Federal Court   Cour fédérale

Date: 20100305

Docket: IMM-4254-09

Citation: 2010 FC 255

Ottawa, Ontario, March 5, 2010

PRESENT: The Honourable Mr. Justice Martineau

BETWEEN:

MARIA FRANCESCA PEREZ SALDANA
VICTOR TORRES PEREZ

Applicants

and

MINISTER OF CITIZENSHIP
AND IMMIGRATION

Respondent

<u>REASONS FOR JUDGMENT AND JUDGMENT</u>

[1]   Ms. Saldana and her minor son are Mexican citizens. They are challenging the legality of a decision of the Refugee Protection Division of the Immigration and Refugee Board (the panel) dated August 4, 2009, that the applicants are neither Convention refugees nor persons in need of protection as defined in the Act.

[2]   In denying the refugee claim, the panel concluded as follows:

> . . . The claimant was unable to prove that she acted reasonably in not asking for state protection. In addition, the claimant failed to show that she was personally targeted by the threats.
>
> . . .
>
> . . . Although the situation in Mexico is not perfect, the panel cannot conclude based on that alone that there is "clear and convincing" evidence that the Mexican government could not ensure the claimant's protection if she were to return to her country.
>
> The claimant stated that she fears returning to her country because it is very difficult to work . . . Despite being sympathetic to the claimant's personal situation, the panel considers that the motives for claiming refugee protection in this case are economic and do not fall under the Convention or the Act.
>
> . . .

[3]   The applicants submit that it was reasonable to not seek protection from the Mexican authorities because the authorities are corrupt. In addition to the fact that a tax inspector purportedly asked the female applicant for a bribe, they contend that the documentary evidence demonstrates that the Mexican authorities do not provide adequate protection.

[4]   It is not sufficient for the panel to state in its decision that it considered the documentary evidence; there must also be some analysis of the personal situation of the refugee claimant or claimants. However, in this case, the applicants never requested state protection, which is not sufficient in the circumstances to rebut the presumption of state protection. In passing, although the documentary evidence shows that government corruption is a problem in Mexico, the same evidence also indicates that the government is taking steps to combat corruption. While those efforts

have been somewhat successful, it cannot be said here that the panel disregarded the documentary evidence or that its decision was unreasonable in light of the jurisprudence applicable to this case.

[5]   Last, the determinative factor in this case was that the fear of persecution did not involve the applicants personally but the female applicant's late husband and one of her sons who is still in Mexico. In addition, during the hearing, the female applicant candidly admitted that she came to Canada for economic reasons:

> [TRANSLATION]
> . . . Honestly, it was because of my son who is here. Because honestly, in Mexico, I could not work. People over 30 are old in Mexico. Here, I can work to give my son a future.
> . . .

[6]   The application for judicial review should therefore be dismissed. The parties did not raise any question of general importance, and none arose in this case.

JUDGMENT

THE COURT ORDERS that the application for judicial review is dismissed. No question

is certified.

<table>
<tr><td></td><td>"Luc Martineau"</td></tr>
<tr><td></td><td>Judge</td></tr>
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Certified true translation
Mary Jo Egan, LLB

DOCKET: IMM-4254-09

STYLE OF CAUSE: **MARIA FRANCESCA PEREZ SALDANA**
VICTOR TORRES PEREZ
and
MINISTER OF CITIZENSHIP
AND IMMIGRATION

PLACE OF HEARING: Montréal, Quebec

DATE OF HEARING: February 18, 2010

REASONS FOR JUDGMENT
AND JUDGMENT BY: Martineau, J.

DATED: March 5, 2010