

Federal Court



Cour fédérale

Date: 20111013

Docket: IMM-1914-11

Citation: 2011 FC 1161

Toronto, Ontario, October 13, 2011

PRESENT: The Honourable Mr. Justice Campbell

BETWEEN:

ALEJANDRO JORDA BLANDO

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

REASONS FOR ORDER AND ORDER

[1] The present Application concerns a claim by a Mexican citizen for protection from the police in Mexico which was rejected by the Refugee Protection Division in what can only be described as a corrupted decision.

[2] The Applicant was an authorized distributor of wireless network plans. The network had its own frequencies and equipment which made it impossible to track a device using the network. In

October 2008 the Applicant begun to be harassed and physically threatened by men associated with the Federal Agency of Investigation (AFI) – the Mexican Police. The men wanted the Applicant to activate several phone lines without documentation. When the Applicant refused, he was beaten, threatened with a gun, and followed to Puebla Mexico when he went into hiding to escape the danger. The Applicant arrived in Canada on January 2, 2009 and claimed refugee protection on December 15, 2009.

[3] The RPD rejected the Applicant's claim for lack of subjective fear and on a finding that state protection was available in Mexico. Apart from significant substantive arguments that the decision is unreasonable, the Applicant also argues that the decision should be set aside because the decision contains unexplained substantial factual errors.

[4] The errors outlined by the Applicant in written argument (Applicant's Application Record, pp. 144 – 148) include: incorrectly enumerated paragraphs throughout the decision, for example, paragraph 8 is followed by 23, and paragraph 35 is followed by 22; citation of non-existent exhibits; failure to acknowledge the existence of documentary evidence supplied by the Applicant, and reference to non-existent facts. On this latter point of evidence the decision reads:

Considering the evidence, the panel finds that, if the claimant was not satisfied with the response from the police when his brother-in-law had called the police, he could have gone to another level either within the same agency or to another agency to seek redress.

(Reasons for Decision, Application Record, p. 18)

It is not disputed that the Applicant has no brother-in-law.

[5] Counsel have offered speculation as to how these errors could be made. However, there is no evidence to clearly define where the answer lies within the spectrum of options: at one end of the spectrum there is casual and haphazard decision-making in which no real thought is given to the merits of the Application with conclusions being provided by merely cutting and pasting from other rejected claims; and at the other end, where a real belief that a brother-in-law and a telephone call do exist. At this stage of the process I find that it is inappropriate to speculate as to how the errors arose. I find that the decision is corrupted by the errors, and in my opinion, it is unfair to the Applicant. Accordingly, the decision cannot stand.

ORDER

THIS COURT ORDERS that the decision under review is set aside and the matter is referred back to a differently constituted panel for redetermination.

There is no question to certify.

“Douglas R. Campbell”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-1914-11

STYLE OF CAUSE: ALEJANDRO JORDA BLANDO
v. THE MINISTER OF CITIZENSHIP AND
IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: October 13, 2011

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

DATED: October 13, 2011

APPEARANCES:

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