



Private Proceeding
Huis clos

Claimant(s)		Demandeur(s) d'asile
Date(s) of Hearing	25 July 2006 16 August 2006	Date(s) d'audience
Place of Hearing	Edmonton, Alberta	Lieu de l'audience
Date of Decision	31 October 2006	Date de la décision
Panel	Tita de Rousseau	Tribunal
Claimant's Counsel	Simon Yu	Conseil du demandeur d'asile
Refugee Protection Officer	Marilyn Babcock	Agent de la protection des réfugiés
Designated Representative	Nil	Représentant désigné
Minister's Counsel	Nancy McIver	Conseil du ministre

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The claimant states that he is a 43 year old Mexican citizen by birth, and is also a Syrian citizen through his father, who was a citizen of Syria. The claimant traveled from Mexico to Canada using a Mexican passport, on July 19, 2004, and made a claim for refugee protection about two months later. His Mexican passport has now been cancelled by Mexican authorities.

PRELIMINARY MATTERS:

1. Security clearance.

This claim was referred to the Refugee Protection Division (RPD) on September 24, 2004. By letter of March 22, 2005, the Minister gave notice that he intended to participate at the hearing. Hearing dates of January 31, 2006 and April 27, 2006 were scheduled and then postponed, awaiting a Confirmation of Security Screening. The hearing was again scheduled for August 16, 2006 with notice to the Minister that the RPD would proceed with the hearing despite the Confirmation of Security Screening not being provided, unless the Minister requested a postponement of the hearing. He did not do so, so the hearing went ahead without the Confirmation of Security Clearance.

2. Pre-hearing Conference

A teleconference was held with counsel, the Refugee Protection Officer and the Presiding member on July 13, 2006 to deal with the issue of a very large number of disclosures, improperly and incompletely translated, and filed late. The Minister's representative consented to the agreement reached regarding the disclosures to be filed.

ALLEGATIONS:

The claimant has a complex background, and a brief description of his familial background is necessary to understand the context of his claim. He alleges he was born in Mexico to a Mexican mother and Syrian father. His parents are both deceased. He has 7 siblings, living in Syria, Saudi Arabia and the US. His current wife is a United States (US) citizen and resides in the US with two of their US-born children. A third daughter lives in Syria. He also alleges he currently has a homosexual common-law partner, a citizen of Mexico living in Hermosillo.

The claimant testified that he was born in Mexico, in Nogales, Sonora in 1963, while his father was living there with his Mexican wife. He believes his birth was registered with Mexican

authorities. His parents took him to Syria at a very young age, and for reasons of convenience, decided to register him in Syria as having been born in Damascus, as he had a right to Syrian citizenship because of his father's citizenship. His parents died shortly after, and the claimant did not learn of his Mexican birth and citizenship until he was in his late teens. He attended school in Syria until 1983, when he moved to the United States to further his education.

While in New York, in 1986 he was asked by the Syrian authorities there to distribute ballots to Syrians in that city for an upcoming election. He took the ballots but did not distribute them, and feels this action would have targeted him as a political opponent of the regime. He remained in the US once his student authorization expired.

He married three times, and had three children by his third wife, an American citizen. He was deported from the US to Syria in 2001, but with the intervention of his brother, was able to go to Lebanon immediately upon arrival and spent no time in Syria. He had no contact with Syrian authorities. His wife came to visit him during the months he spent in Lebanon, and she visited in Syria, but he did not return there. The claimant alleged he fears that if he now returns to Syria, his previous action in 1986 in failing to distribute ballots in New York, will be used to establish a ground for targeting him as a government opponent.

In 2001, on leaving Lebanon, he moved to Mexico, settled in Hermosillo and set up a business. His wife and children joined him there, but have now returned to the US, where she is attempting to sponsor him to join her. In the course of his business, he met and engaged in a homosexual relationship with a business associate. His wife's family, whom he claims are connected to the mafia in Mexico, found out, and he now fears they will kill him to uphold their family honour, although his wife knows about the homosexual relationship and does not object. In fact, she attempted to join him in Canada with two of their children, but they were refused entry. The claimant also fears discrimination and harassment in the homophobic culture of Mexico.

The claimant was able to obtain a Mexican passport on the basis of a birth registration he obtained around 1993. There is some question regarding the authenticity of the documents, and the Mexican government has cancelled the claimant's Mexican passport¹. There is ongoing litigation in the Mexican courts regarding the claimant's right of residence there, and some business dealings².

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DETERMINATION:

The claimant is neither a Convention refugee nor a person in need of protection. He does not have a well-founded fear of persecution in Syria and has not established that there is a serious chance of a risk to his life, a risk of cruel or unusual treatment or punishment or a risk of torture in that country. Since he can return to Syria, it was unnecessary for the panel to assess this claim with regard to his allegations against Mexico.

ANALYSIS:**Identity:**

The claimant alleges that he is a citizen of both Syria and Mexico, and has provided documentation regarding both.

Syrian Citizenship:

A valid passport is *prima facie* proof of citizenship. The claimant possessed a Syrian passport issued in 1981 and renewed to 1987, which has not been impugned³. This is the passport the claimant used to travel to the United States in 1983, and was issued to "Mr. [redacted] born in 1963 in Damas (Damascus). It is now expired, but the claimant himself, in dealing with the US government in an "Application for Permission to Reapply for Admission into the United States", through his lawyer confirms that he is a national of Syria⁴. As late as the last letter provided, dated May 25, 2005 and written to the US Embassy in Damascus, the claimant is referred to by his lawyer as '[redacted]', national of Syria. The panel is cognizant of different spellings of names in translations, and does not attach any importance to the different spelling in the passport and lawyer's letters, but does note that in dealing with the US immigration authorities for the purpose mentioned above, the claimant does not use the matrilineal name '[redacted]' which he assumed at some unspecified time – presumably while living in Mexico after 2001. At the time of his deportation from the US, in 2001, the name by which he was known in the US, along with a number of aliases, was '[redacted]'. That is the name used in a court document from the Superior Court of Arizona dated [redacted] 2001⁵ as well as in the immigration and removal orders.

There is no evidence before the panel disputing the fact that the claimant is a citizen of Syria, whose identity according to his passport and the other documents referred to, is [redacted].

Therefore, the panel accepts that the claimant is a Syrian citizen with the rights associated with citizenship, including the right to return to that country.

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However, the claimant alleges that in addition to being [redacted] citizen of Syria, he is also [redacted] citizen of Mexico. He has provided a copy of a Mexican passport⁶ to confirm this identity, but as noted above, this passport has been cancelled by the Mexican government. Since the panel has accepted his Syrian citizenship, and finds that he can return to that country, it did not find it necessary to analyze his claim to Mexican citizenship, which is in dispute and is being investigated by the Mexican authorities.

Fear of Persecution in Syria

The claimant alleged that in 1986, while a student in New York, supporting himself by exchanging money, he was asked, along with a friend, to distribute ballots to Syrians, for the upcoming election. He did not do so. As a result, he testified that his friend's brother in Syria was beaten up, and the friend himself made a claim for asylum in the US. An unsigned, undated note purportedly from "USA" was provided to corroborate this incident⁷, but as the person writing the note is not identified beyond the initials [redacted] nor any explanation given as to circumstances of obtaining the note, its evidentiary weight is minimal. The claimant testified that his family in Syria was not harassed, as none of them were in the country at the time. Later, the claimant stated that an uncle for whom he had worked, was held for 45 days in the mid-1980's, but he had no further information about that detention.

However, the claimant alleges he fears returning to Syria because of this incident which occurred 20 years ago. He has no information that it was brought to the attention of anyone in Syria, or that even the Syrian Embassy in New York knew that the ballots had not been distributed. His passport was renewed by the Embassy in the US, without incident, leading the panel to the inference that if the Syrian authorities had doubts about the claimant, they would have refused to renew the passport or called him back to Syria, as they must have known where he was in order to renew his passport.

Additionally, the actions of the claimant in not making a claim for asylum during the time he lived in the US, from 1983 to 2001, are not those of a person with a subjective fear of persecution. He explained he did not think he needed to make a claim there, that he assumed he could just live there. He married and had businesses there, and testified he felt safe. That does not explain, however, his failure to deal with his status in the US for such a long time. Even after a sponsorship attempt by one of his wives proved unsuccessful, he still did not make a claim for asylum or inform the US authorities that he had a fear of returning to Syria.

The claimant explained that when he was ultimately being deported to Syria in 2001, he did not bother to mention to the authorities throughout the process that he was a Mexican citizen, as he did not really believe he would be deported, and did not want to complicate things. He finally mentioned it to someone shortly before he was removed, but it was too late by then. The panel concluded that if the claimant had a fear of returning to Syria, and a clear and logical way to avoid deportation to that country by showing that he could be removed to Mexico instead, he would have done so. The fact that he did not corroborates the panel's conclusion that he did not fear persecution in Syria.

He did arrange with his brother to assist him, however, when he was deported in May, 2001. His brother made arrangements with unknown persons in Syria, which cost a lot of money, to whisk the claimant out of Syria into Lebanon as soon as his plane landed. The claimant testified he had no contact with Syrian authorities at all. This version of his deportation is at odds with the information contained in his lawyer's letter to the US Embassy which states that the Syrian authorities forced him to leave the country and told him he would not be welcomed back to the country of his birth⁸. His lawyer alleges that there is doubt he would be allowed to enter the country again, but given that this information directly contradicts the information given by claimant himself under oath, the panel prefers the claimant's account, and accepts that the claimant had no contact with Syrian authorities, and was not told he could not return to Syria. In fact, while the claimant alleged he has never returned to Syria after leaving in 1983, his wife and children visited that country in 2003 as well as 2001, and his daughter is now living there with her relatives. None of them have had any problems with the authorities, leading the panel to conclude that there is no more than a mere possibility that the claimant would himself encounter serious difficulties from authorities in Syria. The claimant does not have a well-founded fear of persecution in Syria, nor is there any evidence before the panel which would lead to a conclusion that he would be at risk for any of the grounds enumerated in section 97 of the *Immigration Refugee Protection Act (IRPA)*.

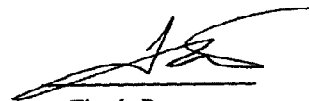
Mexican Citizenship and claim against Mexico

As the panel has concluded that the claimant is a Syrian citizen with a right to return to that country, and does not have a well-founded fear of persecution or serious chance of the risks set out in section 97, it is unnecessary for it to analyze this claim with regard to Mexico. The claimant can return to Syria.

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CONCLUSION:

also known as _____, also known as _____ and s.19(1)
other aliases, is neither a Convention refugee nor a person in need of persecution.



Tita de Rousseau

Dated: 31 October 2006

¹ Exhibit C2, item 1, letter from Mexican Embassy

² Exhibit C3

³ Exhibit R5, page 28

⁴ Exhibit C2, pages 5-9

⁵ Exhibit C2, item 3

⁶ Exhibit R1 p. 33

⁷ Exhibit C3, page 44

⁸ Exhibit C3, items 4,5 and 6