

Date: 20081128

Docket: IMM-2189-08

Citation: 2008 FC 1332

Vancouver, British Columbia, November 28, 2008

PRESENT: The Honourable Madam Justice Snider

BETWEEN:

GEOVANNY MORALES CASTRO

Applicant

and

MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

[1] The Applicant, Mr. Geovanny Morales Castro, is a citizen of Honduras who arrived in Canada on February 5, 2007. Both the Applicant and his brother, Victor Rafael Morales Castro, made claims for protection under s. 97(1) of the *Immigration and Refugee Protection Act, 2001, c. 27* (IRPA) on the basis that they were subject to the risk of retaliation from drug traffickers in Honduras as a result of Victor's work in covering a drug bust for the Honduran newspaper, *La Prensa*.

[2] In a decision dated March 26, 2008, a panel of the Immigration and Refugee Board, Refugee Protection Division (the Board), accepted Victor's claim for protection but denied that of the

Applicant. The Board rejected the claim on the basis that the Applicant was not personally targeted by any drug traffickers associated with his brother and that he had a viable internal flight alternative (IFA) in Tegucigalpa, Honduras. The Applicant seeks judicial review of the Board's decision.

[3] The only issue in this case arises with respect to the finding of the Board that the Applicant was not personally at risk. The question is whether that determination was reasonable. On the particular facts of this case, a conclusion by this Court that that finding was unreasonable will put the reasonableness of the IFA into doubt. However, for the reasons that follow, I conclude that the Board's decision was reasonable; accordingly, both findings of the Board will stand.

[4] The parties acknowledge that the appropriate standard of review of the Board's decision is reasonableness.

[5] As noted, the Board concluded that the alleged agents of persecution had targeted Victor, but not the Applicant. The Applicant submits that, in coming to this conclusion, the Board ignored or misapprehended certain evidence about contacts or events that were referred to in the testimony. Having reviewed the testimony, I do not agree.

[6] A review of the transcript indicates that there was little evidence indicating that the Applicant (as opposed to Victor) may have been in danger. In sum, that evidence was as follows:

- A man had asked the Applicant's father's neighbours about the whereabouts of the Applicant and his brother
- Two individuals had asked questions about the Applicant at a pool place frequented by the Applicant
- The Applicant's uncle told him that he had heard that his employee had heard that an individual had asked a server from a nearby store about the Applicant

[7] In addition to being vague, unsubstantiated and based on hearsay, this testimony must also be considered in light of the fact that the record is clear that the Applicant – unlike his brother Victor – had never been personally contacted by the alleged agents of persecution. There was also no evidence that the men who had inquired about him were criminals or drug traffickers. The evidence shows that the father's killing may have been connected to Victor; however, the Applicant was not the target. The third brother, who lived in Honduras for some time after the publication of the article, had no contact from the agents of persecution.

[8] In conclusion, I find that the Board's determination that the Applicant had not been targeted was reasonable and falls "within a range of possible, acceptable outcomes which are defensible in respect of the facts and law" (*Dunsmuir v. New Brunswick*, 2008 SCC 9, [2008] 1 S.C.R. 190, at para. 47). This application for judicial review will be dismissed. Neither party proposed a question for certification.

JUDGMENT

THIS COURT ORDERS AND ADJUDGES that:

1. The application for judicial review is dismissed;
2. No question of general importance is certified.

“Judith A. Snider”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-2189-08

STYLE OF CAUSE: GEOVANNY MORALES CASTRO V. MCI

PLACE OF HEARING: Vancouver, British Columbia

DATE OF HEARING: November 26, 2008

REASONS FOR : SNIDER J.

DATED: November 28, 2008

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