

Federal Court



Cour fédérale

Date: 20100512

Docket: IMM-2872-09

Citation: 2010 FC 519

Ottawa, Ontario, May 12, 2010

PRESENT: The Honourable Mr. Justice Phelan

BETWEEN:

**JULIETA ALEJANDRA
ALVARADO MENDOZA**

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

I. INTRODUCTION

[1] The Applicant, a female citizen of Mexico, seeks judicial review of a decision by the Immigration and Refugee Board (Board) holding that she was not in need of protection pursuant to s. 97 of the *Immigration and Refugee Protection Act* and that adequate state protection was available to her in Mexico.

II. FACTUAL BACKGROUND

[2] The Applicant worked for the Mexican federal government in Mexico City. She claimed that her boss, Sanchez, wished her moved to another position. When the Applicant refused to move, she was harassed by Sanchez – who it was also alleged is a friend of the Mexican president's spouse.

[3] The Applicant outlined the acts of harassment as an assault (a push) which resulted in a miscarriage and telephone threats. The government complaint system was of no assistance to the Applicant, allegedly because of Sanchez's political connections.

[4] On May 4, 2007, so the Applicant alleges, she was abducted by men she believes were sent by Sanchez. She offered to quit her job – the response was that it was too late. She was then released and three weeks later left for Canada. She filed her refugee claim two weeks thereafter.

[5] The Applicant claims that she fled Mexico because of her fear of Sanchez. Because of Sanchez's relationship to President Fox's wife, the Applicant claimed that she was afraid that she could be tracked down anywhere in Mexico.

[6] The notes of her interview with CIC officials on the date of filing her refugee claim make no reference to her kidnapping but confirm that her reasons for leaving Mexico were fears of harassment and threats from her boss (Sanchez). The Applicant admits that she did not make a complaint to any police authority in Mexico.

[7] The narrative of the kidnapping was outlined on her PIF which was before the Board.

[8] The Applicant challenges the Board's decision on two grounds – (1) the implausibility finding in respect of the kidnapping incident, and (2) the finding that state protection was reasonably available to her.

III. ANALYSIS

[9] The standard of review for both grounds is reasonableness (*Rajadurai v. Canada (Minister of Citizenship and Immigration)*, 2009 FC 119; *Mendez v. Canada (Minister of Citizenship and Immigration)*, 2008 FC 584).

[10] The Applicant is, in substance, asking the Court to reweigh the evidence which was before the Board and to substitute its conclusions.

[11] However, there is no basis for the Court's intervention. The Board pointed out a significant omission which reasonably called the Applicant's credibility into question. The Board gave sufficient reasons for not accepting the Applicant's story and that conclusion is reasonable in the context of this case.

[12] The state protection finding was a finding that the Applicant had not displaced the presumption of state protection and that the evidence in this case, taken as a whole, did not justify a negative conclusion on state protection.

[13] The Applicant did not approach the myriad of police and other organizations in Mexico City. While she claimed fear of corrupt police, her evidence had been that going to the police would anger Sanchez – not that the police would be ineffective. Her persecutor was not the police but an individual.

[14] As to the alleged influence of Sanchez through Mrs. Fox, while the Board did not hold that such a claim was not credible, it did point out the efforts made by the Fox government to combat corruption – a circumstance inconsistent with the suggestion that a friend of Mrs. Fox could prevent state protection being available to the Applicant.

[15] The Board's conclusions were reasonable and its consideration of the evidence was more than sufficient.

IV. CONCLUSION

[16] Therefore, this judicial review will be dismissed. There is no question for certification.

JUDGMENT

THIS COURT ORDERS AND ADJUDGES that the application for judicial review is dismissed.

“Michael L. Phelan”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-2872-09

STYLE OF CAUSE: JULIETA ALEJANDRA ALVARADO MENDOZA

and

THE MINISTER OF CITIZENSHIP AND
IMMIGRATION

PLACE OF HEARING: Toronto, Ontario

DATE OF HEARING: March 15, 2010

**REASONS FOR JUDGMENT
AND JUDGMENT:** Phelan J.

DATED: May 12, 2010

APPEARANCES:

Ms. Kristin Marshall FOR THE APPLICANT

Ms. Suranjana Bhattacharyya FOR THE RESPONDENT

SOLICITORS OF RECORD:

DOWNTOWN LEGAL SERVICES FOR THE APPLICANT
Toronto, Ontario

MR. MYLES J. KIRVAN FOR THE RESPONDENT
Deputy Attorney General of Canada
Toronto, Ontario