



IMMIGRATION AND REFUGEE BOARD  
(REFUGEE PROTECTION DIVISION)

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

IN PRIVATE  
HUIS CLOS  
**TA4-12141**

CLAIMANT(S)		DEMANDEUR(S)	
DATE(S) OF HEARING	<b>24 January 2005</b>	DATE(S) DE L'AUDIENCE	
DATE OF DECISION	<b>26 January 2005</b>	DATE DE LA DÉCISION	
CORAM	<b>M. Clive Joakim</b>	CORAM	
FOR THE CLAIMANT(S)	<b>Michael Korman Barrister and Solicitor</b>	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)

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is a citizen of Ghana and claims protection on the Convention ground of membership in a particular social group. s.19(1)

#### **Allegations**

The claimant alleges that his homosexual lifestyle has resulted in his being attacked by homophobic persons. He is afraid that the general intolerance of same-sex relationships in Ghana puts him at risk of serious harm. Because homosexuality is illegal in Ghana he is unable to get police protection.

#### **Determination**

I find that the claimant is not a Convention refugee nor is he a person in need of protection. His claim fails on the lack of an objective basis to his alleged well-founded fear.

#### **Analysis**

The claimant testified that he began living a homosexual lifestyle when he was fifteen years old and had an initial relationship which lasted five years i.e., until 1976. Then he had another partner from 1976 until he left for Canada in 2004. His first difficulty with homophobia occurred in 2003, 32 years after he began his homosexual

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lifestyle. During this period he fathered one child in 1995 and another in 1997 from different women. He had one other incident when thugs attacked him in 2004. The panel does not consider two attacks over three decades to be indicative of a serious possibility of gays being mistreated in Ghana.

Evidence available to the panel indicates that although homosexuality is frowned upon in Ghana it is “generally regarded with tolerance” and that homosexuals may be hassled in bars or in the streets. There are reports of beatings of gays such as described by the claimant.<sup>3</sup> Even if the claimant was attacked twice, in 2003 and a year and a half later, in 2004 there is no persuasive evidence that such attacks are frequent enough or serious enough to amount to persecution.

The claimant was asked why he got a passport in 2002. He said everyone gets one in case they need to travel. But he got his passport when he was 46 years of age and had shown no inclination to travel until he got his passport. The panel confirmed with the claimant that he had a photo voter I.D. card<sup>3</sup> so that he did not need a passport for internal identity purposes. The panel finds on a balance of probabilities that the claimant was preparing to leave Ghana before the alleged attack upon him in 2003.

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<sup>1</sup> Exhibit R/A-4, GHA 36100.E, dated 26 January 2001.

<sup>2</sup> Ibid.

<sup>3</sup> Exhibit C-2, item 1.

A police report<sup>4</sup> submitted by the claimant in support of his claim does not have the ring of truth about it. It replicates the information in paragraph 9 of the claimant's Personal Information Form (PIF)<sup>5</sup> including details of the claimant being driven to a hospital where he was treated and discharged. Given that the claimant went to the police to report the attack there is nothing in the report to suggest that he was questioned about the identities of his attackers. In his PIF the claimant had stated that he thought he had recognized the ring-leader as being from his area and that this man approached him close. The claimant was asked why the report makes no mention of the description of the attackers or how many there were and also whether he was told how the investigation was to proceed and what the eventual results were. He said that the police report was not written for the purpose of saying how many attackers there were and what description they fitted but merely to record the fact that he made a report to the police. The alleged attack upon the claimant and his partner in 2004 was also reported to the police. s.19(1)

He claims that he got no police report on this occasion as the police officer threatened to investigate whether he was gay. The evidence suggests that gays have nothing to fear from the police unless they are accused of assault and rape or sex with a minor.<sup>6</sup> In any event this police officer knew about the first report made by the claimant and there was no suggestion in that report of any investigation being made on his homosexuality.

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<sup>4</sup> Exhibit C-2, item 6, Police Report.

<sup>5</sup> Exhibit C-1, PIF, paragraph 9.

<sup>6</sup> Supra, footnote 1.

Given that gays are not routinely prosecuted for their life style, I find on a balance of probabilities that the police officer made no threat to investigate the claimant's lifestyle.

The claimant provided no evidence that he is continuing a homosexual lifestyle in Canada. He has been in Canada since 2004 and did not testify to having a partner or to joining any gay organizations. He provided no affidavits from anyone who knew him in Ghana (especially his partner ) about his gay orientation. s.19(1)

The objective evidence is that he has two children, that he told the Canadian visa officer that he is recently married and that even if he was in a homosexual relationship he had no problems for 30 years. Additionally, he got his passport and was, as the panel has determined on a balance of probabilities, preparing to travel before the onset of his alleged problems. There is also no persuasive evidence that gays are attacked with the frequency or severity that one could deem persecutory.

There is not a serious possibility that the claimant will be persecuted for a Convention reason nor would his removal to Ghana subject him personally to a risk to his life or to a risk of cruel and unusual treatment or punishment and there are no substantial grounds to believe that his removal to Ghana will subject him personally to a danger of torture.

The Refugee Protection Division determines that \_\_\_\_\_ is not a s.19(1)  
Convention refugee or a person in need of protection and therefore rejects his claim.

“M. Clive Joakim”

M. Clive Joakim

DATED at Toronto this 26<sup>th</sup> day of January, 2005.