Federal Court  Cour fédérale

Date: 20210706

Docket: IMM-5626-20

Citation: 2021 FC 706

[ENGLISH TRANSLATION]

Ottawa, Ontario, July 6, 2021

PRESENT: The Honourable Mr. Justice Shore

BETWEEN:

MA CONCEPCION, DIAZ ARCOS

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

[1] This is an application for judicial review of a decision rendered by the Refugee Appeal Division (RAD) on October 16, 2020, in which it confirmed the rejection of the applicant's refugee protection claim because there was an internal flight alternative (IFA).

[2] The applicant is a citizen of Mexico, and she is claiming refugee protection status for fear of individuals who want to retrieve something they believe her ex-boyfriend gave her. On October 15, 2018, the applicant left Mexico for Canada.

[3] The Refugee Protection Division dismissed the refugee protection claim on the ground that there is an IFA in the states of Campeche and Yucatan and the applicant would not face a prospective risk beyond that of other women in the country. The RAD confirmed this decision, focussing on the existence of an IFA.

[4] The concept of an IFA is inherent in the definition of "refugee": a refugee protection claimant must be a refugee from a country, not a region of a country. To determine whether there is an IFA, the RAD must be satisfied that the claimants do not face a serious risk of persecution in the proposed IFA and that conditions are such that it would not be objectively unreasonable, considering all the circumstances, for the claimants to seek safety there (*Thirunavukkarasu v Canada (Minister of Minister of Employment and Immigration)*, [1994] 1 FC 589 at pp 593, 597 (FCA)).

[5] The test for establishing an IFA is a two-pronged one, and it is the refugee claimant's responsibility to prove, on a balance of probabilities, that there is a serious risk of persecution in the entire country. This standard is even higher for the second prong, which requires "nothing less than the existence of conditions which would jeopardize the life and safety of a claimant in travelling or temporarily relocating to a safe area" (*Ranganathan v Canada (Minister of Citizenship and Immigration)*, [2001] 2 FC 164 at para 15).

[6] This judicial review involves the reasonableness of the RAD's findings regarding the existence of an IFA. A "reasonable decision is one that is based on an internally coherent and rational chain of analysis and that is justified in relation to the facts and law that constrain the decision maker" (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 85).

[7] The applicant submits that she risks persecution in the IFAs identified because of the ability of the agents of persecution to intercept the applicant before she could relocate, considering their past actions against her and the ineffectiveness of the police authorities.

[8] She also submits that the IFAs are not reasonable for her relocation because of economic and cultural factors related to her sex.

[9] In the first prong of the analysis, after conducting its own evaluation of the evidence, the RAD found that the applicant had not shown the interest and ability of her agents of persecution to find her in the proposed IFAs. This finding is mainly based on the lack of information that would allow the agents of persecution or their area of criminal activity to be identified. In particular, it was mere speculation that they belonged to a drug cartel, as this did not appear in the applicant's account.

[10] The RAD also noted that the evidence submitted regarding organized crime and criminal organizations did not refer to the sale of information, as raised by the applicant, which would

make it easier for the agents of persecution to find her. The article instead provided an update on the organizations involved in drug trafficking.

[11] As for the second prong, the RAD found that the applicant had not submitted any actual, concrete evidence of conditions that would jeopardize her life and safety in the IFAs. It was therefore after having reviewed the applicant's personal situation, namely her ability to find work and accommodations and to benefit from some family support, that the RAD found that she did not show that the IFAs were unreasonable. With no evidence, the RAD also dismissed the applicant's argument on the security situation in the IFAs. It nonetheless recognized that the applicant's return to the country would not be without its challenges. However, no evidence was submitted to indicate that the prevailing conditions in the IFAs would render them unreasonable.

[12] Lastly, with regard to the applicant's claim that she was more at risk that other women in Mexico, for the sole reason that she had previously been targeted by criminals, the RAD dismissed it, having already concluded that the evidence did not establish that these criminals had an interest or the ability to find her in the IFAs.

[13] Considering the above, the RAD decision bears the hallmarks of reasonableness. The key point is the lack of evidence, which was the applicant's burden to meet.

[14] Under the first prong, there was no basis that would allow the tribunal to attribute characteristics to the alleged agents of persecution, in order to identify them in a general manner and establish their interest and ability to find the applicant. As a result, the RAD could not

determine whether the applicant would be at risk of persecution in the IFAs. Similarly, under the second prong of the analysis, with no evidence submitted, the appeal case before the RAD was insufficient in itself to reach the high threshold required by the case law to find that the IFAs were unreasonable.

[15] The RAD is presumed to have considered the entire record (*Basanti v Canada (Citizenship and Immigration)*, 2019 FC 1068 at para 24). It was able to assess, weigh and favour evidence for which the reasons are justified on the record. The applicant did not present any evidence or observations that would directly contradict the RAD's findings.

[16] For all these reasons, the Court dismisses the application for judicial review.

JUDGMENT in IMM-5626-20

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

There is no question of general importance to certify.

"Michel M.J. Shore"
Judge

Certified true translation
Michael Palles, Reviser

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-5626-20
STYLE OF CAUSE:	MA CONCEPCION, DIAZ ARCOS v THE MINISTER OF CITIZENSHIP AND IMMIGRATION
PLACE OF HEARING:	MATTER HEARD BY VIDEOCONFERENCE
DATE OF HEARING:	JUNE 23, 2021
JUDGMENT AND REASONS:	SHORE J.
DATED:	JULY 6, 2021

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