

CANADA / JUDGMENT

MA9-04522

COURT

Refugee Protection Division

DECIDED

16 December 2010

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Immigration and Refugee Board Refugee Protection Division Commission de l'immigration et du statut de réfugié Section de la protection des réfugiés RPD File No. / N° de dossier de la SPR : MA9-04522 MA9-04523 Private Proceeding Huis clos Claimant(s) Demandeur(e)s d'asile XXXX XXXXX XXXXXX XXXX XXXXX XXXXX XXXXX Date(s) of Hearing Date(s) de l'audience November 25, 2010 Place of Hearing Lieu de l'audience Montréal, Quebec Date of Decision Date de la décision December 16, 2010 Panel Tribunal Me Sonia Beaupré Claimant's Counsel Conseil du demandeur d'asile Me Claudette Menghile Tribunal Officer Agent du tribunal Jacqueline La Designated Representative Représentant désigné N/A Minister's Counsel Conseil du ministre N/A

- [1] The female claimant, XXXX XXXXX XXXXX XXXXX, age 25, and the male claimant, XXXX XXXX XXXXX XXXXX, age 29, citizens of Mexico, are claiming under section 96 and subsection 97(1) of the Immigration and Refugee Protection Act (IRPA). ALLEGATIONS
- [2] In this case, the male claimant is basing his refugee protection claim on that of the female claimant. In her Personal Information Form (PIF) submitted to the panel on April 22, 2009, the female claimant alleged that she had been working in the federal police's XXXX as an XXXX since XXXX, 2008. She alleged that her duties gave her access to databases containing the personal information of members of the police force. On XXXX, 2009, on her way home after work, she was threatened by a man who stopped her from getting out of her car and told her that he was a member of the Zetas and that she had to help him obtain information about certain police officers. The female claimant said nothing, and the man left. The female claimant alleged that she was afraid after this incident, particularly because eight months earlier, one of her co-workers, XXXX, who worked in another department, had been approached by some people looking for personal information on police officers. The female claimant alleged that her co-worker was transferred after reporting this incident and that she and her husband were killed. The female claimant alleged that she and her husband started to be followed on the following day. On XXXX, 2009, [translation] "the individual" attacked the female claimant, wrenching her arm very tightly and telling her that she and her husband had to cooperate with him or they would be killed. The individual then left. After talking it over again with her husband, they both decided to go report the facts to the public ministry in the XXXX XXXX XXXX. On XXXX, 2009, the female claimant received a call on her cellphone during which an individual told her that people knew that she and her husband had gone to file a report and that they were going to be killed. As a result, they

decided to leave Mexico. The claimants arrived in Canada on XXXX, 2009. They claimed refugee protection on XXXX, 2009.

DETERMINATION

- [3] The panel determines that the claimants are not "Convention refugees" or "persons in need of protection," for the following reasons.

ANALYSIS

- [4] In light of the copies of their passports issued by the Mexican authorities and submitted in evidence by the immigration authorities, the panel is satisfied as to the claimants' identities. The panel concludes that these are acceptable identity documents within the meaning of section 106 of the IRPA.
- [5] The female claimant's testimony was not credible because, in the panel's opinion, it seems implausible with respect to key elements of her claim. Some parts of her testimony contained implausible elements that she was unable to satisfactorily explain.
- [6] The female claimant filed evidence that she was employed by the federal police as an XXXX and XXXX XXXX.¹ However, in the notes made by the immigration officer on XXXX, 2009,² she stated that she was working as an XXXX for the federal police and that [translation] "I was considered a XXXX XXXX, but I did XXXX XXXX. ... I had to XXXX XXXX XXXX XXXX XXXX XXXX."
- [7] The female claimant alleged that she was approached by the Zetas and they threatened to kill her, should she refuse to cooperate. First of all, the female claimant was unable to explain the type of cooperation because each time she was allegedly approached by the Zetas (therefore on three occasions), nothing was said to her about this cooperation. When the panel asked her what they wanted from her, she answered [translation] "I do not know..." and added that the individual who had approached her had not told her what information he wanted from her.
- [8] The documentary evidence clearly establishes the presence of this criminal organization in Mexico.³ Also according to this evidence, Los Zetas are "the most technologically advanced, sophisticated and dangerous cartel operating in Mexico." The panel is somewhat puzzled as to how, on three occasions, the female claimant was approached by a member of this well-organized cartel without him ever telling her what he wanted from her. In addition, the female claimant held an administrative position with the federal police. The female claimant testified that no other co-worker had had problems with the Zetas. When the panel asked her why this was the case, the female claimant answered: [translation] "I do not work for the Zetas. I do not know why they did not ask them." Why would the Zetas be interested in tracking down the female claimant, given her particular profile, should she return to her country, and why would she be sought personally, when none of her co-workers, who could also provide information, were approached? The female claimant also submitted that, since

arriving in Canada, she had resigned from the federal police. The panel asked why those same Zetas, who allegedly approached her on three occasions-why this individual, a member of a highly organized group, who was already in a position to obtain all the information he wanted from her, asked for nothing? The female claimant explained that they would always know how to get to her because she had filed a complaint (discussed in the next paragraph) and because, for the Zetas, [translation] "it is a direct confrontation, and also, because I did not cooperate." However, nothing came of that complaint, as she indicated to the panel herself. Consequently, no harm was done to the Zetas, and the cooperation that the female claimant refers to was never explained in her testimony. The panel finds that this is implausible and that the female claimant's credibility is further undermined.

- [9] In addition, following the second threat on XXXX, 2010, the female claimant went to the public ministry to file a report. The panel would have expected her to submit a copy of that report, but she claimed that she had lost it. The panel wanted to know what steps she had taken to obtain a copy when she realized that she had lost this document. The female claimant claimed refugee protection in Canada in XXXX 2009. Why did she not try to obtain this document that is key to supporting her claim? She answered that, in XXXX 2009, she was still confident that she had the document in her possession. Next, she added that she realized that she had lost it in XXXX 2010, when she was summoned to appear at her hearing before the IRB. At that point, she tried to obtain it through her mother, who was still in Mexico. In the end, her mother apparently confirmed that, after a year, it was no longer possible to obtain a copy of a complaint that had been filed.
- [1] The panel is of the opinion that it is incumbent on all refugee protection claimants who appear before the Board to ensure that they prepare their files with the evidence required to support the claim. The fact that the female claimant did not check whether she still had a copy of that complaint before XXXX is not, in the panel's opinion, an adequate explanation.
- [2] In addition, the Board may draw a negative conclusion based on the fact that the claimant made no effort to present evidence corroborating the central elements of the claim for refugee protection, as rule 7 clearly states that a claimant must provide such documents. The Board is completely justified in attaching great importance to the documents that would have corroborated the allegations.⁴ The panel cannot accept the female claimant's explanations on this point as satisfactory. The panel simply does not believe that that complaint was filed. The female claimant's credibility is further undermined.
- [3] The key element with regard to the female claimant's credibility is the fact that, as an employee of the federal police, she never reported the threats she allegedly received to her supervisor. She gave various reasons for not doing so. First she stated that she did not do so because [translation] "I was afraid." Then she stated that, [translation] "eight months earlier, a co-worker experienced something similar and was killed." The panel therefore asked what information these individuals wanted from that co-worker. The female claimant answered, [translation] "I do not know." When asked whether the person who had threatened her co-

worker was also a member of the Zetas, she answered, [translation] "Actually, I do not know." She finally stated that she had not spoken about it at all to her supervisor because she feared that she would complicate the matter and that it would be what she called a [translation] "very long process" that would mean getting her transferred at work and that she did not feel she had the strength to do this. However, the female claimant was an employee of the federal police, yet she chose to file a complaint with the public ministry, which in itself is also a long process. The female claimant explained that she chose to file this complaint because she only wanted a statement of the facts-a statement that was not submitted to the panel at the time of the hearing. In the panel's opinion, the fact that she worked with the federal police and chose not to report these alleged threats is implausible. It was the most direct method for the female claimant to obtain help in her country.

- [4] As evidence, the female claimant's co-worker was transferred elsewhere when she reported these threats to her employer, as the female claimant testified at the hearing. The female claimant also added, by means of a document that she submitted to the panel on November 24, 2010, one day before her hearing, that her co-worker died following this.⁵ That document reports the death of XXXX [translation] "by violence against her and her spouse." In the panel's eyes, the female claimant's testimony clearly shows that her employer had taken steps to transfer her co-worker, XXXX, to another location. The female claimant was unable to satisfy the panel that her co-worker had been killed by the Zetas-to believe this is to make an assumption that has in no way been confirmed by any evidence on the record and that does not explain why the female claimant chose not to mention it to her superiors. In the assessment of the female claimant's credibility, her failure to tell her superiors about these threats is implausible and not credible. The panel rejects these explanations.
- [5] The panel rejects the female claimant's testimony as not credible and believes that this story involving the Zetas was concocted by the female claimant for the purpose of obtaining refugee protection in Canada for herself and her spouse, the male claimant. Accordingly, the panel's analysis need not go any further.
- [6] After considering all of the evidence, the panel concludes that the claimants failed to discharge their burden of establishing that they would face a serious possibility of persecution on one of the Convention grounds or that, on a balance of probabilities, they would be personally subjected to a danger of torture, to a risk to their lives or to a risk of cruel and unusual treatment, should they return to their country.

CONCLUSION

- [7] For these reasons, the panel determines that the claimants are not "Convention refugees" under section 96 or "persons in need of protection" under subsection 97(1) of the IRPA.
- [8] The panel rejects the claim for refugee protection filed by XXXX XXXX XXXX XXXX and XXXX XXXX XXXX XXXX. Sonia Beaupré Me Sonia Beaupré December 16, 2010 Date IRB Translation Original language: French REFUGEE PROTECTION DIVISION / EMPLOYMENT /

THREATS / CRIMINAL ORGANIZATION / CREDIBILITY / DISCLOSURE / PRODUCTION OF DOCUMENTS / RULES / FEMALE / MALE / NEGATIVE / MEXICO 1 Exhibit P-5. 2 Exhibit A-2, Immigration officer's notes, March 25, 2009, question 13. 3 Exhibit A-1, National Documentation Package on Mexico, September 29, 2010, Tab 7.6, MEX103396.FE. March 5, 2010. The presence and structure of Los Zetas and their activities. 4 Luzi v. Canada (M.C.I.), Pinard, June 28, 2004; 2004 FC 916. 5 Exhibit P-10.

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