

**Date: 20081014**

**Docket: IMM-406-08**

**Citation: 2008 FC 1156**

**Ottawa, Ontario, October 14, 2008**

**PRESENT: The Honourable Mr. Justice O'Reilly**

**BETWEEN:**

**EDWIN ORLANDO MANCHAME**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION**

**Respondent**

**REASONS FOR JUDGMENT AND JUDGMENT**

[1] Fearing reprisals from a neighbouring family and extortion from criminal gangs in Guatemala, Mr. Edwin Manchame sought refugee protection in Canada. A panel of the Immigration and Refugee Board dismissed his claim. It viewed the neighbours' threats as isolated criminal acts, not persecution, and the gangs' activities as a wide-spread danger, not a personalized risk to Mr. Manchame.

[2] Mr. Manchame argues that the Board erred in respect of both of those findings and asks me to order another panel of the Board to reconsider his claim. However, I cannot find a basis to overturn the Board's decision and must, therefore, dismiss this application for judicial review.

[3] The main issue put forward by Mr. Manchame is whether the Board gave proper consideration to the grounds for granting refugee protection in s. 97(1)(b) of the *Immigration and Refugee Protection Act*, S.C. 2001, c. 27 (IRPA); see Annex “A”.

## I. Factual Background

[4] Mr. Manchame’s father shot and killed a neighbour’s son after a disagreement over ownership of a plot of land in Jocotan, Guatemala. The victim’s brothers sought revenge against Mr. Manchame and other members of his family.

[5] Mr. Manchame fled Jocotan and found a job as a bus driver in Guatemala City. There, gang members regularly boarded his bus, demanded money from him and robbed his passengers. They also threatened him and his family at home.

## II. The Board’s Decision

[6] The Board did not question Mr. Manchame’s version of events. However, as mentioned, it did not regard the neighbours’ threats as amounting to persecution. In addition, given that Mr. Manchame did not hear anything from his former neighbours after he moved to Guatemala City, the Board concluded that there was no longer any objective basis for his fear.

[7] The Board noted that extortion of bus drivers in Guatemala was common place and well-documented. In addition, it observed that Mr. Manchame could avoid threats of harm simply by changing jobs. It relied on the Federal Court of Appeal's conclusion that, where persons are at risk because of their occupation, they are not entitled to refugee protection unless they can show that there was no other reasonably available line of work (see *Sanchez v. Canada (Minister of Citizenship and Immigration)*, 2007 FCA 99).

### III. Did the Board fail to give proper consideration to s. 97(1) of IRPA?

[8] In respect of the neighbours' threat, the Board found that there no longer remained an objective basis for Mr. Manchame's fear given that he had not heard anything further after he fled to Guatemala City. I see no basis for disputing that finding. Mr. Manchame stated at the hearing that he felt sure the neighbours could still find him and harm him, but I cannot fault the Board for concluding that there was no objective evidence supporting that concern.

[9] As for the threats against Mr. Manchame as a bus driver, I note his own testimony that "they told me that, if I did not give them money, I had two options - either leave work or that they were going to kill me". Given this evidence, I cannot fault the Board for its reliance on the principle set out in the *Sanchez* case, above.

### IV. Conclusion

[10] In my view, the Board's conclusions were supported by the evidence. Therefore, I cannot find them to be unreasonable and must dismiss this application for judicial review. Neither party proposed a question for certification, and none is stated.

**JUDGMENT**

**THIS COURT'S JUDGMENT IS that**

1. The application for judicial review is dismissed;
2. No question of general importance is stated.

“James W. O’Reilly”

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Judge

## Annex “A”

*Immigration and Refugee Protection Act, S.C. 2001, c. 27*

Person in need of protection

**97.** (1) A person in need of protection is a person in Canada whose removal to their country or countries of nationality or, if they do not have a country of nationality, their country of former habitual residence, would subject them personally

...

- (b) to a risk to their life or to a risk of cruel and unusual treatment or punishment if
- (i) the person is unable or, because of that risk, unwilling to avail themselves of the protection of that country,
  - (ii) the risk would be faced by the person in every part of that country and is not faced generally by other individuals in or from that country,
  - (iii) the risk is not inherent or incidental to lawful sanctions, unless imposed in disregard of accepted international standards, and
  - (iv) the risk is not caused by the inability of that country to provide adequate health or medical care.

*Loi sur l'immigration et la protection des réfugiés, L.C. 2001, ch. 27*

Personne à protéger

**97.** (1) A qualité de personne à protéger la personne qui se trouve au Canada et serait personnellement, par son renvoi vers tout pays dont elle a la nationalité ou, si elle n'a pas de nationalité, dans lequel elle avait sa résidence habituelle, exposée :

[...]

- b) soit à une menace à sa vie ou au risque de traitements ou peines cruels et inusités dans le cas suivant :
- (i) elle ne peut ou, de ce fait, ne veut se réclamer de la protection de ce pays,
  - (ii) elle y est exposée en tout lieu de ce pays alors que d'autres personnes originaires de ce pays ou qui s'y trouvent ne le sont généralement pas,
  - (iii) la menace ou le risque ne résulte pas de sanctions légitimes — sauf celles infligées au mépris des normes internationales — et inhérents à celles-ci ou occasionnés par elles,
  - (iv) la menace ou le risque ne résulte pas de l'incapacité du pays de fournir des soins médicaux ou de santé adéquats.

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** IMM-406-08

**STYLE OF CAUSE:** MANCHAME v. MCI

**PLACE OF HEARING:** TORONTO, ONTARIO

**DATE OF HEARING:** October 1, 2008

**REASONS FOR JUDGMENT  
AND JUDGMENT:** O'REILLY J.

**DATED:** October 14, 2008

**APPEARANCES:**

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