

Federal Court



Cour fédérale

Date: 20150422

Docket: IMM-3293-14

Citation: 2015 FC 521

Toronto, Ontario, April 22, 2015

PRESENT: The Honourable Mr. Justice Hughes

BETWEEN:

**LUIS ALFONSO SANCHEZ MORA
CLAUDIA XIMENA SOTO MUNOZ AND
VALERIE SANCHEZ (A.K.A. VALERIE
SANCHEZ SOTO)**

Applicants

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] This is judicial review of a decision of a Member of the Refugee Protection Division dated March 14, 2014 wherein the Applicants' claim for refugee protection was denied.

[2] The Applicants, a husband, wife and their minor child, are all citizens of Colombia. They fled Columbia and entered the United States in 2005. They stayed there for three years but were

discouraged from making a claim for asylum in that country. They came to Canada in late 2008 and made a claim for refugee protection here at that time.

[3] The essential issue in their case deals with the Member's determination as to whether the Applicants would suffer a personalized or generalized risk in Columbia. This determination is to be reviewed on the standard of reasonableness.

[4] The adult Applicants ran a small business in Columbia selling inexpensive clothing door to door employing a number of sales representatives. In May 2005, they received a cell phone call from "Julio" demanding eighty thousand pesos for "protection" for the Applicants and their family. It is believed that Julio is associated with a criminal organization known as Los Rastrojos which is notorious in Columbia for extortion, murder and "punishment" of those who do not comply with their demands.

[5] Julio warned the Applicants not to go to the police. Notwithstanding, the Applicants reported the phone call to the police. The next day Julio called the Applicants to say that he was aware that they had reported the phone call to the police and that they should not have done so. Clearly, Julio had some access to the police. The Applicants changed their cell phone number. Julio called them at their new number. Clearly, Julio had some access to the telephone company. Julio was persistent and pervasive having access, among other things, to the police.

[6] While the Member followed an analytical process as set by this Court in cases such as *Portillo v Canada (Minister of Citizenship and Immigration)*, 2012 FC 678 and *Guerrero v*

Canada (Minister of Citizenship and Immigration), 2011 FC 1210, I find that the result was unreasonable.

[7] The risk to these Applicants was clearly personalized. Julio targeted them specifically; he had access to the police and the telephone company. He was relentless. This clearly distinguishes the Applicants' risk from a generalized risk.

[8] The matter must be re-determined. No party requested a certified question.

JUDGMENT

THIS COURT'S JUDGMENT is that:

1. The application is allowed;
2. The matter is to be re-determined by a different Member;
3. No question is certified;
4. No Order as to costs.

"Roger T. Hughes"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-3293-14

STYLE OF CAUSE: LUIS ALFONSO SANCHEZ MORA, CLAUDIA
XIMENA SOTO MUNOZ AND VALERIE SANCHEZ
(A.K.A. VALERIE SANCHEZ SOTO) v THE MINISTER
OF CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: APRIL 22, 2015

JUDGMENT AND REASONS: HUGHES J.

DATED: APRIL 22, 2015

APPEARANCES:

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