

Date: 20080403

Docket: IMM-4179-07

Citation: 2008 FC 423

Montréal, Quebec, the 3rd day of April 2008

Present: the Honourable Madam Justice Tremblay-Lamer

BETWEEN:

**Francisco Javier ESPARZA RAMOS
Veronica Guadal GUTIERREZ PENA
Katia Dennis ESPARZA
Yerson Jaaziel ESPARZA GUTIERREZ**

Applicants

and

MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

REASONS FOR ORDER AND ORDER

[1] This is an application for judicial review from a decision by the Refugee Protection Division (the panel) which dismissed the applicants' claim that they did not have the status of "Convention refugees" nor of "persons in need of protection" within the meaning of sections 96 and 97 of the *Immigration and Refugee Protection Act*.

[2] The panel's decision is based essentially on the lack of credibility of the principal applicant.

[3] The panel noted several contradictions or improbabilities which the applicant could not satisfactorily explain. The first contradiction noted was not a contradiction.

[4] During the hearing, the panel stressed despite the applicant's objection that he had stated in his Personal Information Form that he had had problems with his father's boss. In its reasons, the panel stated that this was a significant contradiction which undermined his credibility.

[5] It was admitted by the respondent that the panel erred on this point since it was apparent from the record that the applicant had written that the problem was with the "PRD" boss.

[6] This point was central to the applicant's claim. It is hard for this Court to assess to what extent this error in the consideration of such an important fact had an impact on the finding that the principal applicant lacked credibility.

[7] As in *Johnson v. Canada (Minister of Citizenship and Immigration)*, [1999] F.C.J. No. 1920, I feel that this error vitiates the decision as a whole.

ORDER

THE COURT ORDERS that:

1. the application for judicial review is allowed;
2. the panel's decision is set aside and the matter referred back to a panel of different members for reconsideration.

“Danièle Tremblay-Lamer”

Judge

Certified true translation

Brian McCordick, Translator

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-4179-07

STYLE OF CAUSE: Francisco Javier ESPARZA RAMOS
v. M.C.I.

PLACE OF HEARING: Montréal, Quebec

DATE OF HEARING: April 2, 2008

**REASONS FOR ORDER
AND ORDER BY:** THE HONOURABLE MADAM JUSTICE
TREMBLAY-LAMER

DATED: April 3, 2008

APPEARANCES:

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