

Federal Court



Cour fédérale

**Date: 20101112**

**Docket: IMM-866-10**

**Citation: 2010 FC 1132**

**Ottawa, Ontario, November 12, 2010**

**PRESENT: The Honourable Justice Zinn**

**BETWEEN:**

**DAVID ADAME ENRIQUEZ**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION**

**Respondent**

**REASONS FOR JUDGMENT AND JUDGMENT**

[1] The applicant is a 35 year-old Mexican man with a hearing impairment. He submits that the Refugee Protection Division of the Immigration and Refugee Board breached a principle of natural justice when it failed to ensure that the accommodations made for him at the hearing were sufficient given his disability and his designation as a vulnerable person and that it erred in its analysis of the availability of state protection in Mexico.

[2] I do not accept these submissions and thus his application to set aside the Board's decision must be dismissed.

[3] The Board had designated the applicant as a vulnerable person at a previous hearing. The Board canvassed the applicant's representative, an immigration consultant, as to accommodation and accepted his proposal that the order of questioning be reversed to allow the consultant to ask questions of his client first. No other accommodation was ever sought by the applicant or his representative.

[4] The applicant was also provided with an interpreter at the hearing and he read the interpreter's lips. Again, this was an accommodation that was accepted by the applicant's representative. At the commencement of the hearing the Board asked the applicant if he understood the interpreter and he responded affirmatively. At no time did either the applicant or his representative advise the Board that there were communication issues. I have read the transcript of the hearing and am satisfied that the interpreter did her utmost to ensure that the applicant's responses were understood and relayed to the Board. Contrary to the submissions of the applicant, the record does not show that he "did not fully understand the interpreter for the entirety of the hearing and he was unsure many times of what was being asked of him or what was being communicated to him."

[5] Any issues relating to the communication of the applicant's evidence were dealt with as they arose and his current claim that the record reveals otherwise is unsupported. In my

assessment, the record indicates that Mr. Enriquez had no more difficulty understanding and being understood than claimants who are not hearing impaired but are using translation services.

[6] The record does not disclose any breach of procedural fairness. The allegations made by the applicant are serious, but there is no evidence to support his allegations; he has not even provided an affidavit outlining his view that the proceedings were problematic.

[7] The applicant submits that the Board's analysis of state protection failed to give appropriate weight to the personal circumstances of the applicant. He also submits that the Board failed to undertake a meaningful analysis of state protection and failed to determine whether effective state protection exists in Mexico. He says that the mere fact that Mexico is taking steps to address discrimination against disabled people does not automatically indicate that there is effective or even adequate state protection.

[8] The Board's reasons provide no basis for the applicant's submission that it failed to give appropriate weight to the applicant's personal circumstances or failed to engage meaningfully with the evidence. The following shows otherwise:

- (i) At paragraphs 4 and 5, the Board specifically reviewed the applicant's personal circumstances.
- (ii) At paragraphs 21 and 22, the Board considered the evidence regarding Mexico's treatment of disabled persons such as the applicant.

- (iii) At paragraphs 23 to 26, the Board engaged in an extensive analysis of the applicant's own efforts to seek protection and the specific treatment the applicant had received because of his disability.

[9] A review of these paragraphs in the context of the entire decision establishes that there is no support for the applicant's allegation that the Board failed to provide a personalized decision that engaged the evidence at hand. The Board acknowledged that state protection was imperfect and that discrimination exists, but nonetheless found that the applicant had been provided with protection. The Board's decision with regards to state protection and lack of persecution was reasonable, intelligible, and supported by cogent reasons.

[10] Neither party proposed a question for certification.

**JUDGMENT**

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

1. This application is dismissed; and
2. No question is certified.

\_\_\_\_\_  
"Russel W. Zinn"  
Judge

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

**DOCKET:** IMM-866-10

**STYLE OF CAUSE:** DAVID ADAME ENRIQUEZ v.  
THE MINISTER OF CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** Toronto, Ontario

**DATE OF HEARING:** November 4, 2010

**REASONS FOR JUDGMENT  
AND JUDGMENT:** ZINN J.

**DATED:** November 12, 2010

**APPEARANCES:**

Adela Crossley FOR THE APPLICANT

David Joseph FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

LAW OFFICE OF ADELA CROSSLEY FOR THE APPLICANT  
Barristers & Solicitors  
Toronto, Ontario

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