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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
EASTERN DIVISION**

IMMIGRANT DEFENDERS LAW CENTER,
et al.,

Case No. 2:20-cv-09893-JGB-SHK

Plaintiffs,

v.

CHAD WOLF, et al.,

Defendants.

DECLARATION OF DANIEL F. BERLIN, ESQ.

1 I, Daniel F. Berlin, hereby declare under the penalty of perjury pursuant to 28
2 U.S.C. § 1746:

3 **Background**

4 1. I am a U.S.-trained human rights attorney currently residing in Mexico
5 City, Mexico, working as the Deputy Director of Asylum Access México (“AAMX”).

6 2. I earned a B.A. in Asian Studies from Cornell University in 2002 and a
7 J.D. with a Certificate in Refugees and Humanitarian Emergencies from Georgetown
8 University Law Center in 2009.

9 3. I have dedicated my legal career to promoting immigrant rights and civil
10 rights, working in non-profit and multilateral institutions in Africa and Latin America,
11 as well as in private practice in the U.S.

12 4. AAMX is the largest provider of legal services to refugees and asylum
13 seekers in Mexico. We currently employ 23 attorneys who provide individual
14 consultations and group “know your rights” presentations that benefit more than
15 10,000 refugees and asylum seekers each year. We have seven offices in Mexico
16 City; Tenosique, Tabasco; Villahermosa, Tabasco; Palenque, Chiapas; Acayucan,
17 Veracruz; Monterrey, Nuevo León; and Tijuana, Baja California.

18 5. All of our attorneys work under my direct or indirect supervision.

19 6. AAMX also engages in policy advocacy and strategic litigation in
20 Mexico, and to a lesser extent in the United States, to promote equitable, just, and
21 efficient asylum systems and to make refugee rights accessible throughout the region.

22 7. Through my work supervising our legal services and participating in
23 policy advocacy and strategic litigation, I am intimately familiar with the impact of
24 the Migrant Protection Protocols (“MPP”) on refugees and asylum seekers in Mexico.

25 8. My work requires that I understand U.S. and Mexican immigration laws.
26 To maintain my expertise, I regularly attend internal and external trainings on a wide
27 variety of topics related to asylum law in the U.S. and Mexico, and participate in
28

1 discussions with my Mexican colleagues to understand nuances of Mexican
2 immigration law.

3 9. I am also responsible for periodically assessing the security situation in
4 all areas of Mexico in which AAMX works or considers working, to develop effective
5 security plans for our staff and clients.

6 10. The statements in this declaration are based upon (1) my personal
7 experience coordinating AAMX's work in Mexico, (2) conversations with AAMX
8 employees who work directly with asylum seekers, (3) conversations with other civil
9 society organizations, international organizations including the UN High
10 Commissioner for Refugees ("UNHCR"), other UN bodies, Mexican government
11 officials, and academics; and (4) extensive tracking of news coverage and research
12 regarding MPP.

13 **How MPP Impacts Asylum Seekers in Mexico**

14 11. AAMX attorneys often counsel asylum seekers in MPP, explaining their
15 options in Mexico should they determine that seeking asylum in the United States
16 through MPP is an untenable option.

17 12. Our clients regularly discuss the hardships that MPP places upon them.

18 13. In particular, both our clients and clients of partner organizations
19 working in Mexico report frequent instances of kidnappings, extortion, robbery, and
20 sexual violence against asylum seekers returned under MPP.

21 14. Mexico generally issues a migration document called a "multiple
22 migration form" ("FMM" in Spanish) to asylum seekers returned under MPP. While
23 this document should protect asylum seekers against deportation from Mexico, it
24 confers few other rights. FMMs are generally valid only until the next scheduled court
25 date in the U.S.

26 15. The majority of asylum seekers subjected to MPP await their US
27 Immigration court dates in areas on or near the U.S./Mexico border. These areas are
28 among the most dangerous parts of Mexico, and in some instances, the world.

1 16. Mexican migration authorities generally confiscate the FMM when a
2 migrant leaves Mexico. If an asylum seeker subjected to MPP attempts to reenter
3 Mexico after surrendering their FMM, there is no guarantee that they would be issued
4 a new FMM upon their return, even if they provide a notice of their MPP hearing.
5 With MPP hearings continually postponed due to COVID-19, many asylum seekers
6 do not have updated U.S. documents indicating their next MPP hearing, which makes
7 their FMM status even more uncertain. Therefore, even the few asylum seekers who
8 may have the means to go elsewhere are forced to stay in Mexico under MPP.

9 17. Although the FMM does not impose any legal restrictions on movement
10 within Mexico, there are many practical reasons why MPP returnees do not leave the
11 border areas.

12 18. First, whereas the border cities in which MPP returnees typically reside
13 are often extremely violent, people are unable to move away from those areas because
14 traveling back and forth between border states can be an even more dangerous
15 proposition. The U.S. Embassy, for example, forbids its employees from non-official
16 travel through Chihuahua, Sonora, Coahuila and Tamaulipas states due to the
17 prevalence of robberies, kidnappings, and murders on the roads and highways.

18 19. The U.S. Embassy's concerns about the safety on border roads are well
19 founded. On November 4, 2019, an armed group massacred 9 U.S. citizens (3 women
20 and 6 children) transiting between Sonora and Chihuahua.

21 20. Tijuana poses particular security concerns. A 2018 study by the Mexican
22 NGO *Consejo Ciudadano para la Seguridad Pública y la Justicia Penal A.C.* found
23 Tijuana to be the most violent city in the world outside war zones, with a homicide
24 rate of 138 per 100,000.¹

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27 ¹ See, *Consejo Ciudadano para la Seguridad Pública y la Justicia Penal A.C.*,
28 "Boletín Ranking," available at
<http://www.seguridadjusticiaypaz.org.mx/seguridad/1564-boletin-ranking> (last visited
Nov. 6, 2020).

1 21. I am personally responsible for the security of AAMX’ team in Tijuana,
2 and therefore regularly receive and evaluate reports of security incidents related to our
3 employees, clients, and partner organization. I am aware of incidents of extortion,
4 armed robbery, and threats of violence against our staff and other NGO workers, as
5 well as incidents of robbery, kidnapping, sexual assault, and murder against refugees
6 and migrants in Tijuana, Mexicali, and on the intra-city roads in Baja California.
7 AAMX has adopted strict security protocols in our Tijuana office to mitigate these
8 risks, including forbidding our staff from travelling at night or alone outside the city.
9 The situation is sufficiently severe that several of the organizations that AAMX
10 partners with refuse to allow us to place volunteer advocates in our Tijuana office.

11 22. Asylum seekers returned under MPP are particularly at risk of falling
12 victim to violent and non-violent crimes in Baja California, as their abilities to access
13 safe housing, work, food, and health care services are extremely limited, and finding
14 the means to survive often places them in dangerous situations.

15 23. Yet, asylum seekers returned under MPP must periodically report at a
16 designated border port of entry to receive new hearing dates (which have been
17 continually postponed during the COVID-19 pandemic). Therefore, those who choose
18 to leave the immediate border areas must transit through the border states several
19 times during the pendency of their claims.

20 24. Beyond the dangers associated with transiting back and forth to ports of
21 entry to get new MPP paperwork and renew FMMs, this type of travel can be
22 prohibitively costly for MPP returnees.

23 25. The FMM is a temporary legal status, which does not confer a right to
24 work. Very few asylum seekers under MPP find any employment opportunities in
25 Mexico, and those who do are relegated to the lowest paying jobs in the informal
26 economy.

27 26. Asylum seekers in the MPP program encounter nearly insurmountable
28 barriers in accessing counsel. Even before the pandemic, most U.S.-based attorneys

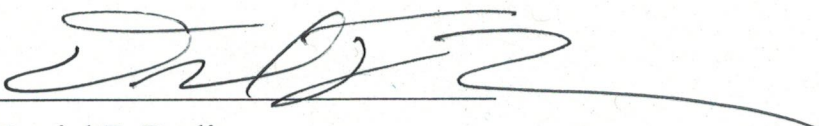
1 were reluctant to travel to violent border towns in Mexico to meet with clients. Many
2 asylum seekers in Mexico have only sporadic access to phones and internet and
3 cannot find private spaces in camps or shelters to conduct virtual legal consultations
4 even when an attorney is available.

5 27. Whereas a few legal services organizations operate in border cities,
6 Mexico City, and Monterrey, and are able to represent or advise a small number of
7 MPP clients, there are virtually no legal services providers taking MPP cases in the
8 rest of Mexico. Once an MPP asylum seeker travels to the interior of Mexico, the
9 minute chances of finding competent counsel that exist on the border diminish to close
10 to zero.

11 28. Given the foregoing reasons, it is unsurprising that most asylum seekers
12 subjected to MPP remain on or near the border, despite the many significant
13 challenges and risks that exist there.

14
15 I declare under penalty of perjury under the laws of the United States that the
16 foregoing is true and correct to the best of my knowledge and belief.

17 Executed on this 6 th day of November 2020 in Mexico City, Mexico.

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21 Daniel F. Berlin