

**Date: 20090320**

**Docket: IMM-703-08**

**Citation: 2009 FC 282**

**Ottawa, Ontario, March 20, 2009**

**PRESENT: The Honourable Mr. Justice O'Reilly**

**BETWEEN:**

**NORLANDE SYLVANIE LEWIS AND  
TAHJ RICHARD CAMBRIDGE**

**Applicants**

**and**

**THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION**

**Respondent**

**REASONS FOR JUDGMENT AND JUDGMENT**

[1] Ms. Norlande Lewis (along with her son, Tahj) seeks refugee protection in Canada based on her fear of her former common law spouse, who has been convicted of assaulting her in Canada. She is afraid that if he is deported to St. Vincent, and if she is also required to return there, he will continue to abuse her physically. She maintains that authorities in St. Vincent will be unable to protect her from him.

[2] Ms. Lewis presented her concerns to a panel of the Immigration and Refugee Board, which concluded that state protection was available to her in St. Vincent. Ms. Lewis argues that the Board failed to consider important evidence showing an absence of state protection. She asks me to order another panel to reconsider her application.

[3] I agree that the Board failed to consider important evidence and must, therefore, allow this application for judicial review.

[4] There is only one issue for me to decide: Did the Board fail to consider important evidence in Ms. Lewis's favour?

#### I. Factual Background

[5] In 1998, Ms. Lewis and Mr. Richard Cambridge began living together in St. Vincent. In 2002, Mr. Cambridge left to find work in Canada. Ms. Lewis and Tahj joined him in Toronto later that year.

[6] Mr. Cambridge abused Ms. Lewis physically throughout their relationship. In 2006, he pled guilty to assault. Although he was under an order not to contact her while he was on bail, Mr. Cambridge has repeatedly violated that order. Ms. Lewis is worried that if she and Tahj have to return to St. Vincent and Mr. Cambridge is deported there, he will seek retribution against her for having brought about his criminal conviction and removal from Canada.

II. Did the Board Fail to Consider Important Evidence in Ms. Lewis's Favour?

[7] I can overturn the Board's decision only if I find that it was unreasonable.

[8] The Board found that the documentary evidence established adequate sources of state protection in St. Vincent for women in Ms. Lewis's circumstances. For example, the Board cited a report describing the role of the St. Vincent Family Court in protecting women from domestic violence. The Board also referred to laws aimed at protecting victims of family violence. However, Ms. Lewis claims that the Board failed to refer to the evidence showing the limited capacity of the Family Court to enforce its orders, the reluctance of police officers to take action in domestic violence cases, and the infrequency with which the laws that are supposed to protect women are enforced.

[9] The Minister argues that the Board is presumed to have considered all the evidence before it, even if the Board does not specifically cite it. I agree. However, here, the very documents relied on by the Board to find a presence of adequate state protection in St. Vincent also question the sufficiency of that protection. In my view, the Board was obliged to explain why it found that the favourable elements contained in the evidence outweighed the negative parts. In the absence of that assessment, I find that the Board's decision was unreasonable in the sense that it was not a defensible outcome in light of the facts and law: *Dunsmuir v. New Brunswick*, 2008 SCC 9, at para. 47.

[10] I note that Justices Yves de Montigny and John O'Keefe came to similar conclusions about the Board's treatment of evidence relating to state protection in St. Vincent in *Hooper v. Canada (Minister of Citizenship and Immigration)*, 2007 FC 1359, [2007] F.C.J. No. 1744 (QL) and *King v. Canada (Minister of Citizenship and Immigration)*, 2005 FC 774, [2005] F.C.J. No. 979 (QL), respectively.

### III. Conclusion and Disposition

[11] The Board failed to weigh both the positive and negative evidence relating to the availability of state protection in St. Vincent. Accordingly, the Board's decision that state protection was available was unreasonable. Another panel of the Board should reconsider Ms. Lewis's application for refugee protection. Neither party proposed a question of general importance for certification, and none is stated.

**JUDGMENT**

**THIS COURT'S JUDGMENT IS that**

1. The application for judicial review is allowed.
2. The matter is referred back to the Board for a new hearing before a different panel.
3. No question of general importance is stated.

“James W. O’Reilly”

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Judge

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

**DOCKET:** IMM-703-08

**STYLE OF CAUSE:** NORLANDE SYLVANIE LEWIS, ET AL v. MCI

**PLACE OF HEARING:** Toronto, Ontario

**DATE OF HEARING:** November 5, 2008

**REASONS FOR JUDGMENT:** O'REILLY J.

**DATED:** March 20, 2009

**APPEARANCES:**

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FOR THE APPLICANTS

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