

Federal Court



Cour fédérale

Date: 20221116

Docket: IMM-5786-21

Citation: 2022 FC 1561

Ottawa, Ontario, November 16, 2022

PRESENT: The Honourable Mr. Justice Zinn

BETWEEN:

**LUZ ARIANA RAMIREZ NOLASCO AND
SALVADOR MOJICA CRUZ**

Applicants

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] The Refugee Appeal Division [RAD] dismissed the Applicants' appeal, finding that they had an Internal Flight Alternative [IFA] in Cabo San Lucas, Mérida, and Campeche, Mexico.

[2] In my view, the sole issue in this application for judicial review is whether the decision of the RAD that the Applicants had a viable IFA, was reasonable.

[3] The Applicants are a wife and husband who allege a fear of harm from individuals associated with the Los Zetas cartel after Ms. Ramirez Nolasco refused a bribe to assist the cartel in her capacity as a penitentiary lawyer. She subsequently resigned from that position.

[4] The Applicants submit that the RAD erred in finding that the agents of persecution were not motivated to locate the Applicants. They further submit that the RAD failed to note that Ms. Ramirez Nolasco had been in hiding while in Mexico and failed to consider that Ms. Ramirez Nolasco's profession as a lawyer would allow the agents of persecution to locate her.

[5] The Respondent submits that all of these arguments were advanced before the RAD and were considered and that this application is fundamentally a request to reweigh the evidence. I agree.

[6] I give no weight to the alternative submissions that the RAD failed to consider that Ms. Ramirez Nolasco had been in hiding and that her profession as a lawyer made it possible to track her in the IFA.

[7] I agree with the Respondent that the description of her being in "hiding" is an exaggeration of the evidence. In the Basis of Claim she writes that while with her parents she "kept a low profile and did not advertise my services" doing freelance legal work for friends. The only other reference is to her wearing a hat and sunglasses when outside. These actions cannot be properly characterized as hiding.

[8] The Record shows that she had a number assigned to her as a penitentiary lawyer but there is no evidence whether that number is personal to her throughout her life as a lawyer or not. There is nothing to suggest it can be used to track her in the IFA if she practices law. The evidence that the cartel may be able to track her using spyware is unconvincing and not persuasive.

[9] The only basis suggested as to why the IFA is not viable rests on two incidents, each where a former inmate of the penitentiary where she had worked recognized Ms. Ramirez Nolasco.

[10] Regarding the first incident, she writes:

Despite my attempts to maintain a low profile, in late 2017 when I was in Puebla with Salvador preparing for our wedding, I saw a former inmate who recognized me. He called out “Licenciada” (meaning lawyer in Spanish) to me, despite the fact that I was wearing a hat and sunglasses. Salvador and I went into a taxi and fled as quickly as possible.

[11] This incident caused her stress. She left for the USA but later returned. She writes that in December 2018, “I saw another former inmate (different from the one I had previously seen) who called out to me “Licenciada.” ”

[12] The Applicants arrived in Canada in September 2019. When asked by the Refugee Protection Division if she had received any threats between 2017 when she left the penitentiary position and 2019 when they left for Canada, she responded: “No. I did not receive one.”

[13] Counsel repeatedly described these two incidents as her having been “located” by the cartel. However, it is no more than merely being seen by someone who knew her from the penitentiary. There is no evidence that either event was one where the cartel was seeking her.

The RAD reasonably observes:

It is likely the Principal Appellant was recognized by former inmates given her role as a penitentiary lawyer, but recognition is not an indication of pursuit or motivation, on a balance of probabilities. On a balance of probabilities, I find the cartel does not have the motivation to locate the Appellants in the proposed IFA locations.

[14] Given her evidence that there were no threats made to her after she had left the penitentiary, and the scant evidence of the two unrelated incidents of her being recognized by former inmates, the decision of the RAD that she had a viable IFA was reasonable and justified.

[15] In my view had the RAD found otherwise, the decision would have been perverse.

[16] No question was proposed for certification.

JUDGMENT in IMM-5786-21

THIS COURT'S JUDGMENT is that this application is dismissed and no question is certified.

"Russel W. Zinn"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-5786-21

STYLE OF CAUSE: LUZ ARIANA RAMIREZ NOLASCO AND
SALVADOR MOJICA CRUZ v THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: HELD BY VIDEOCONFERENCE

DATE OF HEARING: NOVEMBER 7, 2022

JUDGMENT AND REASONS: ZINN J.

DATED: NOVEMBER 16, 2022

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