

Date: 20080218

Docket: IMM-3134-07

Citation: 2008 FC 206

Toronto, Ontario, the 18th day of February 2008

Present: The Honourable Mr. Justice Harrington

BETWEEN :

**MARCO ANTONIO CAMPUZANO GARCIA
ERICA EDITH FRIAS RESENDIZ
MIRIAM ARIADNE CAMPUZANO FRIAS
YANISSET BRIYHIT CAMPUZANO FRIAS**

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

REASONS FOR ORDER AND ORDER

[1] Mr. Garcia's account in his Personal Information Form (PIF) is frank, but raises several questions.

[2] We can conceive how Mr. Garcia might have been stopped and accosted by drug traffickers when he was working as a delivery and courier service driver in Mexico. In his account, he describes how he was forced to transport three packages placed in the back of his delivery truck for approximately eight kilometers up to the police check-point, and

subsequently had to continue for approximately four more kilometers to arrive eventually at a service station.

[3] It is also plausible that after undergoing such an experience, Mr. Garcia wanted to change his assigned delivery route but that his boss did not accede to his request. Mr. Garcia testifies that he in fact filed a complaint with the police.

[4] Mr. Garcia says that the driver who replaced him on his delivery route was killed, but he gave no evidence in support of this claim. Moreover, he alleges that the bandits who accosted him got wind of his complaint to the police, and that consequently he had some troubles. Then he tells quite a tale as to how he ended up in Canada after staying at his mother-in-law's in Mexico and leaving his wife and children there.

[5] In brief, the Refugee Protection Division (RPD) of the Immigration and Refugee Board found that Mr. Garcia's entire account was filled with contradictions and improbabilities and that he was not credible. The RPD therefore dismissed his refugee status claim, ruling that Mr. Garcia was neither a refugee within the meaning of the Convention nor a person in need of protection.

[6] Mr. Garcia contests this decision and applies for judicial review thereof. He claims that the RPD made an error of law by not conducting a thorough analysis of his refugee status claim, and by not giving clear and explicit reasons for its decision.

[7] Essentially, Mr. Garcia is asking this Court to reassess the evidence that was adduced before the RPD. When an application for judicial review is referred to the Court, its role is not to review the facts in issue in order to come to a conclusion different from the tribunal's.

[8] In this case, the applicable standard of review is the standard of patent unreasonableness (*R.K.L. v. Canada (Minister of Citizenship and Immigration)*, 2003 F.C.T.D. 116, [2003] F.C.J. No. 162 (QL)). This Court sees no error susceptible to judicial review.

[9] In my view, the RPD could reasonably draw the conclusions that it did with respect to credibility and improbabilities. According to the Federal Court of Appeal in *Shahamati v. Canada (Minister of Employment and Immigration)*, [1994] F.C.J. No. 415, a tribunal can conclude that there is lack of credibility by basing itself on improbabilities in the refugee status claimant's account, on common sense and on reason.

[10] Moreover, the conclusions are based on the RPD's assessment of the evidence and the testimony that were before it, and are supported by detailed reasons. Consequently, they are not patently unreasonable.

[11] For these reasons, Mr. Garcia has not established that the Court would be justified in intervening with regard to the RPD's decision on his file. The application for judicial review will therefore be dismissed.

ORDER

THE COURT ORDERS that:

1. The application for judicial review be dismissed.
2. There is no question of general importance to be certified in this case.

"Sean Harrington"

Judge

Certified true translation

Brian McCordick, Translator

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-3134-07

STYLE OF CAUSE: MARCO ANTONIO CAMPUZANO GARCIA ET AL. v.
THE MINISTER OF CITIZENSHIP AND
IMMIGRATION

PLACE OF HEARING: Montréal, Quebec

DATE OF HEARING: February 7, 2008

**REASONS FOR ORDER
AND ORDER BY:** THE HONOURABLE MR. JUSTICE HARRINGTON

DATED: February 18, 2008

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