



Johannesburg Asylum Determination Centre
 19 Planet Street, Crown Mines, 2092
 Tel: (011) 226 4600, Fax: (011) 226 4603

TO : [REDACTED]
 DATE OF HEARING : [REDACTED]
 FILE NUMBER : [REDACTED]
 COUNTRY : [REDACTED]
 DATE OF BIRTH : [REDACTED]
 GENDER : MALE



RSDO DECISION

RSDO Decision

Your application for asylum lodged in terms of section 22 of the Refugees Act 130 of 1998 (hereafter referred to as the Act), is rejected as

Unfounded

in terms of Section 24 (3) (c) of the Act.

Claim

You claimed that you were chased away by your family because you are gay and you couldn't even get a job anywhere. You claimed that you were participating in organisation of people against homosexuality, as a result of that you were arrested August 2010, then you bailed out by a friend after two days. You claimed that after that you stayed with a friend but not staying freely because you were scared until you decided to leave the country.

REPUBLIC OF SOUTH AFRICA
 DEPARTMENT OF HOME AFFAIRS
 2011-05-04
 SIGNATURE
 JOHANNESBURG (RRO) (1)

The Law

Section 3 of the Act provides the grounds under which an application may be made and states that a person qualifies as a refugee if that person:

(a) Owing to a well-founded fear of being persecuted by reason of his or her race , tribe, religion, nationality, political opinion or membership of a particular social group, is outside the country of his or her nationality and is unable or unwilling to avail himself or herself of the protection of that country, or, not having a nationality and being outside the country of his or her former habitual residence is unable or, owing to such fear, unwilling to return to it; or

(b) Owing to external aggression, occupation, foreign domination or events seriously disturbing or disrupting public order in either a part or the whole his or her country of origin or nationality, is compelled to leave his or her place of habitual residence in order to seek refuge elsewhere: or

(c) is a Dependant of a person contemplated in paragraph (a) or (b).

Burden of Proof

The UNHCR Handbook on Procedures and Criteria for Determining Refugee Status, at paragraph 196, page 47, affirms the assertion that “it is a general legal principle that the burden of proof lies on the person submitting a claim.”

The standard of proof is reasonable possibility of persecution and must be considered in light of all circumstances i.e past persecution and forward looking appraisal of risk (reasonable possibility of persecution).

Credibility

No credibility concern

Reason for Decision



According to internationally acclaimed Refugee Law Expert: James Hathaway (The Law of Refugee Status p 101), persecution is described as sustained or systematic violation of basic human rights resulting from of failure of state protection. The determination of whether a person is entitled to the refugee status does not only depend on past persecution but include involves determining whether there is a reasonable likelihood of ill treatment amounting to persecution in the future if returned to his or her country. There are four key elements to the definition of a refugee under the 1951 Convention Relating to the Status of Refugees as amended by the 1967 Protocol Relating to the Status of Refugees. First, an applicant must be outside his or her country of origin. Second, an applicant must fear persecution. Persecution must involve serious harm to the applicant and discriminatory and systematic conduct. The expression serious harm includes, for example, a threat to life or liberty, significant physical harassment or ill-treatment, or significant economic hardship or denial access to basic services or capacity to earn a livelihood, where such denial threatens the applicant's capacity to subsist. The persecution must have official quality, in the sense that it is official, or officially tolerated or uncontrollable by the authorities of the country of origin. It is enough that the government has failed or is unable to protect the applicant from persecution. Thirdly, the persecution which the applicant fears must be for one or more of the reasons enumerated in the Convention definition-race, religion, Nationality, membership of a particular social group or political opinion.

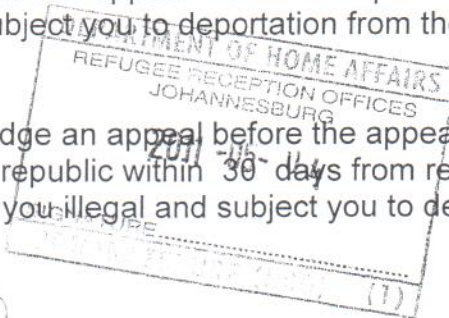
SEE ATTACHED DOCUMENTS

Right of Appeal

Kindly take notice that should you wish to lodge an appeal application with the Refugee Appeal Board in terms of Section 26 (1) of the Act, your letter of appeal must be submitted within 30 Calendar days from the date of receipt of this letter.

Take notice further that failure to appeal within the stipulated period will render you illegal and therefore subject you to deportation from the Republic of South Africa.

Should you intend not to lodge an appeal before the appeal board, you are advised to depart from the republic within 30 days from receipt of this letter. Failure to do so will render you illegal and subject you to deportation in terms of the Immigration Act.



Sincerely,

RSDO Signature

RSDO Name

Date

: Kholofelo Seloana

: 04/05/2011

Acknowledgment of Receipt

Applicant Signature : 
Applicant Name : 
Date : 04/05/2011

DEPARTMENT OF HOME AFFAIRS
REFUGEE RECEPTION OFFICES
JOHANNESBURG

2011 -05- 04

SIGNATURE
JOHANNESBURG