

Federal Court



Cour fédérale

Date: 20110711

Docket: IMM-6719-10

Citation: 2011 FC 867

[UNREVISED ENGLISH CERTIFIED TRANSLATION]

Ottawa, Ontario, July 11, 2011

PRESENT: The Honourable Mr. Justice Martineau

BETWEEN:

**ODIN JAVIER GONZALEZ TELLEZ
KARLA MONSERRAT ZAMORA ARANDA
PAULA REGINA GONZALEZ ZAMORA
LEONARDO DEMIAN GONZALEZ
ZAMORA**

Applicants

and

**MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

[1] This is an application for judicial review of a decision of a member of the Refugee Protection Division of the Immigration and Refugee Board (the panel), dated October 25, 2010, rejecting the applicants' claim for refugee protection.

[2] The applicants are Mexican citizens. The principal applicant had been a police officer in Mexico City, Federal District, since January 2006, after being trained for a year. In his personal information form (PIF), he alleges that on September 23, 2007, he participated in a police operation. His job was to wait outside a house. He heard shots inside, and an individual, who was visibly injured and holding a package, came running out of the house. His superior shouted at him to shoot, but the applicant failed to do so.

[3] The principal applicant stated that, after this incident, he was blamed, threatened and followed by his two superiors, and assaulted by strangers on October 10, 2007. He then realized that the sole purpose of the police operation had been to recover the package with which the individual had fled. He states that he filed a complaint reporting his two superiors. He was subsequently transferred from his work team, but within the same police station, and his superior was transferred elsewhere. The principal applicant left Mexico on November 14, 2007, and claimed refugee protection in Canada on February 2, 2008.

[4] In the meantime, in October 2007, the principal applicant's spouse and her children went to live with her mother-in-law, where she was allegedly followed and watched. After going to live with her father-in-law in March 2008, she was assaulted by some individuals who were still looking for her husband on June 8, 2008. On July 22, 2008, the applicant left Mexico with her children and also claimed refugee protection in Canada.

[5] The determinative issue in this matter is the credibility of the incidents alleged by the principal applicant and his wife. The principal applicant was the main witness at the hearing. The panel found that his testimony was filled with contradictions and implausibilities that seriously affected his credibility regarding the essential elements of the applicants' claim for refugee protection.

[6] The Refugee Protection Division is a specialized tribunal. Assessing the credibility of witnesses falls within its exclusive jurisdiction. The applicable standard of review in such a matter is that of reasonableness (*Mejia v Canada (Minister of Citizenship and Immigration)*, 2009 FC 354, at para. 24).

[7] There is no reason to intervene here. It is clear that the panel meticulously examined the applicants' narrative and identified in its decision a number of points on which the principal applicant and his wife were not credible. For example, the panel did not believe the principal applicant's explanation of his actions when the individual fled with the package. The principal applicant testified that he did not shoot at the individual as his superior wanted him to do since it was illegal to do so, but according to the evidence on the record, it is unclear whether he heard his superior give him that order. When the panel asked him why he did not try to stop the individual (without shooting at him), the principal applicant also provided a confusing explanation. The panel concluded that, given that the principal applicant had been a police officer for a year and a half, he should have known that the individual was a suspect. Moreover, at that time, the principal applicant could not have known that his superiors were involved in

illegal activities. The panel was therefore justified to draw a negative inference concerning the September 23, 2007, incident.

[8] Moreover, the panel gave no probative value to the document filed as Exhibit P-14, which is allegedly the complaint filed by the principal applicant with the office of the Public Prosecutor which is responsible for gathering complaints from the public and linked to the principal applicant's police station. The panel inquired why he had not complained to the office of the Inspector General given that he was reporting his immediate superior and the station commander. According to the National Documentation Package for Mexico, investigating the Public Prosecutor and police officers is part of the duties of the office of the Inspector General. The panel therefore found it unlikely that a police officer was not aware of the existence of such an office. The panel also deemed it unlikely that the principal applicant complained to the very office where the superiors involved worked. Again, the panel's non-credibility findings relied on the evidence on file and were not arbitrary or capricious.

[9] Lastly, the panel gave no probative value to the document filed as Exhibit P-11, which is allegedly the complaint filed by the principal applicant's wife with the Public Prosecutor. The one-page letter, written and signed by the principal applicant's wife, has no official letterhead and makes no mention of the problems allegedly experienced by the principal applicant. The principal applicant's wife testified that she did not know why the letter did not have an official letterhead and that the police officers had not wanted her to include her husband's problems. The panel did not find her explanation reasonable, and there is no reason to intervene on this point.

[10] Ultimately, there is no basis for the death threats other than the September 23, 2007, incident, on which point the principal applicant was not found to be credible, meaning that the panel's overall conclusion to reject the applicants' refugee protection claim is reasonable.

[11] This application for judicial review must be dismissed. Both counsel agree that this application does not raise a serious question of general importance.

JUDGMENT

THIS COURT ORDERS AND ADJUDGES that

1. the application for judicial review is dismissed; and
2. no question is certified.

“Luc Martineau”

Judge

Certified true translation
Johanna Kratz, Translator

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-6719-10

STYLE OF CAUSE: **ODIN JAVIER GONZALEZ TELLEZ
KARLA MONSERRAT ZAMORA ARANDA
PAULA REGINA GONZALEZ ZAMORA
LEONARDO DEMIAN GONZALEZ ZAMORA v
MINISTER OF CITIZENSHIP AND
IMMIGRATION**

PLACE OF HEARING: Montréal, Quebec

DATE OF HEARING: June 21, 2011

**REASONS FOR JUDGMENT
BY:** MARTINEAU J.

DATED: July 11, 2011

APPEARANCES:

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