O-blog-dee-o-blog-da

Life goes on....

UK to Deport Uganda Gay Man, Robert Segwanyi, despite Torture and Risk to his Life

Posted on <u>July 8, 2011November 27, 2011</u> by <u>Melanie Nathan</u> July 08, 2011, by Melanie Nathan,

(https://oblogdeeoblogda.files.wordpress.com/2011/07/robert-seg002.jpg)On June 20, 2010, Robert Segwanyi fled Uganda, seeking asylum in the United Kingdom, weeks after having been tortured for 'homosexuality.'

Indicative of arbitrary verdicts, broken systems, and the inadequacies of refugee status/ asylum laws in the United Kingdom and across the world, the UK Border Agency has made a decision not to believe that Segwanyi is indeed homosexual. A judge rejected his appeal claiming that 'there is no risk to gay people in Uganda.'

Segwanyi will be deported by the U.K. authorities on Monday July 12.

In February 2010 Segwanyi was arrested by Police, after an informer advised authorities that he had been in a homosexual relationship with a man. While in Prison he was beaten with electric wires, sticks and metal objects. Managing to escape, with the help of friends, he made his way to the UK.



According to sources in the U.K. Mr. Segwanyi has been subjected to inadequate and inferior legal representation, which has served to impede his status.

A Ugandan in the UK, like John Bosco, (http://www.blogger.com/posts.g?blogID=3799086301071172468& searchType=ALL&txtKeywords=&label=john+bosco) who encountered similar torture by police before 2010 and before winning asylum in the UK, vouches for Segwanyi's credibility. Photographic evidence was submitted from a previous boyfriend, witnesses have reminisced about gay friends and venues in common, and furthermore attestations by gay activists as to language and mannerism have evidenced "gay" Ugandan styles. Yet it would seem that little has helped to affirm for the U.K. immigration authorities that Robert Segwanyi is a gay man.

Bosco says: "I'm terribly worried about Robert's life if he is deported back to Uganda."

Paul Canning of LGBT Asylum News asserts "The rejection by UKBA of Robert's case follows a similar path to that of other lesbian or gay asylum seekers, where minor discrepancies in testimony are taken to undermine his entire testimony, especially the question of whether the asylum seeker is gay. No translator was provided at Robert's interview with UKBA and no account was taken that he could be suffering from post-traumatic stress. Robert believes that the interviewer had mixed up his statements about his past relationships."

Notwithstanding a psychiatric report showing that Robert was suffering from post-traumatic stress disorder (<u>PTSD</u> (http://www.webmd.com/anxiety-panic/guide/post-traumatic-stress-disorder)), as well as copy of a wanted notice after Segwanyi's escape, the Home Office lawyer argued that even if Segwanyi was gay, stating that 'gay people are not at risk in Uganda.'

According to Canning, "Judge Hembrough – "astonishingly – hedges his bets by ruling that even if "I am wrong regarding the Appellant's homosexuality I see no reason to depart from the [then] current country guidance" – this guidance being that "the evidence does not establish that in general there is persecution of homosexuality (sic) in Uganda".

Further indicative of shoddy legal representation was the inability to defend Segwanyi with adequate response to ill-

treatment by a system that simply denies the law – "An examination of Robert's scars was only conducted late in the process, only last month under 'rule 35', (which is supposed to ensure that asylum seekers who are torture survivors are not detained (http://madikazemi.blogspot.com/2011/03/in-uk-torture-survivors-left-to-rot-in.html), though it rarely does result in anyone being released). Although this did lead to Robert's temporary release from detention, unfortunately, Robert's previous lawyer failed to follow up on this report and Robert was swiftly detained again."

It is clear that in this case the Lawyer failed to gather even the most basic of evidence.

Paul Canning who is a renowned expert on LGBTI Asylum, in the United Kingdom told me: "I come across this all the time – that LGBT asylum seekers are not represented properly by lawyers, and when you have a situation such as this in an extremely strong culture of disbelief within the border agency, it takes a strong lawyer to beat that culture in each case. There is also a clear strong resistance from immigration judges and this is seen time and time again."

The legal test of 'reasonable likelihood' is a 51% test – and it does not seem the Judges are finding their way to this standard. The Judges are not always applying the law. The Home Office lawyers tend to believe ignore the law. This happens far too often and well recognized by activists."

It would seem this case fits the mold as last November an immigration Judge relied on old advisories asserting that according to the Uganda country guidance, Robert Segwanyi is not in danger. The judge is referring to early documents and has not looked at updated data and recent threats which indicate, clearly a step up in Anti-gay sentiment and brutality in Uganda.

The only chance for stopping Segwanyi's removal in a few days will be to get an attorney to appeal on emergency basis, for a Judicial review by the High Court. In order for this to happen the new evidence or that which failed to be provided, must now be presented and at the time of writing this article, Segwanyi was still looking for the help he needed. Added to this injustice is the fact that the Segwanyi's attorney at the time as well as the Home Office attorneys, did little more than to mislead the Court by accepting and relying on outdated guidelines.

To stop removal via this Judicial Review to the High Court the new and updated evidence is indeed available, poignant examples include:

- The murder of out gay activist David Kato;
- The still impending and rise in popularity of the Anti-Homosexuality Bill, which is set for reintroduction by David Bahati into the new Parliament of Uganda. This Bill came within hours of passage in May of this year, but only failed to make it due to the lapse of the Session. It is highly possible that this Bill will pass this session;
- Evidence of new photographs;
- Testimony of Bosco; and
- o The Brenda Namigadde Effect (For UK due to Ban on Brenda's name in Press "The BN Effect") (See below) and
- o imperative evidence: Recently <u>updated country guidance for the UK Border Agency (http://www.scribd.com/doc/55086305/uganda-COI)</u> quotes the 2009 US State Department human rights report for Uganda saying that "no persons have been charged under the law" (the 2010 report repeats this line). It also quotes the 12th Annual Report of the Uganda Human Rights Commission to the Parliament of the Republic of Uganda, covering events in 2009, released in October 2010, which says that "few arrests, prosecutions and convictions have been made under section 145 of the Penal Code Act, which suggests that this law is redundant."

Paul Canning has researched the following -

However, citing the most up to date evidence, it also says that:

"Amnesty's 2010 Report 'I Can't Afford Justice' (http://www.amnesty.org/en/library/info/AFR59/001/2010/en) published on 6 April 2010 commented "...section 145 of the Penal Code Act has been and continues to be used by the police and other law enforcement officials to subject lesbian, gay, bisexual and transgender (LGBT) people in Uganda to arbitrary arrest and detention often resulting in torture or other cruel, inhuman and degrading treatment." [10b] This comment is contrary to that made by UHRC at 19.04 and should be considered accordingly."

This means that this new information on police treatment of gays in Uganda should be prioritized over prior information

Ugandan activists have reported arrests under the existing law for some time. In her <u>eulogy for the murdered gay</u> activist David Kato (http://www.davidmixner.com/2011/01/val-kalendes-eulogy-to-a-great-son-of-lgbt-africa-.html) earlier this year, Val Kalende noted that Kato had: "visited all of the prisons and police stations where a member (s) of

the LGBT community had been arrested or detained."

Ugandan refugees in the UK like <u>John Bosco (http://www.blogger.com/posts.g?blogID=3799086301071172468&searchType=ALL&txtKeywords=&label=john+bosco)</u> and <u>Prossy Kakooza (http://www.blogger.com/posts.g?blogID=3799086301071172468&searchType=ALL&txtKeywords=&label=prossy+kakooza)</u> both experienced arrest (and torture) by police before 2010.

In a Channel Four (UK) documentary 'Africa's Last Taboo (http://www.youtube.com/watch?v=ZyEFfL9GbRw)' last year, African journalist Sorious Samura documents in detail the arrest and detention of two gay men in Mbale (a city in southeastern Uganda) under the existing sodomy law.

Barrister S. Chelvan, of London's No5 Chambers (http://www.no5.com/), says:

"What they [the police] do is use the law to act with impunity. That's what happens."

Chelvan says there are arrests, detention and torture – but prosecutions generally don't eventuate: "you bribe yourself out." This was John Bosco's experience (http://madikazemi.blogspot.com/2010/06/deportation-story-from-kampalato.html). Uganda's Inspector General of Police, Maj Gen Kale Kayihura, has explained the lack of officially reporting of prosecuted cases as them 'dying a natural death'.

Interference on the question of the existing law's application has been a consistent tactic (http://wthrockmorton.com/2010/07/29/have-gay-been-arrested-in-uganda-ssempa-says-no-mbale-says-yes/) by anti-gay forces in Uganda. The police itself, in its 2010 police crime report, says that "there were no cases of homosexuality reported in Uganda" (that's the language reported in the Observer newspaper (http://www.observer.ug/index.php?option=com_content&task=view&id=13288&Itemid=59)). The leading anti-gay campaigner Pastor Ssempa has claimed that:

"For the last 50 years we've had this law, since we've had a law against homosexuality, no homosexual has been arrested or killed for homosexuality."

LGBT Asylum News has noted (http://madikazemi.blogspot.com/2011/04/uganda-msm-misleads-again-on-kill-gays.html how international media has repeated such claims and other ones, such as the repeated 'concession' by 'Kill the gays' bill author David Bahati MP that the death penalty would be removed and the claims that the bill only pertains to child abuse or sexual assaults.

Yet some comments have made it through which suggest the real motives of the anti-gay forces and what could be the actual impact of the bill's passage into law. On the Christian radio show Michael Brown's Line of Fire Pastor Julius Oyet, another author of the bill, tells a gay man that he will be arrested when the Anti-Homosexuality law takes effect.

In the documentary '<u>Uganda</u>: <u>Killing in the name of god (http://www.youtube.com/watch?v=VnQvRzPY3r4)</u>' Oyet defends death for gays with his Bible and a Muslim cleric is shown preparing squads to hunt down gays.

And most infamously David Bahati told investigative journalist Jeff Sharlet (http://www.npr.org/templates/story/story.php?storyId=129422524) in an unguarded moment after a long day spent together that he wanted "to kill every last gay person."

Speaking about the experience to NPR, Sharlet said:

"It was a very chilling moment, because I'm sitting there with this man who's talking about his plans for genocide, and has demonstrated over the period of my relationship with him that he's not some back bencher — he's a real rising star in the movement. This was something that I hadn't understood before I went to Uganda, that this was a guy with real potential and real sway and increasingly a following in Uganda."

Bahati also famously threatened gay British radio star Scott Mills (http://madikazemi.blogspot.com/2011/02/whyugandan-arch-homophobes-threats-to.html) as he was interviewing him for a documentary.

When the presenter said he was gay, Bahati became enraged and the film crew fled.

Later, they heard that Bahati had sent armed police to a hotel he thought they were staying at.

And earlier this year Bahati threatened another Ugandan asylum seeker in the UK, BN. This author witnessed that threat and made a statement to that effect.

The Brenda Namigadde Effect: (Article by Melanie Nathan published March 08, 2011)

On Assignment Reporting from Africa – LGBT Asylum News is Reporting the "Brenda Effect" on another case that the UK Home Office and Courts must consider. It seems that my conversation with David Bahatti has taken a life of its own, setting a form of precedent for "perceived homosexuality – creating reluctance on the part of Judges who choose to err on the side of asylum seeker safety.

Early February an gay asylum seeker in the UK, Jamal (http://lezgetreal.com/2011/02/another-gay-asylum-seeker-to-be-deported-amidst-whistle-blower-video/)was sent to Heathrow airport (http://maps.google.com/maps?ll=51.4775,-0.461388888889&spn=0.03,0.03&q=51.4775,-0.461388888889%20%28London%20Heathrow%20Airport%29&t=h) after years in detention and 14 years of struggling for asylum. He was injured as he fought hard not to board not to be returned to the place where he faces certain death. Again the United Kingdom Home Office (http://www.homeoffice.gov.uk/) and Border Control are about to try and get him onto the next deportation drop. Jamal's new flight is scheduled to leave Heathrow in the next few days. But now it seems that we have helped create new modality of defense for victims caught in the quagmire of disbelief as to their sexual orientation in the UK and their perceived orientation in Uganda- the latter of which dictates the harm.

Update, **March 8:** Jamal's removal has been stayed and he has been released from detention. Lord Justice Sullivan specifically linked his case to that of 'Brenda Namigadde'. He said:

"In view of the claimant's appalling immigration history I grant a stay with great reluctance. I do so because I understand that a stay of removal was granted in a similar case BN (Uganda), which is awaiting an expedited hearing in the administrative court. The applicants case in BN to be a lesbian was not accepted, but the issue raised in her case is the risk on return of a perceived homosexual as a result of press coverage in the UK. In the present case neither the Tribunal nor the Secretary of State has accepted that the claimant is gay, but (perhaps as a result of his own efforts) there are press reports in the UK which identify him as a gay man: see eg Guardian dated 5 February 2011. It would be sensible to defer his consideration of his application for permission to appeal pending the Administrative Court's decision in BN."

The Brenda Namigadde Case: (An Article by Melanie Nathan published Feb 08, 2011)

Less than a week ago Brenda Namigadde, escorted by two border control officers from the UK, was sitting on a plane about to take off for Uganda, where she could have faced a likely death sentence – either at the hands of anti-gay vigilantes or under new legislation, The Bahati Anti-Homosexuality Bill, that could be enacted at any moment in time.

Instead an injunction was obtained out of the High Court in London, and with minutes to take off, Brenda Namigadde was pulled off the airplane.

Today Brenda is safe; for now.. She has just been released from detention and is on her way to stay with an unnamed person. Brenda does not know why she has been released , however LezGetReal has learnt that this is a normal procedure for someone who is not likely to abscond.

Initially Brenda, a lesbian, whose plea for asylum was rejected because a judge did not believe she was in fact a lesbian was considered a flight risk, and her deportation back to Uganda was imminent. However since activists heard about the impending deportation, via a news article in the Ghana press, her story was published on LGBT Asylum News (UK) and LezGetReal (USA), and ad hoc advocacy began on her behalf, leading to a series of events that actually served to enhance her risk in Uganda, which ironically has contributed to the new evidence that will be presented to a Judicial review on Friday – and if successful she will be then allowed to submit her new asylum application based on the new set of facts.

This is not without controversy, as the UK anti-gay immigration newspapers have accused activists of "manipulating " the UK asylum system – and apparently the Judges ordered a ban on mentioning Namigadde's name in the UK press – alluding to the same sentiment. My response to that is the following:

At that time I reported Brenda's case I believed her assertion that she was indeed a lesbian and I was horrified that a Judge would have the audacity to say she was not – give many factors of fear, and the need to protect other non-out lesbians; the Judge did not say "there is no EVIDENCE to prove she is a lesbian" Instead he determined she was "NOT a lesbian." So the harm came from the initial judgment. We were merely reporting the facts..... I had no idea that David Bahati would call me and that it would result in the affidavit I sent to UK Courts ion Brenda's behalf. It would be a manipulation if indeed I had planned for Bahati to call me; and then how could I manipulate his thinking – the thinking that places Brenda in direct harm and likely to lose her life, like David Kato did, if returned to Uganda.

The Judicial review is happening on Friday – where evidence will be submitted. If she wins it will allow the fresh asylum claim – so it is not over for a long while. Brenda is safe for now...

Melanie Nathan's Affidavit in Brenda Namigadde Case:

AFFIDAVIT

Home Office Reference number 116XXXX

I the undersigned,

Melanie Nathan, a US Citizen and resident of Marin County, in California, United States of America to attest under oath to the following facts, in so far as they reflect my personal knowledge:

- 1. I practiced law in South Africa, as an attorney (solicitor) as a member of the Supreme Court of South Africa, TVL, (Gauteng) holding an LL B degree from 1980-1985; I immigrated to the USA in 1985 and currently am a practicing Conflict Resolution Specialist and Editor for LGR Media, which published www.lezgetreal.com/) an online News Magazine and Blog. I am also an appointed commissioner on the County Human Rights Commission.
- 2. On the 23 January, 2011, I received information from a source in the United Kingdom and posted a story on my website, titled "<u>UK Home Office Deporting Ugandan Lesbian to Certain Harm (http://lezgetreal.com/2011/01/uk-home-office-deporting-ugandan-lesbian-to-certain-harm/)</u>" In part The article reads:

Melanie Nathan January 23, 2011 – The <u>United Kingdom (UK) (http://maps.google.com/maps?ll=51.5,-0.116666666667&spn=10.0,10.0&q=51.5,-0.116666666667%20%28United%20Kingdom%29&t=h)</u> Home Office has rejected the asylum application of a Ugandan lesbian who can be sent back at any time. The Ghana news reports that the "East African country is hostile to homos and recently proposed a bill which would make homosexual acts punishable by execution."

The U.K. Border Agency, is now holding a Uganda born student, Brenda Namigadde, 29, who was among those took part in a demonstration outside the Uganda High commission in Trafalgar Square, Central London in 2009, when the Ugandan government introduced an https://en.wikipedia.org/wiki/Uganda_Anti-Homosexuality_Bill) in parliament. The bill that shocked the liberal western governments suggested all Gays and Lesbians in the country should face the death penalty.

Speaking about her case from the UK Border manned Heathrow immigration detention center where she being held, Namigadde, said she fears for her life once in Uganda..... "

In the same article I mentioned my earlier and extensive interview with David Bahati, as follows:-

"Last week I spoke directly to David Bahati in an interview which I am soon to publish in full. He informed me that the Ugandan Parliament is going to go ahead with the anti-homosexuality Bill and it could become law in a matter of time.

"All Ugandans support the Bill. We are a sovereign Country" he said— He told me that Uganda "does not consider homosexuality as a human right" and that it will do everything it can to enforce criminal sanctions against those who "practice homosexuality."

Bahati said that homosexuality is a crime already in Uganda and the purpose of the new law will be to clarify it as such, creating certainty in the realm of punishment. He said that he had "proof" that "homos are recruiting children in the schools to their way of life" and that "Uganda must protect their children for the homos."

I asked him if this was a religious ideal and based on religion. He said that it was..."

- 3. On January 25, 2011, After I published the abovesaid article and while on a Skype conversation with Mr. Paul Canning from the UK and Mr. Joseph Huff-Hannon from the USA, my land phone line rang; to my surprise it was Member of Parliament David Bahati. I muted the Skype conversation with Mr. Canning and Mr. Huff-Hannon and allowed them to listen in to my conversation with Mr. Bahati.
- 4. Mr. Bahati told me he had read my article about Brenda Namigadde. After speaking to him I was sure that he believed Ms. Namigadde to be a known lesbian from Uganda. He was concerned that Ms. Namigadde was "bad mouthing: Uganda and that I should give her a message to stop doing so. On January 25, 2011 I reported my conversation with Mr. Bahati in another article, dated January 25, 2011, titled Notorious "Kill the Gays" Bahati Weighs in

UK to Deport Uganda Gay Man, Robert Segwanyi, despite Torture and... https://oblogdee.blog/2011/07/08/uk-to-deport-uganda-gay-man-robert...

on Uganda Lesbian's Urgent Deportation Fight."

In that post I reported the following:

"After speaking to Mr. Bahati, I realize that he believes that Ms. Namigadde is indeed a lesbian. This serves only to enhance the danger she is in and flies in the face of the UK assertion that she may not have proved that she is a lesbian. She is indeed in danger.

It was astounding to me that David Bahati would call to comment on this case and the very fact that he did is indicative of the danger that Brenda faces.

He seemed to be very concerned about Uganda's image and that she should not portray "her country as bad." I believe that this adds to her danger.

Bahati said that Uganda is not harassing Brenda but rather it would be enforcing the (Ugandan) law. I questioned him about the law itself and mentioned that the western world did not agree that homosexuality was not a human right as he had told me previously. I told him that the UK and the USA would expect Uganda to adhere to the terms of the Declaration of Human Rights and that if he could not see it that way that there would be every reason to grant her asylum abroad."

5. The following is a further relevant portion of the transcript of my conversation with MP. David Bahati:-

"David Bahati: Brenda is welcome back to Uganda- she will be safe if --she repents for being a lesbian --she renounces homosexuality, and -and she does not engage in that behavior again

Melanie Nathan: What if she arrives in Uganda, Mr. Bahati and cannot say or do any of the above requirements; will she go to jail?

David Bahati: Yes she will

Melanie Nathan: So you are saying that she is a lesbian and will be treated as one when she returns if she does not comply fully with the above statement?

David Bahati: Yes, that is correct."

5. I am available to testify to the above in any proceeding and under oath and would be willing to travel to the United Kingdom if such were necessary. I would also be willing to undertake questioning and/or sworn deposition to attest to the facts that are within my personal knowledge, as reflected herein.

Dated on this the 6th day of February, 2011, in Marin County, California, USA,

MELANIE NATHAN.

DATED: Feb. 06, 2011

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- What happens if Uganda's 'kill the gays' bill passes? How can the World help then? (http://madikazemi.blogspot.com /2011/05/what-happens-if-ugandas-kill-gays-bill.html) (madikazemi.blogspot.com (http://madikazemi.blogspot.com/))
- o The tortured Ugandan lesbian the UK wants to send back (http://madikazemi.blogspot.com/2011/05/torturedugandan-lesbian-uk-wants-to.html) (madikazemi.blogspot.com (http://madikazemi.blogspot.com/))
- o Video: 'Getting Out': five LGBT refugee stories from Africa (http://madikazemi.blogspot.com/2011/07/video-gettingout-five-lgbt-refugee.html) (madikazemi.blogspot.com (http://madikazemi.blogspot.com/))
- o No problems for LGBT in Tanzania according to UK immigration judge (http://madikazemi.blogspot.com/2011/06/noproblems-for-lgbt-in-tanzania.html) (madikazemi.blogspot.com (http://madikazemi.blogspot.com/))
- Ugandan Lesbian Brenda Namigadde Remains in Great Danger of Deportation (http://lezgetreal.com/2011/02

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- /ugandan-lesbian-brenda-namigadde-remains-in-great-danger-of-deportation/) (lezgetreal.com)
- UK Sunday Telegraph Could Impede Ugandan Lesbian's Asylum Case (http://lezgetreal.com/2011/02/uk-sunday-telegraph-could-impede-ugandan-lesbians-asylum-case/) (lezgetreal.com)
- Tragedy as Gay Activist David Kato Murdered in Kampala, Uganda Impact on Ugandan Lesbian Seeking UK
 Asylum (http://lezgetreal.com/2011/01/tragedy-as-gay-activist-david-kato-murdered-in-kampala-uganda-impact-on-ugandan-lesbian-seeking-uk-asylum/) (lezgetreal.com)
- UK Readers Urgent Appeal- The Push for Ugandan Lesbian's New Asylum Hearing (http://lezgetreal.com/2011/02/uk-readers-urgent-appeal-the-push-for-ugandan-lesbians-new-asylum-hearing/) (lezgetreal.com)
- <u>Uganda Lesbian DeportationTomorrow; HELP free her from being Deported to certain Death (http://lezgetreal.com/2011/01/uganda-lesbian-deportationtomorrow-help-free-her-from-being-deported-to-certain-death/)</u> (lezgetreal.com)
- Notorious "Kill the Gays" Bahati Weighs in on Uganda Lesbian's Urgent Deportation Fight (http://lezgetreal.com/2011/01/uganda-lesbian-files-urgent-new-asylum-claim-in-uk-in-face-of-friday-deportation/) (lezgetreal.com)
- <u>UK Home Office Deporting Ugandan Lesbian to Certain Harm (http://lezgetreal.com/2011/01/uk-home-office-deporting-ugandan-lesbian-to-certain-harm/)</u> (lezgetreal.com)

Note: I would like to thank <u>Paul Canning (http://madikazemi.blogspot.com/)</u> for his amazing dedication and hard work to the cause of LGBT Asylum Seekers worldwide.

<u>UPDATED AT – https://oblogdeeoblogda.wordpress.com/2011/07</u>/11/deportation-of-uganda-gay-robert-segwanyi-deferred-as-about-to-board-plane/ (https://oblogdeeoblogda.wordpress.com/2011/07/11/deportation-of-uganda-gay-robert-segwanyi-deferred-as-about-to-board-plane/)

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3 thoughts on "UK to Deport Uganda Gay Man, Robert Segwanyi, despite Torture and Risk to his Life"

1. <u>LGBT Asylum News</u> says: <u>July 8, 2011 at 11:23 AM</u>
Find out how you can help Robert here <u>http://madikazemi.blogspot.com/2011/07/another-arrested-tortured-gay-ugandan.html</u>

Reply

2. *paul canning* says: July 11, 2011 at 10:48 AM
We won (for now) > http://madikazemi.blogspot.com/2011/07/uks-removal-of-gay-tortured-imprisoned.html
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3. Pingback: So Homo » Gay Ugandan Robert Segwanyi Deportation Deferred!

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