

Federal Court



Cour fédérale

Date: 20110613

Docket: IMM-6310-10

Citation: 2011 FC 680

Toronto, Ontario, June 13, 2011

PRESENT: The Honourable Mr. Justice Hughes

BETWEEN:

OMAR ROBERTO QUEVEDO CRUZ

Applicant

and

**MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

[1] The Applicant seeks judicial review of a decision of a Pre Removal Risk Assessment (PRRA) Officer dated October 28, 2010 in which it was determined that the Applicant would not be at risk if he was returned to Mexico. That decision will be set aside.

[2] The Applicant is a citizen of Mexico. He sought refugee protection in Canada. By a decision dated 14 August 2009 his application was denied. That date is important since the events relevant to the PRRA decision occurred afterward.

[3] The events must be looked at beginning in 2005 when a prominent Mexican X was kidnapped and murdered. It was alleged that relatives of the Applicant was implicated in the kidnapping and death of X. One relative was residing in the United States and extradited to Mexico in 2008 where she was imprisoned. X's mother has apparent influence with the Mexican police authorities. The RPD was aware of this and in its decision accepted that X's mother was influential in the arrest of the relative extradited from the United States. That was the situation considered by the RPD.

[4] Since the RPD decision was given further events, as put in evidence before the PRRA Officer, have taken place. The woman who was extradited and imprisoned in Mexico was beaten and tortured in the hands of prison officials including being threatened with injection of AIDS containing blood. Contrary to the findings of the PRRA Officer this woman did complain to the authorities to no apparent avail.

[5] The issue is whether adequate state protection is available should the Applicant be returned to Mexico. The PRRA Officer did not squarely address this issue and, to the extent that the reasons can be understood to address this issue the Officer mingled the findings of the RPD which pre-dated the imprisonment, torture and complaint to no avail, of the relative with the question of to which the Applicant would likely be exposed.

[6] That matter will be returned to be determined by a different officer. No party requested certification.

JUDGMENT

FOR THE REASONS above.

THIS COURT ORDERS AND ADJUDGES that:

1. The application is allowed.
2. The matter is returned for re-determination by a different officer.
3. There is no question for certification.
4. There is no Order as to costs.

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-6310-10

STYLE OF CAUSE: *OMAR ROBERTO QUEVEDO CRUZ v. MINISTER OF
CITIZENSHIP AND IMMIGRATION*

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: JUNE 13, 2011

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

DATED: JUNE 13, 2011

APPEARANCES:

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