

**REFUGEE STATUS APPEALS AUTHORITY**  
**NEW ZEALAND**

**REFUGEE APPEAL NO 74503**

**AT AUCKLAND**

**Before:** P Millar (Member)

**Counsel for Appellant:** Appellant represented himself

**Appearing for NZIS:** No Appearance

**Date of Hearing:** 8 April 2003

**Date of Decision:** 30 September 2003

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**DECISION**

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[1] This is an appeal against the decision of the Refugee Status Officer of the Refugee Status Branch (RSB) of the New Zealand Immigration Service (NZIS) declining the grant of refugee status to the appellant, a national of the Republic of Cuba.

**INTRODUCTION**

[2] At the conclusion of the appeal hearing, the Authority granted the appellant 14 days leave to provide English translations of country information submitted by the appellant at the appeal hearing and also comments on country information provided to the appellant by the Authority at the appeal hearing.

[3] On 22 April 2003 the Authority received further comments from the appellant and these have been taken into consideration in the preparation of this decision.

## **THE APPELLANT'S CASE**

[4] The appellant is a 36 year old single male who was born in VC province. His mother still lives there and works as a nurse. The appellant's father lives in the city of CG and the appellant is the only child of their relationship. The appellant's parents did not marry and separated soon after he was born. The appellant was raised by his paternal and maternal grandparents, all of whom lived in VC.

[5] The appellant's father married and has two daughters. He was a member of the Communist Youth League and became an engineer. He continues to work in a chemical factory in CG.

[6] The appellant's mother married and has one daughter. The appellant's stepfather left Cuba in 1980 and now lives in the United States. The appellant understands that his stepfather belonged to a dissident group and was imprisoned. He then escaped and went to the United States. However, the appellant was very young when this occurred and he does not know any further details about that.

[7] The last time the appellant saw his father in person was at the beginning of 1997 in his paternal grandmother's house in VC.

[8] In July 1985, the appellant completed High School. From 1985 until 1991 he attended University where he studied medicine. During that period, he was a member of the Communist Youth League. He did not encounter any difficulties with the authorities while at University, as he kept a low profile. He graduated as a doctor in 1991 and worked for two years in a different province in a community practising medicine.

[9] In September 1993, he returned to Havana where he had studied medicine and worked as a doctor in the Public Health Service specialising in family medicine. During this period, he did further studies in family medicine which were completed in December 1996.

[10] He ceased working as a doctor in family medicine in August 1997. At that time, he obtained a Cuban passport as a friend in Chile had invited him to go and work there. The appellant wished to leave Cuba as the government did not allow

citizens to fully express their opinions and he was always working under pressure in the Health system, in that the government forced people to comply with its rules and system. Although the appellant was able to attend Mass on Sundays being Catholic, he felt nevertheless that he had to hide his religion.

[11] At the time he left Cuba, the appellant had not encountered any difficulties with the government or the police, as he did not wish to come into conflict with them. The appellant obtained an Exit Permit which allowed him to remain out of Cuba for one month. He understood that the permit could be extended to allow him to remain out of Cuba for a total of 11 months and one day. He understood that, if he remained out of the country any longer than that, he would not be able to return there. The appellant, when he left Cuba, had no intention of returning there.

[12] In October 1997, the appellant left Cuba and went to Chile. Cuban doctors were highly regarded in Chile and he was able to work as a doctor in a small town. He applied a number of times to obtain recognition of his medical degree in Chile, but was unable to do so because of bureaucratic difficulties, and also the exams he was required to sit were too difficult for him. It was expensive procedurally. However, the appellant was given a Work Permit and was allowed to work in Community Health Centres as a doctor.

[13] In mid 1998, the appellant returned to Santiago to attempt to obtain recognition for his medical degree. He was unable to do so and then worked in a Community Health Centre in a city nearby. He remained in this position until leaving Chile in early 2002.

[14] When the period of 11 months and one day, being the period for which he was allowed to remain out of Cuba, had expired the appellant approached the International Organisation of Migration in Santiago and was told that the Chilean Government was not likely to grant refugee status to Cubans. He was told that it would be better that he not apply for refugee status, but instead continue to renew his Work Permit. The appellant understood that the only way he could obtain permanent residence in Chile was to have his qualifications recognised but he was unable to do this.

[15] The appellant was, however, content to work in Chile and continue to remit money home to his family in Cuba.

[16] Finally, in early 2002 the appellant decided that he no longer wished to remain in Chile at that time, it being difficult to secure employment and he decided he would come to New Zealand to study English.

[17] While in Chile, the appellant had his passport renewed by the Cuban Embassy without any difficulty. He did this in July 1999 and again in July 2001.

[18] In September 1998, the appellant says that two officials from the Immigration Department went to his mother's home asking about the appellant's identification and checking if he was living there.

[19] After the period by which the appellant was allowed to remain out of Cuba had expired, in 1999 the appellant could not recall the date, he stated that his mother was visited by an officer, possibly from the Ministry of the Interior. The appellant's mother said that the appellant was in Chile. This person told the appellant's mother that as the appellant had not returned to Cuba, he was a traitor and a deserter and wanted to be in another country.

[20] A few months later, the appellant's mother was visited by an official from the Housing Department who wished to confiscate the appellant's personal property.

[21] Not long after, the appellant's mother had to write letters to the authorities to confirm that the appellant was not living with her or in Cuba, as she had to deal with officials concerning the cancellation of the appellant's Food and Clothing Ration Card, his identification and also military service commitments, the appellant stating that all professionals were considered to be part of the Army Reserve.

[22] In March 1999, the appellant approached the Embassy in Cuba to obtain a Humanitarian Visa to be able to return to Cuba. The purpose of this visit was because his paternal grandmother was ill. However, the appellant did not receive an answer to his request. In September 1999, the appellant called his family and asked them to enquire with Cuban Immigration if he could visit.

[23] In September 1999, the appellant approached the Embassy to obtain a permit to return to Cuba, but was once again denied. He was not given a reason.

[24] The appellant said that sometime between July 1999 and April 2000, the appellant's mother visited the headquarters of the Ministry of the Interior to enquire as to the appellant being able to receive a Humanitarian Visa to return to Havana. She went there with a friend of the appellant's uncle and spoke to the Chief of South American Countries about this. This person said that because the appellant was a doctor and had not returned to Cuba, he was a traitor whether he left the country legally or not. This view was taken because the government had paid for the appellant's training as a doctor and he should have, therefore, stayed in Cuba.

[25] In the year 2000 in April thereabouts, Immigration Officials again came to the appellant's mother's home discussing the appellant's Identification Card and whether he had returned it. A few months later, another visit was made by a government official, also asking where the appellant's military service documents were. About this time, the appellant's mother again asked officials if she could go to Chile to visit the appellant or whether he could return to Cuba. She was told that the appellant was a traitor to the Revolution and could not return to Cuba. She was also told that as she was a nurse, she could not leave Cuba.

[26] In July 2000, the appellant approached the Cuban Embassy to obtain a permit to return, but the application was declined. The appellant was told that he could not obtain a Humanitarian Visa as this required a close family member to be ill, whereas in this case it was a grandparent of the appellant and, therefore, not within the terms of requirements for that type of visa.

[27] On 15 August 2001, the appellant took part in a protest against the Cuban government which was conducted by Cuban citizens outside the Cuban Embassy in Santiago. About 200 people were at the protest and it was interrupted by communists from Chile who threw stones and eggs at the appellant and others. The appellant's group were holding banners requesting freedom in Cuba. One or two of them spoke in front of the Embassy, but not the appellant. Police were there to keep the two groups separated, and the protest went on for one hour. The appellant believes that some people within the Embassy had a video camera and another person had a large camera with a zoom lens, and they were recording the protest.

[28] The appellant saw footage of the protest that night on television, but did not see himself in that footage.

[29] In November 2001, the appellant approached the Embassy again to obtain a permit to return to Cuba. He spoke to a secretary at the Embassy who said that he should request a Chilean citizen to write an invitation letter to enable his mother to come to Chile. However, she said that he would not be able to obtain a visa to return to Cuba. This person said she could not give the appellant a reason for this, and it was the decision of the Immigration Department in Cuba.

[30] At that point, the General Consul came into the room and asked the appellant how many times he had applied for a Humanitarian Visa. He said he had applied three times. The Consulate asked the appellant if he had any difficulties in Cuba with the government, and the appellant responded that he had not. She then asked him for his occupation and he told her that he was a doctor. The appellant said that, at this point, this person's face changed and she became hostile. She requested the appellant's passport and then checked some documents. She saw the appellant's record of previous unsuccessful applications. The appellant asked her why he could not return to Cuba and she said that it was private information from Cuba, but that he could certainly not return there.

[31] It was around the same time that the appellant asked his mother to again enquire with Immigration as to why he could not return to Cuba. Someone in Immigration told her that the appellant should forget about returning to Cuba as he had been away for many years and that she herself could not leave Cuba. This person also told the appellant's mother that the appellant was a doctor, but a traitor to the Revolution and a deserter.

[32] The appellant then returned to the Embassy and spoke to the General Consulate again, and told her what he had been told by his mother. The Consul said that she knew who the appellant was and that he could not return to Cuba. The appellant asked her why, and she said "you know why".

[33] The appellant again called his mother and she said, do not come back to Cuba, and that he should stay overseas.

[34] The appellant became frustrated by his unsuccessful attempts to leave Chile and go to Cuba. He never returned to the Consul again, and his mother had no more dealings with the government after that.

[35] The appellant stated that to his knowledge the officials, at no stage, have ever gone to question his father. He said that he grew up far away from his father and that his father may have been questioned about him, but he has not told the appellant. He said that he has only spoken to his father in the last five or six years, once or twice per year. It could also be that because he is a member of the Communist Party, they would not question him.

[36] The appellant departed Chile and arrived in New Zealand on 14 January 2002.

[37] Since that time, he has remained in contact with his mother, an aunt, his father, and two cousins. In contact he has had with these people, they have related the health of various family members and not mentioned that they, or anyone else have been questioned by the authorities about him. Indeed, the only difficulty a family member has had since the appellant left Chile, was that a cousin of the appellant who was studying Law at the University, was involved in a play put on at the University in which the government was criticised. As a consequence, she and about 26 others were expelled from the University and she has been told that if she wishes to return there, she will have to carry out farm work for five years.

[38] The appellant stated that in 1999 the government passed a law stating that doctors were not allowed to leave Cuba, and doctors who were outside Cuba at the time, could not return there. The appellant stated that he is aware that doctors deported from other countries have been imprisoned in Cuba and he believes that if he attempts to return there now, he will suffer the same fate.

## **THE ISSUES**

[39] The Inclusion Clause in Article 1A(2) of the Refugee Convention relevantly provides that a refugee is a person who:-

"... owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence, as a result of such events, is unable or, owing to such fear, is unwilling to return to it."

[40] In terms of *Refugee Appeal No. 70074/96* (17 September 1996), the principal issues are:

- (a) Objectively, on the facts as found, is there a real chance of the appellant being persecuted if returned to the country of nationality?
- (b) If the answer is yes, is there a Convention reason for that persecution?

### **ASSESSMENT OF THE APPELLANT'S CASE**

[41] Before the Authority can determine the framed issues, an assessment must first be made of the appellant's credibility.

[42] At his interview with the Refugee Status Officer, the appellant did not mention his application for a humanitarian visa to return to Cuba, which he made at the Embassy in Chile in November 2001. When asked why he did not mention this application and the response given to him by Embassy staff when he had told the Refugee Status Officer about his previous applications, the appellant said that he did not believe that it was important. The Authority has difficulty accepting this explanation, given the response of the Embassy staff on that occasion to the effect that the appellant was a traitor and deserter. However, the Authority has also considered the appellant was not represented at his interview, and while correspondence on file indicates that his representative at that time sent the interview report to the address for the appellant, the appellant claimed that he did not receive the interview report and therefore did not have a chance to comment upon it.

[43] The Authority found the appellant to be forthcoming and spontaneous in his evidence and genuine and sincere. While the Authority remains concerned that this important information was not mentioned at his interview with the Refugee Status Officer, the Authority is nevertheless willing to give him the benefit of the doubt and accept his account as credible.

[44] The Authority has conducted extensive searches of country information on the position for Cuban nationals who remain outside of Cuba longer than 11 months and one day. The most recent source available to the Authority (see



CX59678 "Return to Cuba", Country Information Report, Department of Foreign Affairs & Trade, Canberra, Australia, 22 November 2001) provides as follows (*verbatim*):

"Cuban nationals can remain outside the country for up to 11 months and 1 day without incurring a penalty or being subject to government mistreatment upon return.

If a Cuban remained outside Cuba for more than 11 months and 1 day, S/he will be considered a defector and will no longer be able to reside in Cuba. Furthermore, any property s/he owns will be forfeited to the Cuban government.

The alleged "defector" can only return to Cuba as a visitor/tourist like any other foreigner visiting the country. The maximum length of stay allowed by Cuban immigration regulations in this case would be 60 days.

After 3 years abroad, a Cuban can no longer reside in Cuba. As visitors, when Cubans overstay their visas they are deported and sometimes put in jail until deportation takes place."

[45] The next most recent source available to the Authority (see CUB 37062.E "Cuba: Update to CUB 31690.B of 14 June 1999 and CUB 30409.E of 6 November 1998 on the treatment of persons who have overstayed their exit visas, illegally exited or made a refugee claim abroad and returned to Cuba; whether such individuals would be prohibited to work or receive food rations". Research Directorate, Immigration and Refugee Board, Canada, 1 June 2001) provides as follows (*verbatim*):

"An immigration counsellor at the Canadian Embassy in Havana provided the following information in correspondence sent to the Research Directorate on 22 May 2001.

If a Cuban national has been granted an exit permit, he/she will be allowed to stay outside of Cuba for a period of eleven (11) months. If the person overstays, he/she will lose his/her Cuban residence. Cuban citizenship is never lost. If the person loses the residence, his/her properties, job and food rations will be lost as well unless a special permit is given by Cuban immigration.

If the Cuban travelled to Canada on an official visit for a short period of time and he does not come back after this period of time, he is considered as having deserted, unless an authorisation to this effect was obtained from the workplace or other governmental services. Desertion is effectively a very serious matter and can result in various forms of punishment such as loss of travel possibilities with family members.

If the person travelled outside of Cuba as a visitor and requests refugee status but returns to Cuba before eleven (11) months, as far as we know, no punishment other than probable loss of job will be applied by the Cuban authorities. There seems to be no incarceration for such cases. For example, all those people who attempt to leave Cuba by raft, if they fail and are sent back, are normally back on the street either the following day or after a few days to allow for some administrative documentation and often try to repeat rapidly after. There seems to be no serious punishment for this.

Of course, we cannot verify with officials what policy on this is and we can only provide an opinion. Also, there are various considerations that can result in

different actions taken by authorities on what appears to be similar cases. But, in general, we reiterate that, to our knowledge, the punishment is not one of incarceration but possible job loss and various minor administrative annoyances.”

[46] A further perspective is provided by an earlier source of information (see CUB 31690.E “Cuba: The different types of temporary exit permits issued by the Cuban government etc”, Research Directorate, Immigration and Refugee Board, Canada, 14 June 1999) provides as follows (*verbatim*):

“The following information was provided by a senior fellow at the Centre for International Policy (CIP) in Washington D.C. during a 9 June 1999 telephone interview with the Research Directorate.

Please note that the senior fellow has served as the US interests section chief in Havana during the Carter Administration and has, since 1992, guided the Centre’s efforts to broaden the American debate on Cuba. He is also the author of CIP’s February 1998 report entitled *Wanted: A Logical Cuba Policy*.

According to the senior fellow, Cubans who have overstayed their exit permits or who have made refugee claims and have had no history of political activity would not likely face any serious reprisals upon return to Cuba. However, some of these individuals may face some obstacles upon their return, such as finding themselves unemployed for reason of overstaying their exit permits or doing menial jobs, unless there is great demand in their field of work. Furthermore, some of these individuals could have difficulty obtaining another exit permit in the future if they had overstayed previous exit permits. In reference to the articles of the Penal Code defining illegally exiting the country as a crime, the senior fellow stated that they are not stringently enforced in Cuba. He was unaware of any recent cases of persons who had overstayed their exit permits or made refugee claims being arrested or sentenced upon returning to Cuba. According to the senior fellow, the Cuban authorities would perceive illegal exiting as a greater crime than overstaying an exit permit.”

[47] A further source (see CUB 32133.E “Cuba: Update to CUB 30740.E of 17 December 1998 on the penalties outlined in the amended Penal Code for Cubans who make a refugee claim or overstay an exit permit on return to the country”, Research Directorate, Immigration and Refugee Board, Canada, 28 June 1999) provides as follows (*verbatim*):

“An immigration counsellor at the Canadian Embassy in Havana provided the following information in a 24 June 1999 letter sent to the Research Directorate. ...

Penalties according to the new or old Penal Code are known only by references given to us by people who have had [such] cases in the family or by prospective immigrants. The Cuban government does not give any official information regarding these cases. For experiences concerning our prospective immigrants, close relatives of persons who left the country on an official trip sent by the Cuban government are allowed to return to Cuba not before five years from the date of departure. Close relatives of those persons can join them not before three years after the relative left. These persons are considered deserters and each case is evaluated individually according to the type of work he used to do in Cuba. Persons not travelling on official trips might be able to return sooner but [these cases are] always evaluated on [an] individual basis. Cubans on private trips are allowed to stay outside of the country for 11 months. Usually exit permits for

private visitors are given for 1 month but can be extended to 11 months if the monthly fee is paid.”

[48] The earliest source of information available to the Authority (see “Cuba: The Human Rights Situation”, Research Directorate, Immigration and Refugee Board, Canada, April 1996 at 4.1) provides as follows (*verbatim*):

“Cuba’s exit laws and their application are inconsistent and often contradictory: although there are frequent reports that dissidents and human rights activists are unable to obtain exit visas to leave the country, some activists have been forced or coerced to leave especially during the August 1994 exodus.

...

...Those who, without justification, fail to return to Cuba without renewal or extension of their [exit] permit may be deemed “emigrants”, and lose their jobs and property as well as any guaranteed right of return to Cuba. ...

Information on the treatment of those who return to Cuba having overstayed exit permits is limited. According to Whitney, the practice of staying outside Cuba past the required date of return is common (20 Feb. 1995). The response of the state, as in circumstances related to illegal exit (see below), has been inconsistent. A person who has overstayed their exit visa and who lives in a community where ties to the communist party are strong may be ostracised by the community and could be detained by the local authorities. In other communities, where party ties are weak, the infraction may be ignored entirely.

A representative of the Cuban Committee for Human Rights in Miami informed the DIRB in a telephone interview in May 1994 that those who have returned after staying abroad for unauthorised reasons are liable to be imprisoned for up to eight years (10 May 1994, 3). According to the representative, the actual consequences for committing this offence vary, depending on the “circumstances of the person and the discretion of the authorities” (*ibid.*.)”

[49] The most recent “Country Reports and Human Rights Practices for 2002: Cuba, March 2003, issued by the United States Department of State does not specifically comment on the issues in question in this appeal. The report does confirm though, that exit permits are required for Cuban nationals to leave the country and they are only allowed to be outside the country for 11 months. The report also notes a resolution 54 regarding doctors and provides that medical professionals are denied exit permits until they have performed three to five years in the service of their profession after requesting permission to travel abroad.

[50] The most recent country information available to the Authority concerning the political situation in Cuba generally indicates that while the United States war with Iraq proceeds, the Cuban government is taking serious action against those regarded as dissidents, with reports of a prominent dissident receiving a life sentence and other dissidents receiving sentences ranging from 12 to 25 years of imprisonment. (“Cuba: Heavy Sentences are ‘Totally Unjustified’. Rights Group Calls on U.N. to Condemn Crackdown”, *Human Rights Watch*, 7 April 2003). The

source of this information indicates that the persons concerned are those involved in publishing information critical of the government or human rights activists (see also “Cuba: Unfair Trials of Non-Violent Dissidents”, *Human Rights Watch*, 3 April 2003).

[51] More recently, the Authority has received news that three men convicted of hijacking a passenger ferry to sail from Cuba to the United States were executed by firing squad in Cuba (“Cuban Ferry Hijackers Executed – State TV” *cnn.com* 14 April 2003); another article indicates that the Cuban leader, President Castro, stated that he considers Cuba may be under attack from the United States and some observers believe he is alarmed by the United States military action in Iraq and the crackdown which commenced on 18 March is the result of that. (“Castro Defiant Amid Criticism, Protest”, *cnn.com* 14 April 2003). According to the United States Department of State *Country Reports on Human Rights Practices – 2002: Cuba* (31 March 2003), Cuba is a totalitarian state controlled by Fidel Castro and members of the security forces committed numerous, serious human rights abuses. The same report provides that the Government’s human rights record remained poor and it continued to commit numerous serious abuses.

[52] At the appeal hearing the appellant provided the Authority with country information. One article provided refers to Cuban doctors being barred from permanently leaving the country under laws aimed at preventing the loss of skilled physicians (see “Cuban Doctors Barred from Leaving Homeland”, *Amarillo Globe – News Network of Websites*, 1 October 1999). The remainder of the information provided by the appellant refers mainly to the government prosecuting Cubans who depart illegally; placing restrictions on the rights of Cuban nationals to leave the country and about the observance of human rights in Cuba generally.

[53] The Authority notes that this appellant has no history of political activism or any difficulty with the government while he lived in Cuba. The Authority accepts that he took part in a protest outside the Cuban Embassy in August 2001 and that he may have been photographed and his presence recorded on video by officials at that Embassy. However, there is no evidence that any interest has been shown in his family in Cuba about this. Should the matter be of concern to Cuban authorities one could expect that they would have questioned his family members closely as to whether they were aware of any other form of activities the appellant may have engaged in to oppose the Cuban government. While some three

months later the appellant was told that he could not be given a humanitarian visa to return to Cuba, no reference was made to his participation in this demonstration.

[54] Overall, the appellant left Cuba legally and his fear is solely based on the fact he has remained outside the country for more than 11 months and 1 day. It is clear from the appellant's evidence that his attempts to be able to return to Cuba on a temporary basis have been unsuccessful. In addition, news he has received from his family is to the effect that the government regards him as a traitor and a deserter and has taken steps to confiscate his property and other documents issued to him by the government which could be said to be consistent with the government intending to deny him the right to reside in Cuba.

[55] The issue that arises firstly in assessing the well-foundedness of the appellant's fear is whether he can actually return to Cuba. If he cannot then his fear of persecution in that country cannot be said to be well-founded. The appellant made a number of attempts to obtain a visa to return to Cuba and was unsuccessful. However, the Authority must consider that the appellant still holds a valid Cuban passport which the government continues to renew. Further the Authority must also consider that the appellant will be returning to his country after potentially being removed from New Zealand.

[56] In view of those matters and in the absence of country information specifically stating that persons in the appellant's situation cannot return to Cuba, the Authority finds that there is a real chance that the appellant can re enter Cuba, albeit illegally and suffer punishment accordingly.

[57] Having made that finding the Authority must now determine what will happen to the appellant on his return. The Authority is somewhat hampered by the absence of detailed country information on this point. One source of country information indicates that if the person concerned has no history of anti-government activism there are few if any repercussions for staying outside the country longer than allowed. However that source is 3 years old and more recent sources indicate that such a person is regarded as a defector and will be denied the right to live in Cuba.

[58] The appellant appears to be in a more serious position being a doctor as the government appears to wish to restrict the ability of doctors to leave the country. That fact and the allegation made to his family that he is seen as a traitor, could be said to indicate that more serious punishment awaits the appellant such as a term of incarceration beyond a brief period. The current political climate in Cuba, as discussed above, must also be considered.

[59] In the circumstances, the Authority is willing to accord the appellant the benefit of the doubt and finds that there is a real chance this appellant will be apprehended by officials on his return to Cuba and suffer punishment tantamount to serious harm, including a period of incarceration, for being a doctor who has remained outside Cuba for longer than the period allowed by the Cuban government. The Authority is unable to state that the possibility of this happening is remote only. This is especially so given the current situation in Cuba regarding the government's observance of human rights. In light of the accusations that he is a traitor and a deserter, in the Authority's view any such harm the appellant will suffer is based on adverse political opinions imputed to him by the Cuban authorities. Accordingly such harm will be persecution as opposed to prosecution for a law of general application.

[60] The Authority wishes to emphasise that this decision is very much based on the unique and particular circumstances of this case and on the information available to the Authority about the position in Cuba on these particular issues at this point in time. It may be that should these issues arise in another appeal before the Authority from a Cuban national, the evidence and country information before the Authority at that time may well lead to a contrary finding as to the level of risk of Convention based harm.

## **CONCLUSION**

[61] For the reasons given above, objectively on the facts as found there is a real chance that the appellant will suffer persecution if he returns to Cuba. The persecution will be based on adverse political opinions imputed to him by the authorities.

[62] The appellant is a refugee within the meaning of Article 1A(2) of the Refugee Convention. Refugee status is granted. The appeal is allowed.

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P Millar  
Member