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Kilpatrick Lawyers Handling Asylum Case for Transgender Mexican Woman

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A transgender woman from Mexico seeking asylum because she fears further abuse if she's deported will learn her fate on Tuesday.

Job "Estrella" Antonio-Sanchez applied for asylum in October 2012, after she was detained by Immigrations and Customs Enforcement, saying she'd been abused and raped from a young age in Mexico because of her transgender status. Judge Dan Trimble of the Stewart Immigration Court in Lumpkin, Georgia, has already denied her asylum petition once. At the time, she was representing herself pro se.

But at her second hearing before Trimble on June 1, Antonio-Sanchez was represented by Kilpatrick Townsend & Stockton. Jeff Fisher, an associate, and Michael Turton, a patent litigation partner, took her case pro bono. Trimble has summoned the Kilpatrick lawyers to Lumpkin to receive his ruling on June 30.

After Trimble denied Antonio-Sanchez's asylum petition at the beginning of 2013, she contacted Immigration Equality. The New York nonprofit offers free legal services to LGBT and HIV-positive immigrants. They took her case and appealed to the Board of Immigration Appeals and the U.S. Court of Appeals for the Eleventh Circuit. In February it



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Jeffrey Fisher

was remanded back to Trimble for a new evidentiary hearing.

"It's not very often that you see a detained, transgender, indigent woman who is not very fluent in English have her case reviewed by so many courts," said Clement Lee, the Immigration Equality lawyer who represented Antonio-Sanchez.

Lee asked the Kilpatrick lawyers to represent Antonio-Sanchez at the new hearing. According to the remand

order from the Board of Immigration Appeals, they must persuade the judge that Antonio-Sanchez was abused in Mexico because she is transgender and that the Mexican government is incapable of protecting her from further harm.

Her lawyers must also persuade the judge to waive the one-year statute of limitations on applying for asylum, since Antonio-Sanchez had been in the United States for about a decade before she applied.

What's more, she is appearing before the immigration court with the highest deportation rate in the nation. Stewart Immigration Court ordered deportation for 93 percent of respondents in fiscal 2015. That compares with a national deportation rate of 48 percent and 66 percent for Atlanta Immigration Court, according to data from TRAC at Syracuse University.

Fisher is hopeful that his client will not be deported. "We feel like we've raised a lot of new evidence on both of the issues raised in the remand order," he said.

In the order denying Antonio-Sanchez's initial asylum petition, Trimble wrote that he found her credible and accepted that she was abused in Mexico, but he questioned that she experienced the abuse because she is transgender status. Instead, he found that her repeated rapes were to "satisfy the sexual desire of the perpetrators," according to the brief Kilpatrick filed before the second hearing on June 1.

Trimble's order also said that conditions in Mexico have improved for LGBT people, citing laws recognizing gay marriage and forbidding discrimination based on sexual orientation, so that Antonio-Sanchez "failed to meet his burden of demonstrating a well-founded fear of persecution."

According to Kilpatrick's brief, Antonio-Sanchez was repeatedly raped by four different men in Mexico, starting from when she was 8 until she left the country at 19. All of the men who assaulted her used homophobic and transphobic slurs. Schoolmates harassed her with similar slurs, calling her "maricon" (faggot), "puto" (whore) and "joto" (closeted gay person). They also attacked her physically.

Antonio-Sanchez was first assaulted by a cousin and her mother's boss, who each raped her from age eight to 13, the brief said. She did not start dressing as a woman until moving to the United States, but the attacks in Mexico began when men noticed her feminine nature, according to the brief.

She reported these incidents to her parents, but they did not believe her and did nothing. Antonio-Sanchez, who is from the state of Veracruz, ran away from home at 13 and moved to a larger city. According to her lawyers' brief, a male relative of a woman who gave her shelter there assaulted her. She ran away again and met a "powerful government official," who offered her shelter and protection while she finished middle school, but then made homophobic insults, beat and raped her. He also threatened to kill her if she reported the attacks.

At 19, she met a woman who promised to get her a job in the United States caring for an elderly person. Instead, the woman sold her into prostitution in Texas, where she was imprisoned in a brothel. After a year, she escaped.

The government lawyer for the removal proceeding, Danielle Casachee, could not be reached for comment, and immigration court filings are not public.

The Bureau of Immigration Appeals denied Antonio-Sanchez's initial appeal for the same reasons as the immigration judge.

When the Eleventh Circuit remanded the case to the Board of Immigration Appeals last July, it instructed the board to reconsider whether Antonio-Sanchez's abuse in Mexico was because she is transgender and whether the Mexican government can keep her abusers from doing her further harm if she is deported.

The appeals board in February remanded the case to Trimble for a new hearing, directing him to make "specific factual findings and conclusions" on both questions after he allows the parties to supplement the record with additional evidence and arguments.

The Kilpatrick lawyers briefed the case from scratch, attaching a new declaration from Antonio-Sanchez and testimony from two experts. Nielan Barnes, a sociology professor at California State University, Long Beach, wrote a declaration about the threats to transgender women in Mexico. Dr. Bruce Hill, a psychiatrist at the Veterans Affairs

Medical Center in Washington, wrote an affidavit saying Antonio-Sanchez has post-traumatic stress disorder from her abuse, calling it an "extraordinary circumstance" that excuses her delay in seeking asylum. Kilpatrick flew both experts to Lumpkin for the June 1 evidentiary hearing.

Mexico is more dangerous for transgender women, not less, than when Antonio-Sanchez fled the country a decade ago, according to Barnes' declaration. It is one of the most homophobic and transphobic countries in the world, with a machismo culture that values "hyper-maleness," she wrote. The Transgender Murder Project ranks it the second-deadliest country for transgender women.

"LGBT people are 'routinely ridiculed, assaulted and even murdered because they are perceived to offend the Mexican idea of machismo, and are viewed as 'sinners' and 'dirt.' Transgender individuals in particular are viewed by the police as easy targets because they are presumed to be prostitutes or otherwise engaged in criminal activity," Barnes wrote.

While Mexico now allows same-sex marriage, incremental legal advances for LGBT people and a more visible gay pride movement have sparked a backlash, Barnes wrote. Moreover, she said, the new laws protect gay men, not transgender women, and they are not enforced by a police force that is riddled with corruption and homophobia.

"Estrella broke down on the stand in the original hearing when they read the ruling that she would be deported," Fisher said. "She was crying uncontrollably. She is terrified of returning to Mexico."

Antonio-Sanchez is also in more danger because she's undergone hormone treatments and appears a transgender woman, not a gay man, he added.