

Federal Court



Cour fédérale

Date: 20100616

Docket: IMM-1724-09

Citation: 2010 FC 657

Ottawa, Ontario, June 16, 2010

PRESENT: The Honourable Mr. Justice Zinn

BETWEEN:

**Deisy Julieth DUITAMA GOMEZ, Edison Giovanni AMORTEGUI,
Daniel Alejandro AMORTEGUI DUITAMA, and Laura Sofia AMORTEGUI**

Applicants

and

**THE MINISTER OF PUBLIC SAFETY
AND EMERGENCY PREPAREDNESS
and
THE MINISTER OF CITIZENSHIP AND IMMIGRATION**

Respondents

SUPPELEMENTARY REASONS FOR JUDGMENT AND JUDGMENT

[1] I issued Reasons for Judgment in this application on June 1, 2010: 2010 FC 593. The parties were permitted an opportunity to propose a question for certification. The applicants have proposed the following question: “Is the denial of a risk assessment of individuals seeking

protection, where there has been no previous risk assessment, a violation of the principle of *non-refoulement*, and therefore, a violation of the *Charter* and international law?”

[2] The test for certifying a question is whether there is “a serious question of general importance which would be dispositive of an appeal”: *Zazai v. Canada (Minister of Citizenship and Immigration)*, 2004 FCA 89, at para. 11. The proposed question is a serious question of general importance, but it is not dispositive of an appeal. The dispositive finding was that the application, as constituted, was not justiciable because it did not fall within the scope of section 18.1 of the *Federal Courts Act*. In the alternative, the application was held to be moot and I refused to exercise my discretion to hear the matter on its merits. The merits of the application, which is what the proposed question addresses, were never discussed because the application was not within the scope of the Court's jurisdiction and it was moot.

[3] No question is certified.

JUDGMENT

THIS COURT ORDERS AND ADJUDGES that:

1. This application for judicial review is dismissed; and
2. No question is certified.

"Russel W. Zinn"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-1724-09

STYLE OF CAUSE: DEISY JULIETH DUITAMA GOMEZ ET AL v.
THE MINISTER OF PUBLIC SAFETY AND
EMERGENCY PREPAREDNESS and THE MINISTER
OF CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: Toronto, Ontario

DATES OF HEARING: February 24, 2010

**SUPPLEMENTARY REASONS
FOR JUDGMENT AND
JUDGMENT:** ZINN J.

DATED: June 16, 2010

APPEARANCES:

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Gregory George Alex Kam	FOR THE RESPONDENTS

SOLICITORS OF RECORD:

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