

Federal Court



Cour fédérale

Date: 20100929

Docket: IMM-773-10

Citation: 2010 FC 976

Toronto, Ontario, September 29, 2010

PRESENT: The Honourable Mr. Justice Hughes

BETWEEN:

JESUS RIVERA ACOSTA

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

[1] The applicant Jesus Rivera Acosta is a Mexican citizen who entered Canada in February, 2009 and claimed refugee protection. That claim was rejected by a decision of a Member of the Immigration and Refugee Board of Canada dated January 22, 2010. It is this decision that is the subject of judicial review.

[2] Two issues are raised on this judicial review. The first is that of state protection and in particular the adequacy of state protection afforded to persons such as the applicant in Mexico and

as well, whether the applicant took appropriate steps in the circumstances to avail himself of state protection. The second issue is that of credibility and in particular were the findings of the Board Member hearing the matter that the applicant's evidence, in several respects, lacked credibility reasonable.

[3] As to each of these issues the appropriate standard for judicial review is that of reasonableness as defined by the Supreme Court of Canada in cases including *Dunsmuir v. New Brunswick*, [2008] 1 S.C.R. 190.

[4] As to the adequacy of state protection I am satisfied that the Board Member in arriving at the decision at issue was aware of the problems, including corruption, present in Mexico such as described by Tremblay-Lamer J. in *Zepeda v. Canada (Minister of Citizenship and Immigration)*, 2008 FC 491 at paragraph 20:

[20] I find Madam Justice Gauthier's approach to the presumption of state protection in Mexico to be persuasive. While Mexico is a democracy and generally willing to protect its citizens, its governance and corruption problems are well documented. Accordingly, decision-makers must engage in a full assessment of the evidence placed before them suggesting that Mexico, while willing to protect, may be unable to do so. This assessment should include the context of the country of origin in general, all the steps that the applicants did in fact take, and their interaction with the authorities (Hernandez v. Canada (Minister of Citizenship and Immigration), 2007 FC 1211, [2007] F.C.J. No. 1563 (QL), at para. 21; G.D.C.P. v. Canada (Minister of Citizenship and Immigration), 2002 FCT 989, [2002] F.C.J. No. 1331 (QL), at para. 18).

[5] The Member made a careful assessment of the materials provided including the relatively scant materials provided by the applicant and made a reasonable assessment based on those

materials. I am also satisfied that the Member carefully considered the limited and poorly documented efforts that the applicant said he made to seek such protection including excuses provided as to why he did not more vigorously seek such protection. The Member's determination was reasonable.

[6] I make a similar finding with respect to the Member's determination as to credibility. Given the record before the Member and the evidence at the hearing as recorded in the transcript, those determinations were reasonable.

[7] This application will, therefore, be dismissed. No Counsel requested certification. There is no basis for an order as to costs.

JUDGMENT

FOR THE REASONS PROVIDED

THIS COURT ORDERS AND ADJUDGES that:

1. The application is dismissed;
2. There is no question for certification;
3. No order as to costs.

“Roger T. Hughes”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-773-10

STYLE OF CAUSE: JESUS RIVERA ACOSTA v. THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: SEPTEMBER 29, 2010

**REASONS FOR JUDGMENT
AND JUDGMENT BY:** HUGHES J.

DATED: SEPTEMBER 29, 2010

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