

Federal Court



Cour fédérale

Date: 20110707

Docket: IMM-1756-10

Citation: 2011 FC 833

Ottawa, Ontario, July 7, 2011

PRESENT: The Honourable Mr. Justice Phelan

BETWEEN:

PABLO CALEB HERNANDEZ SALCEDO

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

I. BACKGROUND

[1] The Applicant, a citizen of Mexico, claimed fear of persecution at the hands of two members of the Los Zetas gang.

[2] In June 2007 the Applicant, his brother and some friends were assaulted by unknown strangers in Mexico City. The Applicant's brother was killed and the Applicant was stabbed.

[3] The Applicant reported the incident to police and the police were able to identify the two assailants. Later that day the Applicant received a threatening telephone call. He then left Mexico City.

[4] The Applicant moved from place to place staying with relatives. At each place he claimed that he received threatening telephone calls but did not report them to the police.

[5] After a further assault by his earlier assailants, the Applicant fled Mexico and made his refugee claim in Canada.

[6] The Board found that the Applicant had not rebutted the presumption of state protection. The Board noted that the failure of the police to arrest the assailants did not necessarily indicate an absence of state protection. The Board also had difficulty with the Applicant's failure to report the telephone threats and with other aspects of his narrative.

[7] The Board addressed the documentary evidence, discounting a report filed by the Applicant. It undertook an analysis of state protection in Mexico and the inconsistencies in documentary evidence. It concluded that the Applicant had not shown that if returned to Mexico, state protection would not be available to him.

II. ANALYSIS

[8] Findings regarding state protection are to be reviewed on a standard of reasonableness (*Salazar-Sanchez v Canada (Minister of Citizenship and Immigration)*, 2008 FC 684).

[9] The parties' submissions focused on various aspects of contradictory documentary evidence. This approach would require the Court to re-weigh the evidence, which it cannot do.

The reference to using 2004 DOS Reports is clearly in error as the documents in evidence were 2007 and 2009.

[10] The principal point in the Board's decision is that the Applicant's claim that state protection was not available to him cannot be supported on the evidence. This was a finding which was open to the Board and ought not to be disturbed.

III. CONCLUSION

[11] The application for judicial review will be dismissed. There is no question for certification.

JUDGMENT

THIS COURT'S JUDGMENT is that the application for judicial review is dismissed.

“Michael L. Phelan”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-1756-10

STYLE OF CAUSE: PABLO CALEB HERNANDEZ SALCEDO

and

THE MINISTER OF CITIZENSHIP AND
IMMIGRATION

PLACE OF HEARING: Toronto, Ontario

DATE OF HEARING: April 7, 2011

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

DATED: July 7, 2011

APPEARANCES:

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SOLICITORS OF RECORD:

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