Federal Court Cour fédérale

Date: 20111215

Docket: IMM-2630-11

[UNREVISED ENGLISH CERTIFIED TRANSLATION] **Citation: 2011 FC 1474**

Montréal, Quebec, December 15, 2011

PRESENT: The Honourable Madam Justice Tremblay-Lamer

BETWEEN:

JUAN CARLOS AGUILAR SUAREZ

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

[1] This is an application for judicial review under subsection 72(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 (the Act), of a decision of the Refugee Protection Division (RPD) of the Immigration and Refugee Board of Canada (panel), according to which the applicant, Juan Carlos Aguilar Suarez, was not a Convention refugee or a person in need of protection.

[2] The applicant is a Mexican citizen and member of the indigenous population of the state of Chiapas. Before he left, he had taught Spanish to the illiterate peasants and indigenous people of the

village of Acteal. The applicant claims to fear persecution on the basis of his political opinions and his activities in support of the indigenous population of Acteal.

[3] In fact, the applicant informed peasants of their legal rights as Mexican citizens and encouraged them to unite and defend their civil rights. He is also alleged to have helped them in writing complaints about the ill-treatment they endured. In addition to this, he published articles and pamphlets against the authorities.

[4] On April 15, 2009, his students warned him that the Mexican army was looking for him. The applicant began to feel threatened and decided to obtain a passport one week later. On May 1, 2009, he went to live with his uncle in the state of Gutierrez, but continued teaching until the end of the month. On June 25, 2009, he left Mexico for Canada, and filed a claim for refugee protection one month later.

[5] Although the panel determined that the applicant's activities constituted a political opinion within the meaning of section 96 of the Act, it found that the applicant had failed to establish a subjective fear and that, even though it had arrived at this conclusion, there was a viable internal flight alternative available to him.

[6] The panel found it implausible that the applicant would have continued teaching on a regular basis from April 15 until the end of May 2009, or up until the third week of the month of June 2009, if he truly feared persecution. Similarly, since the applicant continued teaching at the

community centre for two months after obtaining his passport on April 21, 2009, the panel concluded that his having obtained the passport was in no way connected to a fear of persecution.

[7] In addition, the panel determined that is was reasonable to have expected the applicant to seek an internal flight alternative in Mexico. He failed to demonstrate why he could not have moved to Mexico City, Veracruz or Guadalajara. While the applicant claimed that the army was everywhere and that he could be found through his voter's card or the national database of cell phone subscribers (RENAUT), there is no convincing evidence to support this argument. Furthermore, the applicant would be able to find employment as a teacher anywhere in Mexico, and it would not be objectively unreasonable or unduly harmful to expect him to move to one of the aforementioned IFAs. I am of the opinion that this finding is reasonable and that it alone is sufficient to dispose of this application for judicial review without having to deal with the issue of credibility.

[8] In fact, the case law imposes on the applicant the burden of establishing, on a balance of probabilities, that no internal flight alternative existed in that part of the country cited by the panel as an internal flight alternative and that it was objectively unreasonable for him to avail himself of it (*Rasaratnam v Canada (Minister of Employment and Immigration)*, [1992] 1 FC 706, 140 NR 138 (FCA); *Thirunavukkarasu v Canada (Minister of Employment and Immigration)*, [1994] 1 FC 589, 163 NR 232 (FCA)).

[9] In this case, the applicant failed to establish either the lack of an IFA in Mexico or that it would have been unreasonable for him to move to Mexico City, Veracruz or Guadalajara.

[10] When the panel member asked the applicant about IFAs, he simply stated [TRANSLATION] "that he did not know what would happen, because the Mexican army is everywhere and that it would be looking for him". The applicant claimed he could be located through his voter's card or through the RENAUT database. However, the panel dismissed these explanations, preferring instead to give more weight to the documentary evidence, which did not show that the authorities had used voter's cards or the database to locate anyone as of yet.

[11] As for the second prong of the test, the panel was of the view that it was not unreasonable to expect the applicant to avail himself of the proposed IFAs, as he would have been able to find employment as a teacher anywhere in Mexico. Once again, the applicant failed to demonstrate how such a finding was objectively unreasonable.

[12] Accordingly, the Court's intervention is not warranted and the application for judicial review is dismissed.

JUDGMENT

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

"Danièle Tremblay-Lamer"
Judge

Certified true translation

Sebastian Desbarats, Translator

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-2630-11
STYLE OF CAUSE:	JUAN CARLOS AGUILAR SUAREZ and MCI
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