

**Date: 20080528**

**Docket: IMM-4730-07**

**Citation: 2008 FC 684**

**Ottawa, Ontario, May 28, 2008**

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

**BETWEEN:**

**JESUS ROBERTO SALAZAR-SANCHEZ  
and  
JESUS ROBERTO SALAZAR-GARCIA**

**Applicants**

**and**

**THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION**

**Respondent**

**REASONS FOR JUDGMENT AND JUDGMENT**

**I. INTRODUCTION**

[1] This judicial review application was heard on the same day as *Hurtado-Martinez v. Canada (Citizenship and Immigration)*, 2008 FC 630 (the decision there was issued on May 21, 2008). Both cases relate to findings of state protection in Mexico. The main Applicant here claimed that he had

been targeted by a drug cartel and that neither he nor his son received adequate assistance from the authorities.

## II. BACKGROUND

[2] In 2005, the principal Applicant, a male citizen of Mexico, discovered that his brother had allowed a drug cartel to grow drugs on the family property. He commenced a lawsuit against his brother to regain possession of the land.

[3] Between August 25, 2005 and approximately September 19, 2005, the Applicant was attacked by his brother and others; his son was abducted from school and beaten; and the Applicant and his son were the victims of a drive-by shooting.

[4] Regarding the first incident, the Applicant claimed that he filed a complaint with the Public Ministry in Mexico City but that there was no follow-up. As for the second incident, he states that he filed a report with the local police and there was also no follow-up.

[5] With respect to the third incident, the Applicant filed a report with the police. Upon being escorted home by police, they discovered that their home had been ransacked. It was then that the Applicant, his son and a friend disappeared to a hotel in Mexico City for a few days.

[6] On the third day, the receptionist told the Applicant that three men who had identified themselves as police officers came looking for him but that the friend who had been staying with the

Applicant and his son told the “police officers” that he had not seen either of them. The Applicant and his son left that hotel and shortly afterwards left for Canada.

[7] The Refugee Protection Division (RPD) decided the case solely on the issue of state protection. The RPD firstly decided that based on documentary evidence, there were avenues of redress for the Applicant and that Mexico was making serious efforts to provide protection to those targeted by drug cartels. The RPD then determined that based on the narrative, although there was no evidence of ongoing investigations, the Applicant had remedies which he could pursue and had not. As to the assistance the police had provided, it was determined to be not perfect but adequate.

### III. ANALYSIS

[8] Even before the Supreme Court’s decision in *Dunsmuir v. New Brunswick*, 2008 SCC 9, the standard of review of findings on state protection was reasonableness. Nothing in *Dunsmuir* changes that standard.

[9] The overarching proposition that state protection is generally available in Mexico is not at issue here. The real issue is whether the police were willing and able to provide adequate state protection to the Applicant in this situation.

[10] As the Applicant’s counsel stated in argument, the Applicant’s real complaint is that the police had not pursued his brother. There was no evidence that the police had investigated the brother despite the Applicant allegedly pointing out the culprit to the police.

[11] The Applicant's complaint then is directed more at inadequate law enforcement than at a failure to afford him protection from the actions of his brother and the brother's associates.

[12] On the record before the RPD, I cannot see how it could have concluded as a general proposition that Mexico is not attempting to deal with drug issues nor, more particularly, that it refused to pursue the Applicant's brother. The timeframe for analysis was in the order of three weeks. It is doubtful that Canadian authorities, faced with a similar situation, would have concluded a drug investigation of this type in three weeks.

[13] On the more germane issue of whether state protection was available to the Applicant, there is no evidence that the authorities were unwilling or unable to act. (See *Guzman v. Canada (Minister of Citizenship and Immigration)*, 2008 FC 490)

[14] The transcript (Certified Tribunal Record, p. 288) disclosed that upon the complaint of abduction and beating, the police put the Applicant's son and his school under surveillance. Further, there is no evidence that the "police officers" at the hotel were not actually police officers trying to find persons (the Applicant and son) they had already put under protective surveillance.

[15] Against this background, I cannot find the RPD's conclusion, that adequate state protection was available to the Applicant and his son, to be unreasonable. The police had shown a willingness to protect, and took steps to do so yet the Applicant made no complaint to the police about its

effectiveness or adequacy. The Applicant took no other steps to address any complaints of state protection he might have had.

IV. CONCLUSION

[16] Therefore, this judicial review will be dismissed. There is no question for certification.

**JUDGMENT**

**THIS COURT ORDERS AND ADJUDGES that** this application for judicial review is dismissed.

“Michael L. Phelan”

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Judge

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** IMM-4730-07

**STYLE OF CAUSE:** JESUS ROBERTO SALAZAR-SANCHEZ and  
JESUS ROBERTO SALAZAR-GARCIA

and

THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION

**PLACE OF HEARING:** Toronto, Ontario

**DATE OF HEARING:** May 6, 2008

**REASONS FOR JUDGMENT  
AND JUDGMENT:** Phelan J.

**DATED:** May 28, 2008

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