

Federal Court



Cour fédérale

Date: 20240405

Docket: IMM-13200-22

Citation: 2024 FC 529

Ottawa, Ontario, April 5, 2024

PRESENT: Mr. Justice O'Reilly

BETWEEN:

YAZBEL BERENICE PEREZ CRUZ

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Overview

[1] Ms Yazbel Berenice Perez Cruz, a citizen of Mexico, arrived in Canada in 2019 seeking refugee protection. She claimed to be the victim of extortion attempts by a criminal organization in Xalapa, Veracruz, Mexico. Ms Perez Cruz managed her family's supermarket there. She received a threat and demands for money in 2012, and again in 2016. She contacted police after the second threat, who provided some temporary protection until 2017. At that point, she decided to move to Mexico City and operate the business from there.

[2] In 2018, Ms Perez Cruz learned that the supermarket was being watched by unknown men and that an employee had been threatened. Ms Perez Cruz informed police and fled to Canada.

[3] A panel of the Refugee Protection Division considered Ms Perez Cruz's claim and dismissed it on the basis that she could have lived safely in Cabo San Lucas instead of claiming refugee protection in Canada – she had a so-called Internal Flight Alternative (IFA) in Mexico. Ms Perez Cruz appealed the RPD's decision to the Refugee Appeal Division. The RAD found that the criminal organization Ms Perez Cruz feared would probably not pursue her in the IFA. In fact, family members continued to operate the supermarket in her absence and they had no further problems with the criminal organization. The RAD also concluded that it would not be unreasonable to expect Ms Perez Cruz to live in Cabo San Lucas instead of seeking refugee protection in Canada.

[4] Ms Perez Cruz argues that the RAD's decision was unreasonable because the evidence showed that she could not escape persecution in the IFA – she was being pursued by a criminal organization with national connections that was highly motivated to find her. In addition, Ms Perez Cruz maintains that the RAD failed to recognize that she would have to hide her location from her friends and family and would not be able to work in Cabo San Lucas. She could not, she says, be reasonably expected to live there. She asks me to quash the RAD's decision and order another panel to consider her appeal.

[5] I can find no basis for overturning the RAD's decision. The RAD's conclusion that she could live safely and readily relocate to Cabo San Lucas was not unreasonable on the evidence. I must, therefore, dismiss this application for judicial review.

[6] The sole issue is whether the RAD's decision was unreasonable.

II. Was the RAD's Decision Unreasonable?

[7] Ms Perez Cruz submits that the RAD's decision was unreasonable because it failed to recognize that her claim to fear persecution should have been presumed to be true. Further, she says that the RAD disregarded documentary evidence showing that the criminal organization she feared was allied with other groups in the proposed IFA. Moreover, the evidence showed that the organization would be highly motivated to locate her and that she would be unable to receive state protection there. She maintains that, taken as a whole, the evidence showed that there was a serious risk of persecution in the proposed IFA.

[8] Ms Perez Cruz also argues that it would be unreasonable to expect her to reside in Cabo San Lucas because of the low rate of employment and the risk of continuing persecution there. She would, she says, be forced to live in hiding.

[9] I disagree. The RAD considered the evidence relating to the risk of persecution that Ms Perez Cruz would face in the IFA and reasonably concluded that the risk was low. The last threat to her was four years ago and other family members had not been harmed in the interim. There was no evidence to support Ms Perez Cruz's suggestion that the organization was highly

motivated to locate her. Accordingly, Ms Perez Cruz could live safely in Cabo San Lucas – she would not have to hide or shield her location from her friends and family. The evidence also showed that she would not have difficulty living or working there. Her education and experience would enable her to find employment.

[10] I find that the RAD’s decision was intelligible, transparent, and justified – it was not unreasonable.

III. Conclusion and Disposition

[11] The RAD reasonably concluded that Ms Perez Cruz could live safely and readily relocate to Cabo San Lucas. Therefore, I must dismiss this application for judicial review. Neither party proposed a question of general importance for me to certify, and none is stated.

JUDGMENT IN IMM-13200-22

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed.
2. No question of general importance is stated.

"James W. O'Reilly"
Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-13200-22
STYLE OF CAUSE: YAZBEL BERENICE PEREZ CRUZ v THE MINISTER
OF CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: FEBRUARY 22, 2024

JUDGMENT AND REASONS: O'REILLY J.

DATED: APRIL 5, 2024

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