

Federal Court



Cour fédérale

Date: 20140516

Docket: IMM-5045-13

Citation: 2014 CF 477

[ENGLISH TRANSLATION]

Ottawa, Ontario, May 16, 2014

PRESENT: The Honourable Justice Martineau

BETWEEN:

**CAROLINA ORTIZ CABRERA
WILSON ALEXIS MATEUS GORDILLO
NATALIA MATEUS ORTIZ
JUAN CAMILO MATEUS ORTIZ
LILIANA LAILY MATEUS GORDILLO
JORGE ENRIQUE MATEUS PUERTO
DORALINA LAYLY GORDILLO DE
MATEUS**

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] This is an application for judicial review of the decision in which the Refugee Protection Division of the Immigration and Refugee Board of Canada [the Board] stipulated that the

applicants, citizens of Colombia, had neither refugee status under the Convention nor the status of persons in need of protection under sections 96 and 97 of the *Immigration and Refugee Protection Act*, SC 2001, c. 27 [the Act] because there is the possibility of internal flight alternative [IFA] in their country of nationality.

[2] First, the Board must be convinced that, in accordance with the preponderance of probabilities, the applicants for asylum are not at serious risk of being persecuted in the part of the country where there is a possibility of refuge, and second, that it must not be unreasonable for said applicants to find refuge there, given all of the applicants' circumstances. If these two conditions are met, there is an IFA. The standard of reasonableness applies to these determinations.

[3] The applicants say that they fear the Revolutionary Armed Forces of Colombia [FARC]. On November 4, 2011, the principal applicant, Wilson Alexis Mateus Gordillo [Gordillo], who then worked as operations manager for a Bogota security company, received a call from a man who claimed to be a FARC member and asked him to use a company vehicle to transport four boxes. Gordillo said he wanted to think about it. On November 7, 2011, he wanted to report the call, but the police refused to take his statement. Feeling that he was in danger, Gordillo and his wife moved to the apartment of his sister, Liliana Laily Mateus Gordillo [the sister]. Gordillo received another call from FARC on December 13. Without mentioning FARC's threats to his boss or his colleagues, Gordillo quit his job on December 23. With his wife and two children, Gordillo left Colombia on February 20, 2012. The sister says that on May 18 and June 8, 2012,

she received calls from a FARC member who was looking for her brother. She is also applying for asylum.

[4] In this case, the applicants have not convinced me that the finding regarding the existence of an IFA is unreasonable, so therefore this application for review must fail. The existence of an IFA here is a determining factor in the Board's reasons that does not question the subjective fear of the applicants. We should point out in passing that although the Board did not draw inferences about the Gordillo's or the other applicants' credibility, it appears to call into question Gordillo's claim that he did not tell his employer that he had been approached by FARC members: "[t]he Board thinks that [Gordillo] changed his testimony and that it is unlikely that his employer did not have sufficient measures to prevent infiltration."

[5] In essence, the Board thinks that the applicants' fear of persecution has no objective foundation and is speculative. First, the Board found that the applicants could move to Medellín and that the FARC members were unwilling to follow them there. Although the Board recognized that "[t]he FARC members have the capacity to track their victims anywhere in Colombia," it ruled that "the FARC members would not use resources to find [Gordillo] to take revenge on him." I think that this conclusion is reasonable. Referring to documents COL103286.EF, February 23, 2010 and COL104332.EF, April 9, 2013, the Board clearly cited the evidence supporting the finding that FARC members have the capacity to target victims anywhere in Colombia but only track down those who, in their opinion, are "valuable." Specifically, Gordillo "does not have the profile of people that FARC members normally pursue across Colombia." He was employed by a security company, while those considered to be important are usually members of the political elite, the

business sector, the university community or the professional class. Moreover, Gordillo's role was not "of great strategic importance" because he was asked only to transport boxes.

[6] We must also note that the applicants did not present the Board with any evidence showing that security organizations are considered to be FARC "targets." Unlike the applicant in *Morales v. Canada (Minister of Citizenship and Immigration)*, 2012 FC 49 at para. 27, [2012] FCA no. 48, Gordillo is not a former detective, a member of one of the "groups or people of concern," according to the United Nations High Commissioner for Refugees in a report dated May 27, 2010 (*Morales*, at para 16). What is more, although document COL104332.EF refers to former guerrillas who collaborated with security organizations, we cannot surmise that ordinary people who work for security organizations are FARC targets.

[7] Second, the Board wondered if it was reasonable for the applicants to move to Medellín. I find nothing unreasonable in the Board's finding that the second part of the test for the existence of an IFA was also satisfied. The Tribunal Board took into account the applicants' particular circumstances, including their level of education and employment possibilities, and its finding rests on all the evidence in the docket.

[8] The attorneys admit that this application does not raise any question of law of general importance that warrants being certified by the Court.

JUDGMENT

THIS COURT'S JUDGMENT is that the application for judicial review is dismissed.

"Luc Martineau"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-5045-13

STYLE OF CAUSE: CAROLINA ORTIZ CABRERA, WILSON ALEXIS MATEUS GORDILLO, NATALIA MATEUS ORTIZ, JUAN CAMILO MATEUS ORTIZ, LILIANA LAILY MATEUS GORDILLO, JORGE ENRIQUE MATEUS PUERTO, DORALINA LAYLY GORDILLO DE MATEUS v. THE MINISTER OF CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: MONTREAL, QUEBEC

DATE OF HEARING: MAY 12, 2014

REASONS FOR JUDGMENT AND JUDGMENT: MARTINEAU J.

DATED: MAY 16, 2014

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