

Diego A. Soto, Esq. (NN536558)  
LGBT Rights & Special Litigation  
SOUTHERN POVERTY LAW CENTER  
400 Washington Avenue  
Montgomery, AL 36104  
Phone: (334) 956-8427  
Fax: (334) 956-8481  
diego.soto@splcenter.org

**DETAINED**

**UNITED STATES DEPARTMENT OF JUSTICE  
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW  
IMMIGRATION COURT  
LUMPKIN, GEORGIA**

In the Matter of

██████████, ██████████  
a/k/a ██████████, ██████████\*

In removal proceedings

File No. A ██████████

**Immigration Judge:**  
Hon. Sandra D. Arrington

**Next Hearing:**  
Master Calendar, ██████████, 2017, ██████████

**RESPONDENT'S DECLARATION**

---

\* Respondent is a transgender woman. This motion refers to Respondent by the pronouns that correctly reflect her gender identity.

**UNITED STATES DEPARTMENT OF JUSTICE  
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW  
IMMIGRATION COURT  
LUMPKIN, GEORGIA**

In the Matter of

██████████,  
a/k/a ██████████,

In removal proceedings

File No. A ██████████

**RESPONDENT'S DECLARATION**

**Introduction**

1. My name is ██████████. I fled Guatemala, my country of origin, to the United States because I feared for my safety as a transgender woman. I was targeted by individuals involved in drug cartels to perform sex work and to collect extortion money from local businesses. When I refused to engage in sex work, I was battered and left with scars on my forehead, temple, and by my lips. When I refused to collect extortion money on behalf of the cartels, I was threatened with death. The drug cartel members, who repeatedly called me "faggot" and "bitch," targeted me because I am transgender and because I present myself as a woman in public. I am unwilling and unable to return to Guatemala because I fear that I will experience similar or worse persecution, including death, because I am transgender. Indeed, several of my transgender friends have been murdered, I believe by members of the same cartels that have battered and threatened me. The Guatemalan government did not protect me or other transgender women from these cartels while I lived in Guatemala, and I do not believe the government would protect me if I returned.

## **My Upbringing and Recognition That I Am Transgender**

2. I was born on [REDACTED], 1974, in [REDACTED], Guatemala, the youngest of my mother's nine children, the last four of whom shared the same father. My mother, [REDACTED], cleaned homes for a living. My father, [REDACTED], did not marry my mom, and I had only occasional contact with him because my older siblings did not allow him to live with my mom. My mother was an Evangelical Christian, so I was raised Christian.

3. At birth, I was assigned male and given the name [REDACTED], but I am a woman. Since I was little, I have liked everything associated with women. I washed the dishes and made homemade tortillas—tasks and activities associated with women. I could not dress as a girl in front of others because of the machismo culture, but I secretly tried on women's shoes, hiding so as not to be caught. Nevertheless, I was bullied at school for playing only with girls, for not wanting to play with boys, for speaking in a feminine way, and for walking in a feminine way. Around the age of 13, the bullying intensified, and I was physically bullied through my teenage years. On one particular occasion, I was beat up and my nephews had to defend me.

4. Because I was assigned male at birth and found myself more attracted to men, I sometimes describe myself as gay. I became sexually active with men as a young teenager. In those sexual relationships, I considered myself female and would imagine myself as a woman when I was with him. I wanted to feel like a woman that men find attractive. When my mother found out, she hit me and separated me from those men, which led to my depression over being gay. To avoid further bullying, harassment, and discrimination, I left my hometown at the age of 17 and moved to Guatemala City where I thought I might experience less harassment for appearing gay or feminine.

5. In Guatemala City, I worked in a laboratory packing medicine, counting items, and making shampoos and soaps. I was later fired when new management took over. They did not tell me why I was fired, but coworkers told me it was because I was gay. It was difficult to find employment because no one wanted to hire gay or transgender people. Eventually, I then worked at a trade school, baking, designing accessories, and sewing.

6. I met a group of transgender women called [REDACTED] (“[REDACTED]”). I encountered this group when they handed out free condoms and administered free tests for sexually transmitted diseases. I joined them in their efforts to educate young people on safe sex practices, and in marches against homophobia and transphobia. My association with other transgender women was strengthened by my participation in [REDACTED]: Through the organization I became friends with other gay or transgender women, such as [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED] and [REDACTED], and they called me [REDACTED].

7. About a year after moving to Guatemala City, I experimented with dressing as a woman, mostly on weekends and in the privacy of my home. I would wear, for example, women’s clothing, women’s shoes, women’s underwear, wigs, bras with cups to give the appearance of breasts, and make-up. I would also “tuck” my genitals, which means that I would position them in a way so that I would appear not to have them and therefore appear to be a woman. I also would shave all the hair off my body, and still do that to this day. I loved to dress as a woman and transform into a woman, so I also considered myself to be a “transvestite,” a term which I use to describe the incongruence between my gender and my body.

8. When I was about 28 years old, I experimented with hormones. I learned about hormones from friends who had more feminine bodies; I would ask them what worked for them.

Over the span of about three months, I injected myself about 20 times with a drug that I understood to normally be used by women to avoid pregnancy. I also added birth control pills to my shampoo because I believed it made my hair grow. I saw a little bit of breast development and lost the ability to have an erection, but I also started gaining weight, and the drug seemed to agitate my nerves. I started to inject myself with something to calm my nerves, but eventually I decided to stop injecting myself with the hormones altogether because of the effect on my nerves.

9. Although I stopped using hormones, I do want to become a woman, perhaps through surgery, and live as a woman all the time, if I lived somewhere where it would be safe for me to do so. This desire has intensified over time. My friend [REDACTED] has fully transitioned after having had surgery in the United States, and she is beautiful. Based on my experiences in Guatemala, however, Guatemala is not a safe place for me to be transgender or to continue my transition.

#### **Persecution Related to My Being Transgender**

10. I have been threatened with violence and pressured to participate in criminal activity because I am transgender. I fear that this would happen again were I to be returned to Guatemala, which has refused to protect transgender women like me, several of whom have been killed, I believe, by members of the same drug cartels that have threatened and pressured me.

11. A recent event helps explain why I am so fearful. On August 5, 2015, I went with friends to a disco. I was dressed as a woman. As I was leaving the disco, two young men whom I did not know approached me and told me to go with them to where they were selling drugs. I believed that they were associated with a drug cartel and were trying to recruit me to perform sexual favors for their customers because a friend, [REDACTED], told me before this night that a

similar thing had happened to her. I believe they targeted me because I was dressed as a woman and they wanted to take advantage of my presentation as a sort of disguise. [REDACTED] was killed last year by *sicarios* (hitmen) like these men.

12. I refused to go with these men, so they beat me. I was left with a scar on my forehead, another by my temple, and another by my lips. They called me a “son of a bitch,” “*huequito*” (“faggot”), and “*maldita*” (“bitch”).

13. I did not go to the police to file a report because the police, like the rest of the government, are so corrupt. They do not listen to gay or transgender people like me; they are homophobic and transphobic. I also feared that the police, who are often involved in crime, would tell the drug cartel that I had reported what they had done to me. I feared that the drug cartel would send hitmen to kill me.

14. I was left in a state of shock for about two months after that incident. I did not leave my house except to certain places, such as work. I did not dress as a woman for those two months either, because I was afraid. Only after those two months did I resume dressing as a woman in public on weekends.

15. On September 14, 2016, the day before Guatemala’s day of independence, I was waiting for friends outside of a restaurant. I was dressed as a woman. As I waited, a man called me over saying, “Hey, [REDACTED].” I did not know him and was confused that he knew my preferred name, [REDACTED]. He told me, “Hey *huequito*, it’s your turn to take the extortion money. If you don’t do it we’ll kill you.” I was confused by what he was saying but eventually understood that he wanted me to collect extortion money from local businesses—he was a *narco* (“drug dealer”). When I refused, he told me they knew where my house was and where I worked.

16. I believed him because my friend [REDACTED], and other friends, had been killed by *narcos* like him. I had heard that she was assassinated on a street corner by a hitman from the drug cartel. I also believe he and his cartel would know how to find me because they knew my preferred name, [REDACTED], and could identify me in public. I believe that they were involved with two former friends of mine, [REDACTED] and [REDACTED], whom I met through the transgender organization [REDACTED] and who were incarcerated at the time. I believe they continue to operate from the prison by directing hitmen to recruit transgender women and to kill those who refuse to cooperate.

#### **My Departure from Guatemala To Avoid Further Persecution**

17. I was terrified by the *narco*'s threat and immediately went home without waiting for my friends. I shut myself up in my home and lived in absolute fear for the next month. I felt safe nowhere and did not dress as a woman. I decided to leave Guatemala because of the threat to my life and the other persecution I experienced at the hands of the drug cartel. I decided to go to the United States because I had learned about its antidiscrimination laws for gays and transgender individuals and that it had legalized same-sex marriage. I hoped to work, to do well with my life, and to live a life without involvement by criminals.

18. On October 15, 2016, a month after I was threatened, I took a bus from Guatemala to Mexico and then rode trains through Mexico toward the United States. I felt relatively safer on the trains in Mexico because I was traveling farther away from the threat in Guatemala. For my safety, I did not dress as a woman and tried not to look effeminate. I crossed the Rio Grande into Texas one night in early December and turned myself in to Border Patrol.

19. Although I am currently in detention, I already feel safer in the United States of America because I am far away from the threat in Guatemala. I fear that they would kill me if I returned to Guatemala. I could not live safely in another part of the country because parts outside

of Guatemala City are mostly indigenous, and residents there are not accepting of gay or transgender individuals. I also would not be able to assimilate; they speak other dialects and languages and wear different clothing. I could not find employment there because of my sexual orientation and gender identity. I also would not feel safe because the cartels operate everywhere. Therefore, I would have to return to Guatemala City if I were forced to return to Guatemala.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]**



I declare under penalty of perjury (under the laws of the United States of America) that the foregoing is true and correct.

[Redacted]

[Redacted]  
a/k/a [Redacted]

7-24-2017

Date

**CERTIFICATE OF INTERPRETATION**

I state that I read the foregoing declaration to [Redacted], a/k/a [Redacted]  
[Redacted], in a language that she understands (Spanish) and that she understood it before signing.

*Melissa Murrell*  
Signature

*Melissa Murrell*  
Printed Name

7/24/17  
Date

[REDACTED]  
a/k/a/ [REDACTED], [REDACTED]

A [REDACTED]

**PROOF OF SERVICE**

On July 24, 2017, I, Diego Soto, served via hand delivery a copy of Respondent's Declaration and any attached pages to the following:

Office of Chief Counsel  
U.S. Department of Homeland Security  
Immigration and Customs Enforcement Office  
Stewart Detention Center  
146 CCA Road  
Lumpkin, GA 31815

  
\_\_\_\_\_  
Signature

July 24, 2017  
\_\_\_\_\_  
Date