Record of Negative Credible Fear Finding and Request For Review by Immigration Judge

Alien File Number: [Redacted]

1. To be explained to the alien by the asylum officer:

U.S. Citizenship and Immigration Services (USCIS) has determined that you do not have a credible fear of persecution or torture pursuant to 8 CFR 208.30 for the following reason(s):

A. [X] You have not established a credible fear of persecution in your country of nationality, country of last habitual residence, or a country to which you have been ordered removed because:

☐ You have not indicated that you were harmed in the past and you have not expressed fear of future harm.
[✓] There is no significant possibility that you could establish in a full hearing that the harm you experienced and/or the harm you fear is on account of your race, religion, nationality, political opinion, or membership in a particular social group.

☐ You have not indicated that you were harmed in the past, and there is no significant possibility that you could establish in a full hearing that the harm you fear is well founded.

☐ There is no significant possibility that you could establish in a full hearing that the harm you experienced or fear was/is sufficiently serious to amount to persecution.

☐ There is no significant possibility that you could establish in a full hearing that the entity that harmed you or would harm you was/is an agent of the government or an entity the government was/is unable or unwilling to control.

AND

[✓] You have not established a credible fear of torture in a country to which you have been ordered removed because you have not established that there is a significant possibility that:

☐ You would suffer severe physical or mental pain or suffering.

[✓] The harm you fear would be specifically intended to inflict severe physical or mental pain or suffering.

☐ The harm you fear would be inflicted by or at the instigation of, or with the consent or acquiescence of, a public official or other person acting in an official capacity.

☐ The harm you fear would be inflicted while you are in the custody or physical control of the offender.

☐ The harm you fear would not arise only from, would not be inherent in, and would not be incidental to, lawful sanctions.

B. ☐ Considering the totality of the circumstances and all relevant factors, you have not established that your testimony is credible.

Therefore, you are ordered removed from the United States. You may request that an Immigration Judge review this decision.

If you request that an Immigration Judge review this decision, you will remain in detention until an Immigration Judge reviews your case. That review could occur as long as 7 days after you receive this decision.

If you do not request that an Immigration Judge review the decision, you may be removed from the United States immediately.

2. To be completed by the alien:

[✓] Yes, I request Immigration Judge review of the decision that I do not have a credible fear of persecution or torture.

☐ No, I do not request Immigration Judge review of the decision that I do not have a credible fear of persecution or torture.
The following notes are not a verbatim transcript of this interview. These notes are recorded to assist the individual officer in making a credible fear determination and the supervisory asylum officer in reviewing the determination. There may be areas of the individual's claim that were not explored or documented for purposes of this threshold screening.

Hello, my name is Officer Sternberg and I am the Asylum Officer who is going to conduct your interview today. We are having this interview because you told the US government that you are afraid to return to your home country.

Q: Do you still fear returning to your country?
A: Yes

Q: What is your native language?
A: Ixil

Q: Do you feel comfortable having this interview in Ixil?
A: Yes

Q: Do you speak any other languages?
A: I speak Spanish and also Ixil of Chajul and Ixil of Nebaj

Briefly explained purpose and process of credible fear interview

Q: The credible fear process is explained in further detail in a two-page form called the M-444. Do you remember receiving and signing the M-444 form which explains the credible fear screening process?
A: Yes

Q: Do you have any questions about the credible fear process?
A: No

Q: Do you have an attorney or a consultant?
A: Yes. [Called {telephone number} at \{date\}]

The interpreter is now going to explain to you the purpose of this interview.

(1.28) The purpose of this interview is to determine whether you may be eligible for asylum or protection from removal to a country where you fear persecution or torture. I am going to ask you questions about why you fear returning to your country or any other country you may be removed to. It is very important that you tell the truth during the interview and that you respond to all of my questions. This may be your only opportunity to give such information. Please feel comfortable telling me why you fear harm. U.S. law has strict rules to prevent the disclosure of what you tell me today about the reasons why you fear harm. The information you tell me about the reasons for your fear will not be disclosed to your government, except in exceptional circumstances. The statements you make today may be used in deciding your claim and in any future immigration proceedings. It is important that we understand each other. If at any time I make a statement you do not understand, please stop me and tell me so that I can explain it to you. If at any time you tell me something I do not understand, I will ask you to explain.

Q: Do you have any questions about what was just read to you?
A: No

Q: Before we begin, I am going to place you under oath. Do you promise that all the statements you are about to make will be the truth, the whole truth and nothing but the truth?
A: Yes, I do

[Applicant and interpreter placed under oath]
Q: How is your health today?
A: I feel fine, thank you

Q: Do you have any medical or health issues that I should be aware of?
A: I'm fine. I feel a little bit chilly because I am not used to the climate here.

O: Biographic Review

O: What is your true and complete name?
A: 

O: Have you ever used any other name?
A: No

O: What is your correct date of birth?
A: 

O: Have you ever used any other dates of birth?
A: No

O: What country were you born in?
A: Guatemala

O: Are you a citizen of Guatemala?
A: Yes

O: Have you ever been a citizen of any other country?
A: No

O: Where were your parents born?
A: Guatemala

O: Are they citizens of Guatemala?
A: Yes

O: Have either of your parents ever been to the United States or been U.S. citizens?
A: No, they've never been here. They don't have papers for living here. They are in Guatemala alright now.

O: What was the address of the last place you lived at in your country?
A: Municipality province of Quiche, Guatemala

O: What is your religion?
A: Catholic

O: What is your ethnicity?
A: 

O: What is your marital status?
A: I am married in the church and legally. Her name is . She is in , Guatemala.

O: How many children do you have?
A: I have 4 children total. 1 son who is with me and the other 3 are with their mother in Guatemala. [see notes]
Q: Who would you reside with in the United States, if you are released from the detention center?
A: My cousin, He lives in. I don’t know his immigration status

Q: What type of work did you do in Guatemala?
A: I was a farmer, I did agricultural work.

Q: What is your highest level of education?
A: I finished through 9th grade and then I took more two years. I studied psychology for two more years after that.

Q: How many times have you come to the United States?
A: This is the second time I’ve been here. The first time I came, my father was sick and so I went back to see him. I stayed there about 5 or 6 years before I came back here.

Q: When did you come the first time?
A: January 2008. I was here for a couple of years, I left in 2011.

Q: Did you leave voluntarily?
A: Voluntarily.

Q: When did you leave your home country?
A: I left my house around the 10th or 12th of December.

Q: When & how did you last enter the US?
A: Around December 18. I crossed the border where the fences are.

Q: Did you travel with any family members?
A: Just my son.

Q: Do you want your son included on your case?
A: That’s fine if you join them.

Q: Are you willing to answer questions on your son’s behalf?
A: Yes, that’s fine. I will answer for him.

Q: Where is your son right now?
A: He’s here.

Q: Are you comfortable talking to me today with your son in the room?
A: That’s fine. I’m ok with that.

Q: Are you comfortable telling your story to a female officer?
A: Yes I have no problem with that.

PERSECUTION
Ok now I am going to focus on your claim for protection.

Q: Did anyone ever threaten or harm you in Guatemala?
A: There was one time that I was very frightened, we were walking along.

Q: Did anyone ever threaten you or harm you?
A: Yes I was stopped, grabbed by a couple of guys, between Quiche and Sacapulas and they almost killed me.
Q: When did this happen?
A: Maybe a year and 2 or 3 months ago.

Q: Who were these guys who stopped you?
A: I don’t know who they were and their faces were covered. It’s a big town where we were

Q: Why did they grab you, what did they want from you?
A: They wanted money from me and they wanted to take whatever I had and if I didn’t give it to them, they threatened to kill me.

Q: You said they almost killed you, what did they do to hurt you?
A: Because they wanted what I was carrying. I gave it to them and then they released you.

Q: Did they have any injuries?
A: They threw me to the ground and stole what I had

Q: Were you bleeding?
A: No, only they threw me to the ground.

Q: Did you need medical treatment?
A: I went to buy some medicine for the pain because it was very painful and because of the fright that they gave me.

Q: Did they use any weapons?
A: Yes they had weapons, they had a gun, which they pointed at me.

Q: Did you have any other problems in Guatemala?
A: a couple of months before I left the country there were a couple of guys with guns nearby but I was able to pass by and fortunately nothing happened to me but it really frightened me.

Q: Was there ever another time when someone threatened you?
A: That’s it.

Q: Why do you think these people targeted you to steal from you?
A: There are places where we walk in Guatemala and if they see somebody, if we are walking in a place, and we are not from there, and if people see us and they don’t recognize us and they know that we are not from there, then they will rob us.

Q: Why do they rob people who aren’t from the area?
A: Just because we are not from there.

Q: the people who robbed you, what language did they speak to you in?
A: Spanish

Q: Were you able to communicate with them in Spanish?
A: I spoke to them but they quickly recognized that Spanish was not my primary language

Q: Did they make any comments to you about your language or the fact that you didn’t speak Spanish?
A: No they didn’t. They just told to give them our possessions

Q: Do you know if they also ask Spanish speakers to give them their belongings too?
A: They treat everyone the same because all they are looking for is to rob money.

Q: Did they threaten to do anything to anyone in your family?
A: No they did not because they didn’t know where I lived.
Q: You said that there were people with guns in the area about 3-4 months ago. Did you personally see those people?
A: Yes, I saw them. But because there were a lot of people around and their faces were covered, we couldn’t recognize them.

Q: Did they say anything to you?
A: No they didn’t say anything to me.

Q: Did they say anything to anyone that you were with?
A: No, because we were inside a vehicle and we just passed by after it happened.

Q: After what happened?
A: After they used their guns, after that we passed by.

Q: What did they do with their guns?
A: They were robbing people but there were a lot of cars around so we just passed by.

Q: Did you report the theft to the police?
A: Yes, I did go to the police and report it and they went to the place where I was but the thieves had already taken off.

Q: The police went to the place where you were?
A: Yes, they did but no one was there when they got there.

Q: How long did it take the police to get there?
A: Like an hour

Q: Did the police do anything else?
A: They asked me what they were wearing and they went to look for them there, they didn’t see them there, and then it just ended it.

Q: Did the police say anything else to you?
A: No they didn’t say anything else to me.

Q: Did you think that the police could protect you?
A: Yes

Q: Do you think that the police could help you in the future?
A: Maybe there are some police man who are good and others who turn into thieves and they don’t have good attitudes.

Q: What do you mean that there are some police officers who turn into thieves?
A: I understand that there are some police who work together with thieves that they don’t think about protecting us because they are in agreement with the thieves.

Q: How do you know that?
A: Because we see that that’s how it is.

Q: Can you give me an example of something you’ve seen or heard?
A: Often times the towns are very separated, there is a lot of distance in between the towns, and we can watch on television and see on television that that is what they do.

Q: When you called the police did it seem like they were willing to help you?
A: All I did was report it to them and I went home because I didn’t want to go back to the place where I was robbed.

Q: How do you know that the police went there?
A: Because they know where the thieves go, they know where they operate and bother people, that's how they knew where to go and that's how they went.

Q: Other than your problems you already mentioned, did anyone else in your country ever threaten or hurt you?
A: That's the only thing that has happened these two incidents and only what my father tells me about the war that took place in 1984.

Q: Did anything happen to your son in Guatemala?
A: No, nothing happened to him because he is small and would stay home with his mom.

Q: Why did you decide to bring your son with you?
A: Because I was to raise him here because of all the frightful things in our country.

Q: When you were growing up, did any members of your family ever threaten or harm you?
A: No, the only time that ever happened is in the street where we walked that's the only time I had even been threatened. No one in my family ever threatened me.

Q: Have you ever been threatened or harmed by a romantic partner?
A: No.

Q: What do you think would happen if you went back to Guatemala?
A: I am afraid because will people will see us there and will think I have money and they will kill us together.

Q: Why would someone see you and think that you have money?
A: Because there are thieves who act this way. They target people who have been to the US for robbery and kill them if you don't give them the money.

Q: How would someone know that you've been to the US?
A: Because they get word that we are gone.

Q: How do you know that?
A: Because it is clear to them and there are people that are there who tell us that we have gone.

Q: Do you know of anyone who has been harmed after you returned to Guatemala from the US?
A: No, I just see it on tv, that there are people that leave here and they go to the airport and then they are assaulted by robbers.

Q: When you returned to Guatemala from the US, did anyone know that you had been in the US?
A: No because they did not see my return, they did not see me return the first time.

Q: How would they see you return this time then?
A: They could realize that I have come back and think that I am rich.

Q: How would they realize, what would be different about the first trip and the second trip?
A: Because they were aware that I was here the first time.

Q: I don't understand. Can you explain this better to me?
A: What am I afraid of and what I feel is my heart is that I will be targeted again for robbery.

Q: Has anyone looked for you after you left Guatemala?
A: I don't know because I am not there.

Q: Is there anyone in particular that you think would harm you?
A: I don't know because we don't know those people who do those sorts of things because they disguise themselves. They won't show themselves.

Q: I just want to be clear, no one threatened to hurt you in the future but you think that someone would hurt you because they would know that you are returning from the US?
A: That's correct. But what I am really afraid is that there are so many people who would kill others and that's what I am afraid of.

Q: Could the police or another part of the government stop them from harming you? Why not?
A: That's difficult to answer. There is discrimination in Guatemala because we don't speak Spanish and they don't speak Ixil and it would be difficult for us to explain to them what happened to us.

Q: You said that you were able to explain to them what happened to you a year ago though?
A: Correct

Q: Why do you think that you wouldn't be able to explain it in the future?
A: The thing is that they don't really realize when something happens to us, or when suffering goes on in our lives. And the place where I lived there, there is no security

Q: Why is there no security?
A: There are no roads leading in, there is no water coming in, and there is no electricity

Q: Do you fear being threatened or harmed for any other reasons if you were to return?
A: No, just that criminals will rob me. There is no security there and no one will see if someone kills us.

I understand why you are afraid to return. I am going to ask you some additional questions to make sure there is no other reason why you are afraid.

Q: Do you believe that you have been or fear you will be harmed or threatened because of your race or skin color?
A: They laugh at us because of the color of our skin

Q: Do you believe that you have been or fear you will be harmed or threatened because of your nationality or language?
A: I'll give you an example of what you were saying, for example people will not want to give us work because we don't speak Spanish. They laugh at us.

Q: Did anyone ever threaten to harm you or harmed you because you don't speak Spanish?
A: No, no one ever said anything or threatened me like that they just asked why we didn't understand Spanish and they just laughed at us and laughed at our appearance.

Q: Do you believe that you have been or fear you will be harmed or threatened because of your religion?
A: No, not because of that.

Q: Do you believe that you have been or fear you will be harmed or threatened because of your political opinion or your ideas, beliefs or the way you think?
A: I don't get involved in politics

Q: Is there anything about you that makes you different or makes people treat you differently than other people in your country?
A: Just the people that I told you about the first time, that's all that frightens me and that's why I left the country.

Q: Do you feel that you could be safe in another part of your country?
A: We might be but it could require money and we don't have enough money to buy a place to live.
Q: Are there other parts of Guatemala that are safer than your village?
A: I really don’t know but I believe in my opinion that the thieves are everywhere, the same in each place.

Q: How do you know that?
A: Because I see it on the news and in different places I see that there are thieves there.

Q: When you were robbed, did you consider it severe physical or emotional harm?
A: All I am saying is what I am afraid of is that the same thing will happen to me and I will die from fright is what I am afraid of. In terms of emotional harm, I wound up more poor because of the fact that they stole my possessions.

Q: Do you fear that if you return, you will be subject to severe physical and emotional harm?
A: Yes, I will die from fright.

Q: Do you think that anyone would hurt you or you would just die from fright?
A: I don’t know who would do it but what I am telling you is that my heart fears that I will be killed if I were to return.

Q: Do you have any reason to fear harm that such harm will come from the police, the government, public official, or anyone with any official authority?
A: I am afraid of the thieves. I am also afraid some what of the police because some of them use their guns to assault and rob other people.

Q: How do you know that the police use their guns to assault and rob other people?
A: Because I see on tv that there are police who wind up in jail because they use their guns to assault other people.

Q: Do you believe that the police or government are working with the people who are trying to harm you?
A: That’s what I am saying.

Q: What makes you think that they work together?
A: I saw that because the thieves pay the police off so that the police will not detain them.

Q: How do you know that?
A: Because I see it on television and it comes out in the story that when the police are apprehended then they tell the story that if they don’t cooperate with the thieves, then the thieves will kill them.

Q: Have you ever seen anything like that happen where you live?
A: No, all I can tell you is that there is no security where I live and I just see on television about the thievery that goes on and the robberies.

Q: Do you ever see police officers where you live?
A: No, they don’t go there.

Q: How far from your home were you robbed?
A: I walked 2 hours to get on the bus which took me to the town where this happened.

Q: Where were you when you saw the men with the guns?
A: It was quite a ways away because the buses that we ride are not close to where we live.

Q: When you saw the men with the guns that was not in your village?
A: No, it was somewhere between Quiche and Sacapules.

Q: Do you see criminals in the village where you live?
A: They do come but at night, they don’t come around during the day.

Q: Did the criminals in your village ever bother you?
A: No, we are just afraid because there is no security in that area.

Q: I know I asked this but I'll ask again to make sure, is there any other reason that you are afraid to return to your country?
A: No, there is no other reason, only what I told you so far.

Q: Did anything else happen to you in Guatemala that we haven’t talked about?
A: Maybe there are a few things but I can’t remember because it’s difficult for me to remember.

Q: Why is it difficult for you to remember?
A: Because there are a lot of things that happen to us in our life.

Q: What are you scared could happen to your son if he went back to Guatemala?
A: I am afraid that he will experience the same thing as I did.

Q: Can you be more specific, what do you mean?
A: My heart fears that he will get robbed or killed or shot out if he returns.

Q: Why would that happened to your son?
A: Because there are a lot of places like this in Guatemala where things like this happen, where there are thieves.

Q: Would it be ok if I asked your son a few questions?
A: ok, you can decide whether you want to ask him but I don’t know if he’ll answer what you want to ask him.

[Questions to the applicant’s son]
Q: Hi [redacted] how are you doing today?
A: I’m fine.

Q: How old are you?
A: 12 years old.

Q: Are you ok talking to me today, I just want to ask you a few questions, would that be ok?
A: That’s fine.

Q: Are you ok talking to me with your dad in the room with you?
A: That’s fine.

Q: How are you feeling today?
A: I am feeling ok today.

Q: Did anything bad happen to you in Guatemala?
A: No, I spent time in the house with my mom.

Q: Did anyone ever say anything mean to you?
A: No.

Q: Did anyone ever hurt you or do anything bad to your body?
A: No.

Q: Did your dad tell you why you were coming to the US?
A: Yes he did.
Q: What did he tell you?
A: He told me that he didn’t want me to experience what he experienced in Guatemala.

Q: Do you want to go back to Guatemala?
A: No.

Q: Why not?
A: Because there are a lot of thieves there.

Bar
Now I have to ask you a series of questions that I ask all applicants.

Q: Have you ever served in the military or police? Your son?
A: No.

Q: Have you ever been detained, questioned or arrested for any reason at any time anywhere in the world aside from your U.S. immigration arrest? Your son?
A: No, No.

Q: Have you ever been accused, charged with a crime, or convicted of a crime anywhere in the world? Your son?
A: No, No.

Q: Have you ever committed a crime, even if you were not caught or punished for it? Your son?
A: No, No.

Q: Have you ever harmed or helped to harm another person for any reason? Your son?
A: No, No.

Q: Have you ever been affiliated with, supported, or assisted a group that uses or advocates violence? Your son?
A: No, No.

Q: Have you ever been involved with any terrorist acts or organizations? Your son?
A: No, No.

Q: Have you ever been involved with any gangs? Your son?
A: No, No.

Q: Have you ever lied or said something that was not true in order to gain an immigration benefit? Your son?
A: No, No.

Q: After you were caught at the border, an officer asked you some questions and had you put your initials on some papers and also sign at the end. Do you remember that?
A: I remember signing some papers but I don’t remember what I signed.

Q: According to that statement, the officer asked you if you were afraid to return to Guatemala and you told him “no.” Do you remember doing that?
A: He just asked me if I was afraid. And I said I was afraid. I didn’t tell him that I wasn’t afraid. He was just filling out the paperwork.

Q: Did the officer read the documents to you before he asked you to sign them?
A: No he just asked me to sign it.
Q: Those are all of the questions I have for you. Is there anything else that you would like to tell me that you have not already mentioned?
A: That's all I have, I don't have anything else.

Q: Did you understand all of the questions that I asked you today?
A: Yes I understood because I suffered quite a bit.

Q: Did you comprehend the questions?
A: Yes I understood all the questions and if I didn't understand, forgive me.

Q: If you didn't understand the questions, did you say that you didn't understand?
A: I explained everything I knew. But if there was something that wasn't understood please forgive.

Q: Did you understand your interpreter?
A: Yes I did understand. Thank you for helping me. And if I had no that the interpreter this would have been difficult.

Q: Interpreter, did you understand the applicant?
A: No every single time but when I got him to slow down and repeat but when I got him to slow down I got 98% of what he was saying.

Q: Even when he slowed down you only understood 98%?
A: Yes

Q: What language was the applicant speaking?
A: He was speaking Ixil of Nebaj.

Q: What's the language that you speak?
A: I was most proficient in Ixil of Chajul. I have had to adjust to his way of saying things which is different from his way of saying things.

I am going to prepare a summary of your testimony while the interpreter reads some information to you.

READ: (3.2) If the USCIS determines you have a credible fear of persecution or torture, your case will be referred to an immigration court. In the court you will be allowed to seek asylum or withholding of removal based on fear of persecution, or withholding of removal under the Convention Against Torture. The USCIS District Director in charge of this detention facility will also consider whether you may be released from detention while you are preparing for your hearing. If the asylum officer determines that you do not have a credible fear of persecution or torture, you may ask an Immigration Judge to review the decision. If you are found not to have a credible fear of persecution or torture and you do not request review, you may be removed from the United States as soon as travel arrangements can be made. Do you have any questions?
A: No

APSO summarized the case to the applicant as required by section 3.3.

You said that about a year ago you were robbed by criminals when you were in an area between Quiche and Sacapulas, Guatemala. They told you to give them your money. They threw you on the ground and stole your money from you. You reported the incident to the police and the police went to the place where the incident took place but did not find the criminals. About 3 or 4 months ago, you saw masked men with guns. You were able to avoid them because you were in car and got away. You thought that if you returned to Guatemala criminals could rob or kill you. You thought they would want to hurt you because they would know that you are returning from the US and would think you have money. There is also no security in your country. You did not think you could live somewhere else in Guatemala because you see on the news that the thieves are throughout the country. You did not think the police would be able to help you because they don't come to your village and because you see on the news that some police officers work together with gang members.

Your son was not threatened or harmed in Guatemala. You brought him to the US because you did not want him to
experience violence like you did. You thought you could be robbed or hurt if he went back to Guatemala because the country is dangerous.

Q: Do you agree with my summary of your case?
A: Yes it sounded fine to me.

Q: Counsel, anything to add?
A: No I don't have any questions.

Q: That is the end of the interview. Do you have any questions for me?
A: Is everything I said going to be written down in the paper work?
Q: Yes
A: Ok because my son took a few notes about what was said as well.

End: 12:58 PM