



IMMIGRATION AND REFUGEE BOARD
(REFUGEE PROTECTION DIVISION)

LA COMMISSION DE L'IMMIGRATION
ET DU STATUT DE RÉFUGIÉ
(SECTION DE LA PROTECTION DES RÉFUGIÉS)

IN PRIVATE
HUIS CLOS
TA2-21777

CLAIMANT(S)

DEMANDEUR(S)

DATE(S) OF HEARING

June 8, 2004

DATE(S) DE L'AUDIENCE

DATE OF DECISION

June 24, 2004

DATE DE LA DÉCISION

CORAM

D. Morrish

CORAM

FOR THE CLAIMANT(S)

POUR LE(S) DEMANDEUR(S)

REFUGEE PROTECTION OFFICER

AGENT DE PROTECTION DES RÉFUGIÉS

DESIGNATED REPRESENTATIVE

REPRÉSENTANT DÉSIGNÉ

MINISTER'S COUNSEL

CONSEIL DE LA MINISTRE

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s.19(1)

is a citizen of Uruguay¹ who claims to be a Convention refugee or person in need of protection pursuant to ss. 96 and 97(1) of the *Immigration and Refugee Protection Act (IRPA)*. The claimant fears society at large due to his sexual orientation as a bisexual male. He claims that state protection would not be forthcoming if he were to return to Uruguay.

Allegations

The claimant relayed various incidents of harassment and discrimination. He also stated that he was attacked on 1998 when out with his girlfriend. On 1999, the apartment which he shared with his girlfriend was broken into and ransacked. Again on 2002, he was physically and sexually assaulted when he was on his way home from work. The claimant left Uruguay on 2002, arriving in Canada on 2002 and making a refugee claim on the same day.

Determination

The panel finds that the claimant is not a Convention refugee, as he does not have a well-founded fear of persecution for a Convention reason in Uruguay. The panel also finds that the claimant is not a person in need of protection in that his removal to

¹ Exhibit R-2, Information from Citizenship and Immigration Canada, certified true copy of the claimant's Uruguayan passport.

Uruguay would not subject him personally to a risk to life or to a risk of cruel and unusual treatment or punishment. My reasons are as follows.

Analysis

The determinative issue is state protection. Even if the panel found the claimant's evidence to be credible, the documentary evidence clearly indicates that state protection would reasonably be available to victims of criminality in Uruguay. The panel finds that all of the requirements of section 97(1) of the *IRPA*, which defines a person in need of protection, have not been met. In particular, the presumption of state protection has not been rebutted. In assessing the availability of adequate state protection, the panel has considered the claimant's oral and written testimony, all of the evidence, and particularly perused the documentary evidence² pertaining to the mechanisms for seeking state protection in Uruguay. The panel has reviewed the reasons of the RPD in decision TA3-07587³ and adopts the reasoning with respect to the issue of the availability of state protection for homosexuals in Uruguay. In a nutshell, the above-cited analysis of the documentary evidence indicates that the government of Uruguay is making serious efforts to protect its citizens and does take action against corrupt police officers.

² Exhibit R-1, Toronto Documentation Package, Uruguay, December 2003.

³ [redacted] 8, 2004.

Furthermore, there is a gay community in Uruguay, which is not the victim of systemic violence by authorities or by society at large.

The claimant has not rebutted the presumption of state protection. He did not report the assaults because he feared threats from his attackers warning him not to contact police. He did report the break-in to police who investigated at his apartment, but the claimant was unaware of any follow-up.

Conclusion

Having considered all of the evidence, the panel finds that there is not a serious possibility that the claimant would be persecuted if he were to return to Uruguay.

As such, the Refugee Protection Division determines that the claimant, s.19(1)
is neither a Convention refugee nor a person in need of protection pursuant to section 97(1)(a) or (b) of the *IRPA*.

"D. Morrish"
D. Morrish

DATED at Toronto, Ontario this 24th day of June 2004.