entire family when you take the main breadwinner away. People end up suffering on both sides of the border.'

'The justice system argues that when people want to enter the United States there is a procedure that should be followed: you apply for a visa, you wait your turn.'

'So these folks that bring over their children are now being able to jump the line and it puts everyone else at a disadvantage.'

'I hate Tijuana', says Juan Alvarez, who was deported three years ago and finds it difficult to find work as a result of his LA gang tattoos. 'The only reason I stayed here is to be close to my family in Los Angeles.'

'The advice we give to the recently deported is to leave as soon as possible. To try and get in touch

from before she had kids with Scott Disick Still looks the same



Susan Sarandon tells Sanders supporters to be 'super vigilant' at the polls on Tuesday and keep their eyes out for corruption

Hollywood comes to Hertfordshire, England: Matt Damon pays visit to a countryside pub and leaves each of the bar staff a generous \$110 tip



'We trust you will stand united with us': Demi Lovato and Nick Jonas cancel their North Carolina shows over the state's discriminatory LGBT law HB2



Blown away! Nina Agdal flashes her toned tummy in white crop top before posing by a wind machine for fashion shoot in NYC In-demand model



Black magic! Shay Mitchell stuns in plunging dress at AOL series after filling in for Kelly Ripa on Live! Series was for upcoming film Mother's Day



Mirror, mirror! Kim Kardashian gazes at her reflection in glam new photoshoot for iconic makeup artist Pat McGrath Had teased the project



Supermodel Heidi Klum shows off her natural beauty as she jets into Los Angeles from London looking fresh as a daisy It was a flying visit...



Pictured, Prince at a Jehovah's Witness conference - with the funk star who brought him to the faith sitting by his side Last summer



Rachel Roy cancels event due to a 'personal emergency' amid Beyonce fan backlash over claims she had an affair with Jay Z At event in NYC



Chloe Grace Moretz cuddles up to rumored boyfriend Brooklyn

with the family they still have in Mexico and start building their lives over again', says Rosario Lozada.

'Tijuana ends up destroying nearly every outsider who stays here.'

Share or comment on this article

94 shares



Jaw Dropping Child Star Transformations!!

WomensForum



12 Mysterious Photos That Cannot be Explained

Your Daily Dish



9 Cancer Symptoms You Are Likely To Ignore

Remedist



Back when computers had cool names

Tech Republic



13 Mormon Facts You Never Knew

Patheos



You'll Never Believe What Is In A Slim Jim

WIRED

MOST WATCHED NEWS VIDEOS



CCTV shows moment Brahim Abdeslam set off explosive belt



Shocking couple seen having sex in Barcelona train station



Dr Pimple Popper back again taking on giant ear cyst



Student dies 'after being jumped by gang in school bathroom'

Ads

Background Check Yourself

Enter a Name & Search for Free! View Background Check Instantly. checkpeople.com/background

1 Veg That Kills High BP

Learn the 1 Odd Grocery Store Item That Lowers High Blood Pressure bloodpressureresolution.com

Arrest Records: 2 Secrets

1) Enter Name and State. 2) Access Full Background Checks Instantly. records.instantcheckmate.com

MOST READ NEWS

Beckham as she sweetly leans on his shoulder whilst they drive through London



It's a boy! Entertainment Tonight host Brooke Anderson welcomes third child with husband Jim Walker Happy news

Better have that money! Rihanna's sold-out \$80 Puma fur sandals sell for a staggering \$1,000 on eBay - more than 12 TIMES the original price



Susan Boyle 'recovering after suffering another meltdown in British Airways lounge at Heathrow airport'



Kim Kardashian looks exhausted as North wakes her up to play hide-and-seek before she heads off for a workout Hard work



'A toast to Lemonade!' Tina Knowles praises daughter Beyonce for 'coming out on the other side' and 'bringing healing and hope' amid cheating rumors



Beyonce with the good hair! From untamed curls to regal braids, see every one of the unique hairstyles worn by the singer throughout her Lemonade video



Pregnant Chelsea Clinton keeps her baby bump under wraps in a baggy black tunic as she continues to work the campaign trail for mom Hillary



Game Of Thrones' Natalie Dormer looks effortlessly chic in a camel coat as she supports co-star Kit Harington at his Doctor Faustus Gala show



Coordinating couple! Diane Kruger and Joshua Jackson match laid-back looks as they step out for a lunch date Coordinated their casual ensembles



Have a Goopy Mother's

Exhibit K



Subscribe to the Union-Tribune and receive a free gift.



Union-Tribune



Deportees are linked to Mexico crime rate

Tijuana police blame U.S. felons for robberies, kidnappings and killings

By Anna Cearley
STAFF WRITER

September 12, 2004

Edward Gutierrez grew up in a Los Angeles suburb where illegal immigrants come to raise their children in hopes of a better life. Gutierrez took a different path, joining a gang and getting in trouble with the law. At 20, he was sentenced to 15 years in prison for armed robbery.

Because Gutierrez is a Mexican citizen, the U.S. government deported him eight years later when he was released from custody. He ended up in Tijuana, and promptly became Mexico's problem.

Gutierrez, 31, now sits in a Mexican prison, accused of killing two people in a Tijuana apartment last year. One of the victims also was a deported L.A.-area gang member.

The heavily tattooed Gutierrez, known by his English nickname "Shy Boy," faces up to 50 years in prison if convicted. He declined requests for an interview but says he is innocent.

Mexican authorities in Baja California say they are disturbed by a trend they have noticed in recent years of more criminal deportees living in border communities. They blame some of these deportees, particularly L.A.-area gang members, for contributing to Baja California's crime rate.

The number of felons deported each year to Tijuana and Mexicali has grown – from 6,300 in 1995 to 9,500 in 2003, according to U.S. Immigration and Customs Enforcement.

The increase is due to 1996 immigration law changes, which widened the definition of which



PEGGY PEATTIE / Union-Tribune
A Mexican national with a criminal record in the United States was deported Thursday through a separate entrance at the San Ysidro border crossing. U.S. officials say the number of felons deported each year to Mexico has increased in recent years.

▪ Criminal deportee now a shopkeeper

criminals could be deported, according to immigration attorneys and U.S. government officials.

But the recent observation by Mexican authorities also might be due to tighter border security since the Sept. 11, 2001, terrorist attacks. In the past, many deportees were able to quickly cross back into the United States by using their fluent English to talk their way in. Now it's not so easy, and many are deterred because felons can face up to 20 years in prison if caught trying to re-enter.

Once in Mexico, some of the criminal deportees try to eke out an honest living, but Tijuana police blame others for creating gangs and committing armed robberies, kidnappings and killings.

City officials say that even those who were convicted of lesser offenses such as drunken driving or shoplifting in the United States may be tempted to get into more serious trouble out of exasperation.

"Since they don't have any money or identification and no means to work or eat, they get involved in criminal activities, committing assaults and robberies," Tijuana Councilman Alcide Beltrones Rivera said. "The moment they commit these acts here, it costs us to keep them in jail, to feed them and to clothe them."

Tijuana and other border cities don't believe that's fair because the deportees, though Mexican citizens, often have little or no connection to those communities.

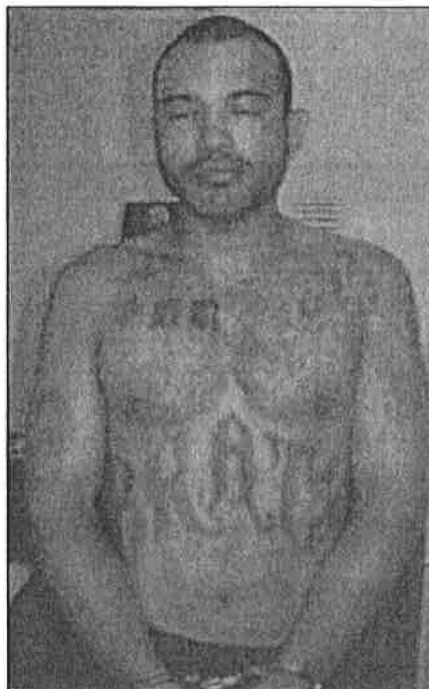
Some were brought illegally to the United States at a young age from Mexico's interior. Others have worked for years in the United States, where their children and families still live. In some cases, they obtained legal immigration status but put off acquiring U.S. citizenship.

The issue is one of many deportation and repatriation issues that Mexican officials are discussing with their U.S. counterparts.

More warning

Mexican officials want the United States to do a better job informing them of criminal deportations so they can arrest any migrants who have pending Mexican warrants and keep an eye on the rest.

U.S. authorities say they often notify Mexican officials but are working



Mexican police handout
Edward "Shy Boy" Gutierrez was deported and is now charged with killing two people in Tijuana.

U.S. to Baja California deportations
Deportations* to Baja California have decreased steadily, according to Mexican immigration statistics.**

Criminal deportations to Baja California have increased, according to U.S. Immigration and Customs Enforcement.

*A deportation means the case has gone before a U.S. immigration judge. Most migrants caught trying to cross the border waive their right to a hearing and are voluntarily returned to Mexico.

Deportees are linked to Mexico crime rate | The San Diego Union-Tribune
on improving the system. The challenge, they say, lies in coordinating their efforts with a vast array of U.S. correctional institutions.

Of the 161,000 inmates in California prisons, 18,500 are slated for deportation upon release, said Lauren Mack, spokeswoman for Immigration and Customs Enforcement. About 70 percent end up in Mexico.

Ronald Smith, who oversees detention and removal operations for the agency's San Diego office, said Mexico needs to take responsibility for its citizens.

"They can't be allowed to remain in our communities where they have the potential to commit even more crimes," he said.

Gutierrez already had a criminal record in the United States when he was convicted in 1993 of using a gun to steal money and jewelry from a couple, according to Los Angeles Superior Court records.

Gutierrez was sentenced to 15 years in prison and served about half of the sentence. He was deported from prison to Mexicali on Aug. 14, 2001, according to U.S. immigration records. He apparently re-entered the United States because the next record on Gutierrez shows he was deported again to Mexico on Nov. 13, 2002.

A few days later, he tried once more to cross into the United States at Calexico, but he was caught in the tighter border security after Sept. 11.

Gutierrez was a prime candidate for deportation, but the 1996 immigration law changes mean that people can be deported after being sentenced to just a year or more in prison. This includes people convicted of sexual abuse of a minor, domestic violence, drunken driving and drug and firearms possession.

As a result, the number of criminal deportees sent from the United States to all corners of the world rose from 29,072 in 1995 to 77,710 in 2003, according to Immigration and Customs Enforcement.

Meanwhile, the Sept. 11 attacks focused attention on the gaps in immigration enforcement within the United States. People who once might have slipped through the cracks began to be deported for immigration violations as well as criminal activities.

This year, Immigration and Customs Enforcement announced that it wants to deport more than 80,000 criminals who aren't in custody. The effort affects many people who served prison terms and were released into U.S. communities before the 1996 immigration law change. They are being targeted because the law is retroactive.

Many immigration attorneys believe violent criminals should be deported but worry the law is being applied to the extreme under the guise of protecting the country from terrorists. David Leopold, an attorney based in Cleveland, said he recently represented someone ordered deported for pulling his wife's hair during an argument.

"I think it's more of a numbers game to make the government look tough to the American public," he said.

Adrift in Tijuana

Although deporting people with criminal records is intended to make U.S. communities secure, the deportations have left Mexican border cities feeling unsafe.

An average of 26 felons are formally deported to Baja California each day, according to Immigration and Customs Enforcement, but the deportees arrive in Tijuana or Mexicali with little or no money, usually far from their hometowns.

Not all are gang members. This spring, Jose Arroyo Torres, 48, found his way to Tijuana's migrant shelter after being deported to Mexicali in March. He said he had just completed prison time for his second drunken-driving conviction.

Arroyo said he had lived in the United States since he was 18 and used to work at a Vista nursery. He said he obtained his legal residency status, which he no longer has, in 1985. He has a wife, from whom he is separated, and a 10-year-old daughter in the United States.

"I'm just trying to find my way around, but Tijuana has changed," he said. "I just want to find a job. I can work as a bricklayer or making clothes."

One of the immediate challenges faced by deportees is how to earn money.

Most Mexican employers require official identification such as a voter registration card. The shelter gives the deportees temporary identifications, which can help them get basic jobs. But after the cards expire in two weeks, the deportees are in a fix.

Obtaining a voter registration card requires documents that many criminal deportees no longer possess, such as a birth certificate.

The criminal deportees also face cultural challenges. Their tattoos scare off potential employers, and they get funny looks for speaking an urban street slang Spanish.

"Lots of them have been living in the United States since they were children, and they feel like they aren't wanted here or there," said Maria Teresa Sanchez Medrana, who oversees the Tijuana city department of migrant services. "Sometimes we have them meet with our psychologists."

In Gutierrez's case, according to Mexican court records, surviving in Mexico meant finding others like him. In Tijuana, he ran into Elias David Martinez Estrada, an L.A. gang member he recognized from his time in a California prison.

Nicknamed "The Ghost," Martinez belonged to a different L.A. gang, Gutierrez told Mexican police. But that didn't seem to matter in Tijuana.

Martinez took Gutierrez under his wing, providing him with food and setting him up in a seedy apartment near the tourist strip of Avenida Revolución. The entrance – a dark hallway separated from the street by a blue metal door – has been named "Alley of the Dead" by neighbors who say that drug overdoses and other violent acts are commonplace there.

Gutierrez became involved with a group that was selling drugs, according to several people who testified to police.

Baja California police say that on Sept. 15, 2003, Gutierrez killed Martinez and a woman, Angela Yudid Romero Rodriguez, in the apartment after an argument over a pair of tennis shoes got out of control. He was arrested this year by Mexican state investigators. They estimate that criminal deportees are involved in about 5 percent of the city's homicides.

Tijuana's city police, which conduct street patrols, have started to keep

Deportees are linked to Mexico crime rate | The San Diego Union-Tribune
photo files of the criminal deportees they encounter.

Since last year, they have collected photos of more than 100 deportees, some from as far as Northern California and Las Vegas. Many sport intricate tattoos: an eagle on the back of one man's shaved head, gang names sprawled across a torso, and human figures etched on another's back.

"They think everyone should fear them," said Jose Alfredo Silva Perez, who oversees the Tijuana police department's anti-graffiti and gang unit. "They go around with their shirts off showing their tattoos, and sometimes if they are drugged they can be aggressive."

About 200 deported L.A. gang members have established their own gangs in at least seven neighborhoods, police said.

Police are worried they may tap into Tijuana's generally less-violent street gangs, which mostly get in trouble for tagging walls and property. They also suspect that deported U.S. gang members are being recruited by drug cartels and organized crime groups.

Attracting attention

Criminal deportees also have been accused in some of the city's recent high-profile crimes, although they don't always turn out to be the right targets.

When a police officer was killed and his police partner seriously wounded last year, city officials blamed the violence on criminal deportees.

One of the suspects had been repeatedly deported after being arrested for robbery and migrant smuggling in the United States, according to Mexican court records. He was released after authorities determined he had no connection to the police shooting.

Some doubt Gutierrez is guilty.

"They just want someone to be guilty so they can close their case," said Jose Luis Perez, 33, another criminal deportee, who said his mother brought him illegally to San Diego when he was 3.

Perez said he dropped out of Mission Bay High School in 11th grade and got in trouble with the law. The last time he was deported, in 2003, he stayed for a short time at the same apartment where Gutierrez lived.

Police regularly cruise by the apartment, which has no running water or plumbing, while people with dazed looks wander inside and leave with mysterious packages. Some neighbors believe police are demanding payoffs from the hotel's residents in exchange for leaving them alone, something police deny.

Perez, who has since moved to a hotel that is a slightly better place to live, said he has been surviving in Tijuana by doing odd jobs, such as electrical work and construction. On a good day, he said, he earns about \$15. Some of that comes from selling drugs, he admitted, but he said he's trying to stay away from other trouble.

"The reason I stay here is that I don't want to have to do more time there (in the United States)," he said. "At least I'm free here, even though I don't know what will happen today or tomorrow."

■ Anna Cearley: (619) 542-4595; anna.cearley@uniontrib.com

[»Next Story»](#)

Better Knees in 1 Week

Make this simple change to your morning routine for better knees!



[Contact Us](#) | [Site Index](#) | [About Us](#) | [Advertise on SignOnSanDiego](#) | [Make us your homepage](#)
[Frequently Asked Questions](#) | [UTads.com](#) | [About the Union-Tribune](#) | [Contact the Union-Tribune](#)
© Copyright 2004 Union-Tribune Publishing Co.

Exhibit L



CRIME & DRUGS (/TOPIC/CRIME-DRUGS)

The City of Guadalajara Is the Money Laundering Capital of Mexico

f t p +

By Duncan Tucker (/contributor/duncan-tucker)

June 14, 2015 |

There was nothing unusual about the *fresas*, or preppy rich kids, who used to order liquor by the bottle and dance to electronic beats behind the stone and glass façade of Guadalajara's trendy Lucrecia nightclub. But the first indication that something untoward was happening at the club came in March 2013, when unidentified customers shot the head waiter (<http://www.lapolicia.com/nota-roja/propina-a-balazos/>) eight times on their way out.

The shooting drew unwelcome attention to Lucrecia. Thirteen months later, the US government blacklisted it (http://www.treasury.gov/resource-center/sanctions/Programs/Documents/20140410_sanchez.pdf) for allegedly laundering dirty money on behalf of veteran drug cartel capo Rafael Caro Quintero.

The bar finally closed down

(<https://www.facebook.com/LucreciaGDL/photos/a.660688243976626.1073741825.205949066117215?type=1&theater>) in January this year, saying with a Facebook post: "Legends never die!" But there are plenty of other places in Guadalajara, Mexico's second largest city, that are believed to be helping drug gangs launder their illicit profits.

Consequently, *Tapatios*, as Guadalajara natives are known, can never be sure when they shop, eat, drink, dance, fill up their gas tanks, or even pay their rent that they may be inadvertently helping the Jalisco New Generation cartel and other gangs that have terrorized the population (<https://news.vice.com/article/how-the-jalisco-new-generation-cartel-is-terrorizing-the-people-of-western-mexico>) and paralyzed the city with narco-blockades (<https://news.vice.com/article/surviving-the-narco-blockades-of-mexicos-jalisco-state>).

As of June of this year, the US government has blacklisted (<http://www.treasury.gov/ofac/downloads/t11sdn.pdf>) Guadalajara-based restaurants, bars, malls, health spas, shoe stores, residential communities, construction firms, gas stations, pawn shops, tequila companies (<http://www.treasury.gov/press-center/press-releases/Pages/jl2170.aspx>), and even an ostrich farm (<http://www.treasury.gov/press-center/press-releases/Pages/jl2298.aspx>) for laundering drug cash.

Tackling money laundering and the web of corruption that facilitates it poses one of the toughest challenges facing Guadalajara's mayor-elect, Enrique Alfaro of the liberal Citizens Movement. Alfaro won a historic landslide victory (<https://news.vice.com/article/mexico-elections-update-el-bronco-rides-wave-of-discontent-to-big-win-in-nuevo-leon>) over the ruling Institutional Revolutionary Party in last Sunday's midterm election.

"In many cases drug trafficking is linked to famous Mexican businesses and politicians," Raul Benitez, an expert in security and organized crime at the National Autonomous University of Mexico, told VICE News. "Action must be taken, but the Mexican government does not want to tackle corruption."

\$5,000,000.00 USD

FOR INFORMATION LEADING TO THE ARREST AND/OR CONVICTION OF:



Rafael Caro Quintero

DEA reward poster for Mexican lord drug Rafael Caro Quintero.

Money laundering in Guadalajara has crept into people's minds because of a recent wave of violence in and around the metropolitan area that has included deadly ambushes (<https://news.vice.com/article/jaliscos-new-generation-is-becoming-one-of-mexicos-most-powerful-and-dangerous-drug-cartels>) of police patrols, assassinations, and the downing of a military helicopter (<https://news.vice.com/article/mexico-raises-death-toll-in-helicopter-attack-warns-of-more-violence-in-drive-against-cartel>) on May 1.

The Pearl of the West, as Guadalajara is sometimes hyperbolically known, has been flooded with dirty money since the late 1970s (<http://www.casede.org/BibliotecaCasede/JaliscoSegJustYPAZ.pdf>), when powerful drug traffickers from the state of Sinaloa moved into the city and formed the Guadalajara cartel, then Mexico's dominant criminal enterprise.

Three western states in particular are awash with drug money. Jalisco, Sinaloa, and Baja California states account for (<http://www.eluniversal.com.mx/periodismo-datos/2015/-articulos-103272html-103272.html>) 163 of the businesses blacklisted from 2002 to 2014 by the US Treasury Department's Office of Foreign Assets Control, or OFAC, under the Foreign Narcotics Kingpin Designation Act. Guadalajara, the Jalisco state capital and an important financial hub located

relatively near to the major opium and marijuana cultivating region known as the "Golden Triangle," is home to (<http://www.eluniversal.com.mx/periodismo-datos/2015/-articulos-103272html-103272.html>) 89 of the 216 blacklisted firms, more than anywhere else in the country.

'Action must be taken, but the Mexican government does not want to tackle corruption.'

When VICE News tried to contact the blacklisted Guadalajara businesses, we discovered numerous empty offices and out-of-service phone numbers. Most employees who could be reached claimed to have no knowledge of the allegations against their bosses, while management figures were typically unavailable for comment.

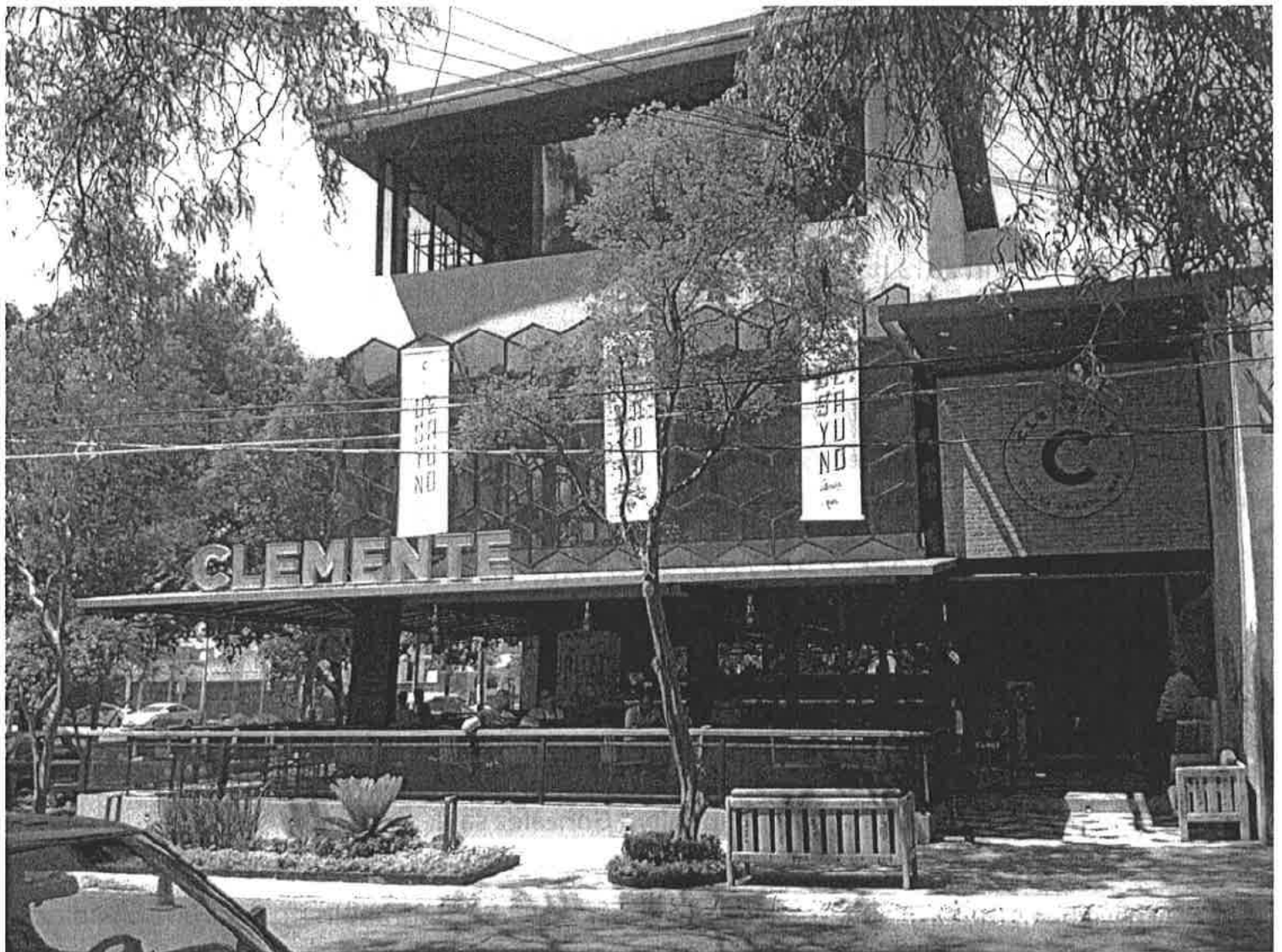
Some front businesses have shut down since being identified by the US Treasury Department, but many continue to operate. Three local gas stations (http://www.treasury.gov/resource-center/sanctions/Programs/Documents/20131031_caro_quintero.pdf) linked to Caro Quintero (http://www.treasury.gov/resource-center/sanctions/Programs/Documents/20130612_caro_quintero.pdf) even have concessions with Mexico's state-owned oil giant Pemex that remain valid for another six (http://www.portaltransparencia.gob.mx/pot/concesion/consultarConcesion.do?method=muestraDetalle&idConcesion=E08594&_idDependencia=18576) to eight years. (http://www.portaltransparencia.gob.mx/pot/concesion/consultarConcesion.do?method=muestraDetalle&idConcesion=E09460&_idDependencia=18576)

Mexican authorities have killed or captured many of the nation's most wanted criminals since declaring war on the drug cartels in late 2006, but Benitez said there is little evidence that this strategy has seriously impacted cartel finances or broken up their extensive money laundering operations.

Today, 44 of the city's blacklisted businesses are linked to (<http://www.eluniversal.com.mx/periodismo-datos/2015/-articulos-103272html-103272.html>) Caro Quintero, the former Guadalajara cartel boss who was jailed in 1985 (<http://articles.latimes.com/2013/aug/09/world/la-fg-wn-dea-agent-killer-freed-mexico-prison-20130809>) for the abduction, torture, and murder of DEA agent Enrique Camarena.

Having served just 28 years of his 40-year sentence, Caro Quintero was suddenly released (https://www.vice.com/read/the-godfather-of-mexican-drug-trafficking-was-released-from-prison-and-has-disappeared) from prison in 2013 when a Jalisco judge overturned his conviction on a technicality. The federal government later overturned (http://www.milenio.com/policia/Caro_Quintero-sentencia_Quintero-resolucion_Caro_Quintero_0_446955548.html) the decision but Caro Quintero had already fled. Outraged by his early release, US authorities immediately set about (http://www.treasury.gov/press-center/press-releases/Pages/jl2200.aspx) blacklisting dozens of businesses and individuals linked to the fugitive.

Related: Surviving the Narco-Blockades of Mexico's Jalisco State [↗](#)



Clemente, a Guadalajara restaurant that has changed names several times, is allegedly linked to Rafael Caro Quintero's money laundering network. (Photo by Duncan Tucker)

Under the Kingpin Act ([http://www.treasury.gov/resource-](http://www.treasury.gov/resource-center/sanctions/Programs/Documents/drugs.pdf)

[center/sanctions/Programs/Documents/drugs.pdf](http://www.treasury.gov/resource-center/sanctions/Programs/Documents/drugs.pdf)), any assets belonging to designated individuals or companies in the United States are frozen, while US citizens are forbidden from doing business with them.

But Juan Manuel Gonzalez Navarro, a Mexico City-based consultant who specializes in the prevention of money laundering, told VICE News the Mexican authorities have no obligation to take legal action against businesses blacklisted by the US government.

"Mexican states have their own lists, but they're for internal use and are not made public," Gonzalez said.

He added that Mexican authorities rarely take action because of "incompetence, a lack of interest, or even because they are complicit in protecting these people or businesses."

Both Benitez and Gonzalez agreed that a new anti-money-laundering law (http://www.pwc.com/es_MX/mx/retos-sector-financiero/archivo/2013-07-ley-federal-operaciones-ilicita.pdf) introduced in 2013 has been ineffective.

Unraveling the labyrinth of ghost businesses and seemingly legitimate enterprises that the cartels use to clean their dirty money can be a daunting task. Many companies are seemingly shuttered within months of being blacklisted. Some simply reappear under new names.

'The owners can use a straw man to open new businesses and continue operating with impunity.'

"If a business is designated for money laundering, the owners can use a straw man to open new businesses and continue operating with impunity," Gonzalez said.

This may have been the case at Barbaresco, a popular Italian restaurant in that lies just one block away from Lucrecia in Guadalajara's upscale Providencia neighborhood.

The OFAC identified (http://www.treasury.gov/resource-center/sanctions/Programs/Documents/20130612_caro_quintero.pdf) the restaurant as part of Caro Quintero's money laundering network in June 2013, but the establishment, which is also registered as Los Andariegos, recently reopened under a third name, Clemente.

The manager, Carlos Martinez, told VICE News that he was unaware of the restaurant's past and claimed that its reputation has not suffered as a result of being blacklisted.

"I've been working here for five months. I don't know what the old clientele was like, but today we have many clients who know us as Clemente and they know us for our food," he said.

A waiter who asked not to be identified confirmed that the restaurant is still run by the same owners and has simply been rebranded.

Caro Quintero's most valuable assets allegedly include Pontevedra and Zotogrande (http://www.treasury.gov/resource-center/sanctions/Programs/Documents/20130612_caro_quintero.pdf), two luxury residential complexes located in Guadalajara's exclusive Puerta de Hierro district. Zotogrande features two 12-story towers connected by a rooftop bridge, as well as dozens of houses, some valued at more than \$2 million (<http://casas.mitula.mx/casas/casas-zotogrande>).

There was no response when VICE News called the only number listed for the two gated communities.

Related: 'Only Two Cartels Are Left in Mexico,' Government Official Claims [↗](#)



Two 12-story towers in Guadalajara allegedly linked to drug lord Rafael Caro Quintero. (Photo by Duncan Tucker)

Caro Quintero's Guadalajara cartel was broken up in the late 1980s, but the powerful Sinaloa Cartel that emerged in its wake continued to utilize Guadalajara as a prime money laundering location.

A number of local businesses have been linked (http://www.treasury.gov/resource-center/sanctions/Programs/Documents/20120724_esparragoza_moreno_org.pdf) to Sinaloa cartel kingpin Juan Jose "El Azul" Esparragoza, including a shopping mall, a residential community, and an industrial park on the southern outskirts of the city. Unconfirmed reports (<http://zetatijuana.com/noticias/generalez/5845/anuncian-muerte-de-el-azul>) said that Esparragoza died at a Guadalajara hospital last summer, but the story was never corroborated (<http://www.proceso.com.mx/?p=381876>) by US or Mexican authorities.

In recent years the Jalisco New Generation cartel, or CJNG in Spanish, has established itself (<https://news.vice.com/article/jaliscos-new-generation-is-becoming-one-of-mexicos-most-powerful-and-dangerous-drug-cartels>) as the dominant drug trafficking organization in the Guadalajara area.

The federal government launched a major offensive (<https://news.vice.com/article/coordinated-attacks-hit-western-mexico-after-operation-to-nab-cartel-leader-reports-say>) against the cartel on May 1, but there has been little evidence of any effort to dismantle its financial apparatus. OFAC designated two (<http://www.treasury.gov/press-center/press-releases/Pages/jl10020.aspx>) suspected CJNG leaders in April, but it has not blacklisted a single business linked to the cartel.

Jesus Perez, an independent investigator of organized crime based in Guadalajara, told VICE News that the CJNG started out as an offshoot of the Sinaloa cartel, and likely utilizes much of the Sinaloa cartel's local money laundering infrastructure.

According to Perez, more comprehensive action in years past might have made it harder for the ascendant cartel to launder its cash today. "The Jalisco cartel's structures, networks, and personnel didn't suddenly appear out of nothing, these are people who have been around for a long time," he said.

In an interview with VICE News (<https://news.vice.com/article/people-are-fed-up-jalisco-elections-could-upend-traditional-politics-in-mexico>) shortly before last Sunday's election, mayor-elect Alfaro suggested that past governments have turned a blind eye to such problems.

"I believe there are webs of corruption that explain much of what is happening in terms of security issues in the city today," he said. "We will not talk to criminals, and we do not believe in making deals with criminals."

Follow Duncan Tucker on Twitter: @DuncanTucker (<https://twitter.com/DuncanTucker>)

TOPICS: *americas* (/topic/americas), *crime & drugs* (/topic/crime-drugs), *guadalajara* (/topic/guadalajara), *jalisco* (/topic/jalisco), *sinaloa cartel* (/topic/sinaloa-cartel), *jalisco new generation cartel* (/topic/jalisco-new-generation-cartel), *cjng* (/topic/cjng), *mexico* (/topic/mexico), *money laundering* (/topic/money-laundering), *juan jose esparragoza* (/topic/juan-jose-esparragoza), *el azul* (/topic/el-azul), *kingpin act* (/topic/kingpin-act)

RECOMMENDED

(/article/drug-trafficking-meth-cocaine-heroin-global-drug-smuggling)

The Golden Age of Drug Trafficking: How Meth, Cocaine, and Heroin Move Around the World
(/article/drug-trafficking-meth-cocaine-heroin-global-drug-smuggling)

(/video/rebel-leader-reik-machar-denied-permission-to-return-to-juba)

Rebel Leader Riek Machar Denied Permission to Return to Juba
(/video/rebel-leader-reik-machar-denied-permission-to-return-to-juba)

(/video/shellshocked-ukraines-trauma-trailer)

Shellshocked: Ukraine's Trauma (Trailer)
(/video/shellshocked-ukraines-trauma-trailer)

(/video/riek-machar-discusses-his-return-to-south-sudans-capital)

Riek Machar Discusses His Return to South Sudan's Capital
(/video/riek-machar-discusses-his-return-to-south-sudans-capital)

MOST POPULAR

(/article/donald-trump-spokeswoman-katrina-pierson-reality-tv-sisters-in-law)

Donald Trump's National Spokeswoman Is on a Reality Show — Because of Course
(/article/donald-trump-spokeswoman-katrina-pierson-reality-tv-sisters-in-law)

(/article/europe-will-force-big-companies-to-say-how-they-use-tax-havens)

Europe Will Force Big Companies to Disclose How They Use Tax Havens
(/article/europe-will-force-big-companies-to-say-how-they-use-tax-havens)

COMMENTS

9 Comments Vice News

Login ▾

Recommend Share

Sort by Best ▾



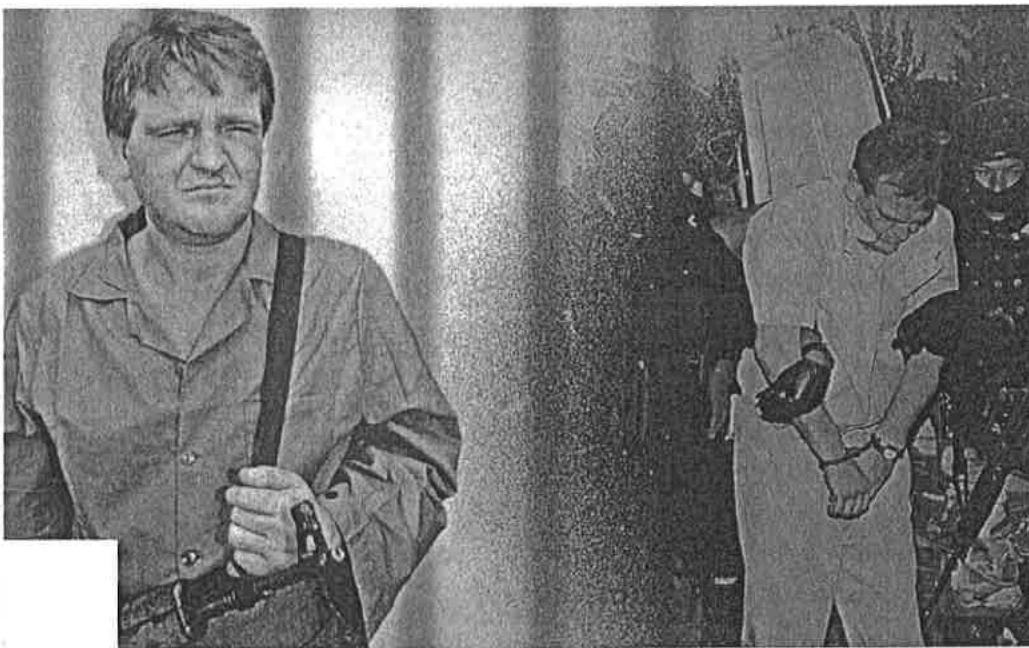
Join the discussion...

Exhibit M

THE FOLLOWING PREVIEW HAS BEEN APPROVED FOR
APPROPRIATE AUDIENCES
BY THE MOTION PICTURE ASSOCIATION OF AMERICA, INC.

www.filmratings.com

www.mpa.org



CARTEL WATCH 04.15.16 9:15 PM ET

Why is a Cartel Kingpin Getting Early Release in the U.S.?

El Güero Palma was El Chapo's partner in a gruesome drug war and relentless vendetta. It's not over, and when he's freed, he could be a dead man walking.

Héctor Luis "El Güero" Palma is scheduled for release from federal prison in Atwater, California, on June 11. Palma was the business partner of Joaquín "El Chapo" Guzmán in



POLITICS ENTERTAINMENT WORLD U.S. NEWS TECH + HEALTH BEASTSTYLE VIDEO



A U.S. court sentenced Palma to 16 years in prison in 2008, but the judge credited him for time served in Mexico, knocking off nearly eight years from the sentence. An Atwater prison spokesman told the Univision/Disney website Fusion that Palma, 55, will walk free via the "good conduct time release" program.



But he may be a dead man walking, and U.S. officials certainly know that.



El Güero (meaning Whitey, or Blondie) Palma and El Chapo (meaning Shorty) Guzmán got their first taste of power as hit men in the 1980s working for Miguel Ángel Félix Gallardo, known as *El Padrino*, the Godfather, who was one of three kingpins in the Pacific Cartel.

El Padrino and his partners Rafael Caro Quintero and Ernesto Fonseca Carrillo

had led the effort to merge what previously were disparate drug-trafficking operations into one central enterprise, interlocked with Mexican state and federal security forces and government officials.

Over a decade, the original bosses of the Pacific Cartel amassed enormous fortunes. Eventually they came to feel invincible, so much so that when a gumshoe DEA agent named Enrique "Kiki" Camarena began making large-scale busts, confiscating their merchandise and seizing their assets, they had him abducted in broad daylight.

Camarena was tortured for 30 hours, his skull, jaw, nose, cheekbones, and windpipe crushed, a hold drilled into his skull with a screwdriver. He reportedly was injected with drugs to keep him conscious during the ordeal. His body, wrapped in plastic bags, was dumped on the side of a road outside Guadalajara.

The fallout from the Camarena murder was immense, and it exposed for the first time the massive scale of the drug business in Mexico. But for El Güero Palma and El Chapo Guzmán there was a silver lining. Fonseca and Caro Quintero were arrested in 1985, and El Padrino Félix, sensing his own days were numbered, divided up his empire and put Palma and Guzmán in charge of his affairs. He was arrested in 1989 and sentenced to 40 years for drug trafficking and his role in the Camarena murder.



Hector "El Güero" Palma (C), a top associate of Joaquín "El Chapo" Guzmán who heads the powerful Sinaloa cartel, is escorted by members of Mexico's Federal Agency of Investigations in Mexico City in this handout photo taken January 20, 2007.

The careful plans he had made for his own succession, however, were in vain. El Padrino Félix had given strict orders for El Güero Palma to run the business in consort with El Chapo Guzmán and El Padrino's nephews, a clan of five temperamental brothers in Tijuana who formed the eponymous Arrellano-Félix Organization. But even before El Padrino was arrested, a deadly rift developed between his nephews and his erstwhile hitmen.

In 1988, the Arrellano-Félix brothers had El Güero Palma's wife murdered in San Francisco, and her head delivered to him in a giftwrapped box. El Güero's ghastly calling card back when he worked for El Padrino had been to place the head of his victim in a cooler and have it delivered to the victim's family. In the days that followed the wife's murder, Palma's two young children, ages 4 and 5, were abducted and pushed to their deaths from a height of 500 feet—accounts differ as to whether they were pushed from a bridge or a low-flying plane.

Jorge Godoy was there in the pre-trial lockup when El Padrino regretted his decision to promote El Güero and El Chapo. Today, Godoy is a federally protected witness in the United States, but in the 1980s he was a homicide detective in Guadalajara who moonlighted as a bodyguard for the crime boss Fonseca. Godoy went to jail with Fonseca in 1985, and was there when the guards brought in El Padrino in 1989.

The bosses may have been behind bars, but they were still calling the shots, and Godoy was privy to meetings with big-time traffickers on the outside, like *El Azul* Esparragoza, who paid a visit to El Padrino in prison. "I was there, I saw when they put Chapo Guzmán in command," Godoy told *The Daily Beast*. Godoy also overheard El Padrino bemoan having asked Palma and his nephews to work together and share the spoils.

"Then," said Godoy, "*El Güero* Palma betrayed them."

Godoy recalls the reports that trickled into the jail that El Güero wasn't following orders; he was freelancing, doing private deals on the sly, and hiding the money from his boss, Godoy recalled. Blood was thicker than water in the Pacific Cartel, and when the nephews requested El Padrino's blessing to eliminate El Güero Palma, he gave it.

GET THE BEAST IN YOUR INBOX!

Enter your email address

SUBSCRIBE

By clicking "Subscribe," you agree to have read the [Terms of Use and Privacy Policy](#)

Hector Berrellez, the DEA's lead investigator on the Camarena murder, recalls the ensuing vendetta as the most gruesome wave of cocaine-related violence ever to seize the northern Pacific coast of Mexico. El Güero was unhinged; he sought to avenge the

murders of his wife and children by the Arrellano-Félix brothers at all costs and with every violent means at his disposal.

Scores of innocent people died in the crossfire. There were indiscriminate bombings, public shootouts, a massacre at a discotheque in Puerto Vallarta; the high-profile murder victims included the attorney general for the state of Sinaloa, Francisco Rodolfo Álvarez Faber; the Sinaloan human rights activist Norma Corona, and the Archbishop of Guadalajara Cardinal Juan Jesús Posadas y Ocampo.

El Güero shifted his base of operations to Tepic, the largest city in the western state of Nayarit, and built his organization to serve as a conduit for smuggling Colombian cocaine into the United States. A court filing from the U.S. Attorney's office estimates that from 1991-93 El Güero Palma, in an alliance with El Chapo Guzmán that would become the Sinaloa Cartel, sneaked 25 tons of cocaine across the border hidden in cans of jalapeño peppers.



A weapon of the drug lord Hector "El Guero Palma" is displayed in the Drugs Museum at the headquarters of the Mexican Ministry of Defense in Mexico City March 9, 2009.

The Mexican Army arrested Palma in 1995 at the home of a federal police supervisor in Zapopan. At the time, he was with a security detail of several armed men carrying authentic federal police credentials. In Mexico, between the years of 1995 and 2004, Palma's lawyers succeeded in having at least 20 criminal charges against him dropped, including multiple charges for murder and drug trafficking.

It is rumored that Palma aided in El Chapo's first prison escape in 2001, even though he himself was still in prison. In 2007 then-Mexican President Felipe Calderón had Palma extradited to face charges in the U.S.

The bitter blood feud with the Arrellano-Félix brothers had continued, and Agent Berrellez believes the extradition in 2007 may actually have saved Palma's life. Once Palma is deported back to Mexico, as expected, after his release from U.S. federal prison in June, his old enemies in the Félix family will be waiting for him. "I don't know if he's going to go back to drug-trafficking or what he's going to do," Berrellez said. "But it's going to be very dangerous for him to return to Mexico."

There is, for example, the likely vendetta tied to the fate of Francisco Rafael Arrellano Félix, one of the brothers, who was released from prison in the U.S. and deported to Mexico. In 2013, at a celebration of his birthday, he was murdered by a cartel assassin disguised as a clown; the order is widely believed to have been come from El Chapo Guzmán.

Palma may have another reason to worry about his safety in Mexico. Legal observers in Mexico anticipate that El Padrino Félix, 70, will be granted humanitarian release later this year. El Padrino has nine years remaining on his 40-year sentence for the Camarena murder; his lawyers are arguing that his advanced age and reportedly delicate state of his health merit a special dispensation of house arrest for the don.

Lawyers for Ernesto Fonseca, 87, the second of the three imprisoned bosses of the Pacific Cartel, are similarly optimistic about the capo's chances for humanitarian release later this year. Fonseca has 10 years remaining on his 40-year sentence.

Indeed, history in Mexico doesn't stay in the past very long. Talk of a Pacific Cartel revival began with the 2013 release of Rafael Caro Quintero on a dubious legal technicality (The DEA stated it was "deeply troubled" by the release.) That ruling was overturned by the Mexican Supreme Court, but by then Caro Quintero was long gone, and sources in law enforcement suspect he has resumed leadership of cartel activity on the Pacific coast.

Prison may be a kind of living death, but the original bosses of the Pacific Cartel are still very much alive, not to mention very wealthy. The U.S. Treasury Department's blacklist of Mexican businesses linked to drug cartels shows that of the 216 money-laundering business fronts tied to Mexican drug cartels, 64 percent of the total were tied to leaders of the Sinaloa Cartel, and 44 belonged to Rafael Caro Quintero alone.

"Mexico doesn't stop being corrupt in protecting these guys," said Agent Berrellez. "I mean, that's the way they operate down there."

PROMOTED STORIES



The New 2016 Crossovers
YAHOO SEARCH



Easy Way to Identify a Bird with One Picture
CORNELL TECH!



This one common mistake might be the reason weeds keep...
ROUNDUP



An Insane 10% Cash Back Card Has Arrived
NEXTADVISOR



47 Rare Photos From The Past That The News Wasn't Allowed To Show
HISTORY THINGS



Bizarre Family Photos That Will Make Your Skin Crawl
YOUR DAILY DISH



Enter your name and state, brace yourself. You'll be surprised...
INSTANT CHECKMATE



These World War 2 Facts Will Blow Your Mind
HISTORY FANATIC

Recommended by

[ABOUT](#) [ADVERTISE](#) [CONTACT](#) [JOBS](#) [HELP](#) [PRIVACY](#) [COMMUNITY POLICY](#) [TERMS & CONDITIONS](#) [COPYRIGHT & TRADEMARK](#)

© 2016 THE DAILY BEAST COMPANY LLC

Exhibit N

PDF NOW
KMUW Wichita Public Radio

radio pictures

Mexico Seems To Favor Sinaloa Cartel In Drug War

Listen · 8:47

Queue

Download

Transcript

May 19, 2010 · 8:52 PM ET

Heard on All Things Considered



JOHN BURNETT



MARISA PEÑALOZA

ROBERT BENINCASA



A Mexican soldier stands guard as a haul of marijuana and cocaine are incinerated in the background in November 2009. Fighting among the drug cartels — and between government forces and the cartels — has cost nearly 24,000 Mexican lives since late 2006.

Jesus Alcazar/AFP/Getty Images

Mexican President Felipe Calderon is in Washington on Wednesday for an official state visit. His battle against the violent drug cartels is high on the agenda.

Calderon has deployed 45,000 federal troops and police to combat the drug gangs. Yet in the midst of this crackdown, the Sinaloa cartel — the largest, oldest and richest in Mexico — appears to be flourishing.

Where The Cartels Are



Map: Mexico Drug Cartels Territory

An NPR News investigation has found strong evidence of collusion between elements of the Mexican army and the Sinaloa cartel in the violent border city of Juarez.

Dozens of interviews with current and former law enforcement agents, organized crime experts, elected representatives, and victims of violence suggest that the Sinaloans depend on bribes to top government officials to help their leader, Joaquin "El Chapo" Guzman, elude capture, expand his empire and keep his operatives out of jail.

More In This Series

PART ONE: Is Drug War A Rigged Fight? May 19, 2010

On The Trail Of Mexico's Vicious Sinaloa Cartel

"I work in the police and because of this I know the government is protecting Chapo Guzman. It's hitting all the cartels but Chapo," said Luis Arturo Perez Torres, 25, until recently a federal police officer stationed in a suburb of Mexico City.

This NPR series was reported in collaboration with investigative producer Bruce Livesey.

You can find Livesey's reporting from Juarez at CBC Dispatches, CBC Radio's weekly foreign affairs program.

Guzman is the world's most wanted drug lord. His home base is the Pacific coastal state of Sinaloa, known as Mexico's "Sicily." It's the premier narco-state, with a long

coastline for smuggling cocaine from South America, and rugged mountains to hide cannabis crops.

Manuel Clouthier, a congressman from Sinaloa state and a member of Calderon's political party, is deeply frustrated by his country's drug war. He says drug-related murders average 200 a month in his state.

'We Should Be Tearing It Out By The Roots'

"The Calderon government has been fighting organized crime in many parts of the republic, but has not touched Sinaloa," said Clouthier. "I know this. I'm Sinaloan. My family lives in Sinaloa. It is like we're trimming the branches of a tree, when we should be tearing it out by the roots."

Asked if the government is going soft on the country's biggest drug cartel, Clouthier responds, choosing his words carefully. "I believe that much of the problem of not combating a certain cartel in a certain state has much to do with corruption and lack of will," he said.

On Tuesday, reporters asked a senior White House official, in light of Washington's large package of security aid to Mexico, if Calderon's government is protecting Chapo Guzman. The U.S. is giving \$1.3 billion in military and judicial aid to Mexico for its drug war, as Mexican drug cartels are major suppliers to the illicit U.S. narcotics trade.

The Obama administration official said the president has a long-term commitment to Calderon's struggle against the cartels. He mentioned that Mexico has arrested and extradited important cartel figures in recent months.

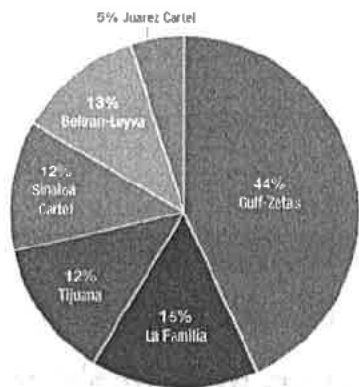
Arrests Of Cartel Members

The Mexican federal attorney general's office reported arrests and other enforcement actions on more than 2,600

NPR Analysis Of Arrest Data

In an effort to find out whether federal forces are favoring the Sinaloa cartel, NPR analyzed thousands of news releases on the federal attorney general's website announcing arrests for organized crime,

members of major drug cartels since December 2006. Among six major cartels, the largest number of defendants came from the Gulf-Zeta cartel.



Source: NPR analysis of Mexican government news releases
 Credit: Robert Benincasa and Stephanie d'Otreppe/NPR

Understanding The Data

NPR took news releases from the Mexican federal attorney general's office (Procuraduria General de la Republica) about criminal action the office has taken since December 2006 against figures from six major drug cartels. We created a computer database of the defendants listed in the releases to get a picture of enforcement patterns.

What We Found

weapons and drug offenses. The information surveyed spanned from the day Calderon assumed the presidency in December 2006 until last week.

NPR created a database and screened the information for every person the government arrested, prosecuted or sentenced who was associated with one of the seven major drug cartels.

The analysis showed that the Mexican government crackdown has not hit the Sinaloans as hard as it has other cartels.

Nationwide, 44 percent of all cartel defendants are with the Zetas and Gulf cartels. Only 12 percent of the defendants are with the Sinaloa cartel. The numbers contradict the Mexican government, which claims it has arrested twice the percentage of Sinaloa gang members.

U.S. Rep. Michael McCaul (R-TX), a former federal prosecutor who sits on the Homeland Security Committee, was asked to review the NPR analysis.

"I think you've identified an issue of concern," he said. "And that is, why is the Sinaloa doing so much better than the others and why is the Sinaloa cartel been the one that has escaped a lot of the prosecutions compared to the other cartel numbers?"

In response to NPR's findings, the Mexican Interior Secretariat on Tuesday said all drug cartels are being "attacked proportional to their size." A spokesman re-

After analyzing data on more than 2,600 criminal defendants, we found that the Gulf-Zetas cartel (which recently split into two independent groups) represented more than 40 percent of the individuals arrested — more than 1,100. The rest were spread among the other cartels. The Sinaloa, Beltran-Leyva and Tijuana cartels each accounted for about 12 percent of the arrests.

NPR also looked at releases for arrests in the Ciudad Juarez area starting in March 2008, when the Mexican army arrived in Juarez as part of the country's drug war. Since then, the Mexican government has announced criminal action against only 16 Sinaloa cartel affiliates arrested in Chihuahua state, including Juarez. In contrast, there were 88 arrests associated with the Juarez cartel listed in the government releases. There are four individuals who were associated with both cartels, according to separate news releases.

NPR also analyzed cases that involved charges of cartel bribes of public officials (see chart below). Municipal officials

released figures the agency put out three months ago: 72,000 persons have been arrested for drug crimes; of those, 24 percent are members of the Sinaloa cartel, and 27 percent are Gulf cartel and Los Zetas.

A veteran Mexican crime journalist says this figure may include every drug arrest, including street-corner dealers. NPR only counted federal arrest records of named cartel associates.

Calderon Denies Selectively Fighting The Cartels

The growing criticism in Mexico that Calderon is selectively fighting the cartels prompted him to speak out at a press conference in February.

"These accusations are totally unfounded, false. In most cases, it reflects a misunderstanding of the facts, the result of other interests, I want to be clear," he said.

The Mexican president went on to name several Sinaloa crime bosses the government has arrested — the biggest being Vicente "El Mayito" Zambada, son of El Mayo Zambada, a close ally of Guzman's.

NPR's analysis is supported by a Mexican law professor and organized crime expert, Edgardo Buscaglia. He teaches at ITAM, a Mexico City university, and at Columbia University in New York. Buscaglia has done his own analysis of cartel arrests.

were involved in most of the cases. The data suggest that bribes by the Sinaloa cartel focused on federal and military officials. Out of 19 cases, 14 of them involved federal and military officials. The Juarez cartel was charged with bribing 10 officials, and nine of them were municipal.

"If you look at the main organized crime group in Mexico, that is, the Sinaloa confederation, it has been left relatively untouched," he said.

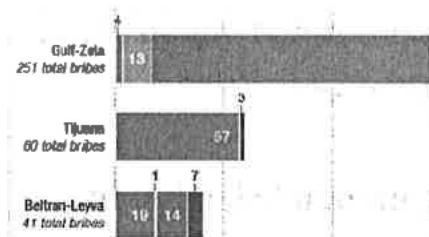
Senior U.S. officials, who declined to speak on the record for this report, say they believe Calderon is sincere about rooting out corruption in his government and taking down all the drug mafias.

'Extraordinarily Brazen' Drug Cartels

A senior DEA official, speaking on background, said certain cartels are so "extraordinarily brazen, they've demanded the government's attention first."

Los Zetas, for instance, are involved in everything from drugs to extortion to stealing gasoline. La Familia Michoacana beheads its rivals, and has even threatened the president. They are more of a public threat than the Sinaloans — who U.S. law enforcement sources say stick to narcotics and money laundering and try to stay out of the spotlight.

Cartel Bribes Of Mexican Public Officials



Graph: Reported Cartel Bribes

Fight For Juarez: When Will The Killing End?

Credit: Reported by John Burnett, Produced by Heather Murphy, Photos by Julian Cardona, AP and Getty Images

A senior State Department official, also speaking off the record, concurred. "When you have limited capability, there's no doubt that you set priorities and do triage, and that's what we're seeing," she said.

A former U.S. counterintelligence agent who analyzes drug mafia activity in Mexico agreed that Calderon's government may be playing favorites with the Sinaloans, but if that's true it could be a standard law enforcement strategy to attack organized crime syndicates.

"The FBI has the long history of that in breaking the back of Italian crime groups here in the U.S. If you need intel to go after these organizations, you have to go to individuals who are involved in this to begin with. You're not going to get this info from choirboys," said Fred Burton, now an analyst with the Austin-based global intelligence firm Stratfor.

Sinaloa Cartel Excels At Bribing Officials

But does the Sinaloa cartel's reputation for well-placed bribes help keep its members

out of jail?

"A cartel cannot flourish at their level without civil and military protection at the highest levels," said Jorge Carrasco, who covers organized crime for the respected Mexican newsmagazine *Proceso*. The magazine recently put Guzman on the cover with the headline, "The Untouchable."

The Sinaloans are widely regarded as the most sophisticated cartel in transportation, intelligence gathering and bribery.

A few examples:

— Last year, *Proceso* reported on how a Sinaloan faction controlled several airports around the country through a network of corrupt federal agents. The faction even had its own hangar at the international airport in Mexico City.

— Last week, the Mexican newspaper *Reforma* described how the Sinaloans had thoroughly infiltrated the federal police. The drug gang knew where the cops were being sent next and how many buses would carry them. The newspaper added that a navy investigation uncovered that the Sinaloans controlled eight seaports for cocaine smuggling from South America.

— A 2007 army intelligence report obtained by The Wall Street Journal and shared with NPR describes how Guzman would visit his marijuana ranch in Sinaloa "in caravans of six vehicles, with the protection of the Mexican army."

— Jose Gomez Llanos is on the U.S. Treasury's list of foreign narcotics kingpins. He is suspected of being a money launderer for Guzman. He is currently the top federal prosecutor in the state of Tamaulipas.

— A 2008 corruption scandal implicated the chief of the nation's organized crime unit, Noe Ramirez Mandujano. He was accused of taking \$450,000 to tip off the Beltran-Leyva cartel, at the time a powerful member of Guzman's so-called Sinaloa federation. Mafia analysts note that federal law enforcement in December 2009 killed and

captured two of the Beltran-Leyva brothers, Arturo and Carlos, respectively, which has weakened their crime syndicate to Guzman's advantage.

U.S. Concern About Mexican Corruption

"Has the Sinaloa infiltrated the Mexican government? Absolutely. Has the Sinaloa infiltrated the Mexican military? Absolutely. Calderon has a very difficult job trying to root out corruption within his own ranks," said McCaul, the Texas congressman. He added that he believes the Mexican president has been quick to rid his administration of corrupt officials.

A senior U.S. government official involved in counterdrug policy in Latin America, who asked that his name not be used, acknowledged that corrupt officials in Calderon's government are a real concern.

"We have to gauge intelligence sharing [with Mexican law enforcement] against how high the cartels have penetrated. Do we endanger our sources? Right now there's great pushback from our intelligence community for greater intelligence sharing," he said.

NPR's analysis found 400 public officials — from local cops to army officers — who have been arrested for working for the drug mafias in the past 3 1/2 years. The pattern is clear: All the cartels infiltrate local and state agencies; but the Sinaloans and their former ally, the Beltran-Leyva organization, were more likely to pay off the military and senior federal officials compared with other cartels, according to the arrest data.

"The Sinaloa has been clearly the winner of all that competition among organized crime groups. And as a result of that, they have gained more economic power, they have been able to corrupt with more frequency and corrupt with more scope. Now you see that Sinaloa is the most powerful criminal group, not just in Mexico, but all over Latin America," said Buscaglia, the law professor and organized crime expert.

How Vast Is The Government's Role?

Buscaglia stops short of saying he thinks it is Calderon's policy to "protect" Guzman, or

that the government wants to "help" the drug baron defeat other cartels as a way to restore balance in the underworld and ultimately reduce violence.

Howard Campbell, an anthropologist at the University of Texas, El Paso who studies drug trafficking in Mexico, agrees.

"This isn't to say that the president of Mexico has deliberately made a deal with Chapo Guzman," Campbell said. "But people below him may have, and the outcome may be about the same."

Anabel Hernandez is an award-winning investigative reporter who has spent five years researching a book on Guzman. In an interview, she said she is convinced that two successive administrations of the National Action Party have favored the 53-year-old drug lord, ever since he bribed his way out of a maximum-security Mexican federal prison in a laundry truck in 2001.

"When the Sinaloa cartel began to be protected by all the apparatus of the government after 2001, it felt the power for the first time in history to occupy plazas that for dozens of years belonged to other cartels. So you saw them take on the Gulf cartel in Nuevo Laredo [in 2005], and now the Juarez cartel in Juarez," she said.

Hernandez concluded: "My hypothesis, after five years of investigation, is that Joaquin Guzman Loera is the best example of corruption in Mexico."

Forbes magazine recently named Guzman as the second-most-wanted fugitive in the world, after Osama bin Laden. They are both protected by mountains, native cunning and legions of informers.

A former senior DEA official with experience in Mexico, who asked to not be named, said in an interview that Guzman has effectively penetrated every civilian and military force in Mexico.

The former agent said he knows of a Mexican general who once tried to catch the elusive drug lord.

"The general was up against enormous obstacles," he said. "Every time he got close, his own men would tip off Chapo."

Web Resources

'The Drug Lord Who Got Away': The Wall Street Journal

© 2016 npr

Exhibit O

Mexican marine's family gunned down by drug cartel

Several members of national hero Melquisedet Angulo's family were killed in a reprisal attack this week

Rory Carroll, Latin America correspondent

Wednesday 23 December 2009 14.13 EST

The grieving family of a Mexican marine killed in a raid against a drug lord suffered further tragedy when assassins gunned down his mother, aunt and siblings in a revenge attack.

Melquisedet Angulo had been declared a national hero after falling in a navy-led battle against a drug cartel, giving his family an emotional cameo at the televised memorial service earlier this week.

Authorities warned that the cartel of Arturo Beltrán Leyva, a "boss of bosses" who died in the same battle, would seek vengeance. But they did not anticipate the target. Shortly after midnight on Tuesday three vehicles pulled up outside the Angulo family's modest home in Paraiso, in the southern state of Tabasco. Gunmen used a sledgehammer to storm it and opened fire with automatic weapons.

Irma Cordova, 55, who hours earlier had received the flag draping her son's coffin, died from a single bullet. Josefa Angulo, 46, the marine's aunt, was shot at least 10 times. His brother Benito Angulo, 28, and sister, Jolidabey Angulo, 22, also died. Another sister, Miraldeyi Angulo, 24, was gravely wounded.

Neighbours did not dare to intervene as the killers returned to their vehicles and vanished into the night. The message was emphatic: cross us and we will go after you and your family.

Even to a nation numbed by 15,000 drug war killings in the past three years, and 180 murders this week alone, the atrocity was shocking. President Felipe Calderon called it "a cowardly and contemptible act of violence".

The attack was unprecedented but also predictable, Javier Ibarrola, a security expert, told Mexican television. "What is really most alarming is that there wasn't the intelligence to foresee this, to adequately study what the traffickers' reactions were going to be," he said.

Assassins linked to Beltran Leyva's cartel were known to have a base in Tabasco, yet the Angulo family was not protected.

For the state it was a bitter epilogue to last week's strike against the Beltrán Leyva cartel. Marines cornered its leader in an apartment complex in Cuernavaca, south of Mexico City. The drug lord and six of his gunmen died in the two-hour battle, along with 30-year-old Angulo.

The cartel's ire was fanned by photographs which showed Beltrán Leyva's bloodied corpse with trousers pulled down to the knees and littered with peso and dollar notes. The images have caused a row and four forensic officials are facing charges for tampering with the scene.

Security forces tend to not wear badges or numbers in the interest of preserving their anonymity, but in death Angulo's identity was made public.

At Angulo's funeral on Monday his mother, hours away from her own murder, spoke of pride and sorrow. "Thinking as a mother, I used to feel very sad and hurt for the families of soldiers and police who had been killed. It would make me cry. And now, now it is my turn," she said.

[More news](#)

Topics

[Mexico Drugs trade Americas](#)

[Save for later Article saved](#)

[Reuse this content](#)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA - WESTERN DIVISION
HONORABLE GEORGE WU
UNITED STATES DISTRICT JUDGE PRESIDING

- - -

United States of America,)
PLAINTIFF,)
VS.) NO. 15-245 GW
Cesar Aceves,)
DEFENDANT,)
_____)

REPORTER'S TRANSCRIPT OF PROCEEDINGS
LOS ANGELES, CALIFORNIA
THURSDAY, APRIL 21, 2016

KATIE E. THIBODEAUX, CSR 9858
U.S. Official Court Reporter
312 North Spring Street, #436
Los Angeles, California 90012

1 APPEARANCES OF COUNSEL:

2

3 ON BEHALF OF THE PLAINTIFF, UNITED STATES OF AMERICA:

4

U.S. DEPARTMENT OF JUSTICE

5

U.S. ATTORNEY'S OFFICE

6

BY: AMANDA KLOPF, AUSA
312 North Spring Street

7

Twelfth Floor

8

Los Angeles, CA 90012

9

ON BEHALF OF THE DEFENDANT:

10

FEDERAL PUBLIC DEFENDER'S OFFICE

11

BY: DAVID MENNINGER, DFPD

12

-and- BRIANNA MIRCHEFF, DFPD

13

321 East 2ND Street

14

Los Angeles, CA 90012-4202

15

16

17

18

19

20

21

22

23

24

25

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA

1 LOS ANGELES, CALIFORNIA; THURSDAY, APRIL 21, 2016

2 8:03 A.M.

3 - - - - -

4

5 THE COURT: All right. Let me call the matter of
6 United States versus Aceves.

7 Let me have appearances.

8 MR. MENNINGER: Good morning, your Honor. David
9 Menninger from the Office of the Federal Public Defender.
10 I am here with my colleague Brianna Fuller and Mr. Aceves
11 who is present on bond.

12 THE COURT: Okay. And for the government.

13 MS. KLOPF: Good morning, your Honor. Amanda
14 Klopf on behalf of the United States.

15 THE COURT: I have here the defendant's motion to
16 dismiss the indictment under 8, U.S.C., Section 1326(d).

17 Couple of questions for the parties.

18 Was the defendant's immigration attorney,
19 Mr. Carlos Spector, privately retained?

20 MR. MENNINGER: Your Honor, would you like me to
21 stay here?

22 THE COURT: Just speak into the microphone.

23 MR. MENNINGER: Okay. Your Honor, Mr -- there is
24 no evidence -- we contacted Mr. Aceves, I'm sorry,
25 Mr. Spector, he has no record of the representation at

1 all.

2 THE COURT: That is not my question. My question
3 is was he retained privately or was it some other way
4 that he became associated with the defendant?

5 In other words, was he assigned by a court to
6 represent the defendant? How was the representation
7 achieved? And, frankly, your client should have a
8 recollection even if Mr. Specter doesn't.

9 MR. MENNINGER: Your Honor, there is no evidence
10 that he was appointed or anything like that, your Honor.

11 THE COURT: So the presumption is that he is
12 privately retained.

13 MR. MENNINGER: I would assume that is normally
14 how someone in the position is, you know, enters a
15 representation, your Honor.

16 THE COURT: Let me stop you. Let me ask the
17 government, does the government have any information on
18 this?

19 MS. KLOPF: The government does not have any
20 information on the appointment.

21 THE COURT: All right. Next question. Prior to
22 the July 26, 2010, filing of the request for immediate
23 removal and the waiving of the removal hearing that was
24 already scheduled, did the defendant and Mr. Specter
25 discuss the matter?

1 MR. MENNINGER: Your Honor, I do not have any
2 evidence that it was discussed.

3 THE COURT: Does he have any recollection of
4 whether or not it was discussed?

5 MR. MENNINGER: Your Honor, I do not believe that
6 my client does have any recollection.

7 THE COURT: Are you saying that for -- I don't
8 want to go into attorney-client privilege, but let me
9 ask, since you are here, too, what is your response to
10 that question?

11 Let me indicate to the defendant, you need to
12 talk to your attorneys before you speak in open court
13 simply for the fact that I don't want a situation where
14 you waive some right or something else. So let your
15 attorney speak, and if they have a question, they will
16 ask you.

17 Let me ask defense counsel.

18 RIGHT2: Your Honor, I am here purely to
19 supervise. My understanding is there is nothing in the
20 record on that point, and I am not sure it is necessarily
21 relevant.

22 THE COURT: Well, it potentially is because, well,
23 we will get to that point in a moment.

24 All right. Let me ask the government, does
25 the government have any information in this regard?

1 MS. KLOPF: No, your Honor.

2 THE COURT: Let me ask, if the defendant's
3 attorney, then, Mr. Specter, was correct that the
4 defendant was not eligible for any form of relief from
5 removal, would there have been any violation of his due
6 process rights?

7 MR. MENNINGER: Yes, your Honor. First off, of
8 course, we would -- we believe, your Honor that it is
9 clear that he was eligible for relief from removal. But
10 even if the attorney's advice was correct, your Honor,
11 the court -- the immigration court violated his due
12 process rights by removing him without a hearing without
13 any notice.

14 THE COURT: Let me stop you. This is not a 1983
15 action, is this?

16 MR. MENNINGER: It is not, your Honor.

17 THE COURT: You are going under a specific statute
18 which is 8, U.S.C., Section 1326(d), and doesn't that
19 section require some form of injury to the defendant?
20 And so, therefore, even assuming arguendo, and we are
21 assuming arguendo only at this point in time, that there
22 was no advisal or discussion between the defendant and
23 the immigration judge, that in and of itself would not be
24 a basis for a finding under 1326(d) without a showing of
25 some harm or injury.

1 MR. MENNINGER: Your Honor, the Ninth Circuit has
2 said that a showing of actual prejudice is required when
3 there has been some error in the way that an immigration
4 judge has conducted proceedings. The Ninth Circuit has
5 also said that in certain circumstances presumption of
6 prejudice is appropriate. And I think that this is a
7 case in which that presumption is appropriate.

8 THE COURT: How could there possibly be a
9 presumption of prejudice if, in fact, the attorney was
10 correct that he is entitled to no relief?

11 MR. MENNINGER: Your Honor, so the regulations
12 require the court to hold a hearing, your Honor.

13 THE COURT: Let me stop. The immigration court
14 scheduled a hearing, and the only reason that it was
15 unscheduled is because the defendant's attorney at the
16 time who supposedly he applied for and got or hired
17 himself made an application, and as a result of the
18 application, the removal hearing which was scheduled for
19 I think it was August the 8th was taken off calendar.

20 So this is not a situation where there was an
21 intentional deprivation by the immigration service to
22 deny him a hearing. They had scheduled a hearing, and
23 his attorney said, no, we don't want the hearing, we want
24 an immediate removal which he can ask for. That was not
25 improper and which happens all the time in the

1 immigration court.

2 MR. MENNINGER: Your Honor, if I can respond with
3 a couple of points.

4 First, the attorney's motion actually did
5 request a hearing. The attorney's motion did not say we
6 do not want a hearing.

7 THE COURT: No. They requested a hearing on his
8 application. Why would you have a hearing on something.
9 He had an application, and he made a request for that.

10 MR. MENNINGER: Right.

11 THE COURT: Okay.

12 MR. MENNINGER: And he requested a hearing so that
13 could take place, your Honor.

14 THE COURT: So that the previously set removal
15 hearing would not take place.

16 MR. MENNINGER: Your Honor, the motion says we
17 asked for the hearing to be set as soon as possible is
18 the language of the motion. And so it was a -- it was
19 not what he had asked for.

20 THE COURT: He had specifically asked for
21 immediate removal. That is what he asked for.

22 MR. MENNINGER: If I can read from the motion,
23 your Honor.

24 THE COURT: Sure.

25 MR. MENNINGER: It is at Exhibit C, Bates-stamped

1 18, the last two lines. Wherefore, premises considered,
2 the respondent prays that a hearing be set for immediate
3 removal.

4 So the motion did ask for a hearing, your
5 Honor, but there are also multiple other due process
6 violations that take place. There was no mention of a
7 waiver of appeal in this instance. The judge just waived
8 his appeal rights for him.

9 Also, your Honor --

10 THE COURT: Well, let me ask, when the immigration
11 judge grants an alien's request for immediate removal,
12 what appeal right would there be in that situation?

13 MR. MENNINGER: Well, your Honor, I think it is
14 crucial that there be appeal rights especially in a
15 situation like this.

16 THE COURT: Let me stop. He was represented by
17 counsel. There was no waiver of appeal rights. He could
18 still have appealed.

19 MR. MENNINGER: No, your Honor. The immigration
20 judge waived, marked waived.

21 THE COURT: So, in other words, he didn't have an
22 attorney at that time so that the attorney could not have
23 made an application for an appeal? Could not have
24 appealed?

25 My assumption is an appeal is effectuated by

1 the filing of a paper that says we want to appeal.

2 MR. MENNINGER: Your Honor, respectfully, that is
3 not how it works in immigration court. If you look at
4 the removal order, it says waived. And since the removal
5 order says that his appeal was waived, he was
6 prevented --

7 THE COURT: So, in other words, if that form had
8 been checked off incorrectly, and both -- everybody
9 agreed that it had been checked off somehow incorrectly,
10 there could not be an appeal from that.

11 MR. MENNINGER: Your Honor, I do not believe there
12 could be.

13 THE COURT: Do you practice immigration law?

14 MR. MENNINGER: I do, your Honor.

15 THE COURT: Have you ever had the situation where
16 an appeal was impossible?

17 MR. MENNINGER: Your Honor, when an appeal is
18 marked waived, I believe the regulations are clear that
19 you can not file an appeal. And I would add, in this
20 case, according to the documents presented by the
21 government, it would appear that the respondent was
22 removed like the day after. So he would actually have no
23 ability to appeal the order. So that is a very concrete
24 injury caused by the immigration judge's improper waiving
25 of the appeal.

1 THE COURT: Let me stop. Let me hear from the
2 government. What is the government's position on that
3 question? Could there have been an appeal even though
4 the box for saying that the appeal was waived was
5 checked?

6 MS. KLOPF: Your Honor, I am not sure of the
7 answer to that question, but I would note, as we
8 identified in our briefing, regardless of whether or not
9 there was an issue with this representation, there is no
10 prejudice in this particular matter. And that is what
11 this case boils down to is, as we briefed extensively, so
12 I won't go deeply into it. But there is no prejudice in
13 this particular matter.

14 THE COURT: Let me ask defense, is prejudice an
15 essential element?

16 MR. MENNINGER: Your Honor, as we mentioned in our
17 briefing, the Ninth Circuit has held that actual
18 prejudice is required in cases where there is a violation
19 in how a hearing is conducted. We do maintain, however,
20 that a presumption of prejudice is appropriate because of
21 the total sum of the violations in this case.

22 THE COURT: If he was not entitled to any relief,
23 what is the prejudice?

24 MR. MENNINGER: A, your Honor, he was entitled to
25 relief.

1 THE COURT: No, he wasn't. Why was he entitled to
2 any relief?

3 MR. MENNINGER: Your Honor, he was eligible for
4 two forms of relief. He was eligible for adjustment with
5 a 212(h) waiver.

6 THE COURT: Well, he couldn't get a 212(h) waiver
7 since there is no application that is a part and parcel
8 of that request. So, therefore, how could he have gotten
9 that, and the one that was previously, that was made for
10 him was dismissed out prior to this situation in 2009.
11 So, therefore, how could he possibly have gotten a relief
12 at that point?

13 MR. MENNINGER: Yes, your Honor.
14 He could have filed an application for
15 adjustment along with an application for --

16 THE COURT: The problem is if he himself had done
17 that at that point in time, at that point in time, he was
18 an adult and therefore the timeframe for the getting a
19 Visa, there has to be an available and immediate visa for
20 him. He was an adult at that point in time. So,
21 therefore, at that stage, he would have an 18-year wait.

22 Let me just ask, are you contesting that at
23 that point in time in 2010, that the wait was in fact 18
24 years for -- the waiting period was 18 years for visas
25 for adjustment of children who are adults from Mexico at

1 that point in time?

2 MR. MENNINGER: Very much so, your Honor.

3 THE COURT: On what basis?

4 MR. MENNINGER: He was an immediate relative.

5 THE COURT: No. That is not what I am asking you.
6 You really have to listen to my questions. I know you
7 have a spiel. But the question really is, one, is a
8 factual one, not one based on argument. The government
9 has presented evidence that in July of 2010, the waiting
10 period for Visas for this form of -- well, these
11 particular visas for children of either U.S. citizens or
12 LPR's from Mexico was 18 years.

13 And so either that is correct or incorrect as
14 a matter of fact. Are you saying that that was
15 incorrect? I understand your argument is that if for
16 some reason the application that was filed in, was it
17 1997 or whenever, 1999, was still in effect, that he
18 could have qualified as still for all intents and
19 purposes being a child under that because of various
20 rulings that were made. I understand that.

21 But the application that had been filed had
22 been dismissed in 2009. And so there was no application,
23 and if he were to file an application at that point in
24 time, then he would not qualify as a minor. He would be
25 an adult.

1 MR. MENNINGER: Your Honor, if I could explain.
2 There is two separate applications here. There is the
3 visa petition and then there is the adjustment
4 application. The visa petition was approved in 1999.
5 That petition was never terminated, your Honor.

6 THE COURT: I thought it was dismissed. Let me
7 ask.

8 MR. MENNINGER: That was the adjustment
9 application, your Honor. So he had also filed an
10 adjustment application that was terminated, but he could
11 have just as easily filed a second adjustment application
12 at that time. The visa petition is the relevant
13 application, and it was never terminated.

14 THE COURT: Let me ask the government, is that
15 that correct?

16 MS. KLOPF: Your Honor, my understanding is that
17 the entire proceeding was terminated in 2009. I would
18 have to -- could you point me towards the application
19 that you are referencing?

20 MR. MENNINGER: So the visa petition which is
21 stamped approved is at Exhibit B to our motion, your
22 Honor. The petition that the government filed as Exhibit
23 5 is the adjustment application, and that is the one that
24 you will see it says case terminated. But that is the
25 adjustment application that had no effect on the visa

1 petition. So the visa petition remained valid and was a
2 basis, could be a basis to file an adjustment
3 application.

4 THE COURT: What is the government's response?

5 MS. KLOPF: My understanding is that both of these
6 have been terminated. I'm sorry. I do not have the
7 agent. The agent wasn't available this morning to join
8 me. But, regardless, even if it was approved, there,
9 still, it was not immediately available as there was an
10 18-year waiting period. So even if this was still in
11 effect which the government would argue it is not, there
12 is no visa that he was in possession of at that time when
13 he was deported in 2010.

14 THE COURT: Also, I don't understand how -- I mean
15 a visa application that was granted in the past but
16 thereafter the application was dismissed, you don't get
17 like a visa ticket.

18 MR. MENNINGER: Your Honor, as I mentioned, the
19 I-130 visa petition was not dismissed in this case. The
20 documents from the A file have it marked approved, from
21 his alien file have it marked approved.

22 THE COURT: And exactly what exhibit are you
23 referring to?

24 MR. MENNINGER: Exhibit B, your Honor, of our
25 motion.

1 THE COURT: B as in boy?

2 MR. MENNINGER: B as in boy, your Honor. This
3 comes directly from his alien file, and it says approved,
4 1999, there was no indication anywhere that it was
5 terminated.

6 THE COURT: How long does a visa last for?

7 MR. MENNINGER: Forever, your Honor.

8 THE COURT: Forever.

9 MR. MENNINGER: Yes, your Honor.

10 THE COURT: Let me indicate to the government,
11 either you are going to have to have your agent here to
12 be able to answer these questions or you are going to
13 have trouble.

14 MS. KLOPF: Your Honor, we could arrange to have
15 the agent available at a later date. He isn't available
16 this morning. But I would note for the court, there is
17 no evidence that a visa was actually granted. There is
18 no evidence in the A file of a visa.

19 This document may indicate approved, but my
20 understanding is that everything was terminated in 2009
21 because he didn't follow through with the --

22 THE COURT: So what you are saying is that the
23 approved goes toward the petition for the alien relative.
24 It is not an approval of the visa.

25 MS. KLOPF: That was my understanding, your Honor,

1 but I would say there is no evidence an actual visa was
2 approved. In the A file, there is no visa. There is no
3 document that shows that he has been granted a visa.

4 So the argument is still the same.

5 THE COURT: Let me stop. I am going to continue
6 this. You guys aren't prepared to argue this because,
7 again, you are saying things. I don't know if what you
8 are saying is even remotely correct. And you really
9 should cite me to, for example, regulations that say
10 this, something. You can't make these types of arguments
11 up.

12 MR. MENNINGER: Your Honor, I apologize. I do not
13 believe I am making these arguments up. And I believe I
14 did explain them in the ruling in our reply, your Honor,
15 on Pages 4 and 5 with citations to relevant statutes and
16 the regulations, your Honor. And I am happy to do so in
17 further briefing if your Honor would like further
18 explication.

19 THE COURT: Give me some citations for this
20 proposition from both sides. Also, since we are here,
21 let's argue the CAT. I don't understand your CAT
22 argument.

23 MR. MENNINGER: Okay, your Honor.

24 So any -- so you are eligible to apply for a
25 deferral of removal which allows you to stay in the

1 country if you can show that it is more likely than not
2 that you would suffer torture which is defined as serious
3 bodily harm that is intentionally --

4 THE COURT: I understand the law. What are the
5 facts that he attempts to utilize to establish that, and
6 it has to be a particularized threat of torture, not a
7 general threat of torture.

8 MR. MENNINGER: That's correct, your Honor. And I
9 would respectfully remind the court that at this stage
10 what we are asking is whether he can plausibly, could
11 have, if he got a fair removal proceeding in 2010, if he
12 would have plausibly been able to make out a claim --

13 THE COURT: What is the factual basis for that
14 plausible claim at this stage?

15 MR. MENNINGER: We have evidence that his
16 grandfather, he fled the country as a child with his
17 mother because she faced death threats, your Honor, from
18 a rampant criminal organization.

19 THE COURT: What year was that?

20 MR. MENNINGER: I believe it was 1983, your Honor.

21 THE COURT: And who was involved in that?

22 MR. MENNINGER: It was the -- it was a powerful
23 drug cartel that was prevalent in Guadalajara that
24 remains prevalent to this day, your Honor.

25 THE COURT: So, in other words, all those people

1 are still alive and they know this defendant?

2 MR. MENNINGER: Your Honor, if he were given an
3 opportunity to present his CAT application at immigration
4 court which he was denied, he would have been able to
5 present expert evidence and country conditions evidence
6 on that point, your Honor.

7 THE COURT: So that was in Guadalajara? What
8 about the rest of Mexico?

9 MR. MENNINGER: Your Honor, again --

10 THE COURT: Is that gang predominant in all of
11 Mexico?

12 MR. MENNINGER: Your Honor, again, if he were
13 given a chance to present his claim in immigration court,
14 he would be able to present evidence.

15 THE COURT: Counsel, you can't just say, well, you
16 know, you have to show at this point in time the basis
17 for the particularized threat.

18 MR. MENNINGER: That's correct, your Honor.

19 THE COURT: And if, in fact, he could have gone to
20 other areas of Mexico rather than going to Guadalajara.
21 If he went to Mexico City, and he would not have been
22 been bothered in Mexico City, he cannot demonstrate a
23 particularized threat. What is the evidence that he has
24 at this point in time that the gang's influence extended
25 throughout all of Mexico and that he himself would have

1 been targeted rather than his grandfather who had some,
2 let's put it this way, more supposed involvement or
3 relationship with the gang. He himself never had any
4 contact with the gang, did he?

5 MR. MENNINGER: No, your Honor. He had not lived
6 in Mexico.

7 THE COURT: So why does he think that he would be
8 subject to a particularized threat from the gang? And
9 even then, a particularized threat from a gang isn't
10 necessarily sufficient in this particular situation
11 because the actual language of the provision phrases it
12 in terms of somebody from the government either imposing
13 the threat or acquiescing to the threat.

14 And, again, so merely because of the fact that
15 his grandfather might have been killed in Mexico back in
16 '83 by a gang doesn't really show anything in regards to
17 this particular situation.

18 MR. MENNINGER: Your Honor, there were other
19 factors. Let me answer that in a couple of pieces.

20 For one, regarding the state action
21 requirement, the Ninth Circuit is clear that if police
22 officers are complicit, corrupt police officers are
23 complicit, that satisfies the state action requirement.
24 The state department makes it very clear that the police
25 officers are complicit in the works of drug and criminal

1 organizations in Mexico.

2 THE COURT: The same gang throughout Mexico?

3 MR. MENNINGER: In addressing that, that other
4 point, your Honor, he would be able to present that
5 evidence. There is --

6 THE COURT: When you say he would be able to
7 present that evidence, I don't understand what you are
8 saying.

9 MR. MENNINGER: Again, your Honor --

10 THE COURT: If he doesn't have the evidence now
11 and he doesn't know what it is, how can he say that he
12 can present it. I mean, he at least has to know what it
13 is, doesn't he?

14 MR. MENNINGER: Right, your Honor. So there are,
15 as was mentioned in the expert declaration from the
16 immigration attorney, your Honor, there are specific --
17 in immigration court you can call a country conditions
18 expert. There are reports.

19 THE COURT: There are some country reports. You
20 didn't give me a country report in regards to Mexico in
21 1983 and 2010 which could have -- I could take judicial
22 notice of that. The State Department issues that as to
23 all countries.

24 MR. MENNINGER: I did cite that in the briefing,
25 your Honor.

1 THE COURT: It doesn't say anything about the
2 supposed threat that he is claiming he would be subjected
3 to, in other words, threats by the gang, et cetera, et
4 cetera, all that kind of stuff.

5 MR. MENNINGER: It does speak to the reach of the
6 criminal organizations, your Honor. And I would point
7 out there is also --

8 THE COURT: But I don't think there is just
9 one criminal organization that is throughout the country.

10 MR. MENNINGER: There is not, your Honor.

11 THE COURT: So, in other words, why would he be
12 threatened by all criminal organizations?

13 MR. MENNINGER: Your Honor, these organizations do
14 have a very powerful reach.

15 THE COURT: What is the factual basis for your
16 making that statement?

17 MR. MENNINGER: Your Honor, I believe that it is
18 in the country conditions evidence that he would be able
19 to submit at the time. Again, your Honor, it is not this
20 court's task to relitigate this claim in the first
21 instance.

22 THE COURT: But they have to find there is
23 evidence of a particularized threat. And, you know, so
24 far you are throwing out these generalities that could
25 apply in every situation.

1 MR. MENNINGER: Your Honor, respectfully, your
2 Honor, the court would have to find that it is plausible
3 that he could have presented evidence of particularized
4 threat. And I think that is a significant distinction.

5 THE COURT: But I have to understand the nature of
6 that. He can't just make a generalized claim that 1983
7 his grandfather was killed by gangs and from that say,
8 well, that is sufficient because that is not sufficient.

9 MR. MENNINGER: Okay. Well, a couple of things,
10 your Honor. There was evidence that, more recently,
11 other members of his family had been targeted.

12 THE COURT: For what reason?

13 MR. MENNINGER: Your Honor, that is unclear from
14 the record but, you know, it is hard to say exactly, but
15 I think that goes towards the ongoing threat to his
16 family.

17 THE COURT: His family is somehow involved in gang
18 activity?

19 MR. MENNINGER: His grandfather was the chief of
20 police, your Honor. We submitted the newspaper report
21 that corroborated his disappearance.

22 THE COURT: I understand that, but, again, that
23 was 1983.

24 MR. MENNINGER: I understand, your Honor.

25 THE COURT: So he is certainly not a member of the

1 Mexican police force.

2 MR. MENNINGER: He is not, your Honor.

3 THE COURT: So I don't understand the argument,
4 the connection.

5 MR. MENNINGER: Your Honor, there is -- that could
6 be a piece of evidence to show that he would continue to
7 face threat in Mexico and there is other factors as well.

8 THE COURT: I don't understand if his father was a
9 member of the police force, a chief of police in a
10 particular area of Mexico who was killed by gang members
11 and even if we assume that that killing was with the
12 complicity of other police officials in Mexico, in
13 Guadalajara, why does that relate to a threat to this
14 particular defendant who has lived in this country since
15 he was five years old who has had no connection to
16 Guadalajara, is not a member of the police force, et
17 cetera, et cetera, et cetera. I don't understand.

18 MR. MENNINGER: Well, your Honor, I believe it is
19 one factor. In the CAT cases, it is very clear that it
20 is a totality of circumstances that needs to be looked
21 at. That is one factor. The other factor is --
22 actually, the fact that he is very Americanized is
23 immediately identifiable as someone who presents as an
24 American and stands out in Mexican society. The other
25 factor would be his tattoos. He would be able to present

1 evidence that his tattoos also single him out and mark
2 him.

3 THE COURT: So who is he going to be tortured by?
4 Is there a group in Mexico that tortures people in Mexico
5 who appear to have lived in the United States for a
6 lengthy period of time? That would do really bad things
7 to the tourism industry in Mexico.

8 MR. MENNINGER: Your Honor, there is evidence, and
9 as was stated by our expert in the expert declaration
10 that these people are specifically targeted either by
11 police or by criminal organizations which often work in
12 conjunction.

13 THE COURT: I don't quite understand. For what
14 reason? In other words, so, in other words, if
15 somebody -- people who are -- let's assume that there are
16 people who are Hispanic looking and they are born in the
17 United States, and if they have tattoos which a lot of
18 people in the United States get these days, you are
19 saying that that poses a risk that they will be tortured
20 if they go to Mexico because they look like they have
21 lived in the United States for a lengthy period of time.

22 MR. MENNINGER: Your Honor, I am saying that is
23 one factor he could have presented.

24 THE COURT: Is that a reasonable factor?

25 MR. MENNINGER: Yes, your Honor.

1 THE COURT: Why? In other words, maybe I have
2 missed it. Does the country conditions report from the
3 State Department warn United States citizens that if they
4 go to Mexico in 2010, if they look Hispanic they are
5 going to be subject to possible murder or torture? Maybe
6 I missed that.

7 MR. MENNINGER: Well, your Honor, I think it is a
8 very different distinction between being a U.S. citizen
9 who is just going there for a visit versus being someone
10 who is left in Mexico with no money who is not a U.S.
11 citizen and who also is marked as a recent deportee to
12 that country. I would also add that our expert
13 declaration spoke to the links that these criminal
14 organizations have with prisons in the United States and
15 how his presence in a prison in the United States would
16 be another manner by which he would be identified.

17 THE COURT: Okay. Do you want to respond to that
18 at all?

19 MS. KLOPF: Yes, your Honor.

20 First and foremost, the defense must show for
21 plausibility, the defense must show more than
22 establishing a mere possibility of relief quoting,
23 Bejaras Alvarado, and the Ninth Circuit has also said
24 that it is not merely that some form of relief is
25 theoretically possible.

1 Here, we have evidence of a 27-year-old murder
2 that we don't have evidence that they are state action.
3 There is no particularized threat here. And there is
4 also no particularized threat of state action. The
5 evidence that is proposed here just merely shows a
6 theoretical possibility that he may be able to present a
7 CAT petition.

8 Furthermore, the CAT, the CAT basis is that
9 they must show that it is more likely than not that the
10 alien will be tortured, both standards that it is more
11 than theoretically possible that CAT relief would be
12 granted where CAT relief is something that must be more
13 than likely that an alien would be tortured with
14 complicit state action. That is not met here, your
15 Honor.

16 THE COURT: Well, let me indicate this. Also,
17 that question is really decided by various factors that
18 the Ninth Circuit has said one should refer to.

19 For example, the past torture inflicted upon
20 the applicant himself. He has none. Whether or not the
21 applicant could be relocated to a part of the country
22 would he would not likely be tortured. It seems to me
23 that he has not established that if he were to move, in
24 2010, that he would have been -- he could not locate a
25 part of the country where he could escape what he

1 perceives as these threats and that there is evidence of
2 gross, flagrant or mass violations of human rights within
3 the country of removal were applicable. I do not think
4 that that has been established because country reports do
5 not indicate that in 2010. And other relevant
6 information regarding the conditions in the country of
7 removal.

8 So be that as it may. However, I won't make a
9 final decision on this point because I do want further
10 briefing on this issue that we talked about further.

11 When can the parties give me that briefing?

12 MS. KLOPF: We could, if it was amenable to the
13 defense, by midweek next week. I would note, though,
14 your Honor, with the 212(h), that is simply just a
15 subfactor of the 212(h) relief if that would be granted,
16 and as submitted in the government's briefing, all of the
17 other elements of a 212(h) waiver are not met here. So
18 even if the visa issue was -- if a visa was immediately
19 available, even if a visa was immediately available, the
20 remaining elements of the 212(h) waiver are not present
21 as argued in the government's briefing.

22 THE COURT: I don't quite understand what you are
23 saying because, you know, he has to establish that there
24 was some prejudice, and he can do that by showing that
25 there was an available form of relief for him. And he is

1 arguing that under 212(h), there was such a vehicle. And
2 so you are saying that even if there was a visa available
3 for him, that is not sufficient. But if there was a visa
4 available for him, if there -- he could have made an
5 application. Somebody could have made an application at
6 that point in time, even if he is in the proceedings.

7 MS. KLOPF: Well, a 212(h) waiver where someone
8 has a -- where he would have to show extreme hardship
9 caused by deportation from an American citizen or LPR,
10 and, here, in 2010, he cannot show that. As briefed
11 further in the government's papers, he had been
12 incarcerated for I believe 10 years.

13 THE COURT: I understand that that is true. That
14 is another problem with his position, but, again, I want
15 all these things to be covered. But let me indicate to
16 defense counsel, you still have to argue that in the
17 sense that it doesn't seem to be there would be any
18 prejudice to a US citizen or LPR if he is so deported.

19 MR. MENNINGER: Would you like me to address that
20 at this time, your Honor?

21 THE COURT: Really quickly.

22 MR. MENNINGER: Your Honor, I believe the lengthy
23 detailed declaration of his mother shows that it would
24 cause emotional hardship to her.

25 THE COURT: I don't understand why that would be

1 the case.

2 MR. MENNINGER: Your Honor, this is someone who
3 fled Mexico with his mother after receiving death threats
4 after her father was killed.

5 THE COURT: Why does that have anything to do with
6 his being deported back to Mexico?

7 MR. MENNINGER: Because it goes to underscore the
8 trauma and the fear she felt when her eldest son who had
9 been an essential member to the family.

10 THE COURT: He couldn't have been that essential
11 because he was in jail or prison for 10 years.

12 MR. MENNINGER: Right. But at least he was safe
13 in jail.

14 THE COURT: Jails in the United States are not
15 necessarily that safe. I think you you pretty well know
16 that.

17 MR. MENNINGER: Your Honor, much safer than in
18 Mexico.

19 THE COURT: I don't know about that.

20 MR. MENNINGER: Well, your Honor, I would argue
21 that point. However, she signed a sworn declaration
22 saying that she felt -- she is also a person who is a
23 victim of other forms of trauma in her life. So she was
24 very vulnerable at this point including a history of
25 troubled relationships, your Honor, including a youngest

1 son who had a near fatal heart condition. And, also,
2 your Honor, she suffered from anxiety and depression and
3 signed a sworn affidavit stating that she, during this
4 period, the anxiety and depression came to such a point
5 where she had to seek out medication, your Honor, to help
6 her with her symptoms.

7 Again, your Honor, we only need to prove
8 plausibility in this case. This court does not need to
9 find that he has met the standard right here. And,
10 again, the BIA has said that this is not just a standard
11 that only a handful of cases can be met. This is a form
12 of relief that people do obtain all the time in
13 immigration court. He was deprived of any opportunity to
14 present this case, your Honor.

15 THE COURT: Again, you are not arguing to a jury
16 at this point.

17 All right. I will give you guys cross briefs
18 on this at the same time. Why don't you file it by -- do
19 you guys think you could do it by the 26th?

20 MS. KLOPF: Yes, your Honor.

21 MR. MENNINGER: Yes, your Honor.

22 THE COURT: Okay. Noon by the 26th. I will put
23 you back on the 28th. And, also, I want your INS person
24 present.

25 MS. KLOPF: Yes, your Honor.

1 THE COURT: All right. Thank you. Have a nice
2 day.

3 MS. KLOPF: Thank you, your Honor.

4 MR. MENNINGER: Thank you, your Honor.

5 THE COURT: And I will leave the defendant out on
6 bond under all same terms and conditions, order that he
7 be back here on the 28th of April at 8:00 o'clock.

8 Have a very nice day, everybody.

9 (Proceedings concluded.)

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE

I hereby certify that pursuant to Section 753, Title 28, United States Code, the foregoing is a true and correct transcript of the stenographically reported proceedings held in the above-entitled matter and that the transcript page format is in conformance with the regulations of the Judicial Conference of the United States.

Date: June 5, 2016

/s/ Katie Thibodeaux, CSR No. 9858, RPR, CRR

MR. MENNINGER: [78]
MS. KLOPF: [14] 3/12 4/18
5/25 11/5 14/15 15/4 16/13
16/24 26/18 28/11 29/6 31/19
31/24 32/2
RIGHT2: [1] 5/17
THE COURT: [91]

'
'83 [1] 20/16

-

-and [1] 2/11

/

/s [1] 33/12

1

10 [2] 29/12 30/11
130 [1] 15/19
1326 [3] 3/16 6/18 6/24
15-245 [1] 1/8
18 [4] 9/1 12/23 12/24 13/12
18-year [2] 12/21 15/10
1983 [5] 6/14 18/20 21/21
23/6 23/23
1997 [1] 13/17
1999 [3] 13/17 14/4 16/4

2

2009 [4] 12/10 13/22 14/17
16/20
2010 [10] 4/22 12/23 13/9
15/13 18/11 21/21 26/4 27/24
28/5 29/10
2016 [3] 1/15 3/1 33/10
21 [2] 1/15 3/1
212 [8] 12/5 12/6 28/14
28/15 28/17 28/20 29/1 29/7
245 [1] 1/8
26 [1] 4/22
26th [2] 31/19 31/22
27-year-old [1] 27/1
28 [1] 33/4
28th [2] 31/23 32/7
2ND [1] 2/11

3

312 [2] 1/20 2/5
321 [1] 2/11

4

4202 [1] 2/12
436 [1] 1/20

7

753 [1] 33/4

8

8:00 o'clock [1] 32/7
8:03 [1] 3/2
8th [1] 7/19

9

90012 [2] 1/20 2/6
90012-4202 [1] 2/12
9858 [2] 1/19 33/12

A

A.M [1] 3/2
ability [1] 10/23
able [9] 16/12 18/12 19/4
19/14 21/4 21/6 22/18 24/25
27/6
about [4] 19/8 22/1 28/10
30/19
above [1] 33/7

above-entitled [1] 33/7
Aceves [4] 1/9 3/6 3/10 3/24
achieved [1] 4/7
acquiescing [1] 20/13
action [6] 6/15 20/20 20/23
27/2 27/4 27/14
activity [1] 23/18
actual [4] 7/2 11/17 17/1
20/11
actually [4] 8/4 10/22 16/17
24/22
add [2] 10/19 26/12
address [1] 29/19
addressing [1] 21/3
adjustment [10] 12/4 12/15
12/25 14/3 14/8 14/10 14/11
14/23 14/25 15/2
adult [3] 12/18 12/20 13/25
adults [1] 12/25
advice [1] 6/10
advisal [1] 6/22
affidavit [1] 31/3
after [3] 10/22 30/3 30/4
again [11] 17/7 19/9 19/12
20/14 21/9 22/19 23/22 29/14
31/7 31/10 31/15
agent [4] 15/7 15/7 16/11
16/15
agreed [1] 10/9
alien [5] 15/21 16/3 16/23
27/10 27/13
alien's [1] 9/11
alive [1] 19/1
all [19]
allows [1] 17/25
along [1] 12/15
already [1] 4/24
also [16] 7/5 9/5 9/9 14/9
15/14 17/20 22/7 25/1 26/11
26/12 26/23 27/4 27/16 30/22
31/1 31/23
Alvarado [1] 26/23
am [9] 3/10 5/18 5/20 11/6
13/5 17/5 17/13 17/16 25/22
AMANDA [2] 2/5 3/13
amenable [1] 28/12
America [2] 1/6 2/3
American [2] 24/24 29/9
Americanized [1] 24/22
ANGELES [5] 1/14 1/20 2/6
2/12 3/1
another [2] 26/16 29/14
answer [3] 11/7 16/12 20/19
anxiety [2] 31/2 31/4
any [15] 4/17 4/19 5/1 5/3
5/6 5/25 6/4 6/5 6/13 11/22
12/2 17/24 20/3 29/17 31/13
anything [4] 4/10 20/16 22/1
30/5
anywhere [1] 16/4
apologize [1] 17/12
appeal [17]
appealed [2] 9/18 9/24
appear [2] 10/21 25/5
appearances [2] 2/1 3/7
applicable [1] 28/3
applicant [2] 27/20 27/21
application [26]
applications [1] 14/2
applied [1] 7/16
apply [2] 17/24 22/25
appointed [1] 4/10
appointment [1] 4/20
appropriate [3] 7/6 7/7
11/20
approval [1] 16/24
approved [9] 14/4 14/21 15/8
15/20 15/21 16/3 16/19 16/23

17/2
are [44]
area [1] 24/10
areas [1] 19/20
aren't [1] 17/6
argue [5] 15/11 17/6 17/21
29/16 30/20
argued [1] 28/21
arguendo [2] 6/20 6/21
arguing [2] 29/1 31/15
argument [5] 13/8 13/15 17/4
17/22 24/3
arguments [2] 17/10 17/13
arrange [1] 16/14
as [29]
ask [13] 4/16 5/9 5/16 5/17
5/24 6/2 7/24 9/4 9/10 11/14
12/22 14/7 14/14
asked [4] 8/17 8/19 8/20
8/21
asking [2] 13/5 18/10
assigned [1] 4/5
associated [1] 4/4
assume [3] 4/13 24/11 25/15
assuming [2] 6/20 6/21
assumption [1] 9/25
attempts [1] 18/5
attorney [10] 3/18 5/8 5/15
6/3 7/9 7/15 7/23 9/22 9/22
21/16
attorney's [4] 2/4 6/10 8/4
8/5
attorney-client [1] 5/8
attorneys [1] 5/12
August [1] 7/19
AUSA [1] 2/5
available [10] 12/19 15/7
15/9 16/15 16/15 28/19 28/19
28/25 29/2 29/4

B

back [4] 20/15 30/6 31/23
32/7
bad [1] 25/6
based [1] 13/8
basis [8] 6/24 13/3 15/2
15/2 18/13 19/16 22/15 27/8
Bates [1] 8/25
Bates-stamped [1] 8/25
be [44]
became [1] 4/4
because [16] 5/22 7/15 11/20
13/19 16/21 17/6 18/17 20/11
20/14 23/8 25/20 28/4 28/9
28/23 30/7 30/11
been [21]
before [1] 5/12
behalf [3] 2/3 2/9 3/14
being [4] 13/19 26/8 26/9
30/6
Bejaras [1] 26/23
believe [11] 5/5 6/8 10/11
10/18 17/13 17/13 18/20
22/17 24/18 29/12 29/22
between [2] 6/22 26/8
BIA [1] 31/10
bodily [1] 18/3
boils [1] 11/11
bond [2] 3/11 32/6
born [1] 25/16
both [4] 10/8 15/5 17/20
27/10
bothered [1] 19/22
box [1] 11/4
boy [2] 16/1 16/2
BRIANNA [2] 2/11 3/10
briefed [2] 11/11 29/10
briefing [8] 11/8 11/17

B	C	D
briefing... [6] 17/17 21/24 28/10 28/11 28/16 28/21 briefs [1] 31/17	13/13 14/15 17/8 18/8 19/18 corroborated [1] 23/21 corrupt [1] 20/22 could [32] couldn't [2] 12/6 30/10 counsel [5] 2/1 5/17 9/17 19/15 29/16 countries [1] 21/23 country [16] 18/1 18/16 19/5 21/17 21/19 21/20 22/9 22/18 24/14 26/2 26/12 27/21 27/25 28/3 28/4 28/6 couple [4] 3/17 8/3 20/19 23/9 course [1] 6/8 court [18] court's [1] 22/20 covered [1] 29/15 criminal [7] 18/18 20/25 22/6 22/9 22/12 25/11 26/13 cross [1] 31/17 CRR [1] 33/12 crucial [1] 9/14 CSR [2] 1/19 33/12	document [2] 16/19 17/3 35 of 38 Page ID # 606 does [12] 4/17 4/19 5/3 5/6 5/24 16/6 20/7 22/5 24/13 26/2 30/5 31/8 doesn't [8] 4/8 6/18 20/16 21/10 21/11 21/13 22/1 29/17 don't [18] done [1] 12/16 down [1] 11/11 drug [2] 18/23 20/25 due [3] 6/5 6/11 9/5 during [1] 31/3
C CA [2] 2/6 2/12 calendar [1] 7/19 CALIFORNIA [4] 1/2 1/14 1/20 3/1 call [2] 3/5 21/17 came [1] 31/4 can [12] 7/24 8/2 8/22 10/19 18/1 18/10 21/11 21/12 21/17 28/11 28/24 31/11 can't [3] 17/10 19/15 23/6 cannot [2] 19/22 29/10 Carlos [1] 3/19 cartel [1] 18/23 case [9] 7/7 10/20 11/11 11/21 14/24 15/19 30/1 31/8 31/14 cases [3] 11/18 24/19 31/11 CAT [9] 17/21 17/21 19/3 24/19 27/7 27/8 27/8 27/11 27/12 cause [1] 29/24 caused [2] 10/24 29/9 CENTRAL [1] 1/2 certain [1] 7/5 certainly [1] 23/25 CERTIFICATE [1] 33/1 certify [1] 33/4 Cesar [1] 1/9 cetera [5] 22/3 22/4 24/17 24/17 24/17 chance [1] 19/13 checked [3] 10/8 10/9 11/5 chief [2] 23/19 24/9 child [2] 13/19 18/16 children [2] 12/25 13/11 Circuit [6] 7/1 7/4 11/17 20/21 26/23 27/18 circumstances [2] 7/5 24/20 citations [2] 17/15 17/19 cite [2] 17/9 21/24 citizen [4] 26/8 26/11 29/9 29/18 citizens [2] 13/11 26/3 City [2] 19/21 19/22 claim [5] 18/12 18/14 19/13 22/20 23/6 claiming [1] 22/2 clear [5] 6/9 10/18 20/21 20/24 24/19 client [3] 4/7 5/6 5/8 Code [1] 33/5 colleague [1] 3/10 comes [1] 16/3 complicit [4] 20/22 20/23 20/25 27/14 complicity [1] 24/12 concluded [1] 32/9 concrete [1] 10/23 condition [1] 31/1 conditions [6] 19/5 21/17 22/18 26/2 28/6 32/6 conducted [2] 7/4 11/19 Conference [1] 33/9 conformance [1] 33/8 conjunction [1] 25/12 connection [2] 24/4 24/15 considered [1] 9/1 contact [1] 20/4 contacted [1] 3/24 contesting [1] 12/22 continue [2] 17/5 24/6 correct [9] 6/3 6/10 7/10	D date [2] 16/15 33/10 DAVID [2] 2/10 3/8 day [4] 10/22 18/24 32/2 32/8 days [1] 25/18 death [2] 18/17 30/3 decided [1] 27/17 decision [1] 28/9 declaration [5] 21/15 25/9 26/13 29/23 30/21 deeply [1] 11/12 defendant [12] 1/9 2/9 4/4 4/6 4/24 5/11 6/4 6/19 6/22 19/1 24/14 32/5 defendant's [4] 3/15 3/18 6/2 7/15 Defender [1] 3/9 DEFENDER'S [1] 2/10 defense [6] 5/17 11/14 26/20 26/21 28/13 29/16 deferral [1] 17/25 defined [1] 18/2 demonstrate [1] 19/22 denied [1] 19/4 deny [1] 7/22 department [4] 2/4 20/24 21/22 26/3 deportation [1] 29/9 deported [3] 15/13 29/18 30/6 deportee [1] 26/11 depression [2] 31/2 31/4 deprivation [1] 7/21 deprived [1] 31/13 detailed [1] 29/23 DFPD [2] 2/10 2/11 did [7] 4/24 8/4 8/5 9/4 17/14 20/4 21/24 didn't [3] 9/21 16/21 21/20 different [1] 26/8 directly [1] 16/3 disappearance [1] 23/21 discuss [1] 4/25 discussed [2] 5/2 5/4 discussion [1] 6/22 dismiss [1] 3/16 dismissed [5] 12/10 13/22 14/6 15/16 15/19 distinction [2] 23/4 26/8 DISTRICT [3] 1/1 1/2 1/4 DIVISION [1] 1/2 do [21]	E easily [1] 14/11 East [1] 2/11 effect [3] 13/17 14/25 15/11 effectuated [1] 9/25 either [5] 13/11 13/13 16/11 20/12 25/10 eldest [1] 30/8 element [1] 11/15 elements [2] 28/17 28/20 eligible [5] 6/4 6/9 12/3 12/4 17/24 else [1] 5/14 emotional [1] 29/24 enters [1] 4/14 entire [1] 14/17 entitled [5] 7/10 11/22 11/24 12/1 33/7 error [1] 7/3 escape [1] 27/25 especially [1] 9/14 essential [3] 11/15 30/9 30/10 establish [2] 18/5 28/23 established [2] 27/23 28/4 establishing [1] 26/22 et [5] 22/3 22/3 24/16 24/17 24/17 even [13] 4/8 6/10 6/20 11/3 15/8 15/10 17/8 20/9 24/11 28/18 28/19 29/2 29/6 ever [1] 10/15 every [1] 22/25 everybody [2] 10/8 32/8 everything [1] 16/20 evidence [26] exactly [2] 15/22 23/14 example [2] 17/9 27/19 exhibit [5] 8/25 14/21 14/22 15/22 15/24 expert [6] 19/5 21/15 21/18 25/9 25/9 26/12 explain [2] 14/1 17/14 explication [1] 17/18 extended [1] 19/24 extensively [1] 11/11 extreme [1] 29/8
		F face [1] 24/7 faced [1] 18/17 fact [7] 5/13 7/9 12/23 13/14 19/19 20/14 24/22 factor [6] 24/19 24/21 24/21 24/25 25/23 25/24 factors [3] 20/19 24/7 27/17 facts [1] 18/5 factual [3] 13/8 18/13 22/15 fair [1] 18/11 family [4] 23/11 23/16 23/17 30/9 far [1] 22/24 fatal [1] 31/1 father [2] 24/8 30/4

F
 fear [1] 30/8
FEDERAL [2] 2/10 3/9
 felt [2] 30/8 30/22
 file [9] 10/19 13/23 15/2
 15/20 15/21 16/3 16/18 17/2
 31/18
 filed [6] 12/14 13/16 13/21
 14/9 14/11 14/22
 filing [2] 4/22 10/1
 final [1] 28/9
 find [3] 22/22 23/2 31/9
 finding [1] 6/24
 first [4] 6/7 8/4 22/20
 26/20
 five [1] 24/15
 five years [1] 24/15
 flagrant [1] 28/2
 fled [2] 18/16 30/3
Floor [1] 2/6
 follow [1] 16/21
 force [3] 24/1 24/9 24/16
 foregoing [1] 33/5
 foremost [1] 26/20
Forever [2] 16/7 16/8
 form [7] 6/4 6/19 10/7 13/10
 26/24 28/25 31/11
 format [1] 33/8
 forms [2] 12/4 30/23
 frankly [1] 4/7
Fuller [1] 3/10
 further [5] 17/17 17/17 28/9
 28/10 29/11
Furthermore [1] 27/8

G
 gang [10] 19/10 20/3 20/4
 20/8 20/9 20/16 21/2 22/3
 23/17 24/10
 gang's [1] 19/24
 gangs [1] 23/7
 general [1] 18/7
 generalities [1] 22/24
 generalized [1] 23/6
GEORGE [1] 1/3
 get [4] 5/23 12/6 15/16
 25/18
 getting [1] 12/18
 give [4] 17/19 21/20 28/11
 31/17
 given [2] 19/2 19/13
 go [4] 5/8 11/12 25/20 26/4
 goes [3] 16/23 23/15 30/7
 going [8] 6/17 16/11 16/12
 17/5 19/20 25/3 26/5 26/9
 gone [1] 19/19
Good [2] 3/8 3/13
 got [2] 7/16 18/11
 gotten [2] 12/8 12/11
government [14] 3/12 4/17
 4/17 4/19 5/24 5/25 10/21
 11/2 13/8 14/14 14/22 15/11
 16/10 20/12
government's [5] 11/2 15/4
 28/16 28/21 29/11
grandfather [5] 18/16 20/1
 20/15 23/7 23/19
granted [5] 15/15 16/17 17/3
 27/12 28/15
 grants [1] 9/11
 gross [1] 28/2
 group [1] 25/4
Guadalajara [5] 18/23 19/7
 19/20 24/13 24/16
guys [3] 17/6 31/17 31/19
GW [1] 1/8

H
 had [21]
 handful [1] 31/11
 happens [1] 7/25
 happy [1] 17/16
 hard [1] 23/14
 hardship [2] 29/8 29/24
 harm [2] 6/25 18/3
 has [23]
 have [69]
 he [116]
 hear [1] 11/1
 hearing [18]
 heart [1] 31/1
 held [2] 11/17 33/6
 help [1] 31/5
 her [6] 29/24 30/4 30/8
 30/23 31/6 31/6
 here [16] 3/10 3/15 3/21 5/9
 5/18 14/2 16/11 17/20 27/1
 27/3 27/5 27/14 28/17 29/10
 31/9 32/7
 hereby [1] 33/4
 him [10] 6/12 7/22 9/8 12/10
 12/20 25/1 25/2 28/25 29/3
 29/4
 himself [5] 7/17 12/16 19/25
 20/3 27/20
 hired [1] 7/16
 his [28]
Hispanic [2] 25/16 26/4
history [1] 30/24
 hold [1] 7/12
Honor [105]
HONORABLE [1] 1/3
 how [11] 4/6 4/14 7/8 10/3
 11/19 12/8 12/11 15/14 16/6
 21/11 26/15
 however [3] 11/19 28/8 30/21
 human [1] 28/2

I
 I'm [2] 3/24 15/6
I-130 [1] 15/19
 identifiable [1] 24/23
 identified [2] 11/8 26/16
immediate [7] 4/22 7/24 8/21
 9/2 9/11 12/19 13/4
immediately [4] 15/9 24/23
 28/18 28/19
immigration [17]
imposing [1] 20/12
impossible [1] 10/16
improper [2] 7/25 10/24
incarcerated [1] 29/12
including [2] 30/24 30/25
incorrect [2] 13/13 13/15
incorrectly [2] 10/8 10/9
indicate [6] 5/11 16/10
 16/19 27/16 28/5 29/15
indication [1] 16/4
indictment [1] 3/16
industry [1] 25/7
inflicted [1] 27/19
influence [1] 19/24
information [4] 4/17 4/20
 5/25 28/6
injury [3] 6/19 6/25 10/24
INS [1] 31/23
instance [2] 9/7 22/21
intentional [1] 7/21
intentionally [1] 18/3
intents [1] 13/18
involved [2] 18/21 23/17
involvement [1] 20/2
is [154]
isn't [2] 16/15 20/9
issue [3] 11/9 28/10 28/18

issues [1] 21/22
 36 of 39 Page ID #:601
 itself [1] 6/23

J
 jail [2] 30/11 30/13
Jails [1] 30/14
 join [1] 15/7
judge [6] 1/4 6/23 7/4 9/7
 9/11 9/20
judge's [1] 10/24
judicial [2] 21/21 33/9
July [2] 4/22 13/9
July 26 [1] 4/22
June [1] 33/10
jury [1] 31/15
just [11] 3/22 9/7 12/22
 14/11 19/15 22/8 23/6 26/9
 27/5 28/14 31/10
JUSTICE [1] 2/4

K
KATIE [2] 1/19 33/12
killed [4] 20/15 23/7 24/10
 30/4
killings [1] 24/11
kind [1] 22/4
KLOPF [2] 2/5 3/14
know [12] 4/14 13/6 17/7
 19/1 19/16 21/11 21/12 22/23
 23/14 28/23 30/15 30/19

L
 language [2] 8/18 20/11
last [2] 9/1 16/6
later [1] 16/15
law [2] 10/13 18/4
least [2] 21/12 30/12
leave [1] 32/5
left [1] 26/10
lengthy [3] 25/6 25/21 29/22
let [25]
let's [3] 17/21 20/2 25/15
life [1] 30/23
like [8] 3/20 4/10 9/15
 10/22 15/17 17/17 25/20
 29/19
likely [4] 18/1 27/9 27/13
 27/22
lines [1] 9/1
links [1] 26/13
listen [1] 13/6
lived [4] 20/5 24/14 25/5
 25/21
locate [1] 27/24
long [1] 16/6
look [3] 10/3 25/20 26/4
looked [1] 24/20
looking [1] 25/16
LOS [5] 1/14 1/20 2/6 2/12
 3/1
lot [1] 25/17
LPR [2] 29/9 29/18
LPR's [1] 13/12

M
made [7] 7/17 8/9 9/23 12/9
 13/20 29/4 29/5
maintain [1] 11/19
make [4] 17/10 18/12 23/6
 28/8
makes [1] 20/24
making [2] 17/13 22/16
manner [1] 26/16
mark [1] 25/1
marked [5] 9/20 10/18 15/20
 15/21 26/11
mass [1] 28/2

M	O	possibility [2] 26/22 27/6 possibly [2] 26/22 27/6 possibly [2] 26/22 27/6
<p>matter [6] 3/5 4/25 11/10 11/13 13/14 33/7 may [3] 16/19 27/6 28/8 maybe [2] 26/1 26/5 me [33] mean [2] 15/14 21/12 medication [1] 31/5 member [4] 23/25 24/9 24/16 30/9 members [2] 23/11 24/10 MENNINGER [2] 2/10 3/9 mention [1] 9/6 mentioned [3] 11/16 15/18 21/15 mere [1] 26/22 merely [3] 20/14 26/24 27/5 met [4] 27/14 28/17 31/9 31/11 Mexican [2] 24/1 24/24 Mexico [25] microphone [1] 3/22 midweek [1] 28/13 might [1] 20/15 minor [1] 13/24 MIRCHEFF [1] 2/11 missed [2] 26/2 26/6 moment [1] 5/23 money [1] 26/10 more [7] 18/1 20/2 23/10 26/21 27/9 27/10 27/12 morning [4] 3/8 3/13 15/7 16/16 mother [3] 18/17 29/23 30/3 motion [9] 3/15 8/4 8/5 8/16 8/18 8/22 9/4 14/21 15/25 move [1] 27/23 Mr [1] 3/23 Mr. [7] 3/10 3/19 3/24 3/25 4/8 4/24 6/3 Mr. Aceves [2] 3/10 3/24 Mr. Carlos [1] 3/19 Mr. Specter [4] 3/25 4/8 4/24 6/3 much [2] 13/2 30/17 multiple [1] 9/5 murder [2] 26/5 27/1 must [4] 26/20 26/21 27/9 27/12 my [11] 3/10 4/2 4/2 5/6 5/19 9/25 13/6 14/16 15/5 16/19 16/25</p>	<p>o'clock [1] 32/7 obtain [1] 31/12 off [4] 6/7 7/19 10/8 10/9 OFFICE [3] 2/4 2/10 3/9 officers [3] 20/22 20/22 20/25 Official [1] 1/19 officials [1] 24/12 often [1] 25/11 Okay [7] 3/12 3/23 8/11 17/23 23/9 26/17 31/22 old [2] 24/15 27/1 one [11] 12/9 13/7 13/8 13/8 14/23 20/20 22/9 24/19 24/21 25/23 27/18 one based [1] 13/8 one criminal [1] 22/9 one factor [3] 24/19 24/21 25/23 one should [1] 27/18 one that [2] 12/9 14/23 ongoing [1] 23/15 only [4] 6/21 7/14 31/7 31/11 open [1] 5/12 opportunity [2] 19/3 31/13 order [4] 10/4 10/5 10/23 32/6 organization [2] 18/18 22/9 organizations [6] 21/1 22/6 22/12 22/13 25/11 26/14 other [22] our [7] 11/8 11/16 14/21 15/24 17/14 25/9 26/12 out [8] 12/10 18/12 22/7 22/24 24/24 25/1 31/5 32/5</p>	<p>possibly [2] 7/8 12/11 potentially [1] 5/22 powerful [2] 18/22 22/14 practice [1] 10/13 prays [1] 9/2 predominant [1] 19/10 prejudice [11] 7/2 7/6 7/9 11/10 11/12 11/14 11/18 11/20 11/23 28/24 29/18 premises [1] 9/1 prepared [1] 17/6 presence [1] 26/15 present [13] 3/11 19/3 19/5 19/13 19/14 21/4 21/7 21/12 24/25 27/6 28/20 31/14 31/24 presented [4] 10/20 13/9 23/3 25/23 presents [1] 24/23 PRESIDING [1] 1/4 presumption [5] 4/11 7/5 7/7 7/9 11/20 pretty [1] 30/15 prevalent [2] 18/23 18/24 prevented [1] 10/6 previously [2] 8/14 12/9 prior [2] 4/21 12/10 prison [2] 26/15 30/11 prisons [1] 26/14 privately [3] 3/19 4/3 4/12 privilege [1] 5/8 problem [2] 12/16 29/14 proceeding [2] 14/17 18/11 proceedings [5] 1/13 7/4 29/6 32/9 33/6 process [3] 6/6 6/12 9/5 proposed [1] 27/5 proposition [1] 17/20 prove [1] 31/7 provision [1] 20/11 PUBLIC [2] 2/10 3/9 purely [1] 5/18 purposes [1] 13/19 pursuant [1] 33/4 put [2] 20/2 31/22</p>
<p>N nature [1] 23/5 near [1] 31/1 necessarily [3] 5/20 20/10 30/15 need [3] 5/11 31/7 31/8 needs [1] 24/20 never [3] 14/5 14/13 20/3 newspaper [1] 23/20 next [2] 4/21 28/13 nice [2] 32/1 32/8 Ninth [6] 7/1 7/4 11/17 20/21 26/23 27/18 no [33] none [1] 27/20 Noon [1] 31/22 normally [1] 4/13 North [2] 1/20 2/5 not [61] note [3] 11/7 16/16 28/13 nothing [1] 5/19 notice [2] 6/13 21/22 now [1] 21/10</p>	<p>P page [1] 33/7 Pages [1] 17/15 paper [1] 10/1 papers [1] 29/11 parcel [1] 12/7 part [3] 12/7 27/21 27/25 particular [7] 11/10 11/13 13/11 20/10 20/17 24/10 24/14 particularized [9] 18/6 19/17 19/23 20/8 20/9 22/23 23/3 27/3 27/4 parties [2] 3/17 28/11 past [2] 15/15 27/19 people [7] 18/25 25/4 25/10 25/15 25/16 25/18 31/12 perceives [1] 28/1 period [6] 12/24 13/10 15/10 25/6 25/21 31/4 person [2] 30/22 31/23 petition [11] 14/3 14/4 14/5 14/12 14/20 14/22 15/1 15/1 15/19 16/23 27/7 phrases [1] 20/11 piece [1] 24/6 pieces [1] 20/19 place [3] 8/13 8/15 9/6 PLAINTIFF [2] 1/7 2/3 plausibility [2] 26/21 31/8 plausible [2] 18/14 23/2 plausibly [2] 18/10 18/12 point [22] points [1] 8/3 police [10] 20/21 20/22 20/24 23/20 24/1 24/9 24/9 24/12 24/16 25/11 poses [1] 25/19 position [3] 4/14 11/2 29/14 possession [1] 15/12</p>	<p>Q qualified [1] 13/18 qualify [1] 13/24 question [9] 4/2 4/2 4/21 5/10 5/15 11/3 11/7 13/7 27/17 questions [3] 3/17 13/6 16/12 quickly [1] 29/21 quite [2] 25/13 28/22 quoting [1] 26/22</p> <p>R rampant [1] 18/18 rather [2] 19/20 20/1 reach [2] 22/5 22/14 read [1] 8/22 really [7] 13/6 13/7 17/8 20/16 25/6 27/17 29/21 reason [4] 7/14 13/16 23/12 25/14 reasonable [1] 25/24 receiving [1] 30/3 recent [1] 26/11 recently [1] 23/10 recollection [3] 4/8 5/3 5/6 record [3] 3/25 5/20 23/14 refer [1] 27/18 referencing [1] 14/19 referring [1] 15/23</p>

R

regard [1] 5/25
 regarding [2] 20/20 28/6
 regardless [2] 11/8 15/8
 regards [2] 20/16 21/20
 regulations [5] 7/11 10/18
 17/9 17/16 33/8
 relate [1] 24/13
 relationship [1] 20/3
 relationships [1] 30/25
 relative [2] 13/4 16/23
 relevant [4] 5/21 14/12
 17/15 28/5
 relief [15] 6/4 6/9 7/10
 11/22 11/25 12/2 12/4 12/11
 26/22 26/24 27/11 27/12
 28/15 28/25 31/12
 relitigate [1] 22/20
 relocated [1] 27/21
 remained [1] 15/1
 remaining [1] 28/20
 remains [1] 18/24
 remind [1] 18/9
 remotely [1] 17/8
 removal [16] 4/23 4/23 6/5
 6/9 7/18 7/24 8/14 8/21 9/3
 9/11 10/4 10/4 17/25 18/11
 28/3 28/7
 removed [1] 10/22
 removing [1] 6/12
 reply [1] 17/14
 report [3] 21/20 23/20 26/2
 reported [1] 33/6
 Reporter [1] 1/19
 REPORTER'S [1] 1/13
 reports [3] 21/18 21/19 28/4
 represent [1] 4/6
 representation [4] 3/25 4/6
 4/15 11/9
 represented [1] 9/16
 request [5] 4/22 8/5 8/9
 9/11 12/8
 requested [2] 8/7 8/12
 require [2] 6/19 7/12
 required [2] 7/2 11/18
 requirement [2] 20/21 20/23
 respectfully [3] 10/2 18/9
 23/1
 respond [2] 8/2 26/17
 respondent [2] 9/2 10/21
 response [2] 5/9 15/4
 rest [1] 19/8
 result [1] 7/17
 retained [3] 3/19 4/3 4/12
 right [11] 3/5 4/21 5/14
 5/24 8/10 9/12 21/14 30/12
 31/9 31/17 32/1
 rights [6] 6/6 6/12 9/8 9/14
 9/17 28/2
 risk [1] 25/19
 RPR [1] 33/12
 ruling [1] 17/14
 rulings [1] 13/20

S

safe [2] 30/12 30/15
 safer [1] 30/17
 said [6] 7/2 7/5 7/23 26/23
 27/18 31/10
 same [4] 17/4 21/2 31/18
 32/6
 satisfies [1] 20/23
 say [9] 8/5 17/1 17/9 19/15
 21/6 21/11 22/1 23/7 23/14
 saying [12] 5/7 11/4 13/14
 16/22 17/7 17/8 21/8 25/19
 25/22 28/23 29/2 30/22
 says [6] 8/16 10/1 10/4 10/5

14/24 16/3
 searched [1] 14/14 14/7
 7/22
 second [1] 14/11
 section [4] 3/16 6/18 6/19
 33/4
 see [1] 14/24
 seek [1] 31/5
 seem [1] 29/17
 seems [1] 27/22
 sense [1] 29/17
 separate [1] 14/2
 serious [1] 18/2
 service [1] 7/21
 set [3] 8/14 8/17 9/2
 she [9] 18/17 30/8 30/21
 30/22 30/22 30/23 31/2 31/3
 31/5
 should [3] 4/7 17/9 27/18
 show [9] 18/1 19/16 20/16
 24/6 26/20 26/21 27/9 29/8
 29/10
 showing [3] 6/24 7/2 28/24
 shows [3] 17/3 27/5 29/23
 sides [1] 17/20
 signed [2] 30/21 31/3
 significant [1] 23/4
 simply [2] 5/13 28/14
 since [5] 5/9 10/4 12/7
 17/20 24/14
 single [1] 25/1
 situation [9] 5/13 7/20 9/12
 9/15 10/15 12/10 20/10 20/17
 22/25
 so [46]
 society [1] 24/24
 some [11] 4/3 5/14 6/19 6/25
 7/3 13/16 17/19 20/1 21/19
 26/24 28/24
 somebody [3] 20/12 25/15
 29/5
 somehow [2] 10/9 23/17
 someone [5] 4/14 24/23 26/9
 29/7 30/2
 something [4] 5/14 8/8 17/10
 27/12
 son [2] 30/8 31/1
 soon [1] 8/17
 sorry [2] 3/24 15/6
 speak [4] 3/22 5/12 5/15
 22/5
 specific [2] 6/17 21/16
 specifically [2] 8/20 25/10
 Specter [4] 3/25 4/8 4/24
 6/3
 Spector [1] 3/19
 spiel [1] 13/7
 spoke [1] 26/13
 Spring [2] 1/20 2/5
 stage [3] 12/21 18/9 18/14
 stamped [2] 8/25 14/21
 standard [2] 31/9 31/10
 standards [1] 27/10
 stands [1] 24/24
 state [8] 20/20 20/23 20/24
 21/22 26/3 27/2 27/4 27/14
 stated [1] 25/9
 statement [1] 22/16
 STATES [16] 1/1 1/4 1/6 2/3
 3/6 3/14 25/5 25/17 25/18
 25/21 26/3 26/14 26/15 30/14
 33/5 33/9
 stating [1] 31/3
 statute [1] 6/17
 statutes [1] 17/15
 stay [2] 3/21 17/25
 stenographically [1] 33/6
 still [8] 9/18 13/17 13/18
 15/9 15/10 17/4 19/1 29/16

stop [6] 4/16 6/14 7/13 9/16
 38/39 Page ID #:603
 Street [3] 1/20 2/5 2/11
 stuff [1] 22/4
 subfactor [1] 28/15
 subject [2] 20/8 26/5
 subjected [1] 22/2
 submit [1] 22/19
 submitted [2] 23/20 28/16
 such [2] 29/1 31/4
 suffer [1] 18/2
 suffered [1] 31/2
 sufficient [4] 20/10 23/8
 23/8 29/3
 sum [1] 11/21
 supervise [1] 5/19
 supposed [2] 20/2 22/2
 supposedly [1] 7/16
 sure [3] 5/20 8/24 11/6
 sworn [2] 30/21 31/3
 symptoms [1] 31/6

T

take [4] 8/13 8/15 9/6 21/21
 taken [1] 7/19
 talk [1] 5/12
 talked [1] 28/10
 targeted [3] 20/1 23/11
 25/10
 task [1] 22/20
 tattoos [3] 24/25 25/1 25/17
 terminated [8] 14/5 14/10
 14/13 14/17 14/24 15/6 16/5
 16/20
 terms [2] 20/12 32/6
 than [8] 18/1 19/20 20/1
 26/21 27/9 27/11 27/13 30/17
 Thank [3] 32/1 32/3 32/4
 that [243]
 That's [2] 18/8 19/18
 them [1] 17/14
 then [4] 6/3 13/24 14/3 20/9
 theoretical [1] 27/6
 theoretically [2] 26/25
 27/11
 there [62]
 thereafter [1] 15/16
 therefore [5] 6/20 12/8
 12/11 12/18 12/21
 these [12] 13/10 15/5 16/12
 17/10 17/13 22/13 22/24
 25/10 25/18 26/13 28/1 29/15
 they [17]
 THIBODEAUX [2] 1/19 33/12
 things [4] 17/7 23/9 25/6
 29/15
 think [11] 7/6 7/19 9/13
 20/7 22/8 23/4 23/15 26/7
 28/3 30/15 31/19
 this [54]
 those [1] 18/25
 though [2] 11/3 28/13
 thought [1] 14/6
 threat [16] 18/6 18/7 19/17
 19/23 20/8 20/9 20/13 20/13
 22/2 22/23 23/4 23/15 24/7
 24/13 27/3 27/4
 threatened [1] 22/12
 threats [4] 18/17 22/3 28/1
 30/3
 through [1] 16/21
 throughout [3] 19/25 21/2
 22/9
 throwing [1] 22/24
 THURSDAY [2] 1/15 3/1
 ticket [1] 15/17
 time [21]
 timeframe [1] 12/18
 Title [1] 33/4

T
 188 [1] 5/9
 torture [5] 18/2 18/6 18/7
 26/5 27/19
 tortured [5] 25/3 25/19
 27/10 27/13 27/22
 tortures [1] 25/4
 total [1] 11/21
 totality [1] 24/20
 tourism [1] 25/7
 toward [1] 16/23
 towards [2] 14/18 23/15
 transcript [3] 1/13 33/6
 33/7
 trauma [2] 30/8 30/23
 trouble [1] 16/13
 troubled [1] 30/25
 true [2] 29/13 33/5
 Twelfth [1] 2/6
 two [3] 9/1 12/4 14/2
 two forms [1] 12/4
 two lines [1] 9/1
 two separate [1] 14/2
 types [1] 17/10

U
 U.S [6] 1/19 2/4 2/4 13/11
 26/8 26/10
 U.S.C [2] 3/16 6/18
 unclear [1] 23/13
 under [6] 3/16 6/17 6/24
 13/19 29/1 32/6
 underscore [1] 30/7
 understand [16] 13/15 13/20
 15/14 17/21 18/4 21/7 23/5
 23/22 23/24 24/3 24/8 24/17
 25/13 28/22 29/13 29/25
 understanding [5] 5/19 14/16
 15/5 16/20 16/25
 UNITED [16] 1/1 1/4 1/6 2/3
 3/6 3/14 25/5 25/17 25/18
 25/21 26/3 26/14 26/15 30/14
 33/5 33/9
 unscheduled [1] 7/15
 up [2] 17/11 17/13
 upon [1] 27/19
 US [1] 29/18
 utilize [1] 18/5

V
 valid [1] 15/1
 various [2] 13/19 27/17
 vehicle [1] 29/1
 versus [2] 3/6 26/9
 very [9] 10/23 13/2 20/24
 22/14 24/19 24/22 26/8 30/24
 32/8
 victim [1] 30/23
 violated [1] 6/11
 violation [2] 6/5 11/18
 violations [3] 9/6 11/21
 28/2
 visa [24]
 visas [3] 12/24 13/10 13/11
 visit [1] 26/9
 vulnerable [1] 30/24

W
 wait [2] 12/21 12/23
 waiting [3] 12/24 13/9 15/10
 waive [1] 5/14
 waived [7] 9/7 9/20 9/20
 10/4 10/5 10/18 11/4
 waiver [7] 9/7 9/17 12/5
 12/6 28/17 28/20 29/7
 waiving [2] 4/23 10/24
 want [10] 5/8 5/13 7/23 7/23
 8/6 10/1 26/17 28/9 29/14

31/23
 want [7] 12/1 15/7
 was [107]
 wasn't [2] 12/1 15/7
 way [3] 4/3 7/3 20/2
 we [25]
 week [1] 28/13
 well [16] 5/22 5/22 9/10
 9/13 12/6 13/10 19/15 23/8
 23/9 24/7 24/18 26/7 27/16
 29/7 30/15 30/20
 went [1] 19/21
 were [7] 13/20 13/23 19/2
 19/12 20/18 27/23 28/3
 WESTERN [1] 1/2
 what [27]
 when [7] 7/2 9/10 10/17
 15/12 21/6 28/11 30/8
 whenever [1] 13/17
 where [9] 5/13 7/20 10/15
 11/18 27/12 27/25 29/7 29/8
 31/5
 Wherefore [1] 9/1
 whether [4] 5/4 11/8 18/10
 27/20
 which [14] 6/18 7/7 7/18
 7/24 7/25 14/20 15/11 17/25
 18/2 19/4 21/21 25/11 25/17
 26/16
 who [21]
 why [9] 8/8 12/1 20/7 22/11
 24/13 26/1 29/25 30/5 31/18
 will [8] 5/15 5/23 14/24
 25/19 27/10 31/17 31/22 32/5
 within [1] 28/2
 without [3] 6/12 6/12 6/24
 won't [2] 11/12 28/8
 words [9] 4/5 9/21 10/7
 18/25 22/3 22/11 25/14 25/14
 26/1
 work [1] 25/11
 works [2] 10/3 20/25
 would [55]
 WU [1] 1/3

Y
 year [4] 12/21 15/10 18/19
 27/1
 years [6] 12/24 12/24 13/12
 24/15 29/12 30/11
 Yes [8] 6/7 12/13 16/9 25/25
 26/19 31/20 31/21 31/25
 you [66]
 youngest [1] 30/25
 your [114]

HILARY POTASHNER (Bar No. 167060)
Federal Public Defender
DAVID MENNINGER (Bar No. 281460)
David_Menninger@fd.org
Office of the Federal Public Defender
321 East 2nd Street
Los Angeles, California 90012-4202
Telephone: (213) 894-1891
Facsimile: (213) 894-0081

Attorneys for Defendant
CESAR ACEVES

LOGGED

2016 APR 14 PM 3:54
CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

CESAR ACEVES,

Defendant.

Case No. 16-cr-054-GW

**REPLY IN SUPPORT OF MOTION
TO DISMISS INDICTMENT UNDER
8 U.S.C § 1326(d); MEMORANDUM
OF POINTS AND AUTHORITIES;
EXHIBIT**

**Hearing Date: April 21, 2016
Hearing Time: 8:00 a.m.**

1 HILARY POTASHNER (Bar No. 167060)
Federal Public Defender
2 DAVID MENNINGER (Bar No. 281460)
David Menninger@fd.org
Office of the Federal Public Defender
3 321 East 2nd Street
Los Angeles, California 90012-4202
4 Telephone: (213) 894-1891
Facsimile: (213) 894-0081

5
6 Attorneys for Defendant
CESAR ACEVES

7
8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**
10 **WESTERN DIVISION**
11

12 UNITED STATES OF AMERICA,
13 Plaintiff,
14 v.
15 CESAR ACEVES,
16 Defendant.
17

Case No. 16-cr-054-GW

**REPLY IN SUPPORT OF MOTION
TO DISMISS INDICTMENT UNDER
8 U.S.C § 1326(d); MEMORANDUM
OF POINTS AND AUTHORITIES;
EXHIBIT**

**Hearing Date: April 21, 2016
Hearing Time: 8:00 a.m.**

18
19
20 Mr. Cesar Aceves, by and through his counsel of record, David
21 Menninger, hereby submits this Reply in Support of Motion to Dismiss Indictment
22 Under 8 U.S.C. § 1326(d).

23 Respectfully submitted,

24 HILARY POTASHNER
Federal Public Defender

25
26 DATED: April 14, 2016

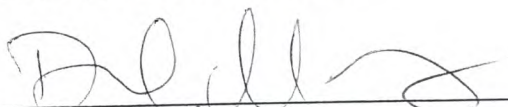
27 
28 David Menninger
Office of the Federal Public Defender
Attorney for CESAR ACEVES

TABLE OF CONTENTS

1

2 I. INTRODUCTION1

3 II. ARGUMENT.....1

4 A. IT IS UNDISPUTED THAT MR. ACEVES’S REMOVAL
5 VIOLATED DUE PROCESS AND THAT HE WAS
6 WRONGFULLY DEPRIVED OF THE ABILITY TO SEEK
7 ADMINISTRATIVE OR JUDICIAL REVIEW.....1

8 B. MR. ACEVES’S REMOVAL WAS FUNDAMENTALLY UNFAIR2

9 1. The Cumulative Sum of the Due Process Violations Present a
10 Structural Error and Require Dismissal2

11 2. Mr. Aceves Has Shown that He Was Actually Prejudiced by the
12 Due Process Violations, Because He Could Have Received
13 Relief from Deportation3

14 a. As an Immediate Relative of a U.S. Citizen, Mr. Aceves
15 was Prima Facie Eligible for Adjustment of Status with a
16 § 212(h) Waiver4

17 b. It is Plausible that Mr. Aceves Could Have Been Granted
18 Adjustment of Status with a § 212(h) Waiver6

19 c. Mr. Aceves Could Have Plausibly Received Relief Under
20 the Convention against Torture.....9

21 III. CONCLUSION 11

22

23

24

25

26

27

28

TABLE OF AUTHORITIES

Page(s)

Cases

Cole v. Holder,
659 F.3d 762 (9th Cir. 2011).....11

In re Eddy Michel,
2004 WL 2374515 (BIA Aug. 4, 2004).....9

In re Felix Olukayode Momoh,
2010 WL 7764782 (BIA Oct. 28, 2010).....9

Konou v. Holder,
750 F.3d 1120 (9th Cir. 2014).....11

Madrigal v. Holder,
715 F.3d 499 (9th Cir. 2013).....10, 11

Mamigonian v. Biggs,
710 F.3d 936 (9th Cir. 2013).....7

In re Moises Varela-Gutierrez,
2008 WL 4065987 (BIA Aug. 8, 2008).....9

Ray v. Gonzales,
439 F.3d 582 (9th Cir. 2006).....4

Scialabba v. Cuellar de Osorio,
134 S. Ct. 2191 (2014).....6

United States v. Arrieta,
224 F.3d 1076 (9th Cir. 2000).....8, 9, 10

United States v. Cisneros-Rodriguez,
813 F.3d 748 (9th Cir. 2015).....7

United States v. Muro-Inclan,
249 F.3d 1180 (9th Cir. 2001).....8

United States v. Proa-Tovar,
975 F.2d 592 (9th Cir. 1992) (en banc)4

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

United States v. Reyes-Bonilla,
671 F.3d 1036 (9th Cir. 2012).....4, 7, 9

United States v. Ubaldo-Figueroa,
364 F.3d 1042 (9th Cir. 2004).....4

Statutes

8 U.S.C. § 1151(b)(2)(A)6

8 U.S.C. § 1151(c).....5

8 U.S.C. § 1151(f)6

8 U.S.C. § 1154(a).....5

8 U.S.C. § 1225(a).....5

8 U.S.C. §§ 1255(a).....5

8 U.S.C. § 1326(d)3

Immigration and Nationality Act § 212(h)..... *passim*

Other Authorities

8 C.F.R. § 1208.16(c)(3)10, 11

1 MEMORANDUM OF POINTS AND AUTHORITIES

2 **I. INTRODUCTION**

3 The government does not dispute the fact that immigration officials violated Mr.
4 Aceves's Due Process rights when they ordered him removed in 2010. Nonetheless, the
5 government contends that these undisputed violations of Mr. Aceves's rights caused no
6 real harm, because—whether or not immigration officials followed the Constitution in
7 his removal proceedings—his removal was inevitable. The government's argument is
8 both alarming and incorrect. Under that logic, as long as a person had no grounds to
9 fight his deportation, immigration officials could simply fire off removal orders without
10 any Due Process at all. Indeed, that is not too far from what happened in Mr. Aceves's
11 case. Moreover, the government is wrong to contend that Mr. Aceves's removal was
12 inevitable, because he was eligible for two forms of relief: adjustment of status with a
13 waiver under Immigration and Nationality Act § 212(h); and deferral of removal under
14 the Convention against Torture (CAT). Contrary to the government's
15 misunderstanding, Mr. Aceves was eligible to file for adjustment in 2010 as the
16 immediate relative of a U.S. citizen, provided he obtained a § 212(h) waiver for his sole
17 conviction. And, had his removal proceedings actually been fair, he might have avoided
18 deportation by either adjusting with that waiver or by winning an application for CAT
19 deferral. For that reason, this Court should find that the constitutional defects in Mr.
20 Aceves's removal order—an essential element of the current charge—require dismissal
21 of the indictment.

22 **II. ARGUMENT**

23 **A. IT IS UNDISPUTED THAT MR. ACEVES'S REMOVAL VIOLATED**
24 **DUE PROCESS AND THAT HE WAS WRONGFULLY DEPRIVED OF**
25 **THE ABILITY TO SEEK ADMINISTRATIVE OR JUDICIAL**
26 **REVIEW**

27 In its opposition, the government does not dispute Mr. Aceves's assertion that his
28 removal proceedings violated his Due Process rights. *See* Government's Opposition to

1 Motion to Dismiss Indictment (“Opp.”) (Dkt. 56) at 3-4. The government also does not
2 contest that the Immigration Judge wrongly denied him an opportunity of his ability to
3 seek administrative or judicial review of the unconstitutionally entered order, fulfilling
4 the first and second requirements for dismissal under § 1326(d). *See id.* & n.2. The
5 only remaining question, therefore, is whether the undisputed Due Process violations
6 rendered Mr. Aceves’s removal proceeding “fundamentally unfair” under § 1326(d)(3).
7 If the Court concludes that the proceeding was “fundamentally unfair,” it must dismiss
8 the indictment.

9 **B. MR. ACEVES’S REMOVAL WAS FUNDAMENTALLY UNFAIR**

10 **1. The Cumulative Sum of the Due Process Violations Present a**
11 **Structural Error and Require Dismissal**

12 Recognizing the flaws in Mr. Aceves’s removal proceedings, the government
13 acknowledges that “a hearing was not held” and that his “appeal rights were waived.”
14 Opp. at 2-4. But that benign description seriously misconstrues the gravity of the errors
15 here, none of which the government has factually disputed. An Immigration Judge
16 found that Mr. Aceves agreed to be removed without ever confirming that Mr. Aceves
17 himself had agreed to be removed. *See* Motion to Dismiss Indictment Under 8 U.S.C.
18 § 1326(d) (“MTD”) (Dkt. 53) Exh. E. The Immigration Judge did so without any
19 evidence that Mr. Aceves consented to the concession by his purported counsel—who,
20 incidentally, we know performed deficiently, because his filing erroneously stated that
21 Mr. Aceves was ineligible for relief. MTD Exh. C. And to top it off, and without any
22 legal basis for doing so, the Immigration Judge deprived Mr. Aceves of any hearing or
23 any opportunity to appeal from the unfair removal order. MTD Exh. E.

24 The government is correct to note that, when considering whether certain
25 violations made removal proceedings “fundamentally unfair,” the Ninth Circuit has
26 required a showing of actual prejudice: that the Due Process violations made a
27 difference in his case because he might have plausibly avoided deportation had his
28 proceeding been fair. Opp. at 3 (citing *United States v. Ubaldo-Figueroa*, 364 F.3d

1 1042, 1048 (9th Cir. 2004)). But errors identified in the cases cited by the government
2 come nowhere near the severity of the cumulative error here. In each of the
3 government's cited cases, the defendant identified some error in *how* immigration
4 officials conducted his hearing or proceeding.¹ Here, the errors resulted in Mr. Aceves
5 essentially having *no removal proceedings at all*. The Ninth Circuit cases requiring
6 actual prejudice have never confronted these extreme circumstances. To the contrary,
7 the Ninth Circuit has repeatedly acknowledged that removal proceedings could be "so
8 flawed" that per se prejudice is warranted. *United States v. Proa-Tovar*, 975 F.2d 592
9 (9th Cir. 1992) (en banc); see *United States v. Reyes-Bonilla*, 671 F.3d 1036, 1049 (9th
10 Cir. 2012) (suggesting per se prejudice is appropriate where immigration officials
11 affirmatively deny right to counsel); *Ray v. Gonzales*, 439 F.3d 582, 587 (9th Cir.
12 2006) (noting that noncitizen moving to reopen removal proceedings is entitled to
13 presumption of prejudice when his counsel's errors deprived him of any opportunity to
14 appeal). In light of the magnitude of the violations in his removal proceedings, this
15 Court should accordingly hold that Mr. Aceves is entitled to per se prejudice.

16 **2. Mr. Aceves Has Shown that He Was Actually Prejudiced by the**
17 **Due Process Violations, Because He Could Have Received Relief**
18 **from Deportation**

19 But even if actual prejudice is required, Mr. Aceves still prevails, because he has
20 shown that, but for the Due Process violations, it is plausible that he might have
21
22

23 ¹ See *Ubaldo-Figueroa*, 364 F.3d at 1048 (Immigration Judge improperly
24 accepted counsel's waiver of appeal at hearing where noncitizen was present); *Rojas-*
25 *Pedroza*, 716 F.3d 1253, 1264 (9th Cir. 2013) (Immigration Judge wrongly concluded at
26 hearing that noncitizen was ineligible for relief); *Pallares-Galan*, 359 F.3d 1088, 1103
27 (9th Cir. 2004) ((Immigration Judge wrongly concluded at hearing that noncitizen was
28 ineligible for relief); *Reyes-Bonilla*, 671 F.3d 1036, 1049 (9th Cir. 2012) (during
proceedings, noncitizen was not advised that he could be assisted by private counsel);
Rojas-Alvarado, 655 F. 3d 1077, 1089 (9th Cir. 2011) (during proceedings, noncitizen
signed waivers that were not entirely translated).

1 received one of two forms of relief for deportation: either adjustment of status with a
2 § 212(h) waiver or deferral of removal under CAT.

3 **a. As an Immediate Relative of a U.S. Citizen, Mr. Aceves was**
4 **Prima Facie Eligible for Adjustment of Status with a**
5 **§ 212(h) Waiver**

6 As an initial matter, the government contends that Mr. Aceves has not shown that
7 Mr. Aceves was eligible for adjustment of status in 2010. Opp. at 8-9. The government
8 is wrong. It is true that a noncitizen must have an “available” visa in order to file for
9 adjustment. See Opp. at 9. But Mr. Aceves’s petition was an “immediate relative”
10 petition, which means that his visa became available once his visa petition was
11 approved in 1999, and has remained available ever since.

12 In order to apply for adjustment, the applicant must be the beneficiary of a “visa
13 petition” that is both (1) approved and (2) available. 8 U.S.C. § 1225(a). First, the U.S
14 citizen or lawful permanent resident relative must file a visa petition (Form I-130) to
15 establish that he is related to the intending immigrant. See 8 U.S.C. § 1154(a). Upon
16 approval of that petition, most immigrants must then wait for a visa to become
17 available before they can adjust to permanent resident status. Once the visa becomes
18 available, the applicant can apply for adjustment, which requires him to show that he is
19 not subject to any ground of inadmissibility, or that if he is, that he qualifies for a
20 waiver of that ground (such as a § 212(h) waiver for crimes involving moral turpitude).
21 See 8 U.S.C. §§ 1255(a); 1182(h).

22 Different categories of immigrants have to wait in different lines for their visas to
23 become “available”: there is one line for adult children of U.S. citizens, another line of
24 spouses of lawful permanent residents, another line for siblings of U.S. citizens, and so
25 on. See 8 U.S.C. § 1151(c). For these categories of immigrants, approval of the visa
26 petition is merely the beginning of a long wait for the visa to become available. But
27 certain relatives of U.S. citizens, known as “immediate relatives,” do not have to wait
28

1 in line for their visas to become available. 8 U.S.C. § 1151(b)(2)(A). The visas of
2 immediate relatives are available just as soon as their visa petition is approved. *Id.*

3 The special category of “immediate relatives” includes the minor children and
4 stepchildren of U.S. citizens, so those individuals can immediately apply for adjustment
5 once their visa petitions are approved. *Id.* But the *adult* children and stepchildren of
6 U.S. citizens are not immediate relatives; they fall into an inferior preference category,
7 and so they must wait in line, often for years, for a visa to become available.² Most
8 significantly for instant purposes, it is the child’s age at *the time of filing the I-130 visa*
9 *petition* that controls whether he qualifies as a preferred “immediate relative” of a U.S.
10 citizen or as an adult child that needs to wait in line. 8 U.S.C. § 1151(f). Justice Kagan
11 recently summarized this black-letter law in colorful prose: “If an alien was young
12 when a U.S. citizen sponsored his entry, then Peter Pan-like, he remains young
13 throughout the immigration process.” *Scialabba v. Cuellar de Osorio*, 134 S. Ct. 2191,
14 2200 (2014). In other words, as long a U.S. citizen parent filed a visa petition for you
15 when you were a minor, you continue to enjoy the wait-free privileges as an immediate
16 relative even as you grow into adulthood.

17 Mr. Aceves qualifies as an immediate relative because his U.S. citizen stepfather
18 filed the visa petition for him in 1997, when he was still a minor. MTD. Exh. B.
19 Despite the fact that he was longer a minor during his 2010 removal proceedings, he
20 was still—“Peter Pan-like”—considered an immediate relative just like he was when
21 the petition was filed.³ Thus, he did not fall into any of the waiting-list categories

23 ² Stepparents are considered “parents” under the Immigration and Nationality
24 Act, if, as here, the marriage took place before the child turned 18. 8 US.C. §
1101(a)(52)(B).

25 ³ The government quibbles that there was “no evidence” that Mr. Aceves’s
26 mother Angelica Gutierrez remained married to his stepfather, Agustin Gutierrez. That
27 is not true: Ms. Gutierrez’s sworn declaration describes Mr. Gutierrez as her
“husband.” MTN Exh. H. ¶ 16. But to eliminate any sliver of doubt, Mr. Aceves here
28 submits tax returns showing that his mother remains wed to Mr. Gutierrez. *See* Exhibit
A.

1 published in the Visa Bulletin cited by the government, Opp. at 9; rather, he could have
2 immediately filed for adjustment of status, because the visa remained immediately
3 available for him.⁴ Thus, as explained in his motion, his criminal conviction presented
4 the only barrier to his adjustment; to overcome that sole obstacle, he needed to prove
5 that he was entitled to waiver under § 212(h). MTN. at 6-7.

6 **b. It Is Plausible That Mr. Aceves Could Have Been Granted**
7 **Adjustment of Status with a § 212(h) Waiver**

8 With his eligibility for adjustment made clear, the parties appear to agree that to
9 prevail on his application for relief under Immigration and Nationality Act § 212(h),
10 Mr. Aceves would have had to meet the heightened standard of exceptional and
11 extremely unusual hardship. MTN at 14-15; Opp. at 10. But this Court's task is not to
12 decide whether he *would* have received relief in 2010, or even whether he *probably*
13 would have received relief in 2010. *United States v. Cisneros-Rodriguez*, 813 F.3d 748,
14 761 (9th Cir. 2015) (clarifying that plausibility is a less demanding standard than
15 probability). Rather, the question is whether there is a decent chance he would have
16 won relief if the immigration court given him an actual opportunity to present his case.
17 Under this relaxed standard, Mr. Aceves does not need to present the fully fleshed out
18 claim that he could have presented if given the opportunity in 2010. At this stage, he
19 need only show "some evidentiary basis upon which relief could have been granted."
20 *Reyes-Bonilla*, 671 F.3d at 1049-50. Mr. Aceves has met that showing.

21
22
23 ⁴ The government also correctly notes that Mr. Aceves had previously filed for
24 adjustment, but that the adjustment application was terminated in 2009. Opp. at 9; Opp.
25 Exh. 5. It is certainly true he could have had filed a new adjustment application in his
26 2010 proceedings. The government does not appear to contend that the termination of
27 his previous adjustment application would affect his ability to refile; at any rate, it is
28 clear that individuals remain free to file successive applications if the initial adjustment
applications are denied. *See, e.g. Mamigonian v. Biggs*, 710 F.3d 936, 939 (9th Cir.
2013) (noting applicant filed three successive adjustment applications). And nothing
about the termination of the previous adjustment application affected the viability of the
extant visa petition.

1 Citing *United States v. Muro-Inclan*, 249 F.3d 1180 (9th Cir. 2001), the
2 government argues that Mr. Aceves’s claim for potential relief under § 212(h) fails as
3 “conclusory.” The argument is puzzling. In *Muro-Inclan*, the defendant relied almost
4 entirely on a “very brief, nonspecific declaration” from his wife, which apparently
5 totaled all of five sentences. *Muro-Inclan*, 249 F.3d at 1886; *see id* at 1187-88
6 (Tashima, J., dissenting). In contrast, Mr. Aceves submitted a five-page declaration of
7 his lawful permanent resident mother, Angelica Gutierrez, which explained in great
8 detail the unique hardships she and her family have suffered. MTN Exh. H. Her father
9 was murdered in Mexico by powerful criminal forces that the government was
10 unwilling or unable to control—a point corroborated by contemporary newspaper
11 accounts. MTN Exh. H ¶¶ 2-7, MTN Exh. I. She had to flee the country after receiving
12 death threats. MTN Exh. H ¶¶ 7-8. Then, in the United States, she suffered years of
13 domestic violence and neglect from Mr. Aceves’s father. MTN Exh. H ¶¶ 12-13. She
14 struggled to support five children on her own—getting by only with the help of Mr.
15 Aceves, her eldest—especially as her youngest son battled life-threatening heart
16 problems. MTN Exh. H ¶¶ 11-18; *see United States v. Arrieta*, 224 F.3d 1076, 1082
17 (9th Cir. 2000) (finding § 212(h) relief plausible in part based on fact that defendant
18 helped to raise younger siblings).

19 Ms. Gutierrez’s declaration clearly provides an evidentiary basis to conclude
20 Mr. Aceves’s impending deportation caused her extreme and unusual hardship. For
21 one, her history of trauma heightened her psychological vulnerability to the impact of
22 her son’s permanent separation from her. But this was not just a “normal” separation of
23 mother and son: Mr. Aceves was going to be sent to a country where Ms. Gutierrez
24 reasonably feared that he would be beaten or killed. And the seriousness of her
25 emotional suffering is corroborated by her sworn statement that during this period she
26 sought out and obtained medication for her anxiety and depression. MTN Exh. H ¶ 27,
27
28

1 16.⁵ And the difficult history that the family had endured together served to heighten
2 the pain of losing one of its central members. *Arrietta*, 224 F.3d at 1082 (finding §
3 212(h) relief plausible in light of showing that deportation “would deprive his family of
4 various forms of non-economic familial support and ... family unity”). Contrary to the
5 government’s assertion, this combination of harms is not the merely the “typical” result
6 of removal.

7 And while Mr. Aceves does not dispute that his sole criminal conviction would
8 be a negative equity in his case, it would not be an insurmountable obstacle. In his
9 motion, Mr. Aceves demonstrates that convictions just as serious as have been waived
10 under § 212(h). *See* MTN 17.⁶ The government does not address this case law. And
11 indeed, the Court in *Arrieta* found § 212(h) relief plausible even though the defendant
12 had been convicted of attempted forcible rape. *Arrieta*, 224 F.3d at 1078. The
13 government also ignores the mitigating factors in Mr. Aceves’s case, including that he
14 was a minor at the time of the offense, that he had grown up in an environment of
15 domestic violence, and that he demonstrated rehabilitation while incarcerated.

16 Based on these facts, immigration attorney David Gardner, who has deep
17 experience with criminal waivers, including § 212(h), concludes that it is plausible that
18 Mr. Aceves could have won § 212(h) relief in 2010. MTN Exh. G. The Ninth Circuit
19

20 ⁵ The government would apparently require, at this juncture, “medical evidence”
21 linking Mr. Aceves’s imminent deportation and Ms. Gutierrez’s reported symptoms.
22 *Opp.* at 13. But such a rigorous demonstration is unnecessary when Mr. Aceves need
only prove “some evidentiary basis upon which relief would be granted.” *Reyes-*
Bonilla, 671 F.3d at 1049-50.

23 ⁶ *In re Moises Varela-Gutierrez*, 2008 WL 4065987 (BIA Aug. 8, 2008)
24 (granting waiver under heightened standard for conviction for assault with a knife and
domestic violence); *In re Felix Olukayode Momoh*, 2010 WL 7764782 (BIA Oct. 28,
25 2010) (granting waiver under heightened standard for second degree assault); *In re*
Eddy Michel, 2004 WL 2374515, (BIA Aug. 4, 2004) (granting waiver under
26 heightened standard for lewd acts on a child); *In re [Redacted]*, 2011 Immig. Rptr.
LEXIS 14673 (AAO Nov. 29, 2011) (granting waiver under heightened standard for
27 corporal injury to spouse); *In re [Redacted]*, 2011 Immig. Rptr. LEXIS 14518 (AAO
Nov. 07, 2011) (granting waiver under heightened standard for causing bodily injury to
28 family member).

1 has often relied on the opinions of immigration attorneys in predicting how
2 immigration courts might view potential claims for relief. *See, e.g., Arrietta*, 224 F.3d
3 at 1082-83 (relying in part on opinion of expert immigration attorney in concluding that
4 § 212(h) was plausible). But the government leaves Mr. Gardner's sound opinion
5 unaddressed in its opposition. Taking into account all the equities and the cumulative
6 hardship to Ms. Gutierrez, Mr. Aceves himself, and the rest of the family, Mr. Aceves
7 surely has provided some evidentiary basis for concluding that § 212(h) relief might
8 have been granted.

9 **c. Mr. Aceves Could Have Plausibly Received Relief Under the**
10 **Convention against Torture**

11 The government's argument with regards to Mr. Aceves's potential claim for
12 CAT deferral of removal also misapprehends the instant inquiry. The government
13 contends that Mr. Aceves has not shown a "particularized threat of torture" if deported
14 to Mexico. *Opp.* at 17. But this Court need not decide adjudicate Mr. Aceves's CAT
15 claim within this proceeding. Rather, the court need only determine whether he might
16 have had a viable claim if he were given a chance to present it in 2010. Based on the
17 evidentiary basis provided in the motion, he has made that showing.

18 At Mr. Aceves's hypothetical removal proceeding, the Immigration Judge would
19 have had to consider "all evidence relevant to the possibility of future torture,"
20 including evidence of country conditions and human rights violations in Mexico. 8
21 C.F.R. § 1208.16(c)(3).⁷ Mr. Aceves has pointed to several factors that were likely to
22 expose him to harm in Mexico, including history of criminal organizations targeting his
23 family members, his Americanized mannerisms, his tattoos, and his previous presence
24

25 ⁷ In some cases, such as *Madrigal v. Holder*, 715 F.3d 499 (9th Cir. 2013), an
26 applicant may rely on previous persecution in his home country to demonstrate the
27 requisite likelihood of serious harm on removal. But there is no requirement that an
28 applicant demonstrate a history of being harmed in order to prove a likelihood of future
harm. 8 C.F.R. § 1208.16(c)(3).

1 in prison. MTN at 20. He has also explained, through the declaration of immigration
2 attorney David Gardner, how country conditions evidence, including testimony of
3 expert witnesses, could be presented to show how all of these factors combine to
4 expose him to a great degree of harm in Mexico. MTN. Exh. G. ¶¶ 22-27. Mr. Gardner
5 even identified two particular experts whose testimony could serve to prove these
6 points. *Id.* With competent counsel, expert witness, and several different attributes that
7 would increase risk that the unchecked criminal organizations would target him, he
8 would plainly have a colorable claim to present to the Immigration Judge. *See Cole v.*
9 *Holder*, 659 F.3d 762, 771-772 (9th Cir. 2011) (holding that Immigration Judges must
10 take into account all factors that could lead applicant to be targeted and must carefully
11 consider testimony of expert witnesses).

12 The government is also incorrect to suggest that Mr. Aceves would be unable to
13 fulfill the “state action” requirement for CAT relief. Opp. at 17. That requirement
14 would be fulfilled if Mr. Aceves could show least one Mexican public official in
15 criminal organization’s likely violence against him. *Madrigal*, 716 F.3d at 509. The
16 government’s own Human Rights Report on Mexico, from the year of Mr. Aceves’s
17 removal proceedings, notes that corrupt police officials “act[] directly on behalf of
18 organized crime and drug traffickers.” U.S. Department of State, *2010 Human Rights*
19 *Report: Mexico*, 22-23.⁸ That report would be entitled to “substantial weight” in his
20 potential CAT case. *Konou v. Holder*, 750 F.3d 1120, 1125 (9th Cir. 2014).
21 Immigration attorney David Gardner further explains that a competent removal defense
22 attorney could submit additional country conditions evidence, including testimony of
23 expert witnesses, to show the acquiescence of corrupt police officials in the violence
24 perpetrated by criminal organizations. MTN Exh. G ¶¶ 25-26.

25
26
27 ⁸ The report is available online at
28 <http://www.state.gov/documents/organization/160469.pdf> (last visited April 12, 2016).

