



IMMIGRATION AND REFUGEE BOARD
(REFUGEE DIVISION)

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

IN CAMERA
HUIS CLOS
TA0-19538
TA0-19539

CLAIMANT(S)

XXXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXXXXXXXXXXX
(a.k.a. XXXXXXXXXXXXXXXXXXXXX)

DEMANDEUR(S)

DATE(S) OF HEARING

July 24, 2001

DATE(S) DE L'AUDIENCE

DATE OF DECISION

November 5, 2001

DATE DE LA DÉCISION

CORAM

George H. Cram
Samuel Berman

CORAM

FOR THE CLAIMANT(S)

Michael Campbell
Barrister & Solicitor

POUR LE(S) DEMANDEUR(S)

REFUGEE CLAIM OFFICER

Kent Spooner

AGENT CHARGÉ DE LA REVENDICATION

DESIGNATED REPRESENTATIVE

XXXXXXXXXXXXXXXXXXXXX

REPRÉSENTANT DÉSIGNÉ

MINISTER'S COUNSEL

CONSEIL DE LA MINISTRE

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2001 CanLII 26978 (CA IRB)

These are the reasons for the decision of the Convention Refugee Determination Division (CRDD) with respect to the Convention refugee claims made by XXXXXXXXXXXXXXXXXXXX (the adult claimant), a 31-year-old female citizen of Grenada, and XXXXXXXXXXXXXXXXXXXX (a.k.a. XXXXXXXXXXXXXXXXXXXX) (the minor claimant), her six-year-old son, also a citizen of Grenada. The hearing into the joined claims was held pursuant to section 69.1 of the Immigration Act¹ on July 24, 2001 in Toronto before a two-member panel.

Mr. Michael Campbell represented the claimants. The CRDD was assisted by Kent Spooner, Refugee Claim Officer (RCO). The adult claimant acted as the Designated Representative for the minor claimant. The claim proceeded in the English language without interpretation.

The adult claimant bases her claim to a well-founded fear of persecution in Grenada on the basis of her membership in a particular social group, specifically her gender as a victim of domestic violence. The minor claimant's claim is based on his membership in the particular social group, his family.

THE EVIDENCE

The evidence included the oral testimony of the adult claimant. In addition to the Personal Information Forms (PIFs)² of the claimants, the panel had before it copies of the claimants' passports which had been forwarded from the Department of Immigration, together with notification of the eligibility for the refugee process³. The CRDD disclosed a copy of the CRDD Information Package Index for Grenada dated July 2000,⁴ as well as

¹ As enacted by S. C. 1992, c. 49, s. 60

² Exhibits C-1 and C-2

³ Exhibit M-1

⁴ Exhibit R-1

a package of other materials⁵ which included the most recent Department of State Report on Human Rights Conditions in Grenada for the year 2000 and a collection of six documents relating to Gender claims.

The adult claimant provided a short narrative statement in response to Question #37 of her PIF. It is reproduced below.

My name is XXXXXXXX, I am a citizen of Grenada, I am Thirty years old and single mother and the reason why I am asking for refugee status is explained in this narrative.

My fears of returning to Grenada involve a long term relationship with a man who proved to be excessively abusive. The relationship began shortly after I turned sixteen. XXXXXXXXXXXX was eight years older than I was. My father had been raising me since my mother went to Trinidad. Normally my father did not like me talking to boys but XXXXXXXXXXXX had a job and helped me with my high school fees. Although I was nervous, I started to be involved with XXXXXXXXXXXX to help take the financial pressure off my father who was poor.

After I graduated high school and began working, XXXXXXXXXXXX and I started having problems, he proved to be very jealous and resentful of the success I began to experience. As the arguments escalated he began hitting and tormenting me. No longer experiencing the poverty I had grown up with I left him, or so I thought. He stalked me relentlessly, showing up at my work, my hangouts even my home another time. I fled to live with an Aunt in another part of Grenada and enjoyed the safety until one of his friends, a truck driver saw me going into her home and XXXXXXXXXXXX was once again in my life.

One time XXXXXXXXXXXX beat me up so badly a friend took me to her place, while I was staying there I became friends with XXXXXXXX, a man who eventually will turn out to be the father of my child. About three days after I arrived at my friend's house XXXXXXXXXXXX showed up but XXXXXXXX ran him out. I was so happy; I thought XXXXXXXXXXXX would be out of my life for good. Over the course of about a year XXXXXXXX and I became close. I found out I was pregnant and I was so happy.

XXXXXXX left Grenada shortly before I gave birth and I have not heard from him since then.

XXXXXXXXXX must have eventually found out that XXXXXXXX left Grenada because soon after he was gone, I was being stalked again. This time he did not relent. One evening coming home from a party, I was dragged into a car. It was XXXXXXXXXXXX, I was raped and brutally assaulted. The next day I went to the police I may as well spoke the wall, my long standing, well known relationship with XXXXXXXXXXXX left the

⁵ Exhibit R-2

police to judge me for what had happened. They said they would talk to XXXXXXXXXXX but I knew nothing much would come of it.

While I healed yet again I saved every cent I worked for, not even two months from the day I was raped I was on a plane bound for Canada.

I do not think I can hide from my abuser anywhere in Grenada because it is a small country and XXXXXXXXXXX has friends who know me. Also I do not think that the authorities take the problem of domestic abuse seriously. They will take his side and not recognize the rapes and abuse because XXXXXXXXXXX has only to say the relationship is consensual. He has witnesses and even my friends will have to tell the truth that I was with him for my own choice since I was sixteen. There is no escape for me there.

(Typed as per the original with errors and/or omissions.)

The claimant supplemented the narrative in response to questions.

ANALYSIS

The issue before the CRDD is to determine whether the claimant is a Convention refugee as defined in section 2(1) of the Immigration Act.⁶

The Convention ground identified prior to the hearing for the adult claimant was membership in a particular social group, specifically that of women who were victims of domestic abuse. In this regard, the panel considered the Chairperson's Guidelines⁷ relating to Gender-Related Persecution.

Major issues identified at the start of the hearing were delay, reavilment, failure to claim elsewhere, state protection and credibility.

The panel considered the adult claimant's story not to be plausible or credible. The actions of the adult claimant are not reasonable or consistent given the alleged circumstances. The panel finds that the adult claimant has fabricated and exaggerated her situation in Grenada in order to put forward a claim to refugee status on her behalf and

⁶ As enacted by R.S.C. 1985 (4th Supp.), c.28, s.1

⁷ Guidelines on Women Refugee Claimants Fearing Gender-Related Persecution: Update, Nurjehan Mawani, I.R.B., Ottawa, November 1996.

that of her son. For the reasons that follow, the panel finds the claimants are not Convention refugees.

The panel is aware that testimony given under oath is presumed to be true, unless there is valid reason to doubt its truthfulness.⁸ It is also aware that the real test of the truth of a story of a witness is that it be in harmony with the preponderance of probabilities which a practical and informed person would readily recognize as reasonable in that place and in those conditions.⁹ Further, the panel cannot be satisfied “that the evidence is credible or trustworthy unless satisfied that it is probably so, not just possibly so.”¹⁰

1. The adult claimant testified that she engaged in an occasional consensual sexual relationship with her alleged abuser from the age of 16 (1986) until early 1993. This relationship was not continuous, and the adult claimant moved her residence several times to avoid contact with him. In oral testimony, she testified that she once went to the police in 1992 when he beat her up, but the police did not take her complaint seriously. This contradicted her PIF narrative in which the adult claimant said that she went to the police after being raped in 1997. When asked about this, she stated that following the rape in 1997 she did not go to the police nor did she seek medical attention, as she didn’t want to talk about it. She stated that the PIF narrative refers to the earlier incident. The panel finds this contradiction to be a significant one, which raises serious credibility concerns about the truthfulness of her account.
2. The adult claimant testified that in 1993 she began a new relationship with a man who eventually fathered her son born in XXXXX 1994. During this period she felt safe and protected. In oral testimony she testified that she does not know where the

⁸ Maldonado v. Canada (Minister of Employment and Immigration), [1980] 2 F.C. 302 (C.A.)

⁹ Faryna v. Chorny, [1952] 2 D.L.R. 354 (B.C.C.A.) at 357, per O’Halloran J.A.

father is since her son was four months old. This testimony is slightly different from her PIF statement that the son's father left Grenada shortly before she gave birth and has not heard from him since. The adult claimant's PIF indicates that shortly after her son's father left Grenada she was relentlessly pursued by her alleged abuser, (which under either version would have been in 1994), culminating in the alleged rape which occurred less than two months before she left for Canada in XXXXX 1997. However, her oral testimony was not plausible in presenting an alleged three-year period of stalking. She indicated that her abuser was in a new relationship with another woman, and that after the birth of her son she had not been close to him. She later indicated that she had become involved with him in 1997 when she slept with him one time only. She indicated that she did not take any actions against the alleged abuser except for the one time in 1992. The panel finds the story of sustained abuse is not plausible or credible and contains contradictions.

3. The claimant obtained a passport in 1989 which was renewed in 1994. She did not require a Canadian Visitor Visa to travel to Canada. She travelled out of Grenada in 1992 and 1994 before coming to Canada in XXXXX 1997. In XXXXX 1997 the adult claimant obtained a passport for her son and in XXXX 1997 sought American Visas for both of them. These events predate the alleged rape, the presenting cause for her flight which, according to the PIF, took place less than two months before boarding the plane to Canada. The panel finds that the alleged rape did not occur as outlined, and has been added to the narrative to explain the 1997 departure to Canada and to strengthen the claim.
4. The claimant was asked about delay after arrival in Canada. The panel wished to know why it took from 1997 until the year 2000 for her claim to be put forward. The panel is aware that delay is not determinative of a claim in itself, but can

¹⁰ Orelien v. Canada (Minister of Employment and Immigration), [1991] 15 Imm. L.R. (2nd) 1

indicate a lack of subjective fear. The adult claimant's response was that at first she didn't want anyone to know what had happened to her, but then she began making inquiries. She testified that she went to four different counsellors to help decide what would be the best grounds upon which to apply. The adult claimant's reply is unsatisfactory, and supports the panel's finding that her story is not truthful, containing both exaggeration and fictitious elements.

5. The minor claimant's claim is based on his relationship to his mother. The claimant testified that she did not want him to experience seeing domestic abuse. It was noted that the minor claimant had come to Canada for a visit in 1999 and returned to Grenada to live with a relative between September 1999 and July 2000. The adult claimant testified that the relative could no longer look after him and so he had returned to Canada. No evidence of an independent well-founded fear of persecution for the minor claimant was offered to the panel.
6. The credibility concerns above affect the central core of the claim. The adult claimant may well have had a troubled youth, and may have been involved with an older man in the late 1980s and early 1990s. Nevertheless, those events occurred almost a decade ago, and she has had a child by another man. Since that time, the story of her claim is both implausible and contradictory. As outlined above the central aspects of alleged harassment and rape do not meet the tests of reasonableness or probability. The panel finds that the adult claimant is not a Convention refugee. As the minor claimant bases his claim on that of the adult claimant, it too must fail.

CONCLUSION

The panel finds that there is not a reasonable chance¹¹ that the claimants would face persecution for a Convention reason were they to return to Grenada today. The Refugee Division finds that XXXXXXXXXXXXXXXXXXXX and XXXXXXXXXXXXXXXXXXXX (a.k.a. XXXXXXXXXXXXXXXXXXXX) are not Convention refugees as defined in subsection 2(1) of the Immigration Act.¹²

"George H. Cram"
George H. Cram

Concurred in by:

"Samuel Berman"
Samuel Berman

DATED at Toronto this 5th day of November, 2001.

KEYWORDS - REFUGEE DIVISION – WOMEN REFUGEES – GENDER - PARTICULAR SOCIAL GROUP - DOMESTIC VIOLENCE - GENDER-RELATED PERSECUTION – CREDIBILITY - DELAY - FEMALE - NEGATIVE - GRENADA

¹¹ Adjei v. Canada (Minister of Employment and Immigration), [1989] 2 F.C. 680 (C.A.) at 683

¹² As enacted by R.S.C. 1985 (4th Supp.), c.28, s.1