

LSH
Heard at: Field House
On 5 May 2004

CG (Peru Membership of
Cambio 90) Peru [2004]
UKIAT00141

IMMIGRATION APPEAL TRIBUNAL

Date Determination notified:

10 June 2004

Before:

His Honour Judge N Ainley (Vice President)
Mr K Kimnell
Mr A A Lloyd, JP

Between

APPELLANT

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

RESPONDENT

DETERMINATION AND REASONS

1. This is an appeal from the determination of Mr Rush sitting as an Adjudicator on 31 July 2003.
2. The claimant is a 50 year old citizen of Peru. He arrived in the United Kingdom 21 July 2002 with a visitor's visa which was due to expire in Mid-January 2003. A month after its expiry he made an application for asylum.
3. The asylum claim was based on the fact that the claimant says that he is and has always been a supporter of the party of former President Fujmori in Peru, a Party known as Cambio 90. He said that he distributed leaflets and attended many rallies in support of that party. During the second part of 2000 the popularity of the party plummeted and President Fujimori fell from office, fled

the country and has sought refuge in Japan from which state he is unlikely ever to be extradited.

4. The party of President Fujimori however does still remain, and as a result of the recent elections in Peru, which were generally held as being free and fair, there is some representation of that party in the Peruvian Parliament. We return to the facts of the claimant's case as he asserted them to be.
5. On 17 November 2000 he was summoned to police head quarters in Callao for questioning. He was detained for 5 days and questioned about his political activities with Cambio 90 and his support for President Fujimori. His family then intervened and on 26 November or perhaps another date a few days after his detention he was released. There is no claim made in his statement that he was mistreated by the authorities. He then, according to him, received various telephone calls from security agents who called him a traitor for his support of Fujimori. Then on 3 December 2000 he was attacked by people who attempted to abduct him. They tried to push him into the back of a car. He was slapped and cut by his abductors and he was told that he was finished and he was going to be executed. He was finally saved by neighbours who ran out of their homes hearing the noise. He was taken to hospital for his wounds to be treated and there security agents came for him as well but were unable to harm him. He said that he then left hospital early on 6 December 2000 and went into hiding at his uncle's house. He no longer felt safe in Peru and so on 5 January 2001 he stowed away in a boat to Panama where he remained until he made the journey to the United Kingdom.
6. We have given the account of the claimant as he put it himself because we consider that there is substance of the criticism of the Adjudicator's determination in the grounds of appeal. The Vice President who granted leave himself said that it was arguable that clearer reasons should have been given for what in fact a robust rejection of the claimant's credibility. We do not consider that the Adjudicator has sufficiently reasoned his rejection of the claimant's credibility. Therefore for the purposes of this appeal we will treat the claimant's account as being a truthful account of what happened. For us to do otherwise would mean the inevitable remittal of this matter to another Adjudicator for it to be reheard.
7. We have come unhesitatingly to the view that even if every word that the claimant said and that we have set out above is true he is at no real risk of persecution or Article 3 harm if he is returned to Peru today. Despite the treatment he received at about the time President Fujimori was being removed from office there is no evidence whatever in the objective material that has been

produced before us, which is the US Department of State Report 2003 compiled on 25 February 2004, that shows that members of Cambio 90 are at any real risk of persecution. Peru at present is a multi-party republic. There has been a decade of authoritarian government but that is now over. There are still considerable problems in many areas including unlawful or unwarranted killings by police but we do not see how this claimant is at any real risk of physical harm, over and above the risk run by any ordinary Peruvian citizen, if he is to return. It is not illegal to be a member of Cambio 90, they have members in the current parliament. One of those members has recently had to resign because of suspicions of corruption but that merely emphasises the point that we have made which is that Cambio 90 is represented in the Peruvian parliament. There is no suggestion that the claimant is the sort of person who would command national attention or who would be noticed on his return to Peru after being out of the country for a period of 3½ years. If he were to return to Peru he would be flown to the airport at Lima, he would be able to pass through the checks that there would be on him at that airport with no problem because the only matter that sets him apart from any other Peruvian citizen is that he has been a supporter of Cambio 90, a perfectly legal organisation for him to belong to. There is no real suggestion that the authorities in Lima would know or be interested in that fact. If he were to pass through the airport at Lima, even if he were to find himself in difficulties in his own immediate area still after the period of time that has elapsed we can see no difficulty in him relocating to other parts of the country where he would not be known. We repeat, as far as we can tell from the objective material, political affiliation to Cambio 90, which is the sole ground that has led to him fearing the authorities in Peru, is not a matter that is likely to lead him or any other Peruvian citizen into any real risk of persecution.

8. For these reasons this appeal is dismissed.

**His Honour Judge N Ainley
Vice President**