

**Date: 20080403**

**Docket: IMM-3545-07**

**Citation: 2008 FC 426**

**Toronto, Ontario, April 3, 2008**

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

**BETWEEN:**

**ELISA DEL CARMEN MORTERA SANCHEZ**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND IMMIGRATION**

**Respondent**

**REASONS FOR ORDER AND ORDER**

[1] The present Application concerns a young refugee claimant from Mexico who claims s.96 and s.97 protection from a man who was violent during her relationship with him. The Applicant did not seek stay protection in Mexico before fleeing to Canada because she believed that the Mexican police cannot, or will not, provide effective protection for women suffering spousal violence. To explain this action, and, indeed, to prove the merits of her claim, the Applicant filed extensive evidence with the RPD to prove that her unwillingness to seek state protection in Mexico

was reasonable, and also to provide clear and convincing proof that no effective protection is available to her should she be required to return to Mexico.

[2] The result of the present judicial review turns on the fact that the RPD failed to acknowledge the Applicant's evidence of risk, let alone provide critical analysis of it as it is required to do. As a result, I find the decision is made in reviewable error.

**ORDER**

Accordingly, the decision under review is set aside and referred back for re-determination by a differently constituted panel.

“Douglas R. Campbell”

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Judge

**FEDERAL COURT**

**NAME OF COUNSEL AND SOLICITORS OF RECORD**

**DOCKET:** IMM-3545-07

**STYLE OF CAUSE:** ELISA DEL CARMEN MORTERA SANCHEZ v. THE  
MINISTER OF CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** TORONTO, ONTARIO

**DATE OF HEARING:** APRIL 1, 2008

**REASONS FOR ORDER  
AND ORDER BY:** CAMPBELL J.

**DATED:** APRIL 3, 2008

**APPEARANCES:**

ROBERT GERTLER FOR THE APPLICANT

TAMRAT GEBEYEHU FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

ROBERT GERTLER & ASSOCIATES  
BARRISTERS AND SOLICITORS  
ETOBICOKE, ONTARIO FOR THE APPLICANT

JOHN H. SIMS, Q.C.  
DEPUTY ATTORNEY GENERAL OF CANADA FOR THE RESPONDENT