

Federal Court



Cour fédérale

Date: 20140120

Docket: IMM-12632-12

Citation: 2014 FC 50

Ottawa, Ontario, January 20, 2014

PRESENT: The Honourable Madam Justice Simpson

BETWEEN:

**LUCIA VICTORA VILLA MONTOYA
MANUEL HUMBERTO RODRIGUEZ DIAZ
(A.K.A. MANUEL HUMBERTO RODRIGUEZ)**

Applicants

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

**REASONS FOR ORDER AND ORDER
(Delivered orally in Toronto on December 18, 2013).**

[1] This application for judicial review is made by a husband and wife from Colombia who were denied refugee status and protection in a decision of the Refugee Protection Division of the Immigration and Refugee Board (the Board) dated November 15, 2012.

[2] The issue is whether the Board's adverse credibility finding is reasonable. It was based on the following:

Employment

a. The Board concluded that the principal applicant failed to adequately explain why he stated at the port of entry that his employer in Colombia was Telefonica Telecom and that his position gave him access to secret codes which allowed internet access to the police, justice, and administration departments of the Columbian government. He said that the FARC wanted the codes so that it could access the departments' servers. In his amended Personal Information Form (PIF) the principal applicant again stated that his employer was Telefonica Telecom. He also said that he "managed" internet, data, and voice channels for the government departments described above. However, he did not say in his amended PIF that he had access to any secret codes. His oral testimony on his access to secret codes was inconsistent. At one point he said that he had no access to secret or confidential information but at another point he indicated that he did have access to codes. The Board concluded that the principal applicant had misled it and had bolstered his claim by saying that he worked for Telefonica Telecom when in fact he worked for a number of its customers. Further, the Board was not satisfied that he had access to any secret information. Accordingly, the Board did not accept his profile as a person who could give FARC the secret codes it allegedly sought.

Delay

b. The Board concluded that the principal applicant failed to adequately explain why he delayed leaving Colombia. The abduction by members of FARC occurred on October 14, 2010 (the Abduction), and the principal applicant and his wife did not flee until December

21, 2010. Two explanations were given for this delay. First, the Board was told that the principal applicant feared that he and his wife would experience problems at the border if they did not take the time to give one month's notice to their employers before they left the country. Second, the Board was told that the applicants had purchased tickets for a holiday in New York several months before the Abduction and wanted to use them to leave Colombia. The Board concluded that these explanations were not satisfactory.

Vacation

- c. The Applicants did spend their planned two week holiday in New York City and then came to Canada. They explained their delay in coming to Canada by saying that adverse weather prevented them from travelling to the Canadian border. There was no proof to support this explanation and it was rejected.

Reporting to Police

- d. The principal applicant failed to report the Abduction to police because he said he was afraid that FARC had infiltrated the police and would make good on its threat to kill him if he reported. Yet he said he reported the Abduction to the police three days before he left Colombia. At this time, although he and his wife were in hiding, there was still the possibility that the FARC would find and kill them. The Board felt that if he had truly been afraid, the principal applicant would have reported to the police only after he left Colombia.

Port of Entry Notes

- e. During his interview at the port of entry the principal applicant advised the officer that at the end of June 2010 he had received calls from the FARC offering him a job. However, in his amended PIF narrative, he described the callers as being unknown. Further, the port of entry

notes show that the FARC threatened him with death at the time of the Abduction and yet in the PIF narrative the death threat is not mentioned.

[3] In my view these adverse conclusions about the applicants' credibility were reasonable.

Certification

[4] No question was posed for certification.

ORDER

THIS COURT ORDERS that the application for judicial review is dismissed.

“Sandra J. Simpson”

Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET: IMM-12632-12

STYLE OF CAUSE: LUCIA VICTORA VILLA MONTOYA, MANUEL
HUMBERTO RODRIGUEZ DIAZ, (A.K.A. MANUEL
HUMBERTO RODRIGUEZ) v THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: DECEMBER 18, 2013

**REASONS FOR ORDER AND
ORDER:** SIMPSON J.

DATED: JANUARY 20, 2014

APPEARANCES:

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