

Federal Court



Cour fédérale

Date: 20130121

Docket: IMM-4582-12

Citation: 2013 FC 52

[UNREVISED ENGLISH CERTIFIED TRANSLATION]

Montréal, Quebec, January 21, 2013

PRESENT: The Honourable Mr. Justice Shore

BETWEEN:

**MARTIN TORRES VILLANUEVA
BLANCA INES ARELLANO ROJAS**

Applicants

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

[1] When a narrative in its entirety lacks inherent logic and is not consistent, unravelling the crux of such an account leads to a finding of lack of credibility; and, the hopes of reassembling the account becomes a mere illusion of the applicant accompanied by a cacophony of the applicant's refrains. Furthermore, the applicant, by his own non-credible account, becomes the author of the incoherent account at the very heart of the decision rendered in his case. (See *Bernal v Canada*

(Minister of Citizenship and Immigration), at paragraph 23: “The RPD was entitled to rely on Ms. Ramirez Bernal’s conduct to make findings regarding the genuineness of her fear (*Sanchez v. Canada (Minister of Citizenship and Immigration)*, 2006 FC 648, 149 A.C.W.S. (3d) 307 at paragraph 11).”)

[2] This decision is in response to the application for judicial review of a decision by the Refugee Protection Division (RPD) of the Immigration and Refugee Board (IRB) dated April 23, 2012.

[3] The principal applicant alleges that he fears a man and a woman, two members of a criminal organization, after he refused to cooperate with them and experienced extortion, death threats and false criminal accusations. A used car salesperson, the principal applicant was confronted by buyers who wanted to purchase a car with a cheque. After the principal applicant did not accept the cheque transaction, the two members of the criminal organization threatened him and eventually made misrepresentations with the police accusing the principal applicant of sexual touching against the female persecutor and assault against the male persecutor.

[4] Despite obvious errors regarding the beginning of the account and clerical errors in reading the IRB decision as a whole, the RPD demonstrated understanding in its analysis of the principal applicant’s account.

[5] In addition to major gaps, the principal applicant’s account lacks inherent logic and contains several fatal contradictions.

[6] The Court, in analyzing the record, realized that the IRB's errors are not determinative given the major contradictions and implausibilities raised by the RPD with respect to the applicants (*Ibis v MCI*, IMM-788-00).

[7] Furthermore, the applicants' conduct significantly contradicts the main facts of their own account:

- a. In the beginning, they did not want to file a complaint with the authorities because of a lack of trust towards the authorities, but they nevertheless eventually filed a complaint;
- b. They did not want to be seen in public because they were scared, but they nevertheless celebrated their wedding openly;
- c. There are significant contradictions in the circumstances of the applicants' wedding and their reasons for coming to Canada, by first obtaining a tourist visa, which lead to a lack of logic inherent in their primary account.

[8] Despite the IRB's superficial errors, there are still significant contradictions and gaps in the applicants' account; and, even if the summary of the narrative were corrected by the RPD, a new hearing would not change the fact that the applicants' account, as examined by the Court, lacks a basis of authenticity and plausibility. In conclusion, the Court finds that, even if the matter were referred back to the IRB for redetermination, there is no hope for a different outcome given the lack of consistency and the significant contradictions; there is an underlying lack of credibility by the

applicants (*Mobil Oil Canada Ltd. v Canada-Newfoundland Offshore Petroleum Board*, [1994] 1 SCR 202 at paragraph 53).

[9] For all of these reasons, the applicants' application for judicial review is dismissed.

JUDGMENT

THE COURT ORDERS that the applicants' application for judicial review be dismissed.

There is no question of general importance to certify.

“Michel M.J. Shore”

Judge

Certified true translation
Janine Anderson, Translator

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-4582-12

STYLE OF CAUSE: MARTIN TORRES VILLANUEVA
BLANCA INES ARELLANO ROJAS v
THE MINISTER OF CITIZENSHIP AND
IMMIGRATION

PLACE OF HEARING: Montréal, Quebec

DATE OF HEARING: January 21, 2013

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

DATED: January 21, 2013

APPEARANCES:

Angelica Pantiru FOR THE APPLICANTS

Mario Blanchard FOR THE RESPONDENT

SOLICITORS OF RECORD:

Angelica Pantiru FOR THE APPLICANTS
Counsel
Montréal, Quebec

William F. Pentney FOR THE RESPONDENT
Deputy Attorney General of Canada
Montréal, Quebec