

Federal Court



Cour fédérale

Date: 20091029

Docket: IMM-1974-09

Citation: 2009 FC 1106

Montréal, Québec, October 29, 2010

PRESENT: The Honourable Mr. Justice Beaudry

BETWEEN:

**MESNIE BOSSE
JAMALL JACQUET**

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

[1] This is an application for judicial review under subsection 72(1) of the *Immigration and Refugee Protection Act*, S.C. 2001, c. 27 (the Act), of a decision by the Refugee Protection Division of the Immigration and Refugee Board (Board) dated March 30, 2009, determining that the applicants, Mesnie Bosse and Jamall Jacquet, are neither Convention refugees under section 96 of the Act nor persons in need of protection within the meaning of section 97.

[2] The applicant, Mesnie Bosse, is a Haitian citizen. She left her country in April 2001 for the United States, where her claim for asylum was refused. The applicant's son, Jamall Jacquet, was

born in the United States on November 1, 2006. The applicant arrived in Canada with her son in 2007 and claimed refugee protection.

[3] The Board determined that the determinative issue was that of credibility. In fact, according to the Board, the applicant did not discharge her burden of establishing that there was a serious possibility of persecution or a probable risk to life facing the applicants in the event that they would have to return to their respective countries.

[4] After analyzing the documentary evidence, the Board was not satisfied that the applicant would be at greater risk than other persons returning from a stay abroad.

[5] Furthermore, she failed to prove, in a probative manner, that the Mouvement des jeunes progressistes des débats (MJPD) exists in Haiti. The MJPD was the basis for the applicant's alleged fear.

[6] Since *Dunsmuir v. New Brunswick*, 2008 SCC 9, [2008] 1 S.C.R. 190 and *Uppal v. Canada (Minister of Citizenship and Immigration)*, 2009 FC 445, [2009] F.C.J. No. 557 (QL), the standard of reasonableness applies in matters of credibility.

[7] The Court must verify that the decision is intelligible, transparent and defensible in respect of the facts and law (*Dunsmuir*, at paragraph 47).

[8] In this case, the applicant criticizes the panel for not having analyzed, considered or mentioned document 14.1 from the March 14, 2008 version of the National Documentation Package on Haiti (Exit/Entry and Freedom of Movement).

[9] Yet it is clear from the evidence that the panel not only considered the document but asked the applicant precise questions specifically about the risks facing people returning from a long stay abroad.

[10] The panel's finding that the risk faced by the applicant if she were to return to Haiti would be a generalized, rather than a personalized risk, falls within the range of possible, acceptable outcomes.

[11] The elements on which the Board based its negative credibility finding are clear, precise and supported by the evidence.

[12] The Court's intervention is not warranted.

[13] No question was proposed for certification and none arises from this case.

JUDGMENT

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

“Michel Beaudry”

Judge

Certified true translation

Sebastian Desbarats, Translator

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-1974-09

STYLE OF CAUSE: MESNIE BOSSE
JAMALL JACQUET
and THE MINISTER OF CITIZENSHIP AND
IMMIGRATION

PLACE OF HEARING: Montréal, Quebec

DATE OF HEARING: October 28, 2009

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

DATED: October 29, 2009

APPEARANCES:

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Gretchen Timmins FOR THE RESPONDENT

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