

Federal Court



Cour fédérale

Date: 20090424

Docket: IMM-3184-08

Citation: 2009 FC 410

Ottawa, Ontario, April 24, 2009

PRESENT: The Honourable Mr. Justice Beaudry

BETWEEN:

ANA MARIA RIOS FLORES

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

[1] This is an application for judicial review pursuant to subsection 72(1) of the *Immigration and Refugee Protection Act*, S.C. 2001, c. 27 (the Act) of a decision of the Refugee Protection Division of the Immigration and Refugee Board (the Board) dated June 25, 2008, where it determined that Ana Maria Rios Flores (the Applicant) is not a Convention refugee or a person in need of protection.

[2] The Applicant claimed refugee protection on the basis of domestic violence from her ex-common-law spouse Santiago Mendez. She fears if returned to Mexico, her life would be at risk.

[3] The Board accepted that the Applicant was in a domestic violence situation when she resided with her spouse.

[4] Although, there are no credibility issues, the Board came to the conclusion that the applicant had an Internal Flight Alternative (IFA) in the Federal District (DF) of Mexico City. The Board took into consideration the Gender Guidelines. It also analyzed state protection in Mexico along with documentary evidence on women victims of violence in that country before rendering its decision.

[5] In *Dunsmuir v. New Brunswick*, 2008 SCC 9, [2008] 1 S.C.R. 190, the Supreme Court of Canada articulated a new standard of reasonableness. Therefore on an IFA, this Court will intervene if the decision does not fall "within a range of acceptable outcomes which are defensible in respect of the facts and law" (par. 47).

[6] After having read the parties' written representations, analyzed and considered their oral arguments and cited case law, I am of the opinion that the Board's findings are reasonable in the circumstances of the case at bar. The Applicant has not provided any evidence which demonstrates the inadequacy of the named IFA.

[7] In *Ranganathan v. Canada (Minister of Citizenship and Immigration)*, [2001] 2 F.C. 164, the Federal Court of Appeal stated that the Board must consider as a relevant factor, in addition to the criteria established in *Thirunavukkarasu v. Canada (Minister of Employment and Immigration)*, [1994] 1 F.C. 589 (C.A.), the absence of relatives in the safe place as well as their presence in Canada. However, more than the mere absence of relatives is required in order to render an IFA unreasonable. The hardship related to the absence of relatives is not the kind of undue hardship that the Court was considering in *Thirunavukkarasu*.

[8] In *Thirunavukkarasu*, above the Court established a very high threshold as explained at paragraph 15 of *Ranganathan*, above:

... It requires nothing less than the existence of conditions which would jeopardize the life and safety of a claimant in traveling or temporarily locating to a safe area. In addition, it requires actual and concrete evidence of such conditions. The absence of relatives in a safe place, whether taken alone or in conjunction with other factors, can only amount to such condition if it meets that threshold, that is to say if it establishes that, as a result, a claimant's life or safety would be jeopardized. ...

[9] The combination of reasons provided by the Applicant to demonstrate why the IFA is not a reasonable option for her (absence of family members, uncertainty about being able to continue her business) do not establish that, as a result, the Applicant's life or safety would be jeopardized. The factors enumerated by the Applicant carry little weight because they do not meet the aforementioned threshold.

[10] The Applicant did not discharge her burden of establishing that the Board committed a reviewable error in concluding that there was an IFA available to her.

[11] The medical report from Dr. Ximena Fornazzari does not establish that the IFA was not a reasonable option. The report does not discuss the context of the IFA nor does it address the reasonableness of the proposed IFA. The report was considered by the Board and the Court's intervention is not warranted.

[12] The parties did not submit questions for certification and none arises.

JUDGMENT

THIS COURT ORDERS AND ADJUDGES that the application for judicial review be dismissed. No question is certified.

“Michel Beaudry”

Judge

FEDERAL COURT

NAME OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: IMM-3184-08

STYLE OF CAUSE: ANA MARIA RIOS FLORES
and
THE MINISTER OF CITIZENSHIP
AND IMMIGRATION

PLACE OF HEARING: Toronto, Ontario

DATE OF HEARING: April 21, 2009

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

DATED: April 24, 2009

APPEARANCES:

Luis Antonio Monroy FOR APPLICANT

Amina Riaz FOR RESPONDENT

SOLICITORS OF RECORD:

Luis Antonio Monroy FOR APPLICANT
Toronto, Ontario

John H. Sims, Q.C. FOR RESPONDENT
Deputy Attorney General of Canada
Toronto, Ontario