

Federal Court



Cour fédérale

**Date: 20190829**

**Docket: IMM-969-19**

**Citation: 2019 FC 1111**

[UNREVISED CERTIFIED ENGLISH TRANSLATION]

**Ottawa, Ontario, August 29, 2019**

**PRESENT: The Honourable Mr. Justice Shore**

**BETWEEN:**

**BRAYAN ALEXANDER CARDENAS GIL  
MARIANA CARDENAS VELASCO  
DAISY JOHANA VELASCO OLMOS**

**Applicants**

**and**

**MINISTER OF CITIZENSHIP  
AND IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

[1] This is an application for judicial review of a decision by the Refugee Appeal Division of the Immigration and Refugee Board of Canada [Board] dated January 16, 2019.

[2] The Board determined that the applicants are neither Convention refugees nor persons in need of protection under sections 96 and 97 of the *Immigration and Refugee Protection Act*, SC 2001, c 27.

[3] The Board concluded that it did not believe the allegations as described by the respondents. There was no documentary evidence on record to support the allegations in the testimony and subjective written evidence in a credible manner.

[4] A credibility assessment is a question of fact. The Board's panel has a specialized jurisdiction in respect of knowledge of countries; a credibility assessment is a question of fact. It is not for this Court to intervene unless the assessment of the specialized tribunal is perverse, capricious and made without regard for the evidence presented to the tribunal.

[5] This Court should not intervene in the case of a credibility decision made by the Board, which would have had the advantage of hearing the applicants.

[6] Credibility decisions are an essential part of the discretionary power of the trier of fact.

[7] The Board was correct in favouring the documentary evidence instead of the applicants' testimony in relation to the inconsistencies and contradictions in the key documents presented to the panel.

[8] Justice Linden of the Federal Court of Appeal similarly stated in *Zhou v Canada (Minister of Employment and Immigration)*, [1994] FCJ No 1087 at para 1:

The Board is entitled to rely on documentary evidence in preference to that of the claimant. There is no general obligation on the Board to point out specifically any and all items of documentary evidence on which it might rely.

[9] The Court notes that the panel of the Board, within its jurisdiction, specified in detail the inconsistencies and contradictions found in the applicants' evidence.

[10] For these reasons, the application for judicial review is dismissed.

**JUDGMENT in IMM-969-19**

**THIS COURT ORDERS** that the application for judicial review be dismissed. There is no question of general importance to be certified.

“Michel M.J. Shore”

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Judge

Certified true translation  
This 3rd day of September, 2019.  
Michael Palles, Reviser

**FEDERAL COURT**

**SOLICITORS OF RECORD**

**DOCKET:** IMM-969-19

**STYLE OF CAUSE:** BRAYAN ALEXANDER CARDENAS GIL,  
MARIANA CARDENAS VELASCO, DAISY JOHANA  
VELASCO OLMOS v THE MINISTER OF  
CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** MONTRÉAL, QUEBEC

**DATE OF HEARING:** AUGUST 21, 2019

**JUDGMENT AND REASONS:** SHORE J.

**DATED:** AUGUST 29, 2019

**APPEARANCES:**

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