

Federal Court



Cour fédérale

Date: 20100618

Docket: IMM-6106-09

Citation: 2010 FC 664

Montréal, Quebec, June 18, 2010

PRESENT: The Honourable Mr. Justice Mainville

BETWEEN:

**JAIME HERNANDO RAMIREZ MARTIN
DORA NANCY PULIDO SUAREZ
HAYSEL MAISIUTH RAMIREZ
YITZHAKE ZAMITH RAMIREZ**

Applicants

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

Introduction

[1] This is an application for judicial review pursuant to sections 72 et seq. of the *Immigration and Refugee Protection Act*, S.C. 2001, c. 27 (the Act), filed by Jaime Hernando Ramirez Martin (the male applicant), by Dora Nancy Pulido Suarez (the female applicant) and their two children against a decision of the Refugee Protection Division (the panel) of the Immigration and Refugee

Board, bearing numbers MA8-01463, MA8-01464, MA8-01465 and MA8-01466 and rendered on November 5, 2009.

[2] The application for judicial review shall be dismissed for the reasons below.

The children

[3] Although the children's claim for refugee protection was withdrawn before the panel in view of their American citizenship, their names were included in the judicial review proceedings before this Court. Seeing as the application for judicial review does not involve the two children, it is dismissed out of hand.

Background

[4] The applicants are citizens of Colombia. They allege that they have been operating retail businesses in Bogota since 1993. They also allege that the businesses have been subject to a "war tax" by the Revolutionary Armed Forces of Colombia (FARC) for years.

[5] The female applicant lived for a long time in the United States, namely in 1995 and 1996, so that she could give birth to her first child there. She returned to Colombia in March 1996 only to leave again for the United States in May 1997 to give birth to her second child. She stayed in the United States until June 2006.

[6] In January 1998, the male applicant joined the female applicant in the United States leaving the administration of their businesses in the hands of his brothers. He stayed there until July 2005. He then returned to Colombia to resume administration of the businesses. He states that he engaged in political activities and received death threats from the FARC, yet, oddly enough, he still encouraged the female applicant to return to Colombia in June 2006.

[7] The male applicant then alleges that he received new threats from the FARC, and so he decided to leave Colombia in October 2007 to make his way to Mexico, crossed through the United States and finally ended up at the Canadian border on January 4, 2008, where he claimed refugee protection for himself, the female applicant and their two children.

The panel's decision

[8] The panel rejected the claim for refugee protection mainly on the ground that the applicants lacked credibility. The panel is of the view that the applicants' numerous trips between Colombia and the United States are not consistent with their allegations of fear of persecution. The panel notes on a number of occasions the implausibility of the applicants' story, particularly at paragraphs 19 to 21 of its decision.

The applicants' position

[9] The applicants allege that the panel was overzealous in looking for contradictions in the testimony of Mr. Ramirez Martin, interpreted the evidence in an unreasonable manner and did not consider all of the evidence.

The respondent's position

[10] The respondent submits that it is well established that assessing the applicants' credibility and the explanations they provided during the hearing of their refugee protection claim are within the scope and expertise of the panel. The panel is also deemed to have considered all of the evidence unless otherwise proven, which the applicants failed to do. The panel considered all of the applicants' explanations but found them to be unsatisfactory. The fact that the applicants repeatedly returned to Colombia is determinative in this case.

The applicable standard of review

[11] It is trite law that the standard of review applicable to a decision of the Refugee Protection Division with respect to a refugee protection claim and based on the applicants' lack of credibility is the standard of reasonableness. Such a standard is so well-known that it does not warrant further discussion. The panel's findings on the applicants' credibility are therefore entitled to considerable deference.

Analysis

[12] The only important issue here is whether the panel's assessment of the applicants' credibility is reasonable.

[13] The panel heard the applicants' testimony in person and was able to assess their behaviour during the hearing. There is no evidence before me allowing me to conclude that the panel's decision as to its assessment of the applicants' credibility is unreasonable.

[14] In fact, I note that the applicants returned to Colombia often over the years, a behaviour that is clearly inconsistent with their allegations. I also note that the male applicant's brothers administered the businesses, and the applicants did not submit any credible evidence establishing that the brothers' security would have been compromised by that.

[15] Plenty of evidence exists to conclude that the panel's decision based on the implausibility of the applicants' story is reasonable.

[16] The application for judicial review is therefore dismissed.

[17] The parties posed no question for certification pursuant to paragraph 74(d) of the Act, and no question is certified

JUDGMENT

THE COURT ORDERS AND ADJUDGES that the application for judicial review be dismissed.

"Robert M. Mainville"

Judge

Certified true translation

Daniela Possamai

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-6106-09

STYLE OF CAUSE: JAIME HERNANDO RAMIREZ MARTIN ET AL.
v. M.C.I.

PLACE OF HEARING: Montréal, Quebec

DATE OF HEARING: June 16, 2010

**REASONS FOR JUDGMENT
AND JUDGMENT BY:** THE HONOURABLE MR. JUSTICE MAINVILLE

DATED: June 18, 2010

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