UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE OF IMMIGRATION REVIEW

In the Matter of:	*	File Number: A00-000-000
	*	
Mr. XXX	*	In Admissibility Proceedings
Respondent.	*	
	*	NON DETAINED

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MOTION AND BRIEF IN SUPPORT OF RESPONDENT'S REQUEST FOR RELIEF

UNDER THE CONVENTION AGAINST TORTURE AND 8 U.S.C. §241

Petitioner, XXX, by and through his counsel, submits this brief in support of his petition for deferral of removal under Article 3 of the Convention Against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment[1] ("Convention Against Torture" or "CAT") or withholding of removal under 8 U.S.C. § 241(b)(3)(B)(ii).

STATEMENT OF ISSUES

1. Whether Mr. XXX, a 30-year resident of the United States who suffers from incurable schizoaffective and bipolar disorders, is eligible for relief under CAT when his removal to Colombia would more likely than not result in his being tortured by or at the acquiescence of state authorities.

2. Whether Mr. XXX, a severely mentally ill individual with no particularly serious crimes in the United States, is eligible for withholding of removal when his deportation to Colombia would more likely than not threaten his life or freedom on account of his membership in a particular social group: indigent, schizophrenic and bipolar individuals in Colombia.

STATEMENT OF FACTS

Mr. XXX is a native and citizen of Colombia who entered the United States approximately thirty (30) years ago. [2] He was a teenager upon entry and has remained in the United States since that time.

Before entering the United States, Mr. XXX worked in Ecuador for an American family. Mr. XXX was brought to the United States by this same family. Soon after their arrival, the family broke up due to a marital dispute and Mr. XXX left Florida, where he had been living, to come to

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[1] Convention Against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment, *adopted and opened for signature* Dec. 10, 1984, G.A. Res. 39/46, 39 U.N. GAOR Supp. No. 51, at 197, U.N. Doc. A/RES/39/708 (1984) (entered into force June 26, 1987; for the United States Apr. 18, 1988).

[2] Mr. XXX can not recall the exact date of his entry into the United States.

Washington, D.C. He has remained in D.C. since that time. Mr. XXX currently resides in an apartment paid for by the D.C. Department of Mental Health.

Mr. XXX suffers from incurable schizophrenic and bipolar disorders and requires constant medication and monitoring by medical professionals in order to reasonably control his illness. Mr. XXX's first records of treatment for this illness date back to 1985. He has been a patient at St. Elizabeth's Mental Hospital in Washington, D.C. on both an in-patient and out-patient basis for over two decades. His file at St. Elizabeth's consists of thousands of pages of medical history. Since his release from detention on June 5, 2006, Mr. XXX's mental health has improved significantly due to dedicated mental health clinicians and his commitment to maintaining his treatment course.

On February 4, 1998, Mr. XXX married a U.S. citizen, Sharon Denise Williams, however, both are mentally ill and have been separated and out of contact for a number of years. Mr. XXX wishes to obtain an official divorce after these proceedings have been resolved. He is currently reunited with his former girlfriend, a U.S. citizen whom he plans to marry, and their five-year old son, who is also a U.S. citizen.

Mr. XXX has no formal education and cannot read or write in either Spanish or English. However, he is currently enrolled in an ESL class that meets four times a week. Mr. XXX is determined to learn to read and write in English with the hope that he can remain in the United States and find future employment to support himself and his son.

Mr. XXX has no contact with any family or friends in Colombia. He left Colombia approximately thirty years ago as a teenager and has no idea, after the long civil war and subsequent displacement and disappearance of persons, if he even has any family left in the country.[3] The United States is the only home that Mr. XXX knows and he has nothing and no one to return to in Colombia.

On or about February 17, 2006, Mr. XXX was detained by immigration officials when he voluntarily went to the ICE office in Arlington, Virginia in an effort to obtain work papers. He is now subject to deportation.

SUMMARY OF ARGUMENT

It is more likely than not that Mr. XXX, who suffers from incurable schizophrenic and bipolar disorders, will be denied access in Colombia to the mental health care that he needs in order to control his psychotic outbursts. Such behavior is more likely than not to result in his torture by or at the acquiescence of Colombian police, followed by his incarceration in a Colombian prison (where his symptoms will likely be viewed as a threat), and, finally, in his torture at the hands or

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[3] An estimated 2 million Colombians were forcibly displaced during the last 15 years of the 20th century due to the humanitarian crisis that has engulfed the country. See Exhibit 1. Jorge Enrique Buitrage Cuellar, *Internally Displaced Colombians: The Recovery of Victims of Violence Within a Psychosocial Framework* in KENNETH E. MILLER, FROM CLINIC TO COMMUNITY: ECOLOGICAL APPROACHES TO REFUGEE MENTAL HEALTH 229 at 233-34 (Lawrence Erlbaum Associates, Inc., 2004).

acquiescence of state police or prison officials. Therefore, Mr. XXX should be granted deferral of removal under the Convention Against Torture.

Moreover, it is more likely than not that the deportation of Mr. XXX, a severely mentally ill individual with no particularly serious crimes in the United States, to Colombia would threaten his life or freedom on account of his membership in a particular and persecuted social group: indigent, schizophrenic and bipolar individuals in Colombia. There is a well documented pattern of persecution in Colombia against members of this particular social group. As such, Mr. XXX should be granted withholding of removal under 8 U.S.C. §241(b)(3)(B)(ii).

ARGUMENT

I. Mr. XXX is Eligible for Deferral of Removal Under the Convention Against Torture.

To qualify for deferral of removal under CAT, Mr. XXX must prove that it is more likely than not that he will be tortured if returned to Colombia, and that the act will be instigated by or with the consent or acquiescence of a public official or other person acting in an official capacity.[4] Torture is defined as "any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for….any reason based on discrimination of any kind."[5] Relevant considerations in determining whether Mr. XXX will be tortured in Colombia include evidence of gross, flagrant or mass violations of human rights.[6]

A. Mr. XXX is more likely than not to manifest psychotic behavior and become a danger to himself and possibly others if he is denied the mental health care needed to treat his incurable schizophrenic and bipolar disorders.

Mr. XXX suffers from incurable schizophrenic and bipolar disorders.[7] These disorders generally result in a hyper, manic, illogical and depressed state.[8]

Without constant medical assessment and care, Mr. XXX's mental health will quickly deteriorate and result in periods of psychosis when he is out of touch with reality.[9] Such periods are marked by delusional, paranoid and illogical behavior.[10] Mr. XXX can also become isolative, reclusive and physically aggressive when not properly treated.[11] However, Mr. XXX's behavior can be positively modified by lifestyle, diet, medication, therapy and intervention through monitoring

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[4] See 8 C.F.R. § 1208.18(a)(1) (2005).
[5] *Id.*
[6] See 8 C.F.R. § 1208.18(c)(3) (2005).
[7] See Exhibit 2. Medical Declarations of and Supporting Documents for Dr. Betsey Cooper and Susan Jacobson APRN, BC. See also Exhibit 3. "Schizophrenia is a life-long disease that can be controlled but not cured." American Academy of Adult and Children Psychiatry, "Facts for Family: Schizophrenia in Children," *available at* http://aacap.org/page.ww?name=Schizophrenia+in+Children§ion=Facts+for+Families.
[8] See Exhibit 2. Medical Declarations and Supporting Documents.
[9] *Id.*
[10] *Id.*
[11] *Id.*

and case management.[12] Currently, he is on an effective treatment plan and appears reasonable, logical and goal directed.[13]

Mr. XXX's extensive medical records date back to 1985, when it appears he was first diagnosed with these disorders.[14] Since that time, Mr. XXX has frequently undergone intense psychiatric treatment on both and in- and out-patient basis at St. Elizabeth's Mental Hospital and other D.C. mental health facilities.[15] Mr. XXX requested and obtained thousands of pages of his personal, medical history from St. Elizabeth's, all of which clearly document his psychotic behavior when not on a proper treatment plan.[16] A small, but illustrative sample of his mental health records over the years is attached.[17]

Currently, Mr. XXX receives almost daily mental health care at the D.C. Department of Mental Health's ACT III Clinic located at 1125 Spring Rd. NW, Washington DC 20010.[18] The ACT III Clinic services high users of acute mental services and is available to patients 24 hours a day, 365 days a year. Mr. XXX's case is primarily managed by Dr. Betsy Jane Cooper, M.D., a psychologist, and Susan Jacobson, a psychiatric nurse.[19]

While Mr. XXX has been voluntarily taking his medication since his release from detention in June 2006, dedicated medical professionals still need to carefully monitor his treatment program.[20] Mr. XXX has been prescribed and is currently taking a daily dosage of 30 mg of Abilify and 500 mg of Depakote to assist him in suppressing the symptoms of his illness, such as psychotic outbursts.[21] However, individuals with incurable schizophrenia and bipolar disorders often fail to take their medication on their own and need to be closely monitored.[22] The ACT III team serves as an "early warning" system to monitor the effects of stress on Mr. XXX and ensure that he does not deteriorate to the point of non-compliance with his treatment plan.[23] Mr. XXX needs to have his blood levels tested by health care professionals in order to monitor the amount of medication active in his system and his prescriptions must be continually evaluated to ensure that they are controlling the symptoms they are prescribed for.[24]

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[12] *Id.*
[13] *Id.*
[14] See Exhibit 4. Sample of Mr. XXX's Mental Health Records from St. Elizabeth's Mental Hospital, in Washington, DC.
[15] *Id.*
[16] *Id.*
[17] *Id.*
[18] See Exhibit 2. Medical Declarations and Supporting Documents.
[19] *Id.*
[20] *Id.*
[21] *Id.*
[22] Psychological research suggests that schizophrenics are particularly poor at acknowledging their own mental illness, hence schizophrenics, like [redacted], often feel no need to take medication. Cutting edge research and therapy in the United States has suggested that the source of this failure is physiological and not the schizophrenic's "choice." *See, e.g.,* X. Amador, et. al., "Awareness of Illness in Schizophrenia, ' 17 SCHIZOPHRENIA BULLETIN 113-132 (1991). See also Exhibit 2. Medical Declarations and Supporting Documents.
[23] See Exhibit 2. Medical Declarations and Supporting Documents.
[24] *Id.*

In Dr. Cooper's professional opinion, it is more likely than not that Mr. XXX will experience a psychotic break and become a danger to himself and possibly others if denied the proper mental health care.[25] This is based on Dr. Cooper's history of working with schizophrenic, bipolar patients and specific prior incidents where Mr. XXX was either on an ineffective treatment plan or not taking his medication. For example, when Mr. XXX first came to the ACT III clinic he was not receiving counseling or medication and manifested extreme agitation.[26] The ACT III team found him to be confused, psychotic and dangerous.[27] His manner was so threatening that Mrs. Jacobson would only meet with him if a male ACT III staff member was also present.[28] On another occasion prior to his detention, Mr. XXX was not taking his medication regularly and began acting frantic, undirected, paranoid and was speaking in a rapid, often undecipherable, fashion that the ACT III staff found to be intimidating.[29]

Mr. XXX's mental health records also establish that he becomes psychotic and poses a danger to himself and possibly others when he is not receiving the appropriate medication and supervision.[30] For example, on January 7, 2005, Mr. XXX was admitted to St. Elizabeth's Mental Hospital on an in-patient basis due to the fact that he was not taking his medication and posed a "danger to self or others."[31] On July 17, 2004, Mr. XXX was off his medication and hospitalized at the request of a D.C. police officer because he was "likely to injure others, if not evaluated" immediately by mental health specialists.[32] Mr. XXX was involuntarily committed in July 2001 when after being off his medication for over a year, he found himself in a state of extreme irritability, agitation and paranoia and subsequently, threatened to shoot a bank employee.[33] These are just several incidents out of many dating back to 1985 whereby Mr. XXX's lack of medication and oversight by mental health professionals has led him to behave in a dangerous or threatening manner.

Though Mr. XXX's behavior is significantly improved now that he is receiving proper treatment for his illness and he no longer poses an immediate threat to himself or others, Dr. Cooper states that he is still sometimes overly emotional and often fails to demonstrate any coping skills.[34] Mr. XXX has a very low threshold for coping with any type of stress.[35] For example, the stress of his impending deportation trial is increasing his paranoia and agitation as well as causing Mr. XXX to threaten to discontinue his medication.[36] It is a challenge for him to even survive the weekend without going to the ACT III clinic for treatment.[37] He seeks out his case manager or other ACT III team members for constant support and structure.[38]

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[25] *Id.*
[26] *Id.*
[27] *Id.*
[28] *Id.*
[29] *Id.*
[30] See Exhibit 4. Mental Health Records.
[31] *Id.*
[32] *Id.*
[33] *Id.*
[34] See Exhibit 2. Medical Declarations and Supporting Documents.
[35] *Id.*
[36] *Id.*
[37] *Id.*
[38] *Id.*

Therefore, in order to reasonably control his incurable mental illness, it is imperative that Mr. XXX continue to receive the proper medication and be closely monitored by a team of medical professionals who are familiar with his case and personally committed to improving his mental health, such as Dr. Cooper and Ms. Jacobson. Otherwise, Mr. XXX is more likely than not to manifest psychotic behavior and become a danger to himself and possibly others.

B. If deported to Colombia, Mr. XXX is more likely than not to be denied access to the mental health care that he needs to control his psychotic behavior.

On-going civil strife and severe problems with the Colombian medical system make health care inaccessible to many Colombians, especially the destitute.[39] Colombia's health care system "has created incentives to avoid treating the poor or persons with costly illness, who can be turned away on technicalities."[40] The situation for mental health patients is even more dire.

Colombia requires even society's most impoverished and ill, like Mr. XXX, to pay for their own mental health services and medication regardless of the severity of their disorders.[41] "Mental health is not a part of [the] primary health care system" and "actual treatment of severe mental disorders is not available at the primary level."[42] The Colombian health care system does not include any direct provision of mental health care.[43]

> "Health reform in Colombia improved access to health services for general medical services, but not for specialized mental health services. Although the primary goal of the health reform was to provide universal medical coverage, by not including mental health services in the standardized benefits package, inequities in the delivery of mental health services appear to have been perpetuated or even exacerbated. "[44]

The impact of not covering mental health care is devastating for severely mentally ill persons, like Mr. XXX. For example, one study shows that the new health care system resulted in a 77.7% decrease in the population standardized availability of psychiatric beds.[45] Another study concluded that of the entire Colombian population, including the wealthy, only one out of every ten persons suffering from one mental disorder and only one out of every five persons suffering

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[39] See Exhibit 5. Brigg Reilley & Silvia Morote, *Caught in Colombia's Crossfire*, 351 NEW ENGLAND JOURNAL OF MEDICINE 2576 (2004).
[40] *Id*.
[41] See Exhibit 6. Romero-Gonzalez M., Gonzalez G. & Rosenheck R.A., *Mental health service delivery following health system reform in Colombia*, 6 THE JOURNAL OF MENTAL HEALTH POLICY & ECONOMICS 189 (2003); *Colombia: Displaced and Discarded, The Plight of Internally Displaced Persons in Bogotà abd Catagena*, Human Rights Watch, Vol. 17, No. 4(B), October 2005, pg. 54.
[42] See Exhibit 7. *Colombia, Mental Health Atlas 2005*, World Health Organization, 2005.
[43] See Exhibit 6. Romero-Gonzalez., *Mental health service delivery following health system reform in Colombia*.
[44] *Id.* at 191.
[45] *Id.* at 191.

from two or more mental disorders receives any type of treatment.[46] In some parts of the country, there aren't any psychologists available to provide clinical care.[47]

Mr. XXX's treatment plan, administered by licensed mental health professionals, includes monitoring and counseling components that he would not receive in Colombia. As described above, the government's mental health professionals involved in treating Mr. XXX have recommended, prescribed and administered therapy, counseling sessions and medication for Mr. XXX in an effort to treat his incurable mental illness.[48]

General access to mental health professionals in Colombia is limited and even if Mr. XXX could locate trained mental health professionals, he would have no ability to pay for the type of care that he needs to control his illness.[49] In 2000, approximately thirty-six percent of Colombians lived on less than $2 a day.[50] Mr. XXX's prescriptions for Abilify and Depakote alone cost an estimated US $525 per month. It would be impossible for Mr. XXX, an indigent, illiterate, severely mentally ill individual, to find employment in Colombia that would allow him to pay for the counseling and medication needed to treat his disorders. Moreover, Mr. XXX, a resident of the United States for approximately 30 years, has no family members or friends in Colombia who would be able to financially assist him in securing the mental health care that he requires.

Given Colombia's failure to provide even basic, free mental health services or medication for its poor and Mr. XXX's status as an indigent, illiterate, schizophrenic, bipolar individual, it is more likely than not that Mr. XXX would be denied access to the mental health care that he needs to control his psychotic behavior.

C. Mr. XXX's inability to access the mental health care that he needs to control his psychotic behavior is more likely than not to result in his torture at the hands of or at the acquiescence of Colombian police officers, or at the very least, in his incarceration in a Colombian prison.

Mr. XXX's history of both in-patient commitment and incarceration in the United States establishes that it is more likely than not that his psychotic behavior will result in his attracting the attention of the Colombian police, resulting in torture, imprisonment or both.

Mr. XXX's medical records show that that he has been involuntarily committed on many occasions over the past two decades due to psychotic episodes when he was not on a proper

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[46] See Exhibit 8. Posada-Villa J., Aguilar-Gaxiola S., Magaña C. & Gómez L., *Prevalencia de trastornos mentales y use de servicios: resultados preliminaries del Estudio national de salud mental*, Colombia, 2003, 2004 Revista Colombiana de Psiquiatría 33(3).

[47] See Exhibit 9. *Living in Fear: Colombia's Cycle of Violence*, Medecins Sans Frontieres Report, April 27, 2006, available at http://www.msf.org/msfinternational/invoke.cfm?objectid=D50C435D-EC61-15DD-972B4FCFF29AF8A4&component=toolkit.report&method=full_html.

[48] See Exhibit 2. Medical Declarations and Supporting Documents.

[49] See Exhibit 10. *Colombia: Displaced and Discarded, The Plight of Internally Displaced Persons in Bogotà abd Catagena*, Human Rights Watch, Vol. 17, No. 4(B), October 2005, pg. 54.

[50] See Exhibit 11. Earth Trends, Country Profiles, *Economic Indicators-Columbia*, *available at:* http://earthtrends.wri.org/pdf_library/country_profiles/eco_cou_170.pdf.

treatment plan.[51] Such episodes included, among other things, hearing voices, mood swings, threatening physical violence, yelling in rapid, unclear speech, assaulting others, manifesting paranoia that others were conspiring against him and grandiose delusions.[52] On various occasions, Mr. XXX's behavior attracted the attention of the D.C. Police, U.S. Marshals or other state authorities, who then brought him in for psychiatric evaluation and commitment. For example, Mr. XXX's in-patient commitment at St. Elizabeth's Mental Hospital on July 17, 2004 was initiated by a D.C. police officer and on July 17, 2001 by a U.S. Marshal.[53]

Even here in the United States, where mental health facilities are available and police are trained to identify the mentally ill versus the common criminal, Mr. XXX has attracted the attention of the police and was incarcerated rather than sent to a mental hospital. Mr. XXX was convicted of certain relatively minor crimes in the mid-1980's when he was not being properly treated for his mental illness. For example, prior to entering the public mental health care system in 1985, Mr. XXX served time for attempted petty larceny and later for destruction of property and simple assault. He was also convicted of carrying a deadly weapon (a knife) in 1984 and received ninety days in jail.

In Colombia, like in the United States, Mr. XXX's psychotic behavior will more likely than not attract the attention of the police, especially given the fact that he will be homeless and living in public spaces. This is more likely than not to result in his torture, incarceration or both.

Colombian police routinely target the mentally ill for torture and murder. [54] As discussed in more detail in Section II, the mentally ill are labeled as "expendables" and their eradication from Colombian society is often viewed by state actors as favorable.[55] State Department reports show that police and former security force members both commit social cleansing killings or deliberately fail to prevent such killings.[56] The problem is rampant. Though these crimes are usually committed with impunity, a case brought by the Inspector General's office charging 17 police officers and 9 army officials of colluding with paramilitary groups in respect to approximately 160 social cleansing murders serves to highlight the atrocities being committed against people like Mr. XXX.[57] Given Colombia's heinous pattern of social cleansing by police of those deemed "undesirable," such as the mentally ill, it is more likely than not that Mr. XXX, an indigent man suffering from schizophrenia and bipolar disorders, living by himself on the streets and manifesting aggressive, psychotic behavior, will more likely than not become an easy target for torture by or at the acquiescence of the Colombian police.

Moreover, because Colombian police are not trained to deal appropriately with the mentally ill and Colombia lacks adequate mental health facilities like St. Elizabeth's for the poor, there is no doubt that Mr. XXX's psychotic behavior will, at the very minimum, result in his incarceration.

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[51] See Exhibit 4. Mental Health Records.
[52] *Id.*
[53] *Id.*
[54] See Exhibit 7. Mental Health Atlas 2005. See also Exhibit 12. Colombia, Country Report on Human Rights Practices, 2001, Released by the Bureau of Democracy, Human Rights, and Labor, March 4, 2002.
[55] *Id.*
[56] *Id.*
[57] *Id.*

D. With no access to the mental health care that he needs to control his psychotic behavior and the reality of Colombia's notoriously harsh prison conditions, the incarceration of Mr. XXX is more likely to result in his being singled-out and tortured at the hands of or at the acquiescence of Colombian prison officials.

Colombia's prison conditions are notoriously harsh and detention facilities offer minimal, if any, health services, let alone mental health services.

> There is a chronic pattern of cruel, inhuman or degrading treatment of prisoners in prisons and police stations. Detainees have to put up with extreme overcrowding, unsanitary conditions, mixing of categories of prisoners, inadequate night-time privacy in cells, inadequate sanitary installations, lack of drinking water and personal hygiene items, *non-existent or poorly organized health services* and other forms of deprivation that are contrary to international standards relating to the treatment of prisoners.[58]

It is likely that Mr. XXX will be denied medical and psychiatric treatment while incarcerated. A 2005 report estimated that the doctor to patient ratio in some institutions was as low as 1 to 1,200 and noted that the Colombian government has failed to negotiate a healthcare contract for all its detention facilities.[59] Another report states that psychological or psychiatric services are either non-existent or not utilized in 66.4% of Colombian detention centers.[60] In the minority of institutions where such services do exist, the care in 28.3% of those is rated poor.[61]

Mr. XXX will not be able to conform to prison discipline requirements if he is denied the mental health services and medication he needs. As described above, Mr. XXX becomes confused, psychotic, aggressive and violent when not on a proper treatment plan.[62] Moreover, it is hard to conceive of a more stressful environment than a prison and, even when properly treated, Mr. XXX has little or no ability to refrain from acting out when confronted with any type of stressful situation.[63] The fact that Mr. XXX manifests his incurable mental illness in these ways makes it more likely that not that he would be tortured by prison officials for non-standard behavior, and would also likely result in a longer period of detention.

The chances of Mr. XXX being tortured while incarcerated are further increased by the fact that Colombian government officials are accepting of police and or prison guards tortuous activities. In Colombia, "[p]olice, prison guards, and military forces tortured and mistreated detainees.

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[58] See Exhibit 13. *State Violence in Colombia, An Alternative Report to the United Nations Committee Against Torture*, Geneva, June 2004, p. 38 (*emphasis added*).

[59] See Exhibit 14. Colombia, Country Report on Human Rights Practices, 2005, Released by the Bureau of Democracy, Human Rights, and Labor, March 8, 2006.

[60] See Exhibit 15. Situación del Servicio de Salud en las Carceles de Colombia, Defensoría del Pueblo Colombia (The Situation of the Health Services in the Prisons of Colombia, Public Defender's Office of Colombia), Diciembre 2003, p. 21.

[61] *Id.*

[62] See Exhibit 2. Medical Declarations and Supporting Documents.

[63] *Id.*

Conditions in the overcrowded and under funded prisons are harsh…". [64] In fact, the prosecutor general's office is currently investigating allegations that prison guards *routinely* used excessive force and brutally harmed prisoners.[65] Furthermore, the US State Department has recognized that in Colombia:

> Many of [Colombia's] 8,756 prison guards were poorly trained or corrupt. Severe overcrowding and dangerous sanitary and health conditions were serious problems…inmates paid to eat, drink, or sleep on a mattress, wash clothes, or make telephone calls, and many were forced to pay protection money to fellow inmates or corrupt prison guards.[66]

Considering the harsh conditions and lack of mental health care in Colombian prisons, Mr. XXX's inability to control his psychotic behavior without access to such care, and the general tolerance for torture of detainees at the hands of state authorities, it is more likely than not that Mr. XXX will be singled-out and tortured or killed by prison guards for his inability to control the symptoms of his incurable schizophrenic and bipolar disorders.

Even if the prison guards do not directly torture Mr. XXX, it is more likely than not that they will allow Mr. XXX to be targeted for violence by other inmates who find his psychotic behavior bizarre, threatening or simply unsettling. Mr. XXX would be mixed in with all categories of prisoners, including rapists and murderers, and has no ability to pay "protection money" to keep himself safe.[67] Recent reports highlight Colombian authorities failure to prevent violence, even deadly violence, among inmates. In the first six months of 2005, Colombia reported 20 violent deaths among detainees related to fighting and riots.[68] In 1998, 92 inmates at the Modelo Prison in Colombia died violent deaths.[69] Given the level of violence in Colombian prisons, the failure of state authorities to curb such violence generally and Mr. XXX's psychotic behavior, it is more likely than not that Mr. XXX will be singled out by other inmates for torture or death at the acquiescence of the state's prison guards.

E. Mr. XXX has met the evidentiary burden necessary for relief under the Convention Against Torture.

In sum, Mr. XXX, an indigent, incurable schizophrenic, bipolar man, requires constant counseling and medication to control his psychotic behavior. The evidence shows that it is more likely than not that if denied the proper mental health care, he will become a danger to himself or others. The evidence further shows that it is more likely than not that Mr. XXX will be denied

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[64] See Exhibit 16. Jurist, Colombia: Columbian Law, Legal Research, Human Rights, *available at*: http://jurist.law.pitt.edu/world/colombia.htm.

[65] See Exhibit 14. Colombia, Country Report on Human Rights Practices, 2005.

[66] See Exhibit 17. Colombia, Country Report on Human Rights Practices, 2003, Released by the Bureau of Democracy, Human Rights, and Labor, February 25, 2004.

[67] See Exhibit 13. *State Violence in Colombia, An Alternative Report to the United Nations Committee Against Torture*, p. 38.

[68] See Exhibit 14. Colombia, Country Report on Human Rights Practices, 2005.

[69] See Exhibit 18. CAMPO ELÍAS & AMAYA VELOSA, EL DRAMA DE LAS CÁRCELES EN COLOMBIA, 9 (2001), p.9, 10.

access in Colombia to the mental health care that he needs in order to control his psychotic outbursts. Finally, the evidence demonstrates that such behavior will likely be viewed as a threat and is more likely than not to result in Mr. XXX being targeted and tortured by or at the acquiescence of the Colombian police, incarcerated, and tortured by or at the acquiescence of Colombian prison officials.

The chain of events and state action at issue in the instant case are far better established than those involved in *Matter of J-F-F-*, 23 I&N Dec. 912 (A.G. 2006). In that case, the argument was similar to that here: a person removed to the Dominican Republic will behave erratically due to his mental illness, be targeted by the police, incarcerated, and face torture in prison. However, the respondent in *J-F-F* failed to establish that each step in the chain of events leading to the torture was more likely than not.[70] Mr. XXX's case can easily be distinguished. Here, the evidence presented establishes each step in the line of causation necessary to reach the conclusion that torture by Colombian state authorities is more likely than not. In effect, the respondent's argument in *J-F-F* was problematic only because the evidentiary standard was not met. Here, Mr. XXX has met that burden by showing that each step in the chain of causation is more likely than not and he, therefore, should be granted relief under CAT.

II. Mr. XXX is Eligible for Withholding of Removal Under 8 U.S.C. § 241(b)(3)(B)(ii).

Even if denied relief under the Convention Against Torture, Mr. XXX is eligible for and should be granted withholding of removal to Colombia. An alien qualifies for withholding of removal under section 241(b)(3) of the Act if he establishes that his life or freedom would more likely than not be threatened on account of his membership in a particular social group if he were to be removed to his country of nationality.[71] The alien does not need to provide evidence that he would be singled out individually for such persecution if he can establish: (1) that there is a pattern or practice in the country of proposed removal of persecution of a group of persons similarly situated to the applicant on account of membership in a particular social group; and, (2) that he is included in and identifies with such social group.[72] Where, however, an individual has committed a particularly serious crime while in the United States they will be considered a danger to the community and barred from relief under the statute.[73]

A. Mr. XXX has committed no particularly serious crimes while in the United States and is not a danger to the community.

An alien is ineligible for withholding of removal if the Attorney General finds that the alien, having been convicted by a final judgment of a particularly serious crime, is a danger to the community of the United States.[74] An alien who has been convicted of an aggravated felony and has been sentenced to an aggregate term of imprisonment of at least five years is considered under the law to have committed a particularly serious crime.[75] Where the person was sentenced

[70] See Exhibit 19. *Matter of J-F-F-*, 23 I&N Dec. 912 (A.G. 2006).
[71] See U.S.C. §241(b)(3)(A); C.f., 1231(b)(3)(A)(2000); 8 C.F.R. 208.16(b)(2003).
[72] See 8 C.F.R. § 208.16(b)(2)(i)-(ii)(2003).
[73] 8 U.S.C. § 241(b)(3)(B)(ii).
[74] *Id.*
[75] *Id.*

to less than five years, the determination should be made on a case-by-case basis.[76] Mr. XXX has not been sentenced to an aggregate prison term of five years of more. Accordingly, a case-by-case determination should be made as to whether Mr. XXX has ever committed a particularly serious crime and is a danger to the community.

Mr. XXX is not a danger to the community. He is remorseful for his past crimes, and he acknowledges a need to continue medical treatment through a state-supported treatment program. His commitment to treatment since his release from detention on June 5, 2006 indicates a sincere desire to improve his mental health through treatment. Mr. XXX cannot be considered a danger on the mere account of his mental illness, but should be considered a potentially productive member of a community that he is eager to participate in. The United States is one of the few countries in the world with a clinical community that understands the treatment required for schizophrenic and bipolar disorders. State and federal policies help the mentally ill, like Mr. XXX, who need help to improve their lives so they can participate as productive members of society and ease their symptoms.[77] Rehabilitation is now a statutorily-set objective for many states and the federal government, who specifically want to re-integrate the severely mentally ill back into the community through state support and treatment.[78]

Mr. XXX is aware that his identity as an indigent, un-medicated and un-counseled schizophrenic and bipolar individual will result in torture and persecution in Colombia upon leaving the safe confines of the United States. His self-identification catalyzed by these deportation proceedings has forced him to gain more insight into his mental state. Mr. XXX is also aware that he must continue on his treatment plan in order to be a productive member of this community and this nation. Only as a legitimate member of this community, can he continue to receive the treatment he needs through state-sponsored healthcare programs like those offered by the D.C. Department of Mental Health. Individuals with incurable schizophrenic and bipolar disorders require a strong social network in order to maintain them on the path to rehabilitation.[79] Dr. Cooper and Susan Jacobson, as well as his girlfriend and son, have provided Mr. XXX with such a network. Mr. XXX understands that his continued presence in *this* community is fundamentally necessary to his survival.

Mr. XXX never chose to be schizophrenic and bipolar. The severely mentally ill are often unfairly characterized and stereotyped as members of society conducting random violence. In fact, studies indicate that schizophrenic's violence when un-medicated is limited to simple

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[76] See Exhibit 20. *Matter of S-S-*, 22 I. & N. Dec. 458 (BIA 1999).

[77] See Exhibit 21. There is a wave of support in state law for the continuing provision of medicine to released mentally ill ex-convicts. *See, e.g.*, Dennis Braddock, et, al, Letter to Mr. Cook, Secretary of the Senate, State of Washington, "Mentally Ill Offenders Community Transition Project," available at https://www.metrokc.gov/dchs/mhd/reports/mio/miocover.htm. *See also, e.g.*, Federal Rehabilitation Act; American with Disabilities Act.

[78] See Exhibit 22. *Arnold v. Arizona Department of Health Services*, 160 Ariz. 593, 610 (Az. 1989). *See also infra* note 177 and accompanying text.

[79] See Exhibit 23. Dixon, et. al., "State Policy and Funding of Services to Families of Adults With Serious and Persistent Mental Illness," 50 Psychiatr Serv 551-553 (April 1999), *available at* http://www.psychservices.psychiatryonline.org/cgi/content/full/50/4/551 ("Well-designed and rigorous clinical family psychoeducation programs have reduced patient relapse rates and enhanced compliance, compared with individual therapy alone.").

assault.[80] Mr. XXX is not a danger to society, but individuals like him are often wrongly linked to extensive violence and crime.[81]

Mr. XXX is a severely mentally ill man who has, regretfully, not always followed his prescribed treatment plan. We concede that when he does not take his medication and does not attend counseling, he acts bizarrely and often does illogical, inappropriate things.

After following his prescribed treatment plan for almost a year now and having achieved a relatively healthy mental state, Mr. XXX understands that he was wrong for committing his past crimes. <u>All but one of his crimes</u> were committed during his youth, almost twenty years ago, and constituted relatively minor crimes such as attempted petty larceny and taking property without right. His only crime within the last five years was for simple domestic assault in 2003 when Mr. XXX attempted to visit his then infant son. Mr. XXX was not on a proper treatment plan when he committed any of the above mentioned crimes. Now that he is receiving the mental health care that he needs, Mr. XXX understands that his past crimes were wrong and has reunited with his former girlfriend, the individual who filed the 2003 domestic assault charges, and their now five-year old son. There have been no incidents of violence since Mr. XXX's release from immigration detention last June. Furthermore, Mr. XXX is committed to taking his medication, continuing his planned treatment and working to provide financial support for himself and his son, and, therefore, will not be a danger to the community. Accordingly, Mr. XXX respectfully requests that this court find that he is not a danger to the community and consider his application for withholding of removal.

B. Mr. XXX fears threats to his life and freedom on account of his membership in a particular social group if he is returned to Colombia.

Mr. XXX fears that, if returned to Colombia, his life and freedom would be threatened on account of his membership in a particular social group: indigent, schizophrenic and bipolar individuals in Colombia.

Mr. XXX fears threats to his life and freedom on account of his status as an indigent, schizophrenic and bipolar individual in Colombia. People suffering from schizophrenic and bipolar disorders in Colombia can be considered members of a particular social group because "they share a common, immutable characteristic" that defines the group and that the group members cannot change.[82] Schizophrenia is a chronic, life-long disease.[83] Like any other chronic disease, schizophrenics can never change the fact that they are mentally ill, but can only ease the symptoms of the disease through the help of monitored medication and counseling by licensed mental health professionals.[84] Schizophrenia, unlike many other mental illnesses, is clinically defined by certain observed erratic behavior.[85] In Colombia, schizophrenics are

[80] See Exhibit 24. National Institute of Mental Health, "When Someone Has Schizophrenia 2001," at http://www.nimh.nih.gov/publicat/schizsoms.cfm.
[81] *Id.*
[82] See Exhibit 25. *Matter of Acosta,* 19 I & N Dec. 211, 233 (BIA 1985).
[83] See Exhibit 3. "Schizophrenia is a life-long disease that can be controlled but not cured." American Academy of Adult and Children Psychiatry, "Facts for Family: Schizophrenia in Children."
[84] See Exhibit 26. APA Schizophrenia Treatment Guidelines at 13.
[85] See *DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS* ("schizophrenia").

explicitly grouped together for social purposes by their "strange behavior." Ones membership in such a group is clearly visible.[86] In Colombia, the mentally ill are labeled and targeted as socially undesirable members of society.[87] Indigent, mentally ill individuals living on the streets are especially easy to identify and persecute as they have no place to hide.

While one court has noted that a general category of the "mentally ill" is not considered a social group,[88] there are two distinguishing features in the definition of the social group to which Mr. XXX belongs. First, Respondent's social group is limited to indigent persons with schizophrenia whose identity, unlike for other mental illnesses (e.g., clinical depression), is socially visible and defined by their outward erratic behavior. Such persons, as a group, are often subjected to mistreatment as a result of their erratic, often socially unacceptable behavior in public spaces.[89] People with schizophrenia in Colombia share the common, immutable characteristic of having a chronic illness that requires a consistent treatment program including monitored counseling and medication.[90] In fact, the "chronically mentally ill" have been considered a class for class action certifications. For example, in *Arnold v. Arizona Dep't of Mental Health Services*, the Supreme Court of Arizona certified a class of the chronically mentally ill ("CMI") (e.g., schizophrenia)[91] and found state inaction had resulted in a failure to provide a statutory prescribed adequate level of care to the chronically mentally ill. The court concluded that:

> It has been stated that "[t]he moral test of government is how it treats those who are in the dawn of life, the children; those who are in the twilight of life, the aged; and those who are in the shadows of life, the sick, the needy and the handicapped." Arizona has imprisoned its CMI in the shadows of public apathy. The legislature was the first to speak on the issues before us. We find no evidence in this record that the legislature intended to pass sham legislation. The legislature thoroughly, carefully and completely mandated duties of the state and county to the CMI population in Arizona. We hold that the legislature has mandated that the state and the county have a duty to jointly and harmoniously provide mental health care to the plaintiff class. In so holding we note that the duty may well be more expensive in the breach than in the fulfillment.[92]

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[86] See Exhibit 27. *Matter of C-A,*_23 I&N Dec. 951 (BIA 2006).

[87] See Exhibit 28. *Matter of Faronda-Blandon*, A74-979-517 (IJ June 15, 2001) (York County Prison, Pa.) (Van Wyke, IJ).

[88] The BIA in that case stated that "the mentally ill are too large and diverse a group to classify" and "they are not 'a collection of people closely affiliated with each other, who are actuated by some common impulse or interest." See Exhibit 29. *Raffington v. INS,* 340 F.3d 770 (8th Cir. 2003)(quoting *Safaie v. INS,* 25 F.3d 636, 640 (8th Cir. 1994) (concluding that the category Iranian women is overbroad)).

[89] See Exhibit 17. Colombia, Country Report on Human Rights Practices, 2003.

[90] See Exhibit 26. APA Schizophrenia Treatment Guidelines at 9.

[91] See Exhibit 30. The Arizona government specifically views schizophrenics as a representative sub-group of CMI. *See* Arizona State Senate Issue Paper, "Arizona Behavioral Health Services," Dec. 4, 2006, *available at* http://www.azleg.gov/briefs/Senate/BEHAVIORAL%20HEALTH%20SERVICES.pdf, at 4.

[92] See Exhibit 22. *Arnold v. Arizona Department of Health Services*, 160 Ariz. 593, 610 (Az. 1989). The court also notes that Arizona was one of the last states in the union to provide for the mentally ill. *See* id. at 594 ("The record before us demonstrates that Arizona is last among the states of this union in providing care and treatment for its indigent chronically mentally ill.").

The Arizona Supreme Court thus identified a common interest for schizophrenics in their need for what the court considered as morally obligated state care.

Moreover, there is case law directly supporting the fact that indigent, mentally ill Colombians can constitute a particular social group. In *Matter of Faronda-Blandon*, a homeless, mentally ill man was granted withholding of removal to Colombia.[93] The court found that it was more likely than not that he would be persecuted on account of his being a social outcast in Colombia due to his mental and financial status.[94]

Finally, persons with mental disabilities have been considered a "social group" in several other immigration contexts as well. In the asylum context, children with developmental disabilities and their-support network are considered a social group.[95] In the deportation context, BIA has recognized in *In re de Santiago-Carrilo* that the mentally ill institutionalized in state hospitals in Mexico were a "social group."[96]

C. It is more likely than not that Mr. XXX's life or freedom would be threatened if returned to Colombia on account of his membership in a particular social group.

An applicant may demonstrate that his or her life or freedom would be threatened in the future in a country if he or she can establish that it is more likely than not that he or she would be persecuted on account of race or membership in a particular social group upon removal to that country.[97] In making this showing, the applicant need not show that he would be singled out for such persecution if he demonstrates that there has been a pattern and practice of persecution of a similarly situated group and that the applicant is included in or identified with such group.[98] As outlined below, there is a well-documented pattern and practice of persecution and abuse in Colombia of persons similarly situated to Mr. XXX.

1. Mr. XXX will be persecuted in Colombia on account of his being indigent, schizophrenic and bipolar.

Mr. XXX fears that his life and freedom would be threatened in Colombia on account of his schizophrenic and bipolar disorders. People with severe mental illness in Colombia are subjected to a pattern and practice of persecution, and, as described above, Mr. XXX is included in that group. Indigent, individuals living on the street are even more easily targeted because their illness is apparent to the general public. The persecution of the mentally ill in Colombia

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[93] See Exhibit 28. *Matter of Faronda-Blandon*, A74-979-517 (IJ June 15, 2001) (York County Prison, Pa.) (Van Wyke, IJ).
[94] *Id.*
[95] See Exhibit 31. A. Kanter, R.B. Chisam, & C. Nugent, "The Right to Asylum and Need for Legal Representation of People with Mental Disabilities in Immigration Proceedings," 25 MENTAL & PHYSICAL DISABILITY L. REP. 511,511 (2001) (describing an INS asylum case regarding a 10 year old boy with autism). See also Exhibit 32. *Tchoukhrova v. Gonzales*, 404 F.3d 1181 (9th Cir. 2005) (finding Russian children with mental disabilities and the parents who care for them as a "social group.").
[96] See Exhibit 31. Kanter, "The Right to Asylum and Need for Legal Representation of People with Mental Disabilities in Immigration Proceedings" at 512.
[97] See 8 C.F.R. § 208.16(b)(2).
[98] See 8 C.F.R. § 208.16(b)(2)(i)-(ii)(2003).

manifests itself in two forms: 1) the practice of "social cleansing" of the mentally ill by the government, paramilitary groups and individual citizens; and, 2) the failure of the state to provide even basic care for the mentally ill.

The mentally ill in Colombia are considered socially undesirable and are the victims of a horrific pattern of "social cleansing" within the country by various actors.[99] In Colombia the term "expendable" refers to "diverse groups having the same quality- that of being unnecessary, undesirable, and nonfunctional- by reason of which they should be eliminated." [100] Beggars, street thieves and the mentally ill all fall under the category of "expendable."[101]

> With regard to extermination of 'expendables,' the social sectors classifying them as such not only take a permissive stance but actively encourage such extermination. If killing is the customary way to attempt to resolve a conflict, killing the 'expendable' constitutes a task of 'social cleansing,' a concept used to justify the extermination of many 'expendables.'[102]

The persecution of the mentally ill in Colombia is well documented by the U.S. State Department. In its 2003 report, the State Department highlighted how Colombian paramilitary groups "continued to commit 'social cleansing' killings of prostitutes, drug users, vagrants, and the mentally ill in city neighborhoods they controlled" and reported "at least 229 social cleansing killings during the first 9 months of [that] year."[103] State Department reports further indicate that police and former security force members commit social cleansing killings and that an undetermined number of off-duty policemen commit "social cleansing" killings, or that the police deliberately failed to prevent such killings.[104] In December 2000, the Inspector General's office charged 17 police officers and 9 army officials of colluding with paramilitary groups in respect to approximately 160 social cleansing murders by members of paramilitary groups in the Colombian province of Antioquia.[105]

Based on this and similar evidence, the *Faronda-Blandon* court granted an indigent, mentally ill Colombian man withholding of removal under §241(b)(3). The court found that in Colombia there was "a high instance of torture, killings, and 'social purges' or 'cleansings' by vigilante and paramilitary groups against persons deemed socially undesirable," such as the mentally ill, and that "this problem is widespread and institutional" with police as well as vigilante groups often among the perpetrators. The court further noted that the respondent "would be alone and most probably homeless" and that his "serious mental health problem leaves him most likely unable to

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[99] See Exhibit 33. FRANCO AGUDELO, Saúl. Violence and health in Colombia. Rev Panam Salud Publica. [online]. 1997, vol. 2, no. 3 [cited 2007-01-22], pp. 170-180, *available at*: <http://www.scielosp.org/scielo.php?script=sci_arttext&pid=S1020-49891997000900002&lng=en&nrm=iso>. ISSN 1020-4989..
[100] *Id.*
[101] *Id.*
[102] *Id.*
[103] See Exhibit 17. Colombia, Country Report on Human Rights Practices, 2003.
[104] See Exhibit 12. Colombia, Country Report on Human Rights Practices, 2001.
[105] *Id.*

care for himself, look after his own interests, or assess dangers against him on the street."[106] The court held that it was more likely than not that the respondent would be persecuted on account of his being a social outcast due to his mental illness and there was also "at least a reasonable probability" that he would be killed.

Like the respondent in *Faronda-Blandon,* Mr. XXX would more likely than not face persecution on account of severe his mental illness in the form of physical torture or death at the hands of the government, paramilitary groups or individual citizens. In addition, like the respondent in the case above, Mr. XXX will be homeless, making him an even easier target for violence. There are few, if any, protections against police targeting, jailing and torturing the mentally ill for their antisocial and abnormal, but not necessarily criminal, behavior.[107] As discussed in Section I, the state authorities in Colombia are notorious for torture, and the prison system is fraught with abuse of detainees by prison officials.[108] Furthermore, paramilitary and civilian vigilante groups target mentally ill individuals like Mr. XXX for elimination and kill them with impunity.[109] As Colombia's pattern of "social cleansing" of the mentally ill and Mr. XXX's past history of violent, psychotic behavior while not on his medication indicates, he would certainly become a target for torture or death by both public and private actors, including the police, prison officials, paramilitary groups and vigilantes.

In addition to the widespread practice of "social cleansing," persecution of the mentally ill is also evidenced by the utter neglect of the mentally ill by the Colombian government. Such neglect forces individuals like Mr. XXX to live their lives in agony. Western mental health guidelines advocate counseling and antipsychotic medication administered pursuant to a monitored treatment plan by licensed mental health professionals for the treatment of schizophrenia.[110] In re *Moscoso-Zuniga*,[111] the BIA found claims that a Peruvian suffering from bipolar disorder will suffer torture and persecution because of the barbaric state of Peru's mental health facilities as a valid *prima facie* case for withholding under either a persecution or a CAT theory. Indeed, according to those guidelines, "most patients who develop schizophrenia and related psychotic disorders are at very high risk of relapse in the absence of antipsychotic treatment."[112] As previously discussed at length, Colombia does not provide schizophrenics or other mentally ill individuals with even the most basic mental health services or medication for free. Therefore, Mr. XXX, who is suffering from a severe mental illness and has no money, will be denied any type of mental health treatment in Colombia.

If Mr. XXX were exiled to Colombia, he would more likely than not be denied the counseling and medication necessary to manage his schizophrenic and bipolar disorders. He will have no social network in Colombia and be forced to live on the streets which will invariably result in an

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[106] See Exhibit 28. *Matter of Faronda-Blandon*, A74-979-517 (IJ June 15, 2001) (York County Prison, Pa.) (Van Wyke, IJ).
[107] See Exhibit 12. Colombia, Country Report on Human Rights Practices, 2001.
[108] See Exhibit 16. Colombia: Columbian Law, Legal Research, Human Rights. See also Exhibit 17. Colombia, Country Report on Human Rights Practices, 2003.
[109] See Exhibit 12. Colombia, Country Report on Human Rights Practices, 2001.
[110] See Exhibit 26. APA Schizophrenia Treatment Guidelines at 13.
[111] See Exhibit 34. The Board held Respondent may have a well-founded fear of persecution in Peru on account of his bipolar disorder. Matter of Moscoso-Zuñiga, A72-110-031 - San Francisco.
[112] See Exhibit 26. APA Schizophrenia Treatment Guidelines at 13.

aggravation of his mental illness and cause him to become a danger to himself and possibly others. By deporting him to Colombia, the U.S. government would be essentially sentencing him to an early death. The lack of mental health services would leave Mr. XXX to suffer in his world of delusions, voices, confusion, and depression.[113] The failure to provide free mental health services to indigent, schizophrenic and bipolar individuals, like Mr. XXX, subjects such persons to continued mental illness, and likely imprisonment and torture for acting erratically. Colombia's failure to act is a violation of its international obligations and constitutes state action in the form of persecution of a particular social group: indigent, schizophrenic and bipolar individuals.

D. Mr. XXX could not avoid the threats to his life or freedom by relocating to another part of Colombia.

An applicant cannot succeed in this demonstration if the applicant could avoid the future threat to life or freedom by relocating to another part of the proposed country of removal if, under all circumstances, it would be reasonable to expect the applicant to do so.[114] In Mr. XXX's case, the threats to his life and freedom on account of his mental illness could not be alleviated by his settlement in any region of Colombia.

The mental health care system is virtually non-existent country-wide. There is no part of Colombia in which Mr. XXX could settle where he could obtain the medication and counseling necessary to control his delusions and antisocial behavior, which would subject him to persecution, abuse, and torture. Mr. XXX will be equally subjected to persecution, abuse and torture on account of his membership in this group regardless of where in Colombia he finds himself. Moreover, even if relocation would protect Mr. XXX from persecution, his financial and mental state would prevent him from doing so.

CONCLUSION

In Colombia, the public mental health system is non-existent. Mr. XXX, an indigent, schizophrenic, bipolar individual, will receive no counseling or medication to help him control his psychotic, and often, aggressive behavior. The government's failure to provide mental health care is made even more abhorrent by the fact that the mentally ill are targeted for torture and persecution by both state and private actors. If Mr. XXX is returned to Colombia, he will more likely than not be tortured and killed.

[113] See Exhibit 2. Medical Declarations and Supporting Documents.
[114] See 8 C.F.R. § 208.16(b)(2).

Dated this _____ day of ____________, 2007.

Mr. XXX

By Counsel

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CERTIFICATE OF SERVICE

I hereby certify that on ____________, 2007, a true copy of the foregoing motion was hand delivered to:

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