**Asylum Interview Transcript September 2017 Anaheim Asylum Office**

Asylum Officer: Carlos Noriega

Time Interview Began: 8:25am

Record of Oath Form

Monitor on 8:38am

Q: Did anyone help prepare your application?

A: Yes, my attorney

Q: Was it read back to you in your native language when complete?

A: Yes

Q: How was your written statement prepared?

A: Yes, we had a number of meetings. I was presenting my case and that’s the way that we were filling out the application

Q: Was the English translated version of your written statement read back to you?

A: I don’t remember

Q: Do you know if the contents of your statement are correct?

A: Yes

Q: How do you know that?

A: We were checking it out and I also saw it with my phone through the translator and it’s correct

Q: Is this the 1st time filed for refugee status or asylum?

A: Yes

Q: Your application indicates that you last entered on June 11, 2016 with a visitor visa?

A: Yes, that is correct

Q: After you entered on June 11, 2016, did you leave?

A: No

Q: Have you been in US entire time since you last entered?

A: That’s right

Q: Have you been given a social security number?

A: No

Q: What is your last name?
A: C

Q: First Name?

A: L

Q: Middle name?

A: E

Q: Other names?

A: No

Q: Current address?

A: \_\_\_\_\_\_\_

Q: Phone?

A: \_\_\_\_\_\_\_

Q: Marital status?

A: Single

Q: Birth date?

A:

Q: City born in?

A: Durango, Mexico

Q: Are you Mexican?

A: Yes

Q: Hispanic?

A: Yes

Q: Religion?

A: Catholic

Q: Prior to June entry, did you also enter December 23, 2015?

A: Correct

Q: With a visitor visa?

A: Yes

Q: Children?

A: No

Q: Last address in Mexico?

A: \_\_\_\_\_\_\_\_\_\_

Q: Did you live there 1983-2015?

A: Yes, that’s right

Q: Current address on STREET, when did you start living there?

A: Since I came from Mexico

Q: Day and year?

A: December 23, 2015

Q: Until now?

A: Well yes

Q: When did you stop living at the address at LANE?

A: About a month

Q: July or June?

A: June more or less

Q: Before that did live on Street in Compton?

A: Yes

Q: Also live at \_\_\_\_\_\_\_\_\_\_\_\_\_?

A: Yes, correct

Q: Did you also live at \_\_\_\_\_\_\_\_\_\_ in LA from April 2016-August 2016?

A: Yes

Q: Have you attended school in US?

A: I went in paramount for about 1 month

Q: What was the name?

A: Adult school in paramount, don’t remember the name

Q: Do you remember what month you began school?

A: It was in November 2016

Q: When did you stop?

A: December 2016

Q: Before that did you attend OGED economy

A: In Mexico.

Q: That was in Mexico, what city?

A: Durango

Q: Did you attend from August 94-July 95?

A: Yes, correct

Q: Before that did you attend CBTES high school?

A: Yes

Q: From August 91-July 94?

A: Yes

Q: Before that escuela secondario Julio vazconcelos?

A: Yes

Q: Middle school?

A: Yes

Q: Before that Silvestre revueltas?

A: Primary

Q: From September 1980-July 1986?

A: There were various changes, there were 3 primary schools

Silvestre in 80

Q: When did you finish there?

A: 1986

Q: Remember the month?

A: July or August

Q: Currently working?

A: No

Q: Since when have you not been working?

A: I haven’t had a job here except for helping out around the house

Q: What date can I put that you stopped working?

A: Since March 2016

Q: How many brothers and sisters do you have?

A: 8 in total

Q: Mom’s maiden name?

A: B C C

Q: Father’s name?

A: D A

Q: Mom passed away?

A: Yes

Q: Where was she born?

A: Durango

Q: Where did your father live?

A: Durango

Q: Where was he born?

A: Qualzingo Puebla

Q: In order from oldest to younger siblings?

A: R M

M L

M G

E M

M d C

R O

H R

J U

L

Q: You have 5 other deceased siblings?

A: Yes

Q: Did they give them names?

A: Yes, but I don’t remember some

Q: Can you tell me the ones you do?

A: Marta, Pepe, Manuel

Q: Were all born in Durango?

A: Yes

Q: All currently live in Durango?

A: Not the dead ones, only the alive ones

Asylum Officer: This is non-adversarial interview, so I’ve read your statement and your supporting documents so I don’t want to hide anything from you, so will tell you how I want to proceed. I just need to ask you preliminary questions, afterwards, I’m going to ask you about times you suffered harm in your country. And so to make it easy we’ll go in order from oldest incident that occurred and go in order.

Q: First, why are you applying for asylum?

A: I am applying for asylum because of my situation that I’m in now. I applied for asylum because of my health situation, because I got into a condition where my health was deteriorating because of lack of medications. In my country it’s scarce or there is a problem with supply.

Q: Supply of what?

A: Of medication and treatment for people who are living with HIV. That’s one of the situations I’m applying for asylum because they’ve been treating me and my health has been improving. And up until now my situation has been favorable, thank god.

Q: Is there anything other reason you are applying for asylum?

A: Another of the reasons is my safety and well-being

Q: What do you mean by that?

A: In my country my condition as a person living with HIV plus being homosexual is a question of not very pleasant in the eyes of people in Mexico

Q: What do you mean by that?

A: We’ve lived through situations of assault and persecution for being gay

Asylum Officer: I’m going to ask you about that in a few moments.

Q: When did you first realize that you were gay?

A: Since I was a kid, I remember always having that fixation or attraction to people of the same sex.

Asylum Officer: I noticed that you dropped your head when you said that. Everything here is confidential, you don’t need to be embarrassed about anything here, I want you to feel comfortable sharing your experience. Everything is confidential.

Q: Did you tell anyone that you were gay?

A: As an adult I told one of my sisters about the situation that I was in. I think I was about 18 or 19 years old more or less

Q: How did your sister react?

A: She reacted well, she helped me, supported me and said I shouldn’t feel ashamed.
She said I should muster up courage to speak with my mother

Q: Did you tell other members of your family?

A: Yes, I told my brothers

Q: How did they react?

A: Seemingly well, with the exception with one, the oldest of the male siblings

Q: How did he react?

A: He is a very macho person, so he didn’t accept that in his family that there was a “joto” like they called me.

Q: Were you mistreated or harmed by anyone in your family?

A: Well, out of my siblings it was him. He was the one most harassing me since I was a child.

Q: Did you hear about other gay people in your country?

A: When I was in secondary, I began to realize what it meant to be gay

Q: How did you perceive other people that were gay in your country being treated?

A: Well I had understood that gay was a sin, it was bad because of the religion instilled at home and why I remained quiet for a long time about it.

Q: Were you ever in relationship with other in your country?

A: Yes.

Q: How did you meet?

A: We met in a bar, a club

Q: Do you remain in contact with him?

A: No

Q: How do gay/bisexual people meet in your country?

A: I don’t know, it’s like an instinctual thing. It’s like the attraction that one person feels to each other, nothing different.

Q: Were you involved in LGBTI organizations in your country?

A: Yes, I was helping a group. A friend was starting an organization that was helping people with HIV

Q: Are you involved in LGBTI orgs in this country?

A: No.

Q: Earlier you mentioned that being homosexual wasn’t very pleasant in eyes of people in your country? Were you ever threatened or harmed by anyone in your country b/c of your sexuality?

A: Yes, sir

Q: What happened?

A: Well there were various occasions in which I was assaulted by the community of straight people.

Q: I’m going to ask you to tell me about the oldest experience. What was the first time you were harmed by someone in your country? For being gay

A: I think it was since school, that’s when I feel peers were mistreating me, poking fun and yelling.

Q: What were they saying?

A: Calling me “joto”, “maricon”

Q: Aside from what they said, did they physically harm you?

A: There was always pushing and kicks, it was the school kids would attack you.

Q: Do you think they targeted you because you were gay?

A: Well it was more notable about the attacks against my person b/c they saw me as different from them.

Q: Did you ever report these people to school or police?

A: I did speak with my mother because of the harassment was a lot by peers, she went to school and spoke with the teacher but teacher said it was school kid games and that there wasn’t a problem. Mom noticed I wasn’t very happy in this school and this was one of the motives for me to change to a different school.

Q: How long were you treated that way?

A: My youth. Also in middle school some people were uncomfortable, my preference for men, that was 2nd-3rd year in middle school.

Q: Apart from school were you ever mistreated of threatened by anyone else in Mexico?

A: From there, when I came out of closet to family, that’s when I started to go out with people from my same group. I started going to discos and gay clubs.

That’s when there was trouble, can I be more precise? I went into a bar with a group of friends was going to declare my feelings to a guy. It was a karaoke, there was a guy controlling the music, I asked him if he could put on a song that would be dedicated to the person I wanted to declare my feelings for. He said no problem.

Q: The dj was a woman?

A: Yes. Then I gave the guy I was with a kiss. I thought everything was ok. But when I left the table to go to the bathroom. It was a 2-story place. When I tried to come back from the bathroom, the security wouldn’t give me access. They said it wasn’t a place for “jotos”, and that I couldn’t kiss another person there. And so for this reason, I couldn’t go back to this place.

Q: When did this happen?

A: I don’t remember exactly in which year

Q: Where did that happen?

A: Durango

Q: What happened after they told you that you couldn’t go back?

A: There was assault and insult and my friends came down to see what was happening.

Q: What do you mean by assaults?

A: The person that denied me access, pushed me and would not let me back to into where my friends were and I got upset because it was not bad in my eyes.

Q: Did you hit the person that wouldn’t let you in?

A: No. He pushed me and they asked us to leave the premises.

Q: Were you threatened any other time in your country?

A: Yes. I was working, I had to go into a township in the mountains. For my job, I had to go to the houses of residents to carry out polls. A person who was a commissary or representative of township and he said I couldn’t enter this area.

Q: Why do you think he told you that?

A: Because we had nothing to do there and he saw us as little fags who were asking around for information that had nothing to do with us.

Q: Did he see you as that or did he say that?

A: He called us little fags

Q: What happened next?

A: There was an assault by him of me

Q: How did he assault you?

A: Well he got in front of me and he had a weapon and he was in charge of security for that township. We were not permitted to enter any place without first speaking to the representative and that’s why were were speaking to him. So since he didn’t give us access he wasn’t allowing us to comply with our work. I reported that to my immediate boss. It was through her that we were finally able to get in, but I did not go into that place because that person put fear in me. The person in charge of security did not look highly on the fact that I reported that to my superior.

Q: At any time during that occasion did he cause you to suffer any injuries? Or harm you?

A: No, just when he blocked me and he put his weapon in front of me.

Q: What kind of weapon?

A: It was a rifle, the one with the long barrel, like a hunting rifle, I’m not really sure, I don’t know weapons.

Q: Do you remember when this happened?

A: This happened in 2013, in August more or less, September

Q: Were you ever threatened or harmed other times in Mexico?

A: Yes. Leaving a bar/club, a friend of mine and I were walking together and the police patrol picked us up. For the simple fact that it was past 2am, and my friend was dressed as a woman since there had been an event that night, a transvestite show. The police picked us up arguing that we were prostituting ourselves, which was a lie. They got us into the patrol car, they were saying that they wanted to lock us up at the station. I was saying to them that we hadn’t done anything wrong, that we just left a gay bar, and that’s not bad. They had us detained for about 10 minutes, the time it took for the truck to go about 2 blocks. At the moment getting us into the truck there was a struggle, my friend was hit. I told the officers that if they were going to detain us just to take us to the station. I don’t know if they asked my friend for money to let us out. After about 2 or 3 blocks from the disco, the police officer said “ok fags” keep going around like “locas,” \*monitor said “like a pansy.”\* I told Juan that we should make a complaint, but he said it was no use they wouldn’t listen since we were gays.

Q: After they insulted you they let you out of car?

A: That’s right.

Q: Do you remember when this happened?

A: I just remember that It was around Halloween, but don’t remember what year

Q: Were you ever threatened or harmed any other time in Mexico?

A: No, I don’t remember very well any other incidents from authorities.

Q: Apart from authorities, anyone else hurt you in Mexico?

A: Well the emotional harm that I suffered in my childhood. It was more psychological.

Q: What type of harm? What happened?

A: The simple fact of having my sexual preference, calling me fag, I thought it was bad because I thought it was a sin. I feel that was a motive of what was repressing me so much. And I learned about that and got that out here in a therapy session that I had.

Q: Was there any other incidents where you were harmed? From your childhood?

Or you were taken advantage of?

A: Yes, when I was a boy there was a person who worked in the mountains, my mother had to go work in a kitchen there, and she left us in Durango. One time for vacation we went there to visit her, that’s when I met this person. He was a worker named Xenon, I…

Q: How do you spell?

A: I think it’s S–E-N-O-N

Q: What happened?

A: He was one of the people who touched me as a boy.

\*Bathroom Break\*

Q: When we left off, you said Xenon was one of the persons that touched you

A: Xenon was one of the persons in my childhood that got close to me maybe because of my condition as a homosexual. He brought me to do things. For me that was not something good to have to perform oral sex.

Q: You can’t be obligated to testify, but your claim for asylum is based on past harm or future fear of persecution. Everything you say is confidential. If it’s a matter of feeling, of discussing this with other people, we’re here just to hear your story and to go over what happened to you in your past. Please know that in addition to this being confidential we are not here to be judgmental or adversarial to you.

Whatever you feel comfortable proceeding with, please share with me, but this is your interview.

Q: The last thing you said was that you had to perform oral sex.

A: That’s right.

Q: How old were you when this happened?

A: I was 9 or 10 years more or less

Q: Did this only happen once?

A: Repeatedly. It went on for one or two years more or less that those events happened with Xenon.

Q: Did you ever report this man to authorities or parents?

A: No, I didn’t because I was embarrassed, scared

Q: Are you still in contact with him? Or have you had any?

A: No, I no longer had contact with him

Q: When was the last time you had contact with him?

A: When I was about 13 or 14 years old. He no longer went to the house.

Q: Were there other adults that did this to you as well?

A: Yes. Before Xenon there was a neighbor, I was about 6 years old, he was the same age as my oldest brother. His name was Juan. He also on various occasions touched me. His mother sold candies, and we would go to his house to buy them. And he took advantage of an occasion where his mother was not there and he blackmailed me by saying that if I did something on him he would give me candy or whatever, and he had me touch his penis. This went on for a long time, until a neighborhood girl on the block, he also tried to touch her, she told her mom what Juan wanted to do to her, and that’s how I got the courage to tell her that Juan had also touched me. I don’t know why there was no official complaint, they just went and complained to Juan’s mother. And that’s when his abuse towards us stopped.

Q: How long did this go on for?

A: It was more or less a year. It wasn’t everyday, but it was often.

Q: Were you ever threatened or harmed or mistreated by anyone else in Mexico?

A: Yes, there was another person who forced me to have a sexual act.

Q: When did that happen?

A: I was in middle school. I had 12 or 13 years. Where we lived up until I came here, when we had recently moved in there, I met a neighbor, he was called Joel. I began to have, you could call it a relationship with him.

Q: How old was Joel?

A: He was about 19 years old. He was older than me.

I had 12, 13 years old. I liked him, I had an attraction to him, but then some of the neighborhood kids realized. And since a lot of cholo and gang members hung out where I lived, there were a lot of attacks on my person. They would say “there goes that fag.” And that’s why I was forced to have sexual relations with one of them.

Q: What happened?

A: He made me have sex with him, he threatened me that if I was just with Joel, how could I not be with him

Q: How old were you?

A: I was around 13 or 14 years old. And like I said, with Joel, I liked him but part of that group of people that lived on that block and hung out there realized I was with him. This person, Mickey, they called him Mickey, forced me to have something with him against my will.

Q: What do you mean by something?

A: He did touch me more than other people had touched me.

Q: When you say he forced you, how did he do that?

A: Since he was not well, he was on drugs, he was a bigger person than me, older. He forced me to give in, to have oral sex, he touched me, he did it roughly, forced me to touch his parts roughly.

Q: When was the last time you had contact with Mickey?

A: That was the only time he forced me to do that because I told one of my brother’s what happened.

Q: What happened?

A: My brother, I don’t know if he fought him off, but it stopped. The type of assault stopped and it was no longer sexual, it was verbal. Because the gang members they would verbally attack me.

Q: How would they verbally attack you?

A: They would yell, “hey fag” or “there is joel’s bf” or “don’t you want some” and then touch their parts, making fun of me.

Q: Have you suffered harm any other time in Mexico?

A: Yes there was an occasion in which also it happened because I am gay and I actually had a fight with a person for standing up for myself for not allowing the assault to continue. That was with a middle school peer.

Q: Aside from the school fight and from anything else, any other time you were harmed?

A: I no longer allowed it. I had more knowledge and acceptance from home as a gay person and that gave me courage to no longer allow it.

Q: How old were you when that happened?

A: When I was about 24 or 25.

Q: Is there anything else you would like to tell me that we haven’t discussed yet?

A: No

Q: What do you think will happen if you return to Mexico?

A: I think that if I return to Mexico my life will be in danger because as I mentioned previously I struggled a lot there because of having HIV.

Q: When did you discover you were HIV+?

A: More or less since 15 or 20 years since I’ve been HIV+

Q: Can you be more precise?

A: Around 1997

Q: So about 20 years?

A: Yes

Q: Earlier you mentioned you struggled by having HIV, can you tell me how?

A: Well yes, it’s a similar, for being gay but also for being HIV+. The discrimination is even more.

Q: What do you mean by discrimination?

A: There is a lack of information, culture, and the fact that person has HIV or aids makes people see you as an abnormal person to them.

Q: Have you been discriminated against for having HIV?

A: Yes, at work I had a case like that.

Q: What happened?

A: I worked in a company, a store called Coppel (Sp?), that sells furniture and clothes. I had already been diagnosed as HIV+ and at that time I was feeling bad, and because of that I asked for permission to see a doctor. And the hr person in charge, I spoke with her and told her my situation, that I had HIV. I did this because I didn’t want to have a work situation, something could happen if I bled and I did it because of the personnel and because of my coworkers.

Q: What happened with the hr lady?

A: Well I did it to try to get support, but she used that to fire me. She argued that I had too many absences.

Q: When did this happen?

A: In 1999/1998, I’m not really sure of the dates that I worked there.

Q: How do you spell Coppel?

A: C-O-P-P-E-L

Q: Were you ever discriminated against any other time?

A: Yes, in my house.

Q: What happened?

A: Because of the lack of awareness about the illness. It wasn’t a rejection, it was more like they made me feel bad. My nephews wouldn’t greet me.

Q: Is this continually happening? Or has it stopped?

A: It’s something that still, when I came here.

Q: Did it stop because you came to US?

A: I don’t know if it’s because I came to US, but I haven’t had contact with anyone from home since.

Q: What do you think will happen if you return to Mexico?

A: I feel that my life would no longer continue, I feel like I’m in danger.

Q: Why do you think you’re in danger?

A: Because the medicine, because I don’t think to changing to treatment over there, because when I started getting treatment here, my doctor said to me that due to my situation because I stopped my treatment there in Mexico, I had few options for treatment here.

Q: Why did you stop treatment in Mexico?

A: Because they only gave me medicine for 2 months

Q: Who is they?

A: The clinic I went to

Q: Was there any way for you to get more medication?

A: It was difficult b/c there wasn’t sufficient supply in the clinic.

There were occasions where I had to get the medication through a friend

Q: Besides lack of treatment, anything else that makes you fear return to Mexico?

A: I feel things continue to be the same there with discrimination against gay people. More so people living with HIV, there is no improvement so I am afraid.

Q: Of what are you afraid?

A: Scared of continuing to suffer the things that I experienced all my life there. I don’t want to go back to the same things. Fear because the government feels that a person above 40 is no longer useful

Q: Has anyone in Mexico harmed/threatened you since you came to US?

A: No sir.

Q: Do you know if anyone from Mexico has gone looking for you?

A: No

Q: Aside from what you have already told me, do you fear anyone else in Mexico?

No

Q: Could you return and live safely in Mexico?

A: No, I don’t believe so

Q: Why not?

A: Because my mother is no longer there.

Q: Any other reason?

A: Well I fear returning to my country because of the harm that people have done to me, society and my family.

 Questions relating bars to asylum, criminal issues, terrorism bars, etc.

Follow up Questions by pro bono attorney

Closing statement from pro bono attorney

Mr. C suffered past persecution when he was raped and sexually assaulted numerous times by multiple people, beginning as young as age 6, and continuing throughout his adolescence. In adulthood, Mr. C was fired from his employment because of his HIV status, had trouble obtaining the HIV medication he desperately needs, and was harassed and discriminated against on numerous occasions. Mr. C was also abducted by the police who attempted to extort him for money because of his sexual identity. As demonstrated by the psychological evaluation submitted on Mr. C’s behalf, he suffers from PTSD as a result of these incidents of past harm and trauma. Cumulatively, all of these incidents definitely rise to the level of past persecution.

Because of the well documented physical and sexual mistreatment, attacks by community members, and abuse at the hands of law enforcement and government agents of LGBT and HIV positive people in Mexico, Mr. C also has a well-founded fear of persecution, as there is more than a 10% chance of future harm if he were returned to Mexico. According to the Country Conditions Expert Declaration, there are 15 homophobic/transphobic murders each month, between 100-180 killings per year, most left uninvestigated or dismissed. Mr. C also has a well-founded fear of persecution on account of the inability to receive the life-saving HIV medication he needs in Mexico. The government often refuses to allocate the proper funding for HIV clinics and medications.

These acts were perpetrated against Mr. C because he is a Mexican gay, HIV-positive man. Courts have long held that homosexuality constitutes membership in a particular social group within the meaning of the refugee definition. Mexican gay, HIV-positive men is also a particular social group, recognized as a distinct group of people by Mexican society as detailed in the country conditions expert declaration submitted. There is a clear nexus between Mr. C’s membership in these two particular social groups and the persecution which he has endured, particularly as many of his abusers, both governmental and private actors, explicitly referenced his sexual orientation and/or HIV status when committing the persecutory acts. But not for his sexual identity and HIV status, he would not have been sexually assaulted numerous times, fired from his employment, abducted by the police, and discriminated against by the community.

Mr. C is unable to relocate within Mexico to avoid persecution as anti-HIV stigma, and violence against Mexican gay men is pervasive throughout Mexico, as well as in police and other security forces. In Mexico, the majority of LGBT people have been subjected to anti-gay violence in public, even children have been attacked while playing at parks.

Mr. C has testified credibly throughout this interview and throughout the asylum process, remaining truthful and consistent. Pursuant to the Real ID Act, if a fact finder finds the applicant credible, the applicant need not produce corroborating evidence. However, I have submitted a psychological evaluation, as well as a country conditions expert declaration in support of his testimony.

Additionally, Mr. C is not barred from asylum on the basis of the statutory bars. He has established by clear and convincing evidence that he timely filed his I-589 application for asylum. I submitted time and date stamped I-94 arrival documents for both of Mr. C’s entries, the most recent being June 11, 2016. I also submitted a receipt for the purchase of an I-94 at the Otay Mesa border crossing, dated June 11, 2016. Mr. C filed his I-589 on June 6, 2017.

Lastly, Mr. C has no negative discretionary factors. He has never been convicted of any crime in any country, he has no immigration violations, and is an upstanding member of the community. Mr. C should be granted asylum as a matter of discretion.