

**Date: 20071204**

**Docket: IMM-1456-07**

**Citation: 2007 FC 1270**

**Ottawa, Ontario, the 4th day of December 2007**

**PRESENT: The Honourable Mr. Justice Blanchard**

**BETWEEN:**

**JUAN PABLO II  
CARRASCO BALDOMINO**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND IMMIGRATION**

**Respondent**

**REASONS FOR JUDGMENT AND JUDGMENT**

**I. Introduction**

[1] This is an application for judicial review of a decision of the Immigration and Refugee Board (the panel) dated February 27, 2007, that the applicant was neither a “Convention refugee” nor a “person in need of protection” pursuant to section 96 and subsection 97(1) of the *Immigration and Refugee Protection Act*, S.C. 2001, c. 27 (the IRPA).

## II. Factual background

[2] The applicant was born in Apizaco, Tlaxcala State, Mexico on December 14, 1978. He is a citizen of that country and is single.

[3] In December 2004, the applicant was employed as a labourer with a fabric manufacturer. Six months after he arrived, the applicant noted small concealed packages when rolls of fabric were loaded into the company truck. On June 30, 2005, he informed his superior, Hugo Sanchez (Sanchez), that he suspected there was [TRANSLATION] “something funny” going on. He was reprimanded by Sanchez, who told the applicant to look after his work and not ask questions.

[4] On August 2, 2005, Sanchez approached the applicant and offered him the position of a truck driver. In his new duties, he would be [TRANSLATION] “responsible for driving a truck and paying close attention to his small packages”. After a few days thinking it over, the applicant rejected Sanchez’s offer. The applicant was convinced that drug trafficking was going on and thought of informing the police, but changed his mind as he knew that the municipal police commander, César Montiel, was a good friend of Sanchez.

[5] On December 16, 2005, Sanchez ordered the applicant to go with him in the company truck to deliver a load of fabric to Chiahutempan. At about 12:20 pm, Sanchez took a road going to a village the applicant did not know. Sanchez then delivered small packages concealed under the rolls of fabric. The packages were taken into a warehouse and, a few minutes later, they both left the premises.

[6] On the journey, Sanchez threatened the applicant, telling him that he [TRANSLATION] “was not to tell anyone what he had just seen or he would regret it”. Fearing reprisals, the applicant decided to keep silent. In January 2006, police officers came to the company to question several employees. According to rumour, the police had been informed by someone that the company was involved in “shady dealings”.

[7] At about 8 p.m. on January 20, 2006, the applicant was stopped by Sanchez and an unknown individual. Sanchez began insulting and threatening the applicant, telling him that he [TRANSLATION] “was going to pay dearly for what he had done”. Despite his explanations that he had said nothing, he was hit by the unknown individual and Sanchez told him that he [TRANSLATION] “had better watch out and if the police came back to the company, he was going to look for [the applicant] and kill him”. The applicant, having suffered bruises and scratches, went home.

[8] Fearing for his safety, the applicant decided not to go back to work and left his family home on January 21, 2006. Five days later, on January 26, 2006, the applicant noticed Sanchez’s car cruising by the apartment he had rented to hide in.

[9] At about 7 p.m. on February 2, 2006, a car stopped near the applicant and two individuals got out: Sanchez and an unknown individual. Sanchez insulted the applicant and threatened to kill

him. He noticed that the unknown man had a gun in his jacket. The applicant then fled and was not followed. Following the incident, he hid with Veronica Gomez, a friend.

[10] The applicant decided to leave the country in fear of his life. He left Mexico on March 25, 2006, and arrived in Canada the same day. He sought Canada's protection on June 13, 2006.

### III. Impugned decision

[11] In its decision dated February 27, 2007, the panel found that the applicant had not discharged his burden of proof and consequently was neither a "Convention refugee" nor a "person in need of protection".

#### *Persecution – Section 96 IRPA*

[12] The panel stated that it found that the applicant was a victim of criminal acts, not persecution. It relied on *Karpounin v. Canada (Minister of Employment and Immigration)*, [1995] F.C.J. No. 371 (QL) in concluding that [TRANSLATION] "victims of criminal acts are not part of a particular social group". The panel accordingly considered the application only under subsection 97(1) of the IRPA.

#### *His country's protection*

[13] The panel explained that it is a well-settled principle that a refugee claimant must have sought his country's assistance before seeking international protection. The only evidence to this

effect was a letter from a Mexican lawyer whose services were retained when the applicant was already in Canada. The letter sets out the facts as described by the applicant and explains that, in its writer's opinion, the applicant had to leave Mexico since the change of address was not sufficient, given that [TRANSLATION] "Hugo Sanchez Palafox has power and influence at the national level and in part of Central America".

[14] The explanation given by the applicant that he never filed a complaint with the police, because [TRANSLATION] "he did not want to have problems and the said Sanchez is a very financially influential person and a friend of the municipal police chief", was not accepted by the panel.

[15] Accordingly, in the panel's opinion, [TRANSLATION] "as the applicant did not seek protection from the authorities of his country, he was unable to discharge the burden on him to establish by 'clear and persuasive' evidence that the State could not or did not wish to protect him".

*Internal flight alternative (IFA)*

[16] The panel explained that Mexico is a huge area with a population of over 110 million people and the applicant had the option of finding refuge in some other city. The applicant's explanation that Sanchez could trace him because of his commercial distribution network was not accepted.

[17] The panel further considered that the applicant had not established that the IFA was unreasonable and unavailable, and that he would personally have been subject to a threat to his life

or a risk of cruel or unusual punishment in other cities. Accordingly, it concluded that the applicant had a reasonable internal flight alternative to another Mexican city.

*Delay in seeking refugee status*

[18] Finally, the panel noted that the applicant's two-month delay in filing his refugee claim [TRANSLATION] "undermines the subjective fear element and the credibility of the application". It dismissed the explanation that the applicant feared being sent back to his country and was not aware that there was a Hispanic community in Montréal.

IV. Issues

[19] Did the panel err in finding that the applicant did not show with clear and persuasive evidence that he could not obtain protection from the Mexican government and that he had an internal flight alternative in Mexico? I consider that the latter question is determinative in the case at bar for the reasons that follow.

V. Standard of review

[20] The standard of review applicable to the question of whether an internal flight alternative exists is that of patent unreasonableness (*Zia v. Canada (Minister of Citizenship and Immigration)*, 2007 FC 131; *Ortiz v. Canada (Minister of Citizenship and Immigration)*, 2006 FC 1365, at paras. 34 and 35; *Ako v. Canada (Minister of Citizenship and Immigration)*, 2006 FC 647, at para. 20; *Nakhuda v. Canada (Minister of Citizenship and Immigration)*, 2006 FC 698, at para. 8;

*Camargo v. Canada (Minister of Citizenship and Immigration)*, 2006 FC 472, at para. 7; *Chorny v. Canada (Minister of Citizenship and Immigration)*, 2003 FC 999).

## VI. Analysis

### *Internal flight alternative*

[21] The applicant maintained that he did not have an internal flight alternative, did not feel safe in Mexico and could not find another place to settle in his country in view of Sanchez's contacts. He stated that Sanchez could find him anywhere in the country. He noted that he had taken reasonable steps to protect his life and health by trying to move to another place in Mexico, but objective difficulties relating to this possibility prevented him from pursuing his attempts.

[22] The respondent maintained that the applicant was unable to discharge his burden regarding the absence of an internal flight alternative. Further, he noted that the applicant had not shown how in his situation the internal flight alternative was unreasonable.

[23] It should be noted that a Convention refugee has to be a refugee from a country, not from a certain part or region of a country. Accordingly, if an internal flight alternative to another part of the same country exists, the claimant cannot be a refugee.

[24] Since the existence of an IFA is an inherent part of the decision regarding Convention refugee status, the applicant has the burden of proving that a serious risk of persecution exists throughout the country.

[25] The Federal Court of Appeal has developed a two-part test to determine whether someone making a refugee claim has an IFA elsewhere in his or her country. First, the Board must be satisfied on a balance of probabilities that no serious possibility of the claimant being persecuted at the location proposed as an IFA exists, and, second, in view of all the circumstances, including those specific to the claimant, the situation at the proposed location is such that it would not be unreasonable for the applicant to seek shelter there (*Dillon v. Canada (Minister of Citizenship and Immigration)*, 2005 FC 381, [2005] F.C.J. No. 463, at paragraph 11).

[26] The panel considered the documentary evidence showing that Mexico has a population of over 110 million people scattered over a large area and that there are several large cities with over one million people. Additionally, the panel considered the circumstances specific to the applicant: his age, his education and the particular circumstances of his alleged persecutor. It did not believe that Sanchez and his associates had influence throughout Mexico and would seek the applicant to kill him, when they had nothing against him. On the evidence, this finding is not patently unreasonable.

[27] Further, the letter prepared by the Mexican lawyer was given only limited evidentiary weight by the panel as it was written five months after the applicant arrived in Canada and three months after he had filed his refugee claim. The applicant submitted no evidence apart from the lawyer's letter to show that Sanchez had such wide influence in Mexico that he could prevent him from finding refuge in other Mexican cities with more than one million inhabitants, such as



Guadalajara, Baja California, Merida or Monterey. The panel was not satisfied on a balance of probabilities that the applicant risked being persecuted in those cities. In my opinion, this finding was reasonably available to the panel on the evidence as a whole.

[28] It should be noted that the existence of an internal flight alternative is in itself sufficient to dispose of the refugee claim. In *Shimokawa v. Canada (Minister of Citizenship and Immigration)*, 2006 FC 445, Madam Justice Tremblay-Lamer explained that “the existence of a valid IFA is determinative of a refugee claim and, consequently, the other issues raised by the applicant upon judicial review need not be considered” (see also *Rasaratnam v. Canada (Minister of Employment and Immigration)*, [1991] F.C.J. No. 1256 (QL)).

[29] In the case at bar, I consider that, in finding that there was an internal flight alternative, the panel made no error that would warrant this Court’s intervention.

## VII. Conclusion

[30] For these reasons, the application will be dismissed.

[31] The parties did not suggest certification of a serious question of general importance as contemplated by paragraph 74(d) of the IRPA. I am satisfied that no such question arises in the case at bar. Accordingly, no question will be certified.

**JUDGMENT**

**THE COURT ORDERS AND DECLARES that:**

1. The application for judicial review is dismissed.
2. No question is certified.

“Edmond P. Blanchard”

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Judge

Certified true translation  
Susan Deichert, Reviser

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** IMM-1456-07

**STYLE OF CAUSE:** JUAN PABLO II CARRASCO BALDOMINO v. MCI

**PLACE OF HEARING:** Montréal, Quebec

**DATE OF HEARING:** October 23, 2007

**REASONS FOR JUDGMENT BY:** The Honourable Mr. Justice Blanchard

**DATED:** December 4, 2007

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