

Date: 20090224

Docket: IMM-3505-08

Citation: 2009 FC 198

Ottawa, Ontario, February 24, 2009

PRESENT: The Honourable Mr. Justice Barnes

BETWEEN:

ROXIE MULASSA SAMUEL

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

[1] This is an application for judicial review by Roxie Mulassa Samuel seeking to set aside a decision of a Pre-Removal Risk Assessment (PRRA) Officer. Ms. Samuel claimed to be the victim of gang violence in St. Vincent and feared that her life would be endangered if she returned there. The Officer disagreed and this application arises from that decision.

a. Background

[2] Ms. Samuel was born in St. Vincent on April 18, 1990. When she was 14 she joined a gang called “Dutty Cup Klick”. In 2006, Ms. Samuel was approached by a rival gang member known to her only as “Killer”. Apparently Killer was interested in Ms. Samuel but she spurned his advances. According to Ms. Samuel, Killer assaulted her because of this rejection. This, in turn, led to some gang conflict and the beating of Killer by Ms. Samuel’s gang associates. Ms. Samuel’s account of this to the PRRA Officer included the rather candid acknowledgement that her gang was much larger than Killer’s gang and that, at the time of these events, Killer’s gang was out of ammunition.

[3] Ms. Samuel entered Canada as a temporary resident on May 30, 2006. That status expired on November 30, 2006 and it was not renewed. At some point, Ms. Samuel was detained by Canadian immigration officials. Initially, she waived her entitlement to a PRRA but after speaking by telephone with her mother about Killer’s recent activities she went ahead with a PRRA application.

[4] According to Ms. Samuel her mother had reported that Killer had been recently released from prison and was threatening vengeance against several members of Dutty Cup Klick including Ms. Samuel. Apparently the supply of ammunition was no longer a problem because Killer’s brother allegedly shot Ms. Samuel’s brother six times and wounded three or four other members of her gang. Shortly after Ms. Samuel’s brother was released from hospital, Killer approached him and told him that Ms. Samuel was also “going to get it” because she was a “tattletale”.

[5] According to Ms. Samuel the police did nothing about the shooting of her brother because there were no witnesses. This, she said, was consistent with the attitude of the authorities in St. Vincent who essentially turn a blind eye to violent criminality.

The PRRA Decision

[6] The PRRA Officer seems to have accepted Ms. Samuel's account at face value at least up to a point. The claim was ultimately rejected on state protection grounds and, in particular, because the evidence was found insufficient to rebut the presumption of state protection. The Officer found that Ms. Samuel faced a specific criminal risk which could be adequately mitigated by the authorities in St. Vincent.

II. Issues

[7] Did the Officer err by failing to consider relevant country condition evidence concerning the effectiveness of police protection in St. Vincent?

III. Analysis

[8] Ms. Samuel contends that the Officer ignored the general country condition evidence reporting a high incidence of violent crime in St. Vincent and an inability by the authorities to effectively deal with it. She also complains that her hearsay account of women being victimized by boyfriends and husbands was ignored. On the record before me these arguments have no merit.

[9] Anecdotal hearsay accounts about victims of domestic abuse whose risk profiles did not match that of Ms. Samuel were of little, if any, relevance to her situation. The same is true of the country condition reports which dealt generally with the situation of human rights abuses and gang and domestic violence in the Caribbean region and, to a limited extent, in St. Vincent. This evidence carried such little probative value that it was unnecessary for the Officer to refer to it in the decision. It was not unreasonable for the Officer to place considerable weight on the fact that Ms. Samuel's alleged persecutor had been jailed and to take note of the evidence that the Police were investigating the shooting of her brother. I agree with counsel for the Respondent that that was the best and most compelling evidence of state protection because it raised a presumption that state protection was available to her in St. Vincent – a presumption that she was unable to overcome. It is implicit in the decision that this evidence was preferred to the highly unlikely evidence that the authorities were not interested in investigating the violent gang-related shootings she had described. It was also not unreasonable for the Officer to conclude that Ms. Samuel had failed to exhaust all available avenues of redress in St. Vincent. In fact, the evidence indicated that she had done nothing whatsoever before leaving St. Vincent for Canada apparently preferring a self-help approach.

[10] While Ms. Samuel's voluntary participation in a criminal gang undoubtedly attracted some level of personal risk, it is a risk that she can mitigate by declining to renew that association and by seeking the protection of the authorities upon her return to St. Vincent.

[11] In conclusion, this is a decision which meets the test of reasonableness and falls within the range of possible, acceptable outcomes described in *Dunsmuir v. New Brunswick*, 2008 SCC 9, [2008] 1 S.C.R. 190.

[12] Neither party proposed a certified question and no issue of general importance arises on this record.

JUDGMENT

THIS COURT ADJUDGES that this application for judicial review is dismissed.

“ R. L. Barnes ”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-3505-08

STYLE OF CAUSE: Samuel
v.
MCI

PLACE OF HEARING: Toronto, ON

DATE OF HEARING: February 9, 2009

**REASONS FOR JUDGMENT
AND JUDGMENT BY:** Mr. Justice Barnes

DATED: February 24, 2009

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