

**Date: 20071127**

**Docket: IMM-5616-06**

**Citation: 2007 FC 1246**

**Vancouver, British Columbia, November 27, 2007**

**PRESENT: The Honourable Madam Justice Heneghan**

**BETWEEN:**

**ALINE SALSA PINTO COELHO  
(a.k.a. Pinto Coelho, Aline Salsa)**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION**

**Respondent**

**REASONS FOR ORDER AND ORDER**

[1] Ms. Aline Salsa Pinto Coelho (the “Applicant”) seeks judicial review of the decision of the Immigration and Refugee Board, Refugee Protection Division (the “Board”). In its decision, dated September 29, 2006, the Board determined that the Applicant is not a Convention refugee nor a person in need of protection pursuant to sections 96 and 97 of the *Immigration and Refugee Protection Act*, S.C. 2007, c-27 (the “Act”) because state protection is available to her in her country of nationality, Brazil.

[2] The Applicant sought refugee status in Canada on the grounds of being a member of a particular social group, that is a victim of rape who fears death or serious harm at the hands of her rapist. The Board found the Applicant to be credible but concluded that state protection was available to her in Brazil and dismissed her claim.

[3] The Applicant challenges the Board's findings with respect to the availability of state protection. She argues that although she reported the assault to the police and was given the opportunity to review books of "mug shots", she was unable to identify her attacker. She submits that the police apparatus in Brazil is inadequate to give her protection.

[4] The first matter to be addressed is the applicable standard of review, having regard to a pragmatic and functional analysis. The Act contains no privative clause and this factor tends in favour of deference to the decision-maker. The Board is a specialized tribunal and this factor also favours deference. The purpose of the Act is to regulate the admission of persons into Canada. This is a broad purpose which favours deference. Finally, the nature of the question here is a factual one: does the Applicant satisfy the requirements of section 96 or subsection 97(1) of the Act? Factual findings are generally assessed on the standard of patent unreasonableness, having regard to subsection 18.1(4)(d) of the *Federal Courts Act*, R.S.C. 1985, c. F-7.

[5] I conclude that the applicable standard of review as to the availability of state protection is patent unreasonableness. On the basis of the decision in *Judge v. Canada (Minister of Citizenship*

*and Immigration*) 2004 FC 1089, the adequacy of state protection is to be assessed on the standard of reasonableness *simpliciter*.

[6] Having regard to the evidence that was before the Board, as contained in the Tribunal Record that was before the Court, I am not satisfied that the Board's conclusions with respect to the availability of state protection were patently unreasonable. The Applicant sought police assistance. She received assistance. The fact that the information maintained by the police did not contain a photograph of her assailant does not mean that the police forces were corrupt, incompetent or malfunctioning.

[7] Likewise, I am not persuaded that the Applicant has demonstrated that her country of nationality cannot provide adequate state protection.

[8] In the result, there is no basis for judicial intervention and the application for judicial review is dismissed. There is no question for certification arising.

**ORDER**

The application for judicial review is dismissed, no question for certification arising.

"E. Heneghan"

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Judge

**FEDERAL COURT**

**NAMES OF COUNSEL AND SOLICITORS OF RECORD**

**DOCKET:** IMM-5616-06

**STYLE OF CAUSE:** Aline Salsa Pinto Coelho (a.k.a. Pinto Coelho, Aline Salsa) v. The Minister of Citizenship and Immigration

**PLACE OF HEARING:** Toronto, Ontario

**DATE OF HEARING:** October 18, 2007

**REASONS FOR ORDER AND ORDER:** HENEGHAN J.

**DATED:** November 27, 2007

**APPEARANCES:**

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