

Federal Court



Cour fédérale

**Date: 20101027**

**Docket: IMM-491-10**

**Citation: 2010 FC 1057**

**Ottawa, Ontario, October 27, 2010**

**PRESENT: The Honourable Mr. Justice O'Reilly**

**BETWEEN:**

**JOSE FERNANDO RESTREPO CATANO,  
VICTORIA EUGENIA DAVILA LONDONO  
AND VALENTINA RESTREPO DAVILA**

**Applicants**

**and**

**THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION**

**Respondent**

**REASONS FOR JUDGMENT AND JUDGMENT**

I. Overview

[1] Mr. Jose Fernando Restrepo Catano, his wife, Ms. Victoria Eugenia Davila Londono, and their daughter, Valentina Restrepo Davila, claimed refugee protection in Canada on the basis of their fear of mistreatment in Colombia. A panel of the Immigration and Refugee Board denied their claims, finding that the evidence they relied on did not show there was a serious possibility of persecution, or a likelihood of harm, if they returned to Colombia.

[2] Mr. Restrepo Catano and Ms. Davila Londono argue that the Board overlooked important facts, which caused it to render an unreasonable decision. They ask me to overturn the Board's decision and order a new hearing before a different panel. They do not challenge the decision regarding their daughter, who is a citizen of the United States.

[3] I cannot find a basis for overturning the Board's decision. In particular, I find that the Board's conclusion was reasonable in light of the evidence before it. Therefore, I must dismiss this application for judicial review.

[4] The only issue is whether the Board's decision was unreasonable.

## II. Factual Background

[5] Mr. Restrepo Catano described the difficulties his family had encountered with the Revolutionary Armed Forces of Colombia (FARC) in Colombia. His father and uncles were forced to pay a weekly stipend to FARC. When one of his uncles refused, he was assaulted. His complaint to police forced him and his brothers to flee to escape reprisals.

[6] The FARC told Mr. Restrepo Catano's father that he would have to assume the financial obligations of those who had fled. If he did not, the family would be killed. The father sold the business and told Mr. Restrepo Catano to leave Colombia. He fled to the United States in June 1995. His cousin was murdered in 1997.

[7] Ms. Davila Londono's family encountered similar problems. In 1999, FARC took control of the city of Armenia, where her family lives, following an earthquake. Her family decided to move to Calarca where they owned a farm. However, FARC was active in this area as well, so in July 1999, she decided to leave for the United States. After she left, FARC held her family hostage, demanding title to the farm. Her parents fled to the United States and then to Spain. The farm was later sold. An uncle was murdered in 2003 after returning to Colombia from abroad.

[8] Ms Davila Londono stayed in the U.S. where she met and married Mr. Restrepo Catano in 2000. Their daughter was born in 2002.

[9] The claimants remained in the U.S. until 2008, when they travelled to Canada and claimed refugee protection.

### III. The Board's Decision

[10] The Board believed the claimants' account of events. It denied their claims for the following reasons:

- None of the claimants, or anyone in their immediate families, was personally targeted or harmed.

- Mr. Restrepo Catano's father still lives and works in Colombia, and FARC has not found him. Even though he moves from time to time, FARC would be able to find him if they were still, after 14 years, looking for him.
- While Mr. Restrepo Catano was in business with his father, his father was more at risk than he was.
- While Ms. Davila Londono's relatives might be at risk, she had never been targeted or harmed.
- The claimants sent their daughter to visit her grandparents in Colombia in 2006, when she was 3. They must not have believed she was at risk.

[11] The Board concluded that the claimants would not face a serious possibility of persecution or risk of harm in Colombia.

#### IV. Was the Board's Decision Unreasonable?

[12] The claimants argue that the Board erred by failing to appreciate that Mr. Restrepo Catano's close family members had been targeted by FARC and, therefore, that he was also at risk. In particular, they point out that the Board appeared to ignore the murder of Mr. Restrepo Catano's cousin. They also argue that the Board overlooked the fact that FARC often targets landowners,

such as Ms. Davila Londono's family. In addition, the family defied the FARC by selling the farm, increasing the likelihood of reprisals.

[13] The claimants point to other facts not cited by the Board. The Board did not refer to the fact that Ms. Davila Londono's father was threatened in 2007. Nor did it mention that her family was effectively living in exile in Panama.

[14] The claimants argue that the Board's failure to consider the totality of the evidence caused it to render an unreasonable decision.

[15] In my view, while the Board may not have cited all of the evidence in the claimants' favour, it did not overlook any significant facts that contradicted its conclusion. Its reasons make clear that it understood the essence of the claimants' circumstances and the various events affecting their respective families. The facts that the Board allegedly ignored could not, in my view, have affected the outcome. Accordingly, the Board's conclusion that, looking at the evidence as a whole, the claimants had not proved a serious possibility of persecution or a likelihood of law was reasonable as it falls within the range of possible, acceptable outcomes based on the facts and the law.

#### V. Conclusion and Disposition

[16] The Board's conclusion that the claimants did not meet the burden of proof was reasonable on the evidence. Therefore, I must dismiss this application for judicial review. Neither party proposed a question of general importance for me to certify, and none is stated.

**JUDGMENT**

**THIS COURT'S JUDGMENT is that:**

1. The application for judicial review is dismissed.
2. No question of general importance is stated.

“James W. O’Reilly”

---

Judge

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

**DOCKET:** IMM-491-10

**STYLE OF CAUSE:** CATANO, ET AL v. MCI

**PLACE OF HEARING:** Toronto, Ontario

**DATE OF HEARING:** October 19, 2010

**REASONS FOR JUDGMENT:** O'REILLY J.

**DATED:** October 27, 2010

**APPEARANCES:**

Michael Brodzky FOR THE APPLICANT

Neeta Logsetty FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

MR. MICHAEL BRODZKY FOR THE APPLICANT  
Barrister and Solicitor  
Toronto, Ontario

MYLES J. KIRVAN FOR THE RESPONDENT  
Deputy Attorney General of Canada  
Toronto, ON.