

IMM-1853-96

OTTAWA, ONTARIO, THIS 27th DAY OF MARCH 1997

PRESENT: THE HONOURABLE MR. JUSTICE YVON PINARD

BETWEEN:

**RUDY EDUARDO OLAVE MARDONES,
JOSE ANTONIO OLAVE MARDONES,**

Applicants,

- and -

MINISTER OF CITIZENSHIP AND IMMIGRATION,

Respondent.

ORDER

The application for judicial review of a decision of the Refugee Division dated May 6, 1996, denying the applicants Convention refugee status, is dismissed.

Judge

Certified true translation

C. Delon, LL.L.

BETWEEN:

**RUDY EDUARDO OLAVE MARDONES,
JOSE ANTONIO OLAVE MARDONES,**

Applicants,

- and -

MINISTER OF CITIZENSHIP AND IMMIGRATION,

Respondent.

REASONS FOR ORDER

PINARD J.:

This is an application for judicial review of a decision of the Refugee Division dated May 6, 1996, determining that the applicants are not Convention refugees.

The decision of the Refugee Division is based on the conclusion that the applicants' story is not credible. The Board reached this conclusion because of the inconsistencies between the applicants' personal information forms and their testimony, and also because it considered it implausible that the principle applicant would have been targeted by the Manuel Rodriguez Front. Lastly, the Refugee Division found that the applicants' conduct, in that they failed to take [TRANSLATION] "serious measures" to protect themselves, was inconsistent with a fear of persecution.

In *Aguebor v. Canada (M.E.I.)*¹, Mr. Justice Décary stressed the restraint that must be adopted in respect of a finding of credibility in this sort of case:

¹(1993), 160 N.R. 315, at p. 316 (F.C.A.).

There is no longer any doubt that the Refugee Division, which is a specialized tribunal, has complete jurisdiction to determine the plausibility of testimony: who better than the Refugee Division is in a position to gauge the credibility of an account and to draw the necessary inferences? As long as the inferences drawn by the Refugee Division are not so unreasonable as to warrant our intervention, its findings are not open to judicial review. In *Giron*, the Court merely observed that in the area of plausibility, the unreasonableness of a decision may be more palpable, and so more easily identifiable, since the account appears on the face of the record. In our opinion, *Giron* in no way reduces the burden that rests on an appellant, of showing that the inferences drawn by the Refugee Division could not reasonably have been drawn. In this case, the appellant has not discharged this burden.

In the instant case, the Refugee Division indicated very clearly the reasons why it did not find the applicants credible. In general, I am of the opinion that the inferences drawn by the Board are not unreasonable and that despite the errors of fact, which I do not consider to have had a determining effect, they are fully supported by the evidence.

Accordingly, the application for judicial review must be dismissed.

Moreover, like counsel for the parties, I do not believe that there is any question to be certified here.

O T T A W A

March 27, 1997

Judge

Certified true translation

C. Delon, LL.L.

FEDERAL COURT OF CANADA
TRIAL DIVISION

NAMES OF COUNSEL AND SOLICITORS OF RECORD

COURT FILE NO: IMM-1853-96

STYLE OF CAUSE: RUDY EDUARDO OLAVE MARDONES
JOSE ANTONIO OLAVE MARDONES

SHIP AND

IMMIGRATION

PLACE OF HEARING: MONTRÉAL, QUEBEC

DATE OF HEARING: MARCH 19, 1997

REASONS FOR ORDER OF PINARD J.

DATED: MARCH 27, 1997

APPEARANCES:

MICHEL LE BRUN FOR THE APPLICANTS

LISA MAZIADE FOR THE RESPONDENT

SOLICITORS OF RECORD:

MICHEL LE BRUN FOR THE APPLICANTS
MONTRÉAL, QUEBEC

GEORGE THOMSON FOR THE RESPONDENTS
DEPUTY ATTORNEY GENERAL OF CANADA