

U.S. GRANTS ASYLUM TO GAY MEXICAN HE CITES PERSECUTION BY THE POLICE

San Jose Mercury News (California)

March 25, 1994 Friday MORNING FINAL EDITION

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Section: CALIFORNIA NEWS; Pg. 3B

Length: 681 words

Byline: BOB EGELKO, Associated Press

Dateline: San Francisco

Body

A gay Mexican, who said police harassed and raped him in his native land before he fled to the United States, has been granted political asylum in a case his lawyer called precedent-setting.

It is the first time the Immigration and Naturalization Service has granted asylum in a claim of persecution based on sexual orientation, attorney Ronald Silberstein said Thursday.

"We hope that this decision is a wake-up call to governments all over the world that the persecution on account of someone's sexual orientation is unacceptable," Silberstein said at a news conference.

His client, who used the pseudonym of Jose Garcia, said the INS decision "saved my life." He said he hoped it sent a signal to all gays "that there are countries in the world which respect the human rights of all (their) citizens." Fear of persecution

Garcia, who said he was in his 30s and had been in the United States illegally for about a decade, won the right to remain permanently when an INS asylum officer ruled March 18 that he had established a "well-founded fear of persecution" in Mexico because of his membership in a particular "social group."

The INS had not previously concluded that gays were a "social group," a category protected by asylum laws if fear of persecution is established, Silberstein said. He said the decision, though not legally binding on other INS officers, should establish a precedent for similar cases elsewhere.

INS spokesman Duke Austin confirmed that the decision had been reviewed at INS headquarters in Washington before it was issued.

The decision sets no precedent and does not mean that all gays from Mexico are eligible for asylum, Austin said. But he said it was a logical conclusion that "if a gay who's being persecuted in Mexico can get (asylum) on that grounds, then a gay who's being persecuted in any other country can get it on that grounds."

In July, an immigration judge in San Francisco granted asylum to a Brazilian homosexual, a decision the INS is appealing. The Board of Immigration Appeals in 1990 barred deportation of a Cuban homosexual.

Silberstein said Garcia's case was different because the INS did not oppose asylum, but instead "recognized that sexual orientation is clearly a social group." He said another distinction was that Garcia was not under a deportation order, but instead walked into an INS office and applied for asylum.

Harassment, extortion

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Garcia, from Coahuila, Mexico, said he knew he was **gay** at an early age, after being beaten by schoolmates as a child. He said cultural prejudice against **gays** affected his family. He quoted a grandmother as once telling him, "It would have been nice if you had been born a man."

As he grew up, he said, **police** arrested him for walking in certain neighborhoods, patronizing certain bars and attending certain parties, falsely accused him of crimes and extorted money from him.

He said that once when he was a teen-ager, he and a friend were driving and were stopped by **police**, who told the friend to go home and get some money if he ever wanted to see Garcia again. While the friend was gone, he said, one of the officers raped him.

"As a **gay** man in Mexico, life was made intolerable for me," he said. "I had no one to turn to. When I learned that being **gay** in the **United States** was not only tolerated but even accepted in some areas, I had only one desire: to flee Mexico for some kind of freedom in the **United States**."

An activist volunteer

He said he spent an entire night crawling across the border at Calexico. After living in Chicago and Miami, he said, he wound up in San Francisco, where he has worked as a volunteer and a paid employee in **gay**-rights and anti-AIDS activities.

Despite those public activities, he declined to give his real name or allow photographs. "You don't know where the future will lead," he said.

Besides Garcia's experiences, the INS also was given evidence of the involvement of **police** and military authorities in the assassinations of **gays** and doctors working against AIDS in certain parts of Mexico, Silberstein said.

Classification

Language: ENGLISH

Subject: POLITICAL **ASYLUM** (91%); **GAYS & LESBIANS** (90%); IMMIGRATION (89%); CITIZENSHIP (78%); US FEDERAL GOVERNMENT (78%); LAW ENFORCEMENT (78%); SEXUAL ASSAULT (78%); ARRESTS (78%); SEX OFFENSES (78%); GENDER & SEX DISCRIMINATION (78%); DECISIONS & RULINGS (77%); LAWYERS (77%); JUDGES (72%); PRESS CONFERENCES (55%)

Organization: IMMIGRATION & NATURALIZATION SERVICE (91%); IMMIGRATION & NATURALIZATION SERVICE (58%)

Industry: LAWYERS (77%)

Geographic: CALIFORNIA, USA (79%); MEXICO (94%); **UNITED STATES** (93%)

Load-Date: October 25, 2002