

Commission de l'immigration et du  
statut de réfugié  
Section de la protection des réfugiés



Immigration and Refugee Board  
Refugee Protection Division

No. dossier SPR / RPD file #: MA3-08208

Huis clos  
Private Proceeding

<b>Demandeur(s) d'asile</b>		<b>Claimant(s)</b>
<b>Date(s) de l'audience</b>	March 12 <sup>th</sup> , 2004	<b>Date(s) of Hearing</b>
<b>Lieu de l'audience</b>	Montréal, Québec	<b>Place of Hearing</b>
<b>Date de la décision</b>	April 1 <sup>st</sup> , 2004	<b>Date of decision</b>
<b>Tribunal</b>	Jean Paul Pelletier	<b>Panel</b>
<b>Conseil du demandeur d'asile</b>	M <sup>c</sup> Anthony Karkar	<b>Claimant's Counsel</b>
<b>Agent de la protection des réfugiés</b>	N/A	<b>Refugee Protection Officer</b>
<b>Représentant désigné</b>	[Documents Only] N/A	<b>Designated representative</b>
<b>Conseil du ministre</b>	N/A	<b>Minister's Counsel</b>

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## I. INTRODUCTION

Mr. [REDACTED] is a citizen of Mexico. His request for refugee protection is based on section 96<sup>1</sup> of the *Immigration and Refugee Protection Act* of Canada.

## II. ALLEGATIONS

In both his oral and written testimonies, the claimant explained to the tribunal how he began to believe that he was a bisexual person rather than a homosexual. He explained his relationship with a friend named [REDACTED], as well as another relationship with a lesbian friend named [REDACTED].

He apprised the tribunal of his views regarding the fear he has of living in Mexico. The person he fears most is [REDACTED]'s father. However, he also fears society as a whole, because the said society does not accept bisexuals and does not distinguish between homosexuals and bisexual. His experiences in Mexico leads him to fear society because of the ill-treatment he may face because of the way he walks and talks. He also testified that, should [REDACTED]'s father find him (the claimant), he would perhaps kill him or have put him in jail.

Because of these alleged facts, the claimant opted to join his cousins who had decided to come to Canada. All three (2 cousins and himself) asked for and received valid passports from Mexican authorities. His passport is dated August 8, 2003. The stamp in the seized passport shows that he entered Canada on September 10, 2003. The claimant testified that he had a chance meeting on the street, and the person he met informed him of the opportunity to seek refugee protection from Canada. His Personal Information Form (PIF) was signed on November 13, 2003.

## III. ANALYSIS

The claimant submitted a valid passport in support of his identity. The tribunal has no reason to doubt the authenticity of that document, and is consequently satisfied that the claimant's identity and country of origin are factual.

The situation faced by the tribunal is to establish, with relative certainty, that the claimant is a person persecuted in Mexico due to his bisexuality. It must also establish whether or not the claimant could be the victim of abuse from society at large because of his alleged bisexual demeanour. He has identified a friend named [REDACTED] as his homosexual partner. The person whom

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he fears most is said to be \_\_\_\_\_'s father, who allegedly caught them in a compromising homosexual encounter, followed with threats to his well being. The contentious points for consideration by this tribunal are as follows:

1. Is the claimant bisexual as he contends to be? Testimony received from him reveals that he declared his bisexuality to his family in 1992, when he was in university. The reason for doing so was that he felt an attraction for men. He wrote in his PIF that he had a homosexual relationship with a college friend, which lasted two years. However, he contradicted himself by saying that he only once had a sexual relationship and that was with \_\_\_\_\_, a childhood friend, sometime in either \_\_\_\_\_ or \_\_\_\_\_ 2003. In the interview, with Immigration officials on October 15, 2003, he said that he never had a sexual relationship with \_\_\_\_\_ nor any other man. Though the alleged sexual encounter was the reason he left Mexico, and had been caught by \_\_\_\_\_'s father performing the homosexual act, he could not recall with certainty when this might have occurred. The reason given for his forgetfulness was that he did not wish to remember the date or the event. The tribunal does not believe that he had forgotten such an event, but rather believes that it never occurred. The second reason for doubting the claimant's bisexuality is based on his allegations that he had a long lasting sexual relationship with a lesbian girl named \_\_\_\_\_. He testified that he had "sexual relationships every day" with this girl. Consequently, the tribunal derives from this information that he may, or may not, have had one homosexual relationship in eleven years of his declared bisexuality, and a daily sexual encounter with a lesbian friend. The tribunal does not believe the claimant to be bisexual nor homosexual nor credible.
2. Whom does the claimant fear in Mexico? Although several attempts were made to establish the fear he faced from "society", there was little information given by the claimant to support his contentions of societal persecution. He said that society in Mexico can identify bisexuals by the way they walk and the way they speak. As pertains to the way they speak, he stated that Mexicans normally speak in a spasmodic or staccato (saccade) fashion, whereas bisexuals have a more flowing way of speaking. The tribunal is unaware of means to assess such vague identifying features

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for his alleged sexuality. The other fear which he has in Mexico is directly related to his father. He testified that he and I had been friends since their childhood. When asked his father's name, he said he did not remember; said he never had contact with the father; said he did not know his mother; does not know where she resides, yet he was allegedly caught by his father performing a homosexual act, in his family home. Because he had earlier said that he fears that his father would have him jailed, the claimant was asked what kind of work the father had. His answer was that he did not have the slightest idea what he does or did for a living. He added the following comment: "Si j'ai besoin de savoir qui est le père d' , alors j'ai besoin de savoir le nom de tout ceux qui me discriminent au Mexique". The claimant has not established, with his testimony, oral or documentary, that he has reason to fear neither society nor his father. He is not a credible witness.

3. Why did the claimant come to Canada? During the October 2003 Immigration interview, he was asked why he had not stayed in Mexico. His answer was: "Parce que je cherchais l'aventure". In that same interview, he stated that he feared his father because he had received threats from him in or , 2002, which dates again contradicts testimony to the effect that his problems with the father only began after he and had been caught by him in either . or 2003. The tribunal believes his first contentions for coming to Canada, that is, that he is seeking adventure. His credibility, as regards the reason or reasons why he came to this country, is non-existent.

Testimony was received from the claimant to the effect that he had come to Canada in order to seek refugee protection. He continued his statement by saying that prior to coming to Canada he did not know of what consisted refugee protection. He allegedly met someone on the street who told him that such protection existed and he likely would qualify. That is the reason why he claimed refugee protection. In the October Immigration interview, at the end of that interview, he asked Immigration officials "si je vous dit la vérité, est-ce que vous aller enlevé tout ce que j'ai dit"? He followed that statement by saying that he does not know whether or not he is indeed a homosexual. He said that he is trying to identify what he is in fact. He has not established to any

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degree of certainty that he is either homosexual or bisexual. He has however confirmed that he is not credible. He has also confirmed that he came to Canada seeking adventure, as mentioned on page 3 of the interview notes.

The burden is upon the claimant to demonstrate with credible evidence that he would be at serious risk of persecution, for *Convention* reasons, if he were to return to Mexico. The tribunal believes that the claimant has not given credible nor trustworthy evidence in support of his contentions, and has not discharged himself from the burden which was upon him.

#### IV. CONCLUSION

For these reasons the claim is rejected.

*Jean Paul Pelletier*

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Jean Paul Pelletier

April 1, 2004

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Date

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<sup>1</sup> The *Immigration and Refugee Protection Act*, S.C. (2001), chap. 27, provides the following definition :

"96. A Convention refugee is a person who, by reason of a well-founded fear of persecution for reasons of race, religion, nationality, membership in a particular social group or political opinion,

(a) is outside each of their countries of nationality and is unable or, by reasons of that fear, unwilling to avail themselves of the protection of each of those countries; or

(b) not having a country of nationality, is outside the country of their former habitual residence and is unable or, by reason of that fear, unwilling to return to that country."