

Federal Court



Cour fédérale

Date: 20111208

Docket: IMM-2048-11

Citation: 2011 FC 1439

[UNREVISED ENGLISH CERTIFIED TRANSLATION]

Ottawa, Ontario, December 8, 2011

PRESENT: The Honourable Mr. Justice Martineau

BETWEEN:

**CLAUDIA REBECA OKAZAKI MONTES DE OC
RODRIGO MANUEL QUIJANO OKAZAKI
LESLY SUMIKO QUIJANO OKAZAKI
JOSE VALENTIN QUIJANO OKAZAKI**

Applicants

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

[1] The applicants, who are all citizens of Mexico, are challenging the lawfulness of a decision by the Refugee Protection Division of the Immigration and Refugee Board (panel) rejecting their refugee claim on the ground that their allegations lack credibility, the availability of state protection and an internal flight alternative in their country.

[2] The principal applicant arrived in Canada with her three minor children in February 2009. She alleges that she entered into, in June 2005, a common-law relationship with a man named Rodriguez, an officer with the Attorney General's office from the state of Quintana Roo. Not long after, he started to be physically and psychologically violent towards her and her children. She was even locked up for three months after attempting to file a complaint against him in September 2006, which made it necessary for her to, first, move to her brother's home and then to her aunt's home in January 2008 until she left Mexico for Canada in February 2009. Moreover, in August 2008, her former partner succeeded in finding her despite her moves and while she had another job.

[3] In short, the principal applicant fears persecution by her former partner if she were to return to Mexico, but the panel did not believe certain important elements of her testimony. There is no basis to intervene in this case.

[4] In particular, the principal applicant provided differing answers with respect to the date on which she left her former partner. During her interview with the immigration authorities on March 10, 2009, the principal applicant mentioned that she ended her relationship in January 2008. In her Personal Information Form (PIF) submitted on April 6, 2009, she also indicated that she lived at the same address, that is, with her former partner, from May 2005 to January 2008. However, at the hearing before the panel, she testified that her relationship with him ended on November 13, 2007, and then that she went to stay with her brother on September 16, 2007, after telling him about the situation with her partner.

[5] The principal applicant submits that, by requiring an exact date for when her relationship with her partner ended, the panel failed to apply the [TRANSLATION] *Guidelines of the Chairperson concerning women subject to domestic abuse*, because their relationship ended on many levels. With respect, the Court cannot accept this argument. Even though dates may be of secondary importance—it depends on the context—it was not unreasonable in this case to focus on the circumstances in which their relationship ended.

[6] The Court also notes that, in the narrative included in her PIF, the principal applicant made no mention of the fact that she apparently lived with her brother for a few months. The panel did not believe this part of the principal applicant's account given that her brother's letter, which was submitted into evidence, made no mention of this important fact. Furthermore, the panel found it implausible that the principal applicant was locked up for three months in 2006 and told her brother about this only in September 2007. The panel's finding in this respect is perfectly justified.

[7] Furthermore, the panel did not believe that the principal applicant lived in hiding from November 2007 to February 2009, and that her former partner did not succeed in finding her until August 2008 at her new workplace. In fact, the principal applicant alleged that her former partner had attempted to, during the summer of 2008, kidnap one of the children from outside her aunt's home; this suggests that he knew where the principal applicant and her children were staying. She also alleged that she was obligated to take her children out of school after the kidnapping attempt, which she failed to mention in her narrative. As indicated by the panel, the principal applicant's PIF mentions instead that the child, Lesly, went to the same school continuously from September 2005 to February 2009. The panel's findings in that respect are reasonable.

[8] The Court is also of the opinion that it was open to the panel to disbelieve the principal applicant when she explained that if she failed to mention certain unfortunate events, it was simply because she was trying to forget about them. The principal applicant completed her PIF with the help of her counsel and the events that she stated she wanted to forget are, contrary to what she claims, at the heart of her refugee claim. Given the non-credibility finding, which is determinative in this case, it is unnecessary to examine the reasonableness of the panel's findings concerning the availability of state protection and an internal flight alternative in Mexico.

[9] In conclusion, the panel provided adequate reasons for its findings and did not disregard any relevant fact or piece of evidence, as a result, the rejection of the refugee claim constituted a possible, acceptable outcome which is defensible in respect of the facts and law.

[10] The application for judicial review must be dismissed and no question of general importance arises in this matter.

JUDGMENT

THE COURT ORDERS AND ADJUDGES that this application for judicial review is dismissed. No question is certified.

“Luc Martineau”

Judge

Certified true translation
Janine Anderson, Translator

FEDERAL COURT
SOLICITORS OF RECORD

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STYLE OF CAUSE: **CLAUDIA REBECA OKAZAKI MONTES DE OC
RODRIGO MANUEL QUIJANO OKAZAKI
LESLY SUMIKO QUIJANO OKAZAKI
JOSE VALENTIN QUIJANO OKAZAKI v
THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

PLACE OF HEARING: Montréal, Quebec

DATE OF HEARING: November 17, 2011

REASONS FOR JUDGMENT: MARTINEAU J.

DATED: December 8, 2011

APPEARANCES:

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Marilyne Trudeau FOR THE RESPONDENT

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