



RPD File No. / N° de dossier de la SPR : TB2-08655

*Private Proceeding / Huis clos*

## Reasons and Decision – Motifs et Décision

<b>Claimant(s)</b>	XXXX XXXX XXXX	<b>Demandeur(e)(s) d'asile</b>
<b>Date(s) of Hearing</b>	August 30, 2018	<b>Date(s) de l'audience</b>
<b>Place of Hearing</b>	Toronto, Ontario	<b>Lieu de l'audience</b>
<b>Date of Decision and reasons</b>	September 13, 2018	<b>Date de la décision et des motifs</b>
<b>Panel</b>	R. Rossi	<b>Tribunal</b>
<b>Counsel for the Claimant(s)</b>	Shedrack C. Agbakwa Barrister and Solicitor	<b>Conseil(s) du (de la/des) demandeur(e)(s) d'asile</b>
<b>Designated Representative(s)</b>	N/A	<b>Représentant(e)(s) désigné(e)(s)</b>
<b>Counsel for the Minister</b>	N/A	<b>Conseil du (de la) ministre</b>

2018 CanLII 145382 (CA IRB)

## REASONS FOR DECISION

[1] This is the decision in the claim of XXXX XXXX XXXX (the claimant) – a national of Barbados who claims refugee protection pursuant to section 96 and 97(1) of the *Immigration and Refugee Protection Act* (IRPA).<sup>1</sup> The claimant alleges that he cannot return to Barbados as he fears persecution by a former criminal who has a vendetta against him.

## DETERMINATION

[2] The panel finds that the claimant is not a Convention refugee, nor is he a person in need of protection, in accordance with sections 97(1)(a) and 97(1)(b) of the *Immigration and Refugee Protection Act*.

## ALLEGATIONS

[3] Details of the claimant's allegations are found in the narrative of his Personal Information Form (PIF).<sup>2</sup> The claimant is a 39-year-old citizen of Barbados who indicated that he committed various crimes in Barbados, beginning with theft in 2001 for which he was placed on probation. The claimant next reported that he was remanded into state custody and held in jail in Barbados between XXXX 2004 and XXXX 2005 for writing false cheques and for possession of marijuana. He paid fines for those crimes and he was released. In XXXX 2005, while being held during that period of detention, the claimant witnessed another inmate murder a fellow inmate during a prison riot. At the time of writing his narrative in 2012, the claimant alleged that the prisoner who committed the murder as well as that person's 'affiliates' had been released from jail and they were now looking for the claimant. They want to kill the claimant in case he informs on them to the police.

[4] The claimant came to Canada in XXXX 2010 for a visit. He stayed in Canada for one year, returning to Barbados in XXXX 2011. The claimant said he had two encounters with the inmate who had murdered the other inmate back in 2005 when he returned to Barbados. The first

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<sup>1</sup> *The Immigration and Refugee Protection Act*, S.C. 2001, c.27, as amended, sections 96 and 97(1).

<sup>2</sup> Exhibit 2, Personal Information Form (PIF), received July 20, 2012.

encounter with him took place in XXXX 2011 when the claimant was attending a football match where the man and his affiliates threatened the claimant verbally. The second encounter took place in XXXX 2011 when the same man and two of his affiliates stopped the claimant on the street. Two of these men had guns. The claimant escaped by running away. He said he heard a series of gunshots and a bystander was shot. The claimant flagged down a minivan and he escaped. The claimant reported none of these incidents to the police, however, and he stayed in hiding for several months until he left Barbados.

[5] The claimant arrived in Canada by air on XXXX XXXX XXXX 2011, for his second visit to his current spouse, but he did not file a claim for protection because he told the panel that the purpose of his visit was to come to Canada again to visit this woman. Not long after arriving in Canada, the claimant got into trouble with Canadian authorities, and he was charged in XXXX 2011 with assault, pointing a firearm and uttering threats. For the assault charge, he received three years' probation and time served for the other crimes. He indicated that he was discharged from similar charges in the same month. While incarcerated in Canada, the claimant heard from a fellow detainee who also happened to be from Barbados that the claimant should not return to that country because the man who had committed the murder was looking for the claimant. The claimant filed a claim for protection while incarcerated on XXXX XXXX XXXX 2012. Next, the claimant indicated that he was acquitted of sexual assault charges brought against him in Canada on XXXX XXXX, 2012, and XXXX XXXX, 2012. In consultation with the claimant's counsel, the panel determined that the issue of exclusion was not triggered by these crimes and it would proceed with the hearing into the claimant's case. Further, the panel stated that these prior issues would have no bearing on its adjudication of this claim for protection. The claimant's Canadian spouse accompanied the claimant to the hearing and confirmed that the claimant and she were now married.

## ANALYSIS

[6] The determinative issues are credibility, nexus in respect of the section 96 portion of the claim, and the section 97(1) portion related to the harm feared. The issue of delay was resolved as the claimant alleges that the first he heard of any problems was while he was incarcerated in Canada, some seven months after arriving in Canada.

## Identity

[7] The panel accepts that the claimant is a citizen of Barbados based on his oral testimony regarding his life and family in Barbados, as well as his name appearing in a copy of a local Barbadian newspaper on file for possession of marijuana and uttering fraudulent cheques.<sup>3</sup>

## Nexus

[8] An issue in this claim is nexus and whether there is a link between the harm feared and any of the Convention grounds. A convicted criminal was allegedly seeking the claimant because the claimant witnessed this man kill another man in prison. The panel determines that this is not a sufficient ground to constitute membership in a “particular social group.” The panel finds, on a balance of probabilities, that the claimant’s fear, of an act of criminality at the hands of a criminal for having witnessed a prison murder, is not linked to any of the five Convention grounds. Accordingly, there is no evidence or testimony before the panel to establish that the claimant was sought for a reason of race, religion, nationality, membership in a particular social group, or political opinion. The panel determines this claimant has established no nexus as he was targeted for criminal reasons; not for any reason linked to the Convention.

[9] In *Kang*,<sup>4</sup> Justice Martineau mentioned that victims of criminal acts and corruption are not recognized grounds within the meaning of section 96 of the IRPA:

Membership in a particular social group is a recognized ground under section 96 of the Act. Moreover, while personal targeting is not required, refugee claimants must nonetheless establish a link between themselves and persecution for a Convention reason. They must be targeted for persecution in some way, either personally or collectively: *Rizkallah v. Canada (Minister of Employment and Immigration)* (1992), 156 N.R. 1 (F.C.A.). On this matter, victims or potential victims of crime, corruption or personal vendettas, generally cannot establish a link between fear of persecution and Convention reasons.

[10] The panel notes that the Federal Court has held that victims of crime, corruption<sup>5</sup> or vendettas<sup>6</sup> generally fail to establish a link between their fear of persecution and one of the

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<sup>3</sup> Exhibit 4, Claimant’s Materials, received January 29, 2013.

<sup>4</sup> *Kang, Hardip Kaur v. M.C.I.* (F.C., no. IMM-775-05), Martineau, August 18, 2005, 2005 FC 1128, at para 10.

Convention grounds in the definition of Convention refugee. Moreover, the claimant testified to the panel that the man whom he fears was engaged in a vendetta against him for what the claimant might tell the authorities. The Federal Court has upheld the Board in its finding of lack of nexus where the claimant was a target of a personal vendetta<sup>7</sup> or where the claimant was a victim of crime.<sup>8</sup> The panel notes that the documentary evidence on Barbados indicates that crime is prevalent and utilized by various actors.<sup>9</sup> The panel finds, therefore, that there is no nexus to section 96 of the IRPA for this claimant.

[11] Based on the evidence in this case, the panel finds the claimant is a victim of crime and he was not sought out by the other former inmate for any reason other than the fact that the claimant might tell the authorities about the man's crime committed in jail. Any threat to the claimant flows from that initial act – a crime allegedly witnessed at the same time by at least two other detainees who were not part of the crime by the claimant's oral testimony- and as such does not establish or link his fear to a nexus to any Convention ground. The panel finds that a criminal who has a vendetta against someone whom he thinks will report him to authorities for a crime allegedly committed in jail more than 15 years ago does not provide a basis for a social group. The panel finds that, on a balance of probabilities, if this former inmate was actually interested in the claimant in 2018, it is an interest based on silencing the claimant in case the claimant suddenly decides to tell the police about the crime he witnessed while being held in jail. The motivation would have the effect of protecting the criminal from being held accountable by the authorities for a past criminal act.

[12] To emphasize, the Federal Court has held that victims of crime, corruption, or vendettas generally fail to establish a link between their fear of persecution, and one of the Convention grounds in the definition of Convention refugee. As the claimant has provided insufficient evidence to establish a nexus to the Convention definition, the panel finds that the claim must fail

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<sup>5</sup> *Leon, Johnny Edgar Orellana v. M.C.I.* (F.C.T.D., no. IMM-3520-94), Jerome, September 19, 1995; *Calero, Fernando Alejandro (Alejandro) v. M.E.I.* (F.C.T.D., no. IMM-3396-93), Wetston, August 8, 1994; *Vargas, Maria Cecilla Giraldo v. M.E.I.* (F.C.T.D., no. T-1301-92), Wetston, May 25, 1994.

<sup>6</sup> *Marincas, Dan v. M.E.I.* (F.C.T.D., no. IMM-5737-93), Tremblay-Lamer, August 23, 1994; *De Arce, Rita Gatica v. M.C.I.* (F.C.T.D., no. IMM-5237-94), Jerome, November 3, 1995. **Reported:** *De Arce v. Canada (Minister of Citizenship and Immigration)* (1995), 32 Imm. L.R. (2d) 74 (F.C.T.D.); *Xheko, Aida Siri v. M.C.I.* (F.C.T.D., no. IMM-4281-97), Gibson, August 28, 1998.

<sup>7</sup> *Rivero, Omar Ramon v. M.C.I.* (F.C.T.D., no. IMM-511-96), Pinard, November 22, 1996.

<sup>8</sup> *Bacchus, Amit v. M.C.I.* (F.C., no. IMM-4679-03), Mosley, June 8, 2004, 2004 FC 821.

<sup>9</sup> Exhibit 3, National Documentation Package (NDP) for Barbados (April 30, 2018), items 2.1 & 7.4.

under section 96 of the IRPA. The panel's analysis of the threats and the claimant's fear of this criminal under section 97 of the IRPA follows.

### **Persons in need of protection – Section 97**

[13] Having determined that this claim has no nexus under section 96, the panel assessed whether, on a balance of probabilities, there are substantial grounds to believe that the claimant would be tortured, or at risk of losing his life or being subjected to cruel and unusual treatment or punishment if he returned to Barbados. Documentary evidence that illustrates the systematic and generalized violation of human rights in a given country will not be sufficient to ground a section 97 claim absent proof that might link this general documentary evidence to the applicant's specific circumstances. The panel finds that it is more probable than not that the claimant would not face a danger of torture or a risk to his life or a risk of cruel and unusual treatment or punishment upon return to Barbados. The panel finds that the claimant has not established his claim under section 97. Its analysis follows as it relates to what protection might be available to the claimant should he require it upon return to Barbados.

[14] The claimant must show, on a balance of probabilities, that adequate state protection in Barbados, from a criminal vendetta, is not available to him should he seek it. Refugee protection can only be properly pursued after a claimant has first sought the protection of his own state. Also, there is an underlying presumption that a state, unless in a state of complete breakdown, is able to protect its citizens.<sup>10</sup> It is open to a claimant, however, to rebut that presumption by presenting clear and convincing evidence to the contrary.<sup>11</sup> In the circumstances of this case, the claimant has failed to do so.

[15] The claimant said he never reported either of the two encounters with the criminal and his affiliates. The claimant said he was afraid to tell the police about what he had witnessed this criminal do during the riot as the man would then seek revenge on the claimant. This is not a satisfactory reason for failing to report the first encounter, which resulted in mere verbal threats, or the more serious incident wherein shots were fired, and a bystander was shot. It is also not

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<sup>10</sup> *Canada (Attorney General) v. Ward*, [1993] 2 S.C.R. 689, 103 D.L.R. (4th) 1, 20 Imm. L.R. (2d) 85.

<sup>11</sup> *Ward, supra*; *Flores Carrillo, Maria Del Rosario v. M.C.I.* (F.C.A., no. A-225-07), Létourneau, Nadon, Sharlow, March 12, 2008, 2008 FCA 94. **Reported:** *Flores Carillo v. Canada (Minister of Citizenship and Immigration)*, [2008] 4 F.C.R. 636 (F.C.A.).

evidence that the claimant is unable to obtain protection from the state should he seek it. Further, the objective documentary evidence before the panel does not establish that there is a lack of state protection in Barbados. In contrast, the panel finds that adequate state protection exists for individuals like the claimant in Barbados who claim to be pursued by criminals. The United States Department of State's (DOS) "Barbados 2017 Human Rights Report" indicates the following:<sup>12</sup>

The Royal Barbados Police Force (RBPF) is responsible for internal law enforcement, including migration and border enforcement. The Barbados Defense Force (BDF) protects national security and may be called upon to maintain public order in times of crisis, emergency, or other specific needs. The RBPF reports to the attorney general, and the BDF reports to the minister of defense and security...

Civilian authorities maintained effective control over the RBPF and BDF, and the government has effective mechanisms to investigate and punish abuse. Allegations against police were investigated and brought to the Police Complaints Authority, a civilian body in the Office of Professional Responsibility.

[16] In assessing the issue of state protection, the panel is guided by a number of cases from the Supreme Court of Canada, the Federal Court and the Federal Court of Appeal. In this regard, the courts have established a number of principles relating to state protection and the panel has applied those principles to the case at hand:

- The courts have found that states are presumed to be capable of protecting their citizens, except in the case of state that is in complete breakdown.<sup>13</sup>
- This presumption underscores the principle that international protection comes into play only when a refugee claimant has no other recourse available. In order to rebut the presumption of adequate state protection, there must be clear and convincing evidence of the state's inability to protect its citizens.<sup>14</sup>

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<sup>12</sup> Exhibit 3, NDP for Barbados (April 30, 2018), item 2.1, p.2, s.1(d), paras 2-3.

<sup>13</sup> *Ward, supra.*

<sup>14</sup> *Ward, supra.*

- A claimant who alleges that state protection is inadequate must persuade the Board on a balance of probabilities, that the evidence establishes that the state protection is inadequate.<sup>15</sup>
- The evidence that state protection is inadequate, must not only be reliable and probative, it must also satisfy the Board, on a balance of probabilities, that state protection is inadequate.<sup>16</sup>
- The state protection need not be perfect.<sup>17</sup>
- The burden of proof that rests on a claimant increases with the level of democracy of the state in question. According to *Kadenko*: “the more democratic the state’s institutions, the more the claimant must have done to exhaust all courses of action open to him or her” to demonstrate state protection was or would not be forthcoming.<sup>18</sup>

[17] The panel notes that there is nothing in the Board’s National Documentation Package to indicate that Barbados is not a democracy.<sup>19</sup> The panel notes that Barbados is a democracy and it “is a multiparty, parliamentary democracy” and that “[c]ivilian authorities maintained effective control over the security forces.”<sup>20</sup> The police and security operate effectively in Barbados, and item 7.4 of the NDP indicates the following:<sup>21</sup>

The Ministry of Home Affairs, along with the Office of the Attorney General, is the main entity responsible for the maintenance of law and order in Barbados. It is responsible for the delivery of efficient and effective services, specifically in the areas of prevention of and reduction in the use and abuse of illegal and legal substances, protection and rescue, and corrections and rehabilitation. To this end, the Ministry has oversight over a variety of departments that help in the achieving of these aims.

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<sup>15</sup> *Flores Carillo, supra*.

<sup>16</sup> *Ibid.*

<sup>17</sup> *Villafranca: M.E.I. v. Villafranca, Ignacio* (F.C.A., no. A-69-90), Marceau, Hugessen, Décary, December 18, 1992. **Reported:** *Canada (Minister of Employment and Immigration) v. Villafranca* (1992), 18 Imm. L.R. (2d) 130 (F.C.A.).

<sup>18</sup> *Kadenko: M.C.I. v. Kadenko, Ninal* (F.C.A., no. A-388-95), Hugessen, Décary, Chevalier, October 15, 1996. **Reported:** *Canada (Minister of Citizenship and Immigration) v. Kadenko* (1996), 143 D.L.R. (4<sup>th</sup>) 532 (F.C.A.).

<sup>19</sup> Exhibit 3, NDP for Barbados (April 30, 2018).

<sup>20</sup> *Ibid.*, item 2.1, p.1, Executive Summary, paras 1-2.

<sup>21</sup> *Ibid.*, item 7.4, p.41, s. IV (The Office of the Attorney General), para 1.



[18] The panel notes that although police were largely unarmed, special RBPF foot patrols in high-crime areas carried firearms. An armed special rapid response unit continued to operate. The DOS report states: “[t]he law provides that police may request BDF assistance with special joint patrols.”<sup>22</sup> The panel notes that the RBPF has a “staff size of 1411 officers, the RBPF represents 496 officers per 100,000 of the population.”<sup>23</sup> In Barbados, “the sixteen police stations are divided into three territorial divisions - north, south and Bridgetown.”<sup>24</sup> This police force has various departments including “[a]n antigun unit [that] performs general investigations involving firearms and major criminal investigations.”<sup>25</sup>

[19] The panel notes that since the claimant’s departure from Barbados, there has been the creation of two new departments, including community policing. To address crime in dense or highly populated areas with low incomes, the RBPF have modified the way they do business. The community policing includes outposts placed in high crime areas; the outposts operate on a 24-hour basis. It is noted that the police presence in the high crime areas have led to a reduction in incidences of violence.<sup>26</sup>

[20] The court has held that when the state in question is democratic, a claimant must do more than simply show that he or she went to see some members of the police force and that his or her efforts were unsuccessful.<sup>27</sup> This claimant has never approached the police for either of the alleged encounters with the criminal.

[21] The panel emphasizes its reading of the documentary evidence from the DOS report that:<sup>28</sup>

Civilian authorities maintained effective control over the RBPF and BDF, and the government has effective mechanisms to investigate and punish abuse and corruption. Allegations against police were investigated and brought to the Police Complaints Authority, a civilian body in the Office of Professional Responsibility.

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<sup>22</sup> Exhibit 3, NDP for Barbados (April 30, 2018), item 2.1, p.2, s.1(d), para 1.

<sup>23</sup> Ibid., item 7.4, p.47, s. IV (Family Conflict Intervention Unit), para 3.

<sup>24</sup> Ibid., p.46, s. IV (The Royal Barbados Police Force), para 3.

<sup>25</sup> Ibid., p.47, para 4.

<sup>26</sup> Ibid., s. IV (Community Policing), para 1.

<sup>27</sup> *Canada (Minister of Citizenship and Immigration) v. Kadenko, Ninal* (F.C.A., no. A-388-95), Hugessen, Décary, Chevalier, October 15, 1996. **Reported:** *Canada (Minister of Citizenship and Immigration) v. Kadenko* (1996), 143 D.L.R. (4th) 532 (F.C.A.).

<sup>28</sup> Exhibit 3, NDP for Barbados (April 30, 2018), item 2.1, p.2, s.1(d), para 2.

[22] The panel finds that if the claimant believes the police are not willing to protect him, and there is no objective evidence to support that belief, there are avenues open to him to seek redress. The panel finds that the claimant has failed to rebut the presumption of state protection.

[23] The panel also finds that when it comes to the issue of state protection, it bears emphasizing herein that the burden of establishing a ‘clear and convincing’<sup>29</sup> case that state protection would not be reasonably forthcoming to the claimant in the future, rests with the claimant, and not with the Board.<sup>30</sup> The panel finds that the preponderance of objective evidence regarding current country conditions suggests that although not perfect, there is operationally adequate state protection for victims of crime in Barbados. Barbados is making serious efforts, both at legislative and operational levels, to address the problem of criminality and the police are both willing and able to protect the victims. Police corruption and deficiency are not systemic as demonstrated by the aforementioned documentary evidence.

[24] The panel has reviewed and considered all the documentary evidence and *viva voce* evidence, and although the documentary evidence is mixed, it finds, on a balance of probabilities, that the police in Barbados provide operationally adequately protection for its citizens, particularly those who are targets of criminals and criminal activity. The panel finds that the claimant has not rebutted the presumption of adequate state protection. The panel finds that there is adequate state protection available to the claimant in Barbados.

[25] For all of the previous reasons, the panel finds that the nature of the evidence before it, as it relates to a lack of state protection for this particular claimant in Barbados, falls very far short of a ‘clear and convincing’<sup>31</sup> case type. The panel finds, therefore, that the claimant has not rebutted the presumption of state protection with clear and convincing evidence should he require it.

[26] As the presumption of state protection has not been rebutted, the panel finds, therefore, that the claimant does not have a well-founded fear of persecution in Barbados and that he does not face a probable risk to life, a probable danger of torture, or a probable risk of cruel or unusual

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<sup>29</sup> *Ward, supra.*

<sup>30</sup> *Nadeem, Choudhry Muhammad v. M.C.I.* (F.C.T.D, no IMM-6320-00), McKeown, November 15, 2001; 2001 FCT 1263.

<sup>31</sup> *Ibid.*

treatment or punishment in that country. The risk faced by this claimant is the risk of criminal activity being perpetrated against him. The risk faced by the claimant is no greater than the risk faced by the population at large.

### **Credibility**

[27] When a claimant swears that certain facts are true, this creates a presumption that they are true unless there is a valid reason to doubt their truthfulness.<sup>32</sup> The panel finds this claimant not to be a credible witness in respect of his allegation that this criminal is still looking for him in 2018. It makes no sense and it is not plausible to the panel that the claimant would be pursued by a former inmate more than 13 years after the alleged incident.

### **Incident involving the claimant's mother**

[28] The claimant left Barbados in XXXX 2011. He testified at his hearing, however, that as recently as six months ago, his mother was recognized during a visit to another parish and she was threatened and accosted by these people because of her familial link to the claimant. The claimant told the panel that his mother never reported this single incident to the police and the claimant was unable to explain why she did not do so. In this regard, the panel's findings related to state protection in Barbados are neither diminished nor altered by this incident, presuming it is a truthful account.

[29] The claimant was also unable to provide a credible explanation to the panel why the criminal would wait seven years before threatening the claimant's mother if this former inmate was as interested in the claimant as alleged. There was not a single incident involving this man and the claimant's family between 2011 and 2018, until just before his hearing. The panel does not find the claimant's testimony to be credible. He told the panel that the country is small, and everyone knows everyone else, and people would know he was back in Barbados the moment he arrived at the country's airport. This testimony would appear to be insupportable given the fact that it took someone else recognizing the claimant's mother for the man to approach her and

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<sup>32</sup> *Maldonado, Pedro Enrique Juarez v. M.C.I. (F.C.A., no. A-450-79)*, Heald, Ryan, MacKay, November 19, 1979. **Reported:** *Maldonado v. Canada (Minister of Employment and Immigration)*, [1980] 2 F.C. 302 (C.A.); 31 N.R. 34 (F.C.A.).

threaten her. If a criminal and former inmate had killed someone and he was targeting the claimant for death to ensure the claimant would not talk, it makes no sense that nothing occurred for seven years until a few months before his hearing. The panel finds the claimant to have fabricated this incident in an effort to bolster both the contemporaneity of his fear and his claim for protection. The panel draws a negative inference. Beyond this problematic testimony, the claimant also offered no credible or persuasive evidence to corroborate this alleged encounter between the man and the claimant's mother, and the panel does not believe the claimant's testimony.

[30] The panel is also not persuaded that the letter and affidavit<sup>33</sup> submitted from a friend in Barbados attesting to the claimant's past encounter with this criminal have any probative value. The 2012-dated items from the claimant's friend attest to having witnessed the XXXX 2011 incident between the claimant and the men, which is a full six years after the prison incident occurred. Even if the claimant had encountered this criminal again in 2011, following his year-long stay in Canada with his current spouse, the claimant did not report the incident to the police, despite his allegation that an innocent bystander was shot during the encounter. There is no evidence before the panel that the claimant was unable to obtain protection had he sought it; and to reiterate, at no time did the claimant seek police assistance in Barbados. The panel finds these items to be self-serving materials that do not assist the panel in any persuasive way of making a finding that the XXXX 2011 incident occurred.

[31] Given the panel's findings regarding criminality, the claimant has failed to persuade the panel that he is at risk of harm, in accordance with section 97(1) of IRPA. Finally, the panel must emphasize that it is also not persuaded that the criminal would be looking for this claimant in 2018, after a seven-year period when nothing had occurred in respect of his remaining family in Barbados.

[32] By the claimant's testimony, Barbados is a small island, and everyone would soon know his whereabouts if he returned there. Given this explanation, it makes no sense that it would take this 'powerful' criminal (submission by the claimant's counsel) more than seven years to find the claimant's mother, threaten and accost her, and then renew his pursuit of a man in 2018 based on

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<sup>33</sup> Exhibit 4, Claimant's Materials, pp.1-3, received January 29, 2013.

an alleged incident from 13 years earlier for which there were various witnesses (by the claimant's testimony) during an uncontrolled jail riot. The panel finds the claimant not to be a credible witness in respect of the allegation that a criminal has an active vendetta against him more than seven years after he left Barbados.

[33] Having considered all of the evidence, including the established documentary evidence to demonstrate that state protection is available to the claimant, should he seek it, the panel finds first that the claimant has failed to establish a nexus between the harm feared and any Convention ground under section 96; that he has failed to establish his claim under section 97; and that he is not a credible witness in respect of being targeted in 2018 more than 13 years after an incident he witnessed during a jail riot.

## CONCLUSION

[34] Having considered all of the evidence, the panel determines that the claimant has not established that there is a more than a mere possibility of persecution on any Convention ground or that, on a balance of probabilities, he would personally be subjected to a danger of torture or face a risk to life or a risk of cruel and unusual treatment or punishment, if he were to return to Barbados.

[35] The panel, therefore, concludes that the claimant is not a Convention refugee, and he is not

*(signed)*

**“R.Rossi”**

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**R. Rossi**

**September 13, 2018**

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**Date**

a person in need of protection. The panel rejects his claim.