

Federal Court



Cour fédérale

Date: 20130725

Docket: IMM-11413-12

Citation: 2013 FC 812

[UNREVISED ENGLISH CERTIFIED TRANSLATION]

Ottawa, Ontario, July 25, 2013

PRESENT: The Honourable Mr. Justice Shore

BETWEEN:

BIBIANA BASTIEN

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

[1] This is in response to an application for judicial review of a decision of the Refugee Protection Division (RPD) of the Immigration and Refugee Board.

[2] According to the RPD's decision, the applicant, a citizen of Saint-Lucia, is not a "refugee" within the meaning of section 96 of the *Immigration and Refugee Protection Act*, SC 2001, c 27 (IRPA), nor is she a "person in need of protection" under section 97 of the same Act.

[3] The applicant alleges that she was in an abusive relationship with an individual from 1995 to 2004.

[4] First, she moved out of her home to stay at her aunt's, where, unfortunately, the individual who abused her visited often. In 2000, she claims she was hospitalized, following which she filed a complaint with police, who failed to follow up on the complaint.

[5] After her hospitalization, she came to Canada for a three-week period before returning to Saint-Lucia. The individual continued to be violent with her, to the point where her psychological behaviour became so desperate that she wanted to commit suicide.

[6] In 2003, following allegations of repeated acts of violence, she purportedly filed complaints with the police which were not acted upon.

[7] The applicant left her country in 2004, entering Canada by means of a visa that expired in August 2005; nearly one year later she applied for permanent residence on humanitarian and compassionate grounds. Her application was denied in December 2008. In 2009, she sought refugee protection, claiming that her abuser was pursuing her.

[8] Upon being asked why she had returned to Saint-Lucia, following her problems, she answered that once she was in Canada her mother could no longer take care of her; she explained that at the time she did not understand her own situation, nor that of her immigration file with

respect to the Canadian authorities; this is why she did not seek refugee protection upon her arrival, but instead did so only after having applied for permanent residence on humanitarian and compassionate grounds.

[9] The RPD was perplexed by the lack of logic shown by the applicant when she made no attempt to regularize her status in Canada until she had become illegal in Canada, from 2005 to 2006.

[10] None of the applicant's documents refer to her particular personal allegations, only to the risks if she were to return.

[11] The Court considered all of the testimonial evidence and the applicant's fear, in addition to the objective evidence before it.

[12] According to the RPD, the applicant could have been protected by the state apparatus in her country. The case law analyzed by the Court shows that, according to the evidence adduced by the applicant, she could have taken steps to receive state protection.

[13] State protection is available due to the evolution of such services. Furthermore, the RPD, after an in-depth analysis of the evidence, and according to case law references cited by the RPD itself and the evidence in the record, showed that in addition to the police, there are non-governmental organizations funded by the state that could have helped the applicant in light of the improvements to such protection services over time (see RPD's Reasons at paras 27, 28 and 29).

[14] Moreover, the Court shares the view of the RPD that the lack of evidence corroborating the fact that the applicant filed complaints with the police on three occasions renders her evidence deficient.

[15] At any rate, the applicant has not shown that the RPD's decision was unreasonable (*Alberta (Information and Privacy Commissioner) v Alberta Teachers' Association*, 2011 SCC 61, [2011] 3 SCR 654; *Newfoundland and Labrador Nurses' Union v Newfoundland and Labrador (Treasury Board)*, 2011 SCC 62, [2011] 3 SCR 708).

[16] For all of the foregoing reasons, the applicant's application for judicial review is dismissed.

JUDGMENT

THIS COURT ORDERS that the applicant's application for judicial review be dismissed without any question of general importance to certify.

“Michel M.J. Shore”

Judge

Certified true translation
Sebastian Desbarats, Translator

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET: IMM-11413-12

STYLE OF CAUSE: BIBIANA BASTIEN v THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: Montréal, Quebec

DATE OF HEARING: July 24, 2013

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

DATED: July 25, 2013

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