



IMMIGRATION AND REFUGEE BOARD
(REFUGEE PROTECTION DIVISION)

LA COMMISSION DE L'IMMIGRATION
ET DU STATUT DE RÉFUGIÉ
(SECTION DE LA PROTECTION DES RÉFUGIÉS)

IN PRIVATE
HUIS CLOS
TA2-09620

CLAIMANT(S)

DEMANDEUR(S)

(a.k.a.)

DATE(S) OF HEARING

October 30, 2003

DATE(S) DE L'AUDIENCE

DATE OF DECISION

December 16, 2003

DATE DE LA DÉCISION

CORAM

Diane L. Tinker

CORAM

FOR THE CLAIMANT(S)

**Ricardo Aguirre
Barrister and Solicitor**

POUR LE(S) DEMANDEUR(S)

REFUGEE PROTECTION OFFICER

R. Gould

AGENT DE PROTECTION DES RÉFUGIÉS

DESIGNATED REPRESENTATIVE

REPRÉSENTANT DÉSIGNÉ

MINISTER'S COUNSEL

CONSEIL DE LA MINISTRE

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The claimant, [REDACTED], is a twenty-year-old citizen of Mexico. She claims to have a well-founded fear of persecution at the hands of a politically-connected person by reason of her membership in a particular social group, being a bisexual female. In addition, she claims to be a person in need of protection because she would be subjected personally to a risk to her life or to a risk of cruel and unusual treatment or punishment or to a danger of torture in Mexico.

ALLEGATIONS

The claimant stated that in [REDACTED] 1998, she began to date the son of a high-ranking [REDACTED] in Mexico. The claimant alleged that at Christmas, 2000, she met [REDACTED]. The claimant stated that she commenced a relationship with [REDACTED] and the two eventually began an intimate sexual relationship. The claimant stated that she had continued to date [REDACTED] and when [REDACTED] told him that she was having a sexual relationship with the claimant, he became very angry. The claimant stated that her family started receiving threatening telephone calls. The claimant stated that [REDACTED] father arranged to have the claimant thrown out of school and fired from her job. The claimant stated that on [REDACTED] 2002, she was the victim of an attempted kidnapping. The claimant stated that she became frightened and arranged to leave the country. The claimant arrived in Canada on [REDACTED] 2002.

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Counsel requested to file written submissions by November 13, 2003, which I agreed to. Submissions were received on December 1, 2003.

DETERMINATION

I find that the claimant is neither a Convention refugee nor a person in need of protection for the following reasons.

ANALYSIS

Identity

The claimant did not provide any original documentation. However, there was a certified copy of her passport on file from Immigration Canada,¹ as well as her oral testimony to establish her identity as a national of Mexico.

I do not find that the claimant's former boyfriend, _____ and his father want to persecute her for the following reasons. The claimant stated that _____' father was a high-ranking _____ in her Personal Information Form (PIF)² narrative. However, in her oral testimony, the claimant indicated that _____' father was a former _____, but was still _____ connected. The claimant indicated that _____ and his father were

¹ Exhibit M-1, Citizenship and Immigration Canada notes.

² Exhibit C-1, Personal Information Form of _____

harassing her because of her relationship with their relative . If that was the case, . and his father have been successful. The claimant indicated that she has not seen nor heard from since prior to leaving Mexico for Canada. I find that there would be no reason for and his father to still harass the claimant now or in the future.

I am not satisfied that and his father have the power or connections to do what the claimant has stated that they have done. The claimant stated that and his father arranged to have her thrown out of school and fired from her job and will prevent her from obtaining work or having a relationship. When asked as to how and his father would prevent her from obtaining employment, the claimant responded that father is a high-ranking in Mexico, and he was responsible for her expulsion. When asked again how and his father could prevent her from obtaining employment, the claimant stated that her mother was receiving threatening telephone calls and they would know when she is back. When asked a third time how and his father would prevent the claimant from obtaining work, the claimant replied that has internal connections. When asked if she could obtain a non-governmental job, the claimant stated that maybe would not do anything, but her mother continues to receive threatening phone calls. I find these responses unacceptable. The claimant was asked three times as to how and his father would prevent her from obtaining employment. The claimant failed to answer the question on the first two occasions, and

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then admitted that maybe [redacted] would not do anything. The claimant produced a letter from her former employer³ to illustrate that she had been let go. When asked as to the content of the letter indicating that the claimant performed her job well, the claimant responded that whenever you are fired, you receive this type of letter. I find this explanation unacceptable. I find that the letter is very clear and is simply a letter of recommendation. In summary, I am not satisfied that the claimant has provided any reasonable or plausible explanation as to how [redacted] and his father have or will be able to prevent her from obtaining employment in Mexico.

The claimant was asked as to how [redacted] and his father would prevent her from going to school. She responded that they know people and have contacts. I find this answer to be unacceptable. The claimant is extremely vague in her answer as to how [redacted] and his father can have her expelled from school. When asked if she had any evidence to show that she was thrown out of school, the claimant stated that she did but did not know it would be needed. I find this answer to be unacceptable. The claimant alleges that [redacted] and his father are so powerful that they could arrange for her expulsion from school, but fails to provide existing corroborating evidence, which is critical to her claim. In summary, I am not satisfied that the claimant has provided a reasonable and plausible explanation as to the ability of [redacted] and his father to have the claimant expelled or keep the claimant from attending school.

³ Exhibit C-2, Letter from [redacted] dated [redacted], 2003.

The claimant was also asked as to how [redacted] and his father would prevent her from obtaining a partner. When asked how [redacted] and his father would do this, the claimant stated that they would call everybody and tell them that she is bi-sexual, and in turn, her friends would ask her if it was true. The claimant stated that [redacted] is sabotaging her life right now. When asked again as to how [redacted] and his father would prevent the claimant from obtaining a partner, the claimant stated that he would first get in touch with her friends. When asked the question again, the claimant responded that she did not know, as she was not living in the situation. I find that the claimant has failed to provide a reasonable or plausible explanation as to how [redacted] and his father had or will be able to prevent her from obtaining a partner, since she only stated that he would call her friends, and that she really did not know. In summary, I find that the claimant has been unable to provide any reasonable explanation as to how [redacted] and his father have been able or would be able to prevent her from obtaining employment in Mexico, enrolling in school or her ability to find another partner. Since I find that [redacted] and his father do not have the ability nor the desire to harass or persecute the claimant, I therefore find that the claimant has no one to fear in Mexico, be that persecution, risk to her life or a risk to cruel or unusual treatment or punishment or danger of torture.

I find that the claimant failed to seek state protection. It is presumed that the state, in this case, Mexico, will provide the claimant protection against [redacted] and his father. The claimant stated that her mother was receiving threats over the telephone,

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commencing on . . . 2002. The threats include that if the claimant were to go back to Mexico, she would be killed and pay for what she did. The claimant stated on

2002, people attempted to kidnap her. The claimant stated that . . . had told her that it was . . . and his father who arranged the kidnapping. The claimant stated that she went to the police concerning the threatening telephone calls and the attempted kidnapping in . . . 2002, shortly before leaving for Canada. When asked as to why she allowed for so much time to pass before contacting the police, the claimant stated that she did so because she first wanted to talk to her mother and brother about it. I find this answer unacceptable. I find that this delay impugns the claimant's credibility. I find that it is not credible or plausible that the claimant would wait over three months before contacting the police. Furthermore, the claimant only called the police shortly before leaving for Canada and appears to be at the very most, an afterthought. I am not satisfied that the claimant has reasonably sought state protection in Mexico. It is the claimant's case to make. I find that the claimant has failed to discharge the burden of proof that she sought state protection.

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CONCLUSION

I find that . . . does not have a well-founded fear of persecution in Mexico and is not a Convention refugee. She is also not a person in need of protection. Therefore, the Refugee Protection Division rejects her claim.

"Diane L. Tinker"

Diane L. Tinker

DATED at Toronto this 16th day of December 2003.

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