

Federal Court



Cour fédérale

Date: 20230530

Docket: IMM-5730-22

Citation: 2023 FC 754

Ottawa, Ontario, May 30, 2023

PRESENT: The Honourable Mr. Justice Zinn

BETWEEN:

**CHERLY DAYANA MEJIA SUAZO
ANDREE FERNANDO MEJIA SUAZO
JONATHAN ALEJANDRO MEJIA SUAZO**

Applicants

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] At the conclusion of the Applicants' submissions, and despite the efforts of their counsel, I indicated that this application could not succeed. These are my reasons for that judgment.

[2] This is a judicial review of a decision by the Refugee Protection Division [RPD] of the Immigration and Refugee Board of Canada. The RPD found two of the Applicants, Cherly

Dayana Mejia Suazo and her minor son Jonathan Alejandro, had a viable internal flight alternative [IFA] in Honduras, their country of origin. The third Applicant, Ms. Mejia Suazo's younger son Andree Fernando, did not establish a serious possibility of persecution on a Convention ground or a risk to life or of cruel and unusual punishment in the United States, his country of birth and citizenship.

[3] The sole challenge is the reasonableness of the IFA finding.

[4] The RPD identified Roatán, a Honduran island accessible only by plane or ferry and located 192 km from Villanueva, as a possible IFA. The RPD applied the two-prong test for establishing the viability of an IFA: whether the Applicants would face a serious possibility of persecution or risk under subsection 97(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27, in Roatán; and whether it would be objectively unreasonable in the circumstances for the Applicants to relocate there.

[5] The RPD found that Ms. Mejia Suazo has a nexus to the Convention as a woman fearing gender-based and domestic violence. It accepted that the agent of persecution would be motivated to locate Ms. Mejia Suazo and her sons. However, the RPD was not convinced that he had the means to locate them.

[6] The RPD rejected the argument that the agent of persecution would leverage his contacts to find her, because the RPD found he did not have connections to corrupt police or the Barrio-18. Alternatively, the RPD considered whether the agent of persecution would have the

means to locate her if the panel's findings regarding his connections to the Barrio-18 were overturned. The RPD concluded the result was the same because there was no objective evidence that any gang had a physical or influential presence in Roatán. The RPD based this conclusion on findings that gangs such as the Barrio-18 are an "urban phenomenon and not present in every part of the country."

[7] Regarding the second prong of the IFA analysis, Ms. Mejia Suazo conceded to the RPD that there were no barriers to employment or to education and health care for her children in Roatán. The Court notes that this admission was made notwithstanding that Jonathan has been diagnosed with and treated for brain cancer in Canada.

[8] The RPD concluded that relocation to Roatán was a reasonable IFA in the circumstances, and that the Applicants had failed to rebut that finding.

[9] The Applicants submit that the decision is unreasonable because the RPD failed to consider the profile of Jonathan, which they say places him at risk of recruitment by gangs due to his age and personal circumstances.

[10] It was readily conceded that this allegation of risk was not put to the RPD by the Applicants, but was raised for the first time in this application.

[11] I accept the submission of the Applicants that where there is evidence that raises a risk factor, the RPD is obliged to analyze it even if it has not been raised. As such, the issue to be

examined is whether there was evidence on the record that Jonathan is at risk of recruitment by gangs in the IFA identified by the RPD.

[12] I am prepared to accept the submission that the evidence in the national documentation package examined by the RPD places young men, and especially those from fatherless families, at risk of gang recruitment in Honduras. However, while there is ample evidence of gang activity in the mainland of Honduras, as the RPD noted in its decision, the evidence is that gangs are not active in Roatán:

... I find that the gangs generally (and specifically the *Barrio-18*) are an urban phenomenon and not present in every part of the country, and that the NDP for Honduras does not establish on a balance of probabilities that the gang has a physical or influential presence in Roatan [*sic*].

[13] Despite counsel's efforts to persuade me otherwise, that finding was reasonably available to the RPD based on the record and the Applicants have failed to point to any persuasive evidence to the contrary.

[14] For these reasons, this application must be dismissed. No question was proposed for certification and there is none.

JUDGMENT in IMM-5730-22

THIS COURT'S JUDGMENT is that this application is dismissed and no question is certified.

"Russel W. Zinn"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-5730-22

STYLE OF CAUSE: CHERLY DAYANA MEJIA SUAZO, ANDREE
FERNANDO MEJIA SUAZO, JONATHAN
ALEJANDRO MEJIA SUAZO v THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: MAY 25, 2023

JUDGMENT AND REASONS: ZINN J.

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