

Federal Court



Cour fédérale

**Date: 20101213**

**Docket: IMM-2063-10**

**Citation: 2010 FC 1262**

**Ottawa, Ontario, December 13, 2010**

**PRESENT: The Honourable Mr. Justice Beaudry**

**BETWEEN:**

**Eun Ran SEO  
Kyeong Hyeok KIM  
Min Ji KIM**

**Applicants**

**and**

**THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION**

**Respondent**

**REASONS FOR JUDGMENT AND JUDGMENT**

[1] This is an application for judicial review pursuant to subsection 72(1) of the *Immigration and Refugee Protection Act*, S.C. 2001, c. 27 (the Act) of a decision of the Refugee Protection Division (the Board), dated March 18, 2010, where Eun Ran Seo, Kyeong Hyeok Kim, and Min Ji Kim were found not to be a Convention refugee or a person in need of protection.

[2] The application for judicial review will be denied for the reasons elaborated below.

[3] Euo Ran Seo (the applicant) and her minor children, Kyeong Hyeok Kim and Min Ji Kim (the minor applicants), are citizens of the Republic of South Korea. The applicant was designated to represent the applicants.

[4] The applicant is fleeing her husband who she alleges has physically abused her for many years.

[5] Before coming to Canada in 2007, the applicant, her husband and the minor applicants were in Mexico for a number of years (since 2004), but did not have any legal status there.

[6] As a result of frequent and serious abuse against her and her children, the applicant left for Canada.

[7] The main issue in this case is the availability of state protection. Although the applicant has raised issues like flawed determinations regarding assessment of medical and psychological evidence, and credibility findings, it is clear from the decision by the Board that state protection was central for the dismissal of the applicant's claim (para 19 of the decision).

[8] The standard of review on such an issue is reasonableness (*Aguirre v Canada (Minister of Citizenship and Immigration)*, 2008 FC 571, [2008] F.C.J. No. 732 (QL) at para 14). Accordingly, the Court will only intervene if the decision does not fall 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).

[9] The applicant submits that the Board's decision should be quashed because the decision-maker set aside an important document (Intimate Partner Violence and State Protection in South Korea) written by Dr. Emery PhD.

[10] Paragraph 24 of the decision reads as follows:

I have considered counsel's disclosure including a scholarly opinion which looks at the adequacy of state protection in South Korea. I note that the author's opinion in this regard takes into account interviews conducted in 1998 with two police officers, a domestic violence advocate at the Korea Woman's Hotline and a victim of domestic violence residing at a shelter in Korea. The author also interviewed two directors at a battered women's shelter and includes their opinion on domestic violence in South Korea and the adequacy of state protection. I have no way of assessing the validity of the qualifications of this writer or whether the writer is a disinterested source. In any case, this writing represents the opinion and conclusions drawn by an individual also relying on information gathered about 11 years ago.

[11] Although this statement is not totally accurate especially concerning the qualifications of Dr. Emery (see applicant's record, pages 69 to 71 and Dr. Emery's curriculum vitae, pages 96 to 100, same record), the Board provided sufficient reasons why it preferred the documentation relied upon to conclude that the applicant could avail herself of state protection in South Korea as a victim of domestic violence.

[12] The evidence in the case at bar shows that the applicant did not take any actions to seek state protection in South Korea and Mexico.

[13] The Court is therefore confronted with a similar situation as in *Nam v Canada (Minister of Citizenship and Immigration)*, 2010 FC 783, [2010] F.C.J. No. 959 (QL) at para 24.

[14] The Court's intervention is not warranted under the circumstances. No question of general importance was submitted and none arise.

**JUDGMENT**

**THIS COURT ORDERS that** the application for judicial review be dismissed. No question is certified.

“Michel Beaudry”

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Judge

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

**DOCKET:** IMM-2063-10

**STYLE OF CAUSE:** Eun Ran SEO, Kyeong Hyeok KIM, Min Ji KIM  
and  
THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION

**PLACE OF HEARING:** Toronto, Ontario

**DATE OF HEARING:** December 7, 2010

**REASONS FOR JUDGMENT:** BEAUDRY J.

**DATED:** December 13, 2010

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