

October 11, 2001

I, Thomas M. Davies, Jr. declare:

1. Attached to this declaration as Exhibit A is a true and correct copy of my curriculum vitae.

2. I am a Professor Emeritus of Latin American History, Director Emeritus of the Center for Latin American Studies, and former Chair of Latin American Studies at San Diego State University in San Diego, California. I was at San Diego State for 33 years (1968-2001), and was Director of the Center for 22 years (1979-2001). For more than 30 years, I have devoted my academic studies, teaching, field work, and scholarly research to politics in Latin American countries, with a particular emphasis on Peru, Mexico, and Central and South America.

3. I have traveled extensively in Mexico, Central America, and South America. In addition to my extensive travel in Latin America, I read on a daily/weekly/monthly, basis over six (6) magazines and journals from Central America, three (3) United States newspapers, and more than ten (10) United States and British publications on Mexico and Latin America. These include: NACLA Report on the Americas, The Journal of Inter-American Studies and World Affairs, Guatemala: Bulletin of Guatemala Human Rights Commission/USA, Mesoamerica, Washington Office on Latin America, all the publications by EPICA (Ecumenical Program on Central America and the Caribbean), U.S. Department of State Human Rights Reports on Mexico and Central and South America for the past ten years, and the Latin American Data Base.

I also taught a course on Modernization and Urbanization in Latin America and a course on Guerrilla Warfare in the Western Hemisphere, with an emphasis on Central and South America. I am also called upon to offer expert opinion on radio and television (including the Voice of America) and speak extensively in the greater San Diego community on Mexico, the U.S.-Mexico Border area, Central and South America, as well as U.S.-Latin American relations.

4. I am recognized, both nationally and internationally, as one of the foremost experts on terrorism and guerrilla warfare in Central America and South America. Since 1992, I have been asked to serve as an expert witness in over 80 political asylum cases in San Diego and Los Angeles, California; Portland, Oregon; New York, New York; Boston, Massachusetts; and Seattle and Tacoma, Washington.

5. Within the fields of Mexico, Central and South American and Latin American Studies, I have concentrated particularly on the role of the military and guerrilla movements in several Latin American countries. Exhibit A details the books, articles, translations of Latin American military documents, papers and lectures I have prepared or presented on this topic. I would point particularly to the two books I have written with Professor Brian Loveman: The Politics of Antipolitics: The Military in Latin America. Third Edition, Revised and Expanded. Wilmington, Del.: Scholarly Resources Press, 1997; and Che Guevara on Guerrilla Warfare. Third Edition, Revised and Expanded (the first edition of which won a national prize--The Hubert Herring Prize for the best book on Latin America in 1985). Wilmington, Del.: Scholarly Resources Press, 1997. The Politics of Antipolitics contains extensive treatment of the Argentine military.

I am also a recognized authority on Latin American culture, including Latin American views of sexuality, both heterosexual and homosexual. As noted above, since 1992, I have been asked to serve as an expert witness in over 80 political asylum cases and, while most of those cases dealt with death threats from the military or the guerrillas of a given nation, I have also testified on behalf of ten homosexual males and females, all from Latin America.

6. For almost twenty-seven years, I was married to a Peruvian national, Eloísa Carmela Monzón Abate, who died of cancer seven years ago. As a result of that marriage, I became part of a very large, extended Peruvian family which contained several homosexuals (none of them "out" to the family). Over the past thirty-five years, I have also developed friendships with dozens of male and female homosexuals in Peru, Ecuador, Bolivia, Brazil, Argentina, Mexico, and, particularly, along the U.S.-Mexico border.

Another result of that marriage was that I developed unusually broad and deep personal and professional friendships with military and paramilitary police officials, not just from Peru, but also from a number of South American countries,

including Argentina. My Peruvian father-in-law, Gen. José Monzón Linares, was a three-star general in and former *Director General* (Commander-in-Chief) of the *Guardia Civil del Perú* (Civil Guard of Peru, the nation's paramilitary police force). General Monzón Linares' friends were almost all military personnel from Peru and neighboring republics, but most particularly from Argentina which is Peru's ally in the South American balance-of-power alignment (Peru-Argentina, Chile-Brazil). I thus had an incredible opportunity to know, interact with and develop close interpersonal relationships with dozens of military personnel.

They each taught me their own particular versions of military lore and ideology, ideologies which were always identical in two areas: the preservation of *La Patria* (The Fatherland) through the maintenance of internal order, and the need to "cleanse" *La Patria* continuously by riding it of traitors and sexual deviates (two groups they believe to be identical). The truth is that the *Guardia Civil* and police officers were often even more vehement in their attacks so as not to appear less patriotic than the regular military. The point of this is that the police and military forces of Peru, Argentina, etc. are imbued with virulent homophobia from their very first day of service.

7. Since my arrival in San Diego in 1968, I have been an active supporter of gay and lesbian rights. I have had 50-60 openly gay and lesbian students and many others who came to me confidentially (as have my Peruvian family members and most of my homosexual friends in Latin America). Over fifty percent of those students have been Hispanics who were terrified to tell any of their family members or friends. Several have since died of AIDS, which, for me, was akin to losing my own child.

8. Between 1979-2001, I had four gay or lesbian Graduate Assistants in the Center for Latin American Studies with whom I worked closely. Moreover, my step-daughter (I remarried after my Peruvian wife's death) is lesbian and very active in promoting gay and lesbian rights and causes.

9. Finally, I taught two courses which contain extensive treatments of sexuality in Latin America, an undergraduate lecture course "Urbanization and Modernization in Latin America;" and a graduate seminar on "Traditional and Syncretic Religion and Medicine in Latin America."

10. I do not know Mr. XXXX, but I have been asked by his attorney to assist with this case. After reviewing the facts of

his case and reading his affidavit with care, I agreed

to help because I find his situation to be particularly compelling and very typical of any like person in his circumstances.

11. Although the percentage of homosexuals in Latin America is the same as it is everywhere, Latin Americans, historically and to the present, have refused to recognize it as anything other than "an demonic lifestyle." The view and treatment of homosexuals, particularly males, is that they are the "lowest of the low" and strenuous, even violent persecution of them is not only accepted, it is praised in Latin American society. At the family level, gay males are perceived as constituting a threat to the machismo of all the males in the family, particularly to the father of the individual. In addition, the gay male is a threat to all the females because the female is responsible for the maintenance of family values, family morals and the image of the family in the outside world. Simply stated, families have been known to kill the gay male relatives rather than risk opprobrium being called down upon them.

12. Unfortunately, the danger to male homosexuals is not confined to the family. In Mexico, Honduras, El Salvador, Ecuador, Peru, Chile and Argentina for example, it is common for the police, without provocation, to detain gay males beat them up, rape them with batons or other foreign objects in the anus, and otherwise abuse them physically, always accompanied, of course, by verbal and psychological abuse. As a result of these beatings/rapes, many gay males have died in these countries, but the perpetrators are never prosecuted because such abuse is tacitly accepted and often encouraged.

13. Moreover, Latin American and particularly Argentine police never investigate charges of violence against homosexuals, nor do they ever prosecute those who have attacked the homosexuals. In fact, gay males in Argentina can not count on protection from assault on the part of any civil or military official in local, state or national governments. On the contrary, gay males are a threat to *La Patria* and must be eliminated so that *La Patria* will be "clean."

This is no where better seen than in official and unofficial views of Acquired Immune Deficient Syndrome (AIDS), or *Síndrome de Inmunidad Deficiente Adquirida* (SIDA) as it is known in Latin America. Latin Americans will rarely admit that AIDS even exists in their country, but if they do they will describe the disease

as an abomination, caused by the Devil or an angry God who has cursed a person or a family. The fact remains, however, that

HIV+ or AIDS patients are lumped together into one horrific abomination, *maricones* (queers), whose existence is a threat to every individual, every family, yes, even to the nation (*La Patria*) itself.

14. It must be noted here that homophobia is particularly virulent in Argentina where the military has a long history of extreme political views and of even more extreme violence against its people (See Robert A. Potash, The Army and Politics in Argentina, 3 vols. Sanford: Stanford University Press, 1969-1996). Many Latin American countries and militaries were pro-Fascist before and during World War II, but only the Argentines were avowed Nazis, mirroring Hitler's virulent policies on Jews and homosexuals, in both word and deed. In fact, Argentina did not even declare war on the Axis Powers until she was officially threatened with economic, political, diplomatic and military isolation in March, 1945 (even exclusion from the United Nations), by the Inter-American Conference on Problems of War and Peace meeting in Mexico City.

The period 1945-1976 was fraught with military violence and *coups d'etat*, with ongoing military harassment of all dissidents, most particularly Jews and homosexuals. In 1976, the Argentine military took power in an incredibly bloody coup and began a systematic massacre of its own population (it is generally agreed that the military murdered and "disappeared" between 25,000-30,000 people over a seven-year period, 1976-1983). Singled out for particular "attention" were the Jewish and homosexual populations (for a terribly chilling account of Navy Lt. Cmdr. Francisco Scilingo throwing live people out of military planes over the Atlantic Ocean, see Horacio Verbitsky, The Flight: Confessions of an Argentine Dirty Warrior. New York: New Press, 1996; see also Alicia Partnoy, The Little School: Tales of Disappearance and Survival in Argentina. San Francisco: Cleis Press, 1986; and Loveman-Davies, The Politics of Antipolitics, pp. 61-74, 158-170, 228-238, and 365-423).

15. There is no doubt that homosexuals are members of a particular social group and that Mr. XXXX is in danger due to that membership. As The Honorable A. Wallace Tashima, Judge, United States Court of Appeals for the Ninth Circuit wrote in *Geovanni Hernández-Montiel v. Immigration and Naturalization Service*: "Geovanni's female sexual identity must be fundamental, or he would have changed years ago. . . .Geovanni should not be

required to change his sexual orientation or identity. . . . Because we conclude that Geovanni should not be required to change his sexual orientation or identity, we need not address

whether Geovanni could change them. Geovanni's credible and uncontradicted testimony about the inherent and immutable nature of his sexual identity compels the conclusion that Geovanni was a member of the particular social group of gay men in Mexico with female sexual identities."

16. As noted above, Mr. XXXX's homosexuality makes him a particularly high profile target. Both the military and the police firmly believe that they are "cleansing" the body politic and therefore *La Patria* of all that is dirty, undesirable, and dangerous to the morality of *La Patria* and its children. Since Mr. XXXX will be deported by the United States, the government, the police, and the military will not only know of the exact date and time of his arrival, they will all view him as an individual who is some type of criminal and one who is most definitely a despicable homosexual. Indeed, given the climate in Argentina and the role the authorities play in denying basic human and civil rights, it is my considered opinion that Mr. XXXX will be arrested at the airport and sent directly to prison. At best, there would be a form of preventive detention with the same end result: Mr. XXXX either going directly to jail or being tortured and killed "while trying to escape," or some such scenario. His chances of avoiding the authorities and detention are nil. Moreover, once incarcerated, the general prison population will immediately target Mr. XXXX for massive abuse and most probably death. As outlined below, neither the government nor the police can or will do anything to help Mr. XXXX.

Finally, Mr. XXXX's own family will shun him as "unclean," as a disease-carrying monster. They will not touch him; they will not allow him into their homes; they will attack him verbally, as a *sidioso* or one infected with AIDS (even though he is not) and they will attack him physically. Indeed, it is even conceivable that Mr. XXXX's own family will be responsible for his death. His presence constitutes a terrible stain on the family *apellido* or last name, something which has been the most important thing to an Hispanic family since the days of the *Reconquista* (711-1492) in Spain. I have personally seen families react to the news that one of theirs is homosexual and/or infected with HIV/AIDS and it is a terrible, heart-wrenching sight indeed.

17. Argentina is the very epitome of a country which has been devastated by neo-liberal economic policies. The exchange

rate of peso and dollar is extremely precarious with most experts predicting a series of disastrous devaluations in the near future. The long-promised economic recovery "slowed in 1998 and in 1999 entered a recession. There was no real economic growth during the year. Unemployment rose to 13.8 percent in 1999 and in October it had reached 14.7 percent. Income disparities remain a serious problem; the wealthiest 10 percent of the population received 36 percent of total personal income, while the poorest 10 percent received 1.5 percent of total personal income during the year" (2000 Country Report on Argentina, p. 1).

Since that was written, the economic situation has declined precipitately. There have been a number of economic-based riots in the past six months and on August 18, 2001, at their annual Rio Group summit, Latin American leaders (led by Chilean President Ricardo Lagos) called upon U.S. President George W. Bush to come to the aid of Argentina immediately, arguing that an Argentine default on its **\$128 billion** debt would plunge all of Latin America into massive depression (a situation which has worsened demonstrably since the horrific events of September 11 in New York and Washington, D.C. See report of the World Bank, October 3, 2001).

18. The natural result of such economic collapse is almost always a breakdown in law and order and a diminution of basic human and civil rights. According to the 2000 Country Reports on Human Rights Practices-Argentina, Bureau of Democracy, Human Rights, and Labor, U.S. Department of State, February 2000, p. 1, (Hereafter cited as 2000 Country Report on Argentina): "Police officers continued to commit extrajudicial killings. Police torture and brutality are serious problems. . . . Prison conditions are poor. Police arbitrarily arrested and detained citizens, and lengthy pretrial detention is a problem. The judicial system is inefficient and is subject at times to political influence and to inordinate delays in trials. There were many reports of harassment, threats, and criticisms of the press by public officials. Police used violence against demonstrators on a number of occasions during the year, with one person killed as a result. Violence and discrimination against women also are problems. Child abuse and child prostitution continued to be serious problems. Anti-Semitism is a problem . . . discrimination against indigenous people persists."

"The Constitution prohibits torture, and the Criminal Code provides penalties for torture that are similar to those for homicide; however, police torture and brutality remain serious problems. Human rights organizations described widespread police brutality, the use of torture on suspects, and corruption within the police forces. In June 1997, the U.N. Committee Against Torture criticized the Government for tolerating continued

brutality and the use of torture in police stations and prisons" (p. 5, 2000 Country Report on Argentina).

Of tremendous importance for this case is the U.S. Department of State's statement that: "AI [Amnesty International] reported that on February 16, transvestite Vanesa Lorena Ledesma,

also known as Miguel Angel Ledesma, died while in police custody; the body showed signs of torture" (p. 2, 2000 Country Report on Argentina).

That death assumes even greater relevance when placed in a broader context: "In March, 1999, the Federal Government promulgated Decree 150, which instructs police to prevent conduct that 'without constituting misdemeanors nor infractions in the code of misdemeanors, should be avoided.' . . . Critics complained that the decree revived the old police edicts that had been in effect until the Buenos Aires City Council passed its Code of Misdemeanors in March 1998. Human rights groups long had argued that these edicts **were used as an excuse for arbitrary detentions, particularly of young persons, immigrants, prostitutes, and transvestites** (Emphasis mine, p. 7, 2000 Country Report on Argentina).

Moreover, prison conditions in Argentina are dismal: "Prison conditions are poor. Many prisons and jails are overcrowded, and some facilities are old and dilapidated. According to the Federal Penitentiary Service and by the different provincial jurisdictions, in 1999 the prison system held 43,126 inmates in facilities designed to hold 23,523 persons, indicating a serious overcrowding problem.

Reliable information on medical care and food available to prisoners is unavailable, but the general impression is that such services are minimal and of low quality" (2000 Country Report on Argentina, p. 6). Moreover, medical care even decent food are provided historically by the families of the prisoners, but since Mr. XXXX is homosexual, it is very unlikely that his family would help him at all.

Given this scenario of life in Argentina, it would be absolutely impossible for Mr. XXXX to receive any type of protection from state security forces. If they wantonly torture, murder and illegally detain their citizens, otherwise violate basic human rights of women, indigenous people and religious minorities, and single-out homosexual men and women for abuse and violence, how could anyone expect them to respect Mr. XXXX's rights as a homosexual. The answer is that they will not and they will harass and most likely kill Mr. XXXX very soon after his arrival in Argentina.

Moreover, people in all cultures begin to look for scapegoats to explain THE CRISIS THROUGH WHICH THEY ARE PASSING AND UPON WHOM THEY CAN VENT THEIR FRUSTRATIONS. Homosexuals have been singled out for centuries and it is no different in the Argentina of 2001. Mr. XXXX will be in danger not only from the security forces, but also from the mobs in the street which have become increasingly larger and bolder.

19. If not death, then jail, without medical care, is the most likely fate for Mr. XXXX. Moreover, since Mr. XXXX will be deported from the United States, his arrival will be well known to all relevant government agencies. His name will be on the flight manifest and if he should enter by land, he will be logged in and his whereabouts known immediately.

20. Regarding the general question of whether or not the respondent could simply move to another region of the country, thereby evading the vigilance of his/her enemy, my response is an unequivocal and unqualified "NO." I base that opinion on several familial and cultural factors which are unique to Argentine society, and to most of Latin America.

In the first place, Latin American and Argentine culture is predicated almost exclusively on the concept of an extended family, i.e., a family which includes distant as well as close relatives. My "immediate family" in Peru which gathers every Sunday is composed of more than 50 individuals. The "whole family" numbers in the hundreds.

Moreover, in Argentina and Latin America there is a system of ritual kinship called *compadrazgo* which is totally alien to Anglo-American culture. When a couple names godparents for the baptisms of their children, those individuals become their *comadres* or *compadres*. The relationship between the parents and the godparents is so extremely important that they often are closer to each other than even siblings.

The point is that there is an incredible networking system in place which can be utilized for finding someone or something in a very short time frame. One need only call relatives and *compadres* seeking their help and the number of people that can be mobilized is almost unbelievable. Indeed, these familial networks are often more efficient than the intelligence services of most nations.

In May, 1996, I decided to test the system by using my own familial and *compadrazgo* networks in Peru in order to find someone who had caused my Peruvian family no little grief. In 1977, a young man impregnated a cousin of mine, stole all her

money, and promptly disappeared. The family made a few desultory attempts to find him, but then dropped the matter out of deference to the young woman. If the system indeed worked as I have argued, this case would provide an ideal test.

Over the next few days, I made a number of long distance phone calls to Peru and sent a few cables and a couple of letters by international courier service. Frankly I did not expect to hear back for several months, but eleven (11) days after I had finished making my contacts, I received word that the young man had been found using a false identity in a remote jungle area of eastern Peru. If I can do that 20 years after the incident and 8000 miles away, it is clear that the Argentine police and military, who possess their own intelligence networks, can accomplish the same task even faster. Thus, Argentine government and military intelligence services are on the spot, capable of instant intelligence, and could accomplish the task even more quickly than I could. They would know of Mr. XXXX's whereabouts almost immediately and all possible efforts to foil their intelligence gathering would be futile.

Finally, Argentina, like all other Latin American republics has an elaborate system of identification documents which must be carried on one's person at all times. Although the exact terminology might vary from country to country, they all use the following: military ID (for males), electoral identification, and tax identification. All of these must contain current address information under penalty of arrest and incarceration. As Mr. XXXX explains so clearly and succinctly in his affidavit, Argentine citizens may be and are stopped by security forces, AT WILL, and they had better have up-to-date documents or they will be sent directly to jail. Thus, Mr. XXXX's whereabouts will always be known.

21. In sum, then, due to that fact that he is an admitted homosexual, Mr. XXXX is a high profile target who is clearly in extreme danger if he were forced to return to Argentina. It is my considered, professional opinion that the Argentine military and police not only possess the desire to eliminate all criminals, gang members, undesirables and moral deviates (read homosexual) and thereby "cleanse" the polity, they have the power necessary to find and eliminate Mr. XXXX. Moreover, it is my judgment that they will indeed kill Mr. XXXX either in the short run or the long run, with a high degree of effectiveness.

Thomas M. Davies, Jr.
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Date