

Federal Court



Cour fédérale

**Date: 20110908**

**Docket: IMM-799-11**

**Citation: 2011 FC 1059**

**Ottawa, Ontario, September 8, 2011**

**PRESENT: The Honourable Mr. Justice Kelen**

**BETWEEN:**

**OMAR ANTONIO CHALITA GONZALEZ**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**REASONS FOR JUDGMENT AND JUDGMENT**

[1] This is an application for judicial review of a decision of the Refugee Protection Division of the Immigration and Refugee Board (the Board), dated January 17, 2010, concluding that the applicant is not a Convention refugee or a person in need of protection pursuant to sections 96 or 97 of the *Immigration and Refugee Protection Act*, S.C. 2001, c.27 (the Act).

## FACTS

### Background

[2] The applicant is a male citizen of Mexico. He entered Canada on a visitor's visa on March 4, 2009.

[3] In July of 2009, the applicant learned that he was HIV positive. He was not eligible for treatment in Canada at that time.

[4] On November 28, 2009, the applicant was detained by Canadian authorities for overstaying his visa. After consulting with counsel, the applicant claimed refugee protection on the basis that he feared persecution by criminals.

[5] The applicant's initial refugee claim was based on an incident that he witnessed on December 7, 2008, that appeared to him to be a gang shootout. The applicant was in the wrong place at the wrong time. He did not report the crime to the police nor have any other involvement with the incident. Although the applicant is aware of much gang violence in Mexico, he has not himself suffered any attacks.

[6] On September 10, 2010, the applicant filed an affidavit and additional evidence to be considered at his refugee hearing. In his submission, the applicant added to his refugee claim that he feared persecution and serious risk to his life or cruel and unusual treatment in Mexico as a result of being an HIV-positive gay man.

[7] The applicant conceded that the allegations in his original claim for protection amounted to generalized risk. The applicant submitted that the more important element of his claim was his fear of persecution and risk faced as a result of his status as an HIV-positive gay man.

### **The Decision Under Review**

[8] The Board dismissed the applicant's claim on the basis of three issues: state protection, nexus to a Convention ground, and the subjective fear of the applicant:

¶12. In respect of this claim for refugee protection, the determinative issue is state protection. Nexus and subjective fear were also issues.

[9] The Board stated the two bases for the applicant's claim to protection:

¶13. The claimant's fear of returning to Mexico was twofold: first, his fear of persecution by criminals or corrupt police and secondly it's (sic) fear that as a gay man diagnosed as HIV-positive he would be denied medical care.

[10] The Board accepted that the applicant was generally credible.

[11] The Board first considered the applicant's subjective fear of persecution by criminal and corrupt officials, and his subjective fear of denial of medical treatment. The Board found that the following factors were not consistent with the applicant's alleged fear:

- a. The applicant only requested refugee protection after being detained by immigration authorities after overstaying his visa, rather than at any earlier time;
- b. The Board rejected the applicant's explanation for that delay – namely, that he had not been aware of Canadian refugee laws – because the Board found that in his interview by Canadian immigration authorities, the applicant had made general

comments about the dangerous situation in Mexico but did not describe any personal risk;

- c. The applicant was diagnosed as HIV-positive in July of 2009, but made no mention of any fear of being denied medical care on a discriminatory basis for that reason at the time of submitting his claim for refugee protection on November 30, 2009; and
- d. In his original Personal Information Form, received on December 29, 2009, the applicant also did not mention any fear of a discriminatory denial of medical treatment.

[12] The Board then turned to an analysis of the questions of nexus and state protection with regard to the first part of the applicant's claim: persecution by criminals or corrupt officials. The Board found that this fear did not establish a nexus to a Convention ground. The Board stated that the law on that point was "well-settled" and that criminality, revenge and personal vendetta alone will not constitute persecution on a Convention ground. The applicant's fear was only of generalized criminality and corruption.

[13] The Board then reviewed the documentary evidence regarding state protection available in Mexico. The Board found that the evidence demonstrated that although Mexico has problems of criminality and corruption, Mexico is capable of providing adequate state protection. The Board found that the applicant had failed to rebut the presumption of state protection in his case, especially because he had never personally been the victim of a crime and had not reported the one incident that he witnessed to the police (reference omitted):

¶19. As the Federal Court has told us "doubting the effectiveness of protection offered by the state when one has not really tested it does not rebut the existence of the presumption of state protection". Country documents indicate that Mexico does have a functioning police force and independent judiciary system. Therefore, the claimant should have sought further assistance of the state while in Mexico and could seek such assistance should he return to his country.

[14] The Board then considered the applicant's claim for protection based on his status as an HIV-positive gay man. The Board, citing *Rio Ramirez v. Canada (Citizenship and Immigration)*, 2008 FC 1214, stated that the following test applied:

¶20. ... The question before the board is whether, if the claimant is returned to Mexico, there is a serious possibility that he would suffer "serious harm," a sustained or systemic violation of basic human rights that is demonstrative of a failure of state protection, and that this treatment would have nexus to a Convention ground.

[15] The Board concluded that the applicant does not face a serious possibility of suffering persecution or serious harm. The Board stated that the applicant had not alleged that he faced any serious mistreatment or harm as a gay male in Mexico prior to coming to Canada. Moreover, the Board found that the documentary evidence indicated that Mexico, has taken many measures to provide protection from discrimination against homosexuals. In particular, the Board stated the following evidence of the measures taken by the state to prevent discrimination:

- a. Mexico has general legislation prohibiting "preferences of any kind";
- b. It has legislation allowing same-sex marriage;
- c. In 2003, the government passed legislation prohibiting discrimination due to sexual orientation in employment;
- d. The state has created the National Council to Prevent Discrimination, which is tasked with taking a protective role in creating anti-discrimination programs and receiving and resolving complaints made in the public and private sectors. Its mandate includes protection for victims facing discrimination based on sexual orientation;
- e. In July of 2006, the Federal District of Mexico (Mexico City) passed a law to "Prevent and Eliminate Discrimination in the Federal District"; and
- f. Where public servants have discriminated against them, victims may complain to their state human rights commission or the Federal District's Human Rights Commission, as appropriate.

[16] Nevertheless, the Board recognized that there continues to be discrimination against homosexuals in Mexico (reference omitted):

¶22. ...Even with these measures, violence and discrimination against homosexuals continues, with the concentration of negative attitudes existing in small urban centres and rural areas. Reports indicate that police sometimes still harass and assault individuals because of their gender identity.

[17] In the result, however, the Board found that the situation for homosexuals is improving. It cited a 2005 survey included in the Board's National Documentation Package for Mexico, in which 41% of homosexuals interviewed believed that "general prospects for homosexuals had improved." It found that the state's armed forces, who have begun to be relied upon to assist police forces in handling the violence associated with drug trafficking, are being trained to improve their handling of violence, reduce corruption, and educate the forces on human rights standards. This training includes initiatives supported by the United States and instructed by international organizations like the International Committee of the Red Cross.

[18] The Board concluded that while there is some discrimination against all minorities, the evidence did not demonstrate that state protection was inadequate:

¶25. In summary, discrimination and violence still occurs against visible [sic] minorities in Mexico, to include those based on ethnicity, sexual orientations, or gender. However, the treatment of such minorities varies across the state and is generalized and it does not necessarily constitute a personalized risk for all persons who belong to those minority groups. With the legislative changes and organizations that advocate for and defend minority rights being more prevalent and vocal throughout Mexico, coupled with state efforts to improve legislation, as well as the capacity and accountability of security forces to address human rights violations, the principal claimant would be able to access a variety of support

organizations and state mechanisms to adequately address or deal with the harassment or discrimination.

[19] The Board found at paragraph 26 of the Decision that:

Based on my analysis, there is state protection for the principal claimant as a gay male in Mexico.

[20] Finally, the Board considered the applicant's claim that he would face discrimination as a "HIV-positive gay man in Mexico". The Board stated that when the Board questioned the applicant about the nature of the discrimination or persecution that he would face for this reason, the applicant responded that he would not be able to afford the required medical treatment and that he would be denied medical treatment because of that status. He also stated that he would face employment discrimination as a result of his status as a HIV-positive gay man.

[21] With regard to the availability of medical treatment, the Board found that this basis for protection was specifically excluded by section 97(1)(b)(iv) of the Act, which states that a claim cannot succeed if the risk is caused by the inability of the claimant's country to provide adequate health or medical care. The Board reviewed relevant jurisprudence to interpret that section of the Act. It found that while the section prevents the Board from offering protection in cases where a country has not allocated its resources in such a way as to defray all or part of citizens' medical expenses, the section allows a refugee claimants to gain protection where she or he can show that his country has unjustifiably denied him adequate medical care when the financial ability is present.

[22] The Board found that the applicant had not provided the Board with any persuasive evidence that adequate medical care is being denied HIV-positive patients. To the contrary, the

Board found that Mexico has a national policy on HIV/AIDS treatment and is improving access to treatment and fighting its AIDS problem. The Board stated that the applicant's evidence regarding discriminatory treatment of HIV/AIDS patients in some hospitals did not demonstrate persecution because there was no evidence that these were more than isolated instances or that the Mexican government was systematically denying treatment to such patients. The Board made the following findings on the evidence (references omitted):

¶33. There was no persuasive evidence presented in this case on which the panel can reasonably conclude that health care is being denied to victims of HIV/AIDS in Mexico for persecutorial reasons. According to country documents submitted by counsel in Exhibit 7 "Mexico has a national policy on HIV/AIDS treatment and has made notable gains in providing access to ART for the infected population. The government has shown its commitment to fighting the epidemic by providing universal access to antiretroviral drugs (ARVs) since 2003." The claimant alleges that he would have difficulty paying for the drugs if he were to return to Mexico. However, his inability to pay for the drugs does not amount to persecution. Counsel also submitted a number of articles in Exhibit 9 which indicate there have been reports of HIV-AIDS patients suffering from discriminatory treatment in certain cases by hospitals or medical care professionals. However, there is no persuasive evidence before me to conclude that these are more than isolated instances nor that the Mexican government on a systematic basis is denying medical care to persecute HIV/AIDS individuals.

[23] The Board concluded that the applicant was prevented by section 97(1)(b)(iv) from protection on this ground.

[24] Finally, with regard to the alleged employment discrimination that he would suffer, the Board referred to its analysis of the question of state protection. The Board found that there is legislation in place to prevent employment discrimination on the grounds of sexual orientation and that there is a National Council to Prevent Discrimination, which is mandated to take a proactive



role in creating anti-discrimination practices and to receive and resolve complaints from the public and private sectors. The Board concluded that the applicant would have recourse to remedies if he faced any discrimination in employment.

## LEGISLATION

[25] Section 96 of the Act, grants protection to Convention refugees:

96. A Convention refugee is a person who, by reason of a well-founded fear of persecution for reasons of race, religion, nationality, membership in a particular social group or political opinion,

(a) is outside each of their countries of nationality and is unable or, by reason of that fear, unwilling to avail themselves of the protection of each of those countries; or

(b) not having a country of nationality, is outside the country of their former habitual residence and is unable or, by reason of that fear, unwilling to return to that country

96. A qualité de réfugié au sens de la Convention — le réfugié — la personne qui, craignant avec raison d'être persécutée du fait de sa race, de sa religion, de sa nationalité, de son appartenance à un groupe social ou de ses opinions politiques :

a) soit se trouve hors de tout pays dont elle a la nationalité et ne peut ou, du fait de cette crainte, ne veut se réclamer de la protection de chacun de ces pays;

b) soit, si elle n'a pas de nationalité et se trouve hors du pays dans lequel elle avait sa résidence habituelle, ne peut ni, du fait de cette crainte, ne veut y retourner.

[26] Section 97 of the Act grants protection to persons whose removal from Canada would subject them personally to a risk to their life, or of cruel and unusual punishment, or to a danger of torture:

97. (1) A person in need of protection is a person in

97. (1) A qualité de personne à protéger la personne qui se

<p>Canada whose removal to their country or countries of nationality or, if they do not have a country of nationality, their country of former habitual residence, would subject them personally</p>	<p>trouve au Canada et serait personnellement, par son renvoi vers tout pays dont elle a la nationalité ou, si elle n'a pas de nationalité, dans lequel elle avait sa résidence habituelle, exposée :</p>
<p>(a) to a danger, believed on substantial grounds to exist, of torture within the meaning of Article 1 of the Convention Against Torture; or</p>	<p>a) soit au risque, s'il y a des motifs sérieux de le croire, d'être soumise à la torture au sens de l'article premier de la Convention contre la torture;</p>
<p>(b) to a risk to their life or to a risk of cruel and unusual treatment or punishment if</p> <p>(i) the person is unable or, because of that risk, unwilling to avail themselves of the protection of that country,</p> <p>(ii) the risk would be faced by the person in every part of that country and is not faced generally by other individuals in or from that country,</p> <p>(iii) the risk is not inherent or incidental to lawful sanctions, unless imposed in disregard of accepted international standards, and</p> <p>(iv) the risk is not caused by the inability of that country to provide adequate health or medical care.</p>	<p>b) soit à une menace à sa vie ou au risque de traitements ou peines cruels et inusités dans le cas suivant :</p> <p>(i) elle ne peut ou, de ce fait, ne veut se réclamer de la protection de ce pays,</p> <p>(ii) elle y est exposée en tout lieu de ce pays alors que d'autres personnes originaires de ce pays ou qui s'y trouvent ne le sont généralement pas,</p> <p>(iii) la menace ou le risque ne résulte pas de sanctions légitimes — sauf celles infligées au mépris des normes internationales — et inhérents à celles-ci ou occasionnés par elles,</p> <p>(iv) la menace ou le risque ne résulte pas de l'incapacité du pays de fournir des soins médicaux ou de santé adéquats.</p>

## ISSUES

[27] The applicants raise the following three issues:

- a. Did the Board err in its finding that the applicant is excluded from protection pursuant to section 97(1)(b)(iv) of the Act?

- b. Did the Board fail to conduct a reasonable analysis of whether state protection would be reasonably forthcoming to the applicant in light of the evidence and circumstances of the claim?
- c. Did the Board err in law by failing to provide adequate reasons for refusing the applicant's claim?

## **STANDARD OF REVIEW**

[28] In *Dunsmuir v. New Brunswick*, 2008 SCC 9, the Supreme Court of Canada held at paragraph 62 that the first step in conducting a standard of review analysis is to “ascertain whether the jurisprudence has already determined in a satisfactory manner the degree of (deference) to be accorded with regard to a particular category of question”: see also *Khosa v. Canada (MCI)*, 2009 SCC 12, per Justice Binnie at para. 53.

[29] The Board's interpretation of the requirements of section 97 is a question of law to be determined on a standard of correctness. The applicant does not contest that the Board correctly understood the requirements of section 97(1)(b)(iv) of the Act. The Board's finding that the applicant is excluded pursuant to section 97(1)(b)(iv) is a question of mixed fact and law, requiring the application of the facts of this case to the law. It should be determined on a standard of reasonableness: *Level v. Canada (Citizenship and Immigration)*, 2010 FC 251, at paragraph 15.

[30] The Board's analysis of state protection is also a question of mixed fact and law to be determined on a standard of reasonableness: *Ibid.* at paragraph 14.

[31] In reviewing the Board's decision using a standard of reasonableness, the Court will consider “the existence of justification, transparency and intelligibility within the decision-making process” and “whether the decision falls within a range of possible, acceptable outcomes which are

defensible in respect of the facts and law”: *Dunsmuir*, supra, at paragraph 47; *Khosa*, supra, at para. 59.

[32] The adequacy of reasons is a question of procedural fairness that is reviewed on a correctness standard.

## **ANALYSIS**

### **Issue 1: Did the Board err in its finding that the applicant is excluded from protection pursuant to section 97(1)(b)(iv) of the Act?**

[33] The applicant does not contest that the Board correctly understood the requirements of section 97(1)(b)(iv) of the Act. The applicant submits, however, that the Board erred in finding that Mexico does not discriminate against people with HIV/AIDS in the provision of medical treatment. The applicant cites two cases of this Court in which the Court overturned decisions of the Board for failing to adequately address evidence of discrimination towards HIV-positive citizens of Mexico in the delivery of medical treatment. The applicant also relies on documentary evidence indicating that people with HIV/AIDS face stigma and discrimination in Mexico. The applicant submits that this evidence demonstrates that the significant and widespread problems of access to treatment for HIV/AIDS are associated with state and societal attitudes towards homosexuality.

[34] In addition, the applicant submits that in finding that section 97(1)(b)(iv) applies to exclude the applicant’s claim to protection, the Board implicitly found that the applicant faces a serious risk to his life or of cruel and unusual treatment. The applicant submits that this contradicts the Board’s conclusions regarding the availability of state protection.

[35] The respondent submits that the onus was on the applicant to demonstrate that the applicant would be discriminatorily denied medical services and, therefore, that the exclusionary provision in

section 97(1)(b)(iv) of the Act did not apply to his claim regarding medical treatment. The respondent submits that the Board reviewed the evidence and found that although some evidence demonstrated cases of discriminatory treatment, the preponderance of the evidence was that the Mexican state is providing treatment to people with HIV/AIDS and is combatting its spread amongst the Mexican population.

[36] The Court concludes that the Board's finding regarding the applicability of section 97(1)(b)(iv) to the applicant's claim of discrimination in the provision of medical services was reasonably open to the Board as a question of mixed fact and law. The Board correctly stated the law regarding the applicability of section 97(1)(b)(iv), and correctly stated that the issue for it to consider was whether the applicant would face discrimination in the provision of medical treatment. This is the test that the Court of Appeal explained in *Covarrubias v. Canada (Minister of Citizenship and Immigration)*, 2006 FCA 365:

¶38. In my view, the words “inability to provide adequate medical services” (in section 97(1)(b)(iv) of the Act) must include situations where a foreign government decides to allocate its limited public funds in a way that obliges some of its less prosperous citizens to defray part or all of their medical expenses. Any other interpretation would require this Court to inquire into the decisions of foreign governments to allocate their public funds and possibly second-guess their decisions to spend their funds in a different way than they would choose. In other words, this Court would have to decide that foreign governments must provide free medical services to their citizens who cannot pay for them to the detriment of other areas for which the governments are responsible. This cannot have been intended by Parliament without more specific language to that effect.

¶ 39. This is not to say that the exclusion in subparagraph 97(1)(b)(iv) should be interpreted so broadly as to exclude any claim in respect of health care. The wording of the provision clearly leaves open the possibility for protection where an applicant can show that he faces a personalized risk to life on account of his country's unjustified unwillingness to provide him

with adequate medical care, where the financial ability is present. For example, where a country makes a deliberate attempt to persecute or discriminate against a person by deliberately allocating insufficient resources for the treatment and care of that person's illness or disability, as has happened in some countries with patients suffering from HIV/AIDS, that person may qualify under the section, for this would be refusal to provide the care and not inability to do so. However, the applicant would bear the onus of proving this fact.

The Board found that Mexico was not refusing to provide health care to patients suffering from HIV/AIDS.

**Issue 2: Did the Board fail to conduct a reasonable analysis of whether state protection would be reasonably forthcoming to the applicant in light of the evidence and circumstances of the claim?**

[37] The applicant submits that the Board failed to consider whether the applicant would be denied state protection because he would be denied necessary medical treatment for discriminatory reasons. The applicant submits that the Board only considered this aspect of the applicant's claim in a single paragraph, finding that there was no persuasive evidence that health care is being denied to HIV/AIDS victims for discriminatory reasons.

[38] The applicant submits that the Board had a duty to more fully consider the evidence submitted by the applicant that contradicted the Board's conclusions. The applicant submits that instead of properly weighing the evidence, the Board in this case selectively applied the facts that bolstered its findings while ignoring others. In particular, the applicant submits that following evidence should have been confronted by the Board in its reasons:

- a. In the same report that the Board quoted for the proposition that the Mexican government has been providing universal access to HIV/AIDS medications since

2003 are reports of widespread discrimination against HIV/AIDS sufferers that prevents them from receiving treatment. In particular the report cited the following reports of discrimination:

- i. a 2004 study of health care providers in three states, that found that testing was only conducted on groups perceived to be high-risk, that patients with AIDS were often isolated,
  - ii. a 2005 five-city participatory community assessment conducted by a non-governmental organization finding that some HIV hospital patients had a sign placed over their beds stating that they were HIV positive,
  - iii. A study in Leon in which researchers found that 7 out of 10 participants in the study had lost their jobs because of their HIV status.
- b. Reports from USAID demonstrated that between 2009 and 2010, the percentage of HIV-infected people who were receiving the treatment that they required had dropped from 76% to 57%.
  - c. Reports from AIDS activists indicate that the number of people not receiving the required treatment is probably even higher.
  - d. Despite the Mexican government's commitment to provide universal access to required treatment, a 2009 report in *The Body* found that the rate of infection and mortality had not decreased and that there is an extreme backlog in some areas for notifying HIV-positive people of their HIV-positive status.

[39] The applicant first referred the Court to a report from the United States Agency for International Development known as “**USAID**”. This report was dated September 2010 and entitled “**MEXICO HIV/AIDS HEALTH PROFILE**”. The report provides a comprehensive analysis of the HIV health profile in Mexico. The four page report states:

1. On the first page: “With less than 1 percent of the adult population estimated to be HIV positive, Mexico has one of the lowest HIV prevalence rates in Latin America and the Caribbean.”
2. On the first page: “The percentage of HIV-infected people receiving antiretroviral therapy is 57 percent at the end of 2007.
3. On the second page: “Mexico has a national policy on HIV/AIDS treatment and has made notable gains in providing access to ART for the infected population. The

Government has shown its commitment to fighting the epidemic by providing universal access to antiretroviral drugs (ARDs) since 2003. Through the decentralization of health services, the HIV prevention and control program now reaches all 32 states.

4. On the third page: “Although the WHO/UNAIDS/UNICEF report *Towards Universal Access* states that 57 percent of HIV-infected people who needed ART were receiving it in 2007, the 2010 UNGASS report indicated ART coverage may have been as high as 82 percent in 2009. It also indicates, however, that civil society organizations report stigma and discrimination prevent high-risk groups from receiving ART and there are stock-outs of ARVs.

[40] The report speaks about US Government support in Mexico for essential HIV/AIDS programs and services. The report also notes that stigma and discrimination remain barriers for AIDS patients.

[41] The Court agrees with the respondent. The Board considered the applicant’s evidence regarding the inadequacy of state protection and the existence of discrimination against homosexuals in Mexico. After weighing the evidence, however, the Board found that the applicant had no provided the Board with any persuasive evidence on which to reasonably conclude that adequate medical care is being denied to HIV-positive patients in particular. To the contrary, the Board found that the evidence demonstrated that Mexico has a national policy on HIV/AIDS treatment and is improving access to treatment and fighting its AIDS problem. The Board stated that the applicant’s evidence regarding discriminatory treatment of HIV/AIDS patients in some hospitals did not demonstrate persecution because there was no evidence that these were more than isolated instances or that the Mexican government was systematically denying treatment to such patients. The Board stated the following in this regard (references omitted):

¶33. There was no persuasive evidence presented in this case on which the panel can reasonably conclude that health care is being



denied to victims of HIV/AIDS in Mexico for persecutorial reasons. According to country documents submitted by counsel in Exhibit 7 “Mexico has a national policy on HIV/AIDS treatment and has made notable gains in providing access to ART for the infected population. The government has shown its commitment to fighting the epidemic by providing universal access to antiretroviral drugs (ARVs) since 2003.” The claimant alleges that he would have difficulty paying for the drugs if he were to return to Mexico. However, his inability to pay for the drugs does not amount to persecution. Counsel also submitted a number of articles in Exhibit 9 which indicate there have been reports of HIV-AIDS patients suffering from discriminatory treatment in certain cases by hospitals or medical care professionals. However, there is no persuasive evidence before me to conclude that these are more than isolated instances nor that the Mexican government on a systematic basis is denying medical care to persecute HIV/AIDS individuals.

[42] The Board concluded that the applicant was not likely to be persecuted in Mexico because health care is not being denied to victims of HIV/AIDS.

[43] The Court finds that this conclusion was reasonably open to the Board on the evidence.

**Issue 3: Did the Board err in law by failing to provide adequate reasons for refusing the applicant’s claim?**

[44] The applicant submits that the Board “fundamentally misunderstood” the applicant’s claim and gave a decision that “virtually unintelligible.” The applicant submits that the Board erred in assessing each of his claims individually, instead of as a whole. The applicant submits that the issues of denial of medical treatment, mistreatment by health officials and the public at large, severe social stigma, and employment discrimination are all connected both to his status as a gay man and to his HIV-positive status. The applicant submits that the reasons appear “oblivious” to these interconnections.

[45] The Court does not agree with the applicant. The applicant received a thorough and fair hearing before the Board after which he received the Board's written decision and reasons. The decision considers all of the grounds raised by the applicant for his claims, including those that he raised months after making his initial refugee claim. The decision is 10 pages of clear and thoughtful analysis, that demonstrates a sensitivity to the applicant's situation and a familiarity with the objective documentary evidence. The applicant has provided the Court with no example of any part of the reasons that is unclear or mistaken or that presents the facts or the applicant's testimony in a misleading way. The Court finds no basis upon which to criticize the adequacy of the Board's reasons in this case.

## **CONCLUSION**

[46] This application for judicial review is dismissed.

[47] No question is certified.

**JUDGMENT**

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

1. This application for judicial review is dismissed.

“Michael A. Kelen”

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Judge

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

**DOCKET:** IMM-799-11

**STYLE OF CAUSE:** Omar Antonio Chalita Gonzalez v. MCI

**PLACE OF HEARING:** Vancouver, British Columbia

**DATE OF HEARING:** September 1, 2011

**REASONS FOR JUDGMENT:** KELEN J.

**DATED:** September 8, 2011

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