



Refugee Protection Division

Section de la protection des réfugiés

RPD File No. / N° de dossier de la SPR : MB7-21599

Client ID No. / N° ID client : XXXX

Private Proceeding / Huis clos

Reasons and Decision – Motifs et décision

Claimant(s)

Demandeur(e)s d'asile

XXXX XXXX XXXX XXXX

Date(s) of hearing

Date(s) de l'audience

August 24, 2018

Place of hearing

Lieu de l'audience

Montréal, Quebec

**Date of decision
and reasons**

**Date de la décision
et des motifs**

September 13, 2018

Panel

Tribunal

Donna Ramacieri

Counsel for the claimant(s)

**Conseil(s) du (de la/des)
demandeur(e)s d'asile**

Jacques Despatis

Designated representative

Représentant(e) désigné(e)

N/A

Counsel for the Minister

Conseil du (de la) ministre

N/A

REASONS FOR DECISION

[1] XXXX XXXX XXXX XXXX, a citizen of Haiti, is claiming refugee protection under section 96 and subsection 97(1) of the *Immigration and Refugee Protection Act* (IRPA).

DETERMINATION

[2] The panel determines that the claimant did not establish that there is a serious possibility of persecution on a Convention ground or that, on a balance of probabilities, the claimant would be personally subjected to a danger of torture, to a risk to her life or to a risk of cruel and unusual treatment or punishment if she had to return to her country.

SUMMARY OF ALLEGATIONS

[3] The main allegations in support of the refugee protection claim are as follows:

[4] The claimant's stepfather was a military attaché in the Duvalier government.

[5] On July XXXX, 1991, her mother died. The claimant went to live with her grandmother in XXXX, and then with her aunt in Port-au-Prince.

[6] In 1997, her stepfather disappeared and was rumoured to be dead.

[7] After the earthquake, the claimant went to live in XXXX XXXX XXXX, with financial help from her sisters.

[8] She worked full-time for a publishing company and part-time selling used clothing at the Tabarre market in Port-au-Prince. Criminals regularly came to demand money from her business.

[9] Since 2009, she has lived alone with her daughter.

[10] On December 29, 2015, around 6:45 a.m., when the claimant was leaving her home to go to work, two men in hoods driving a motorbike pointed a gun at her. They stole her purse. They told her not to file a complaint, which she did.

[11] The claimant moved to XXXX XXXX, a neighbourhood in Port-au-Prince.

[12] In July 2017, five men in hoods entered her home. She was beaten. They threatened her with a gun and demanded money from her. One of them wanted to rape her, but another one told him to forget it.

[13] The following day, the claimant went to her uncle's home in XXXX.

[14] On August XXXX, 2017, she returned to Port-au-Prince to file a complaint.

[15] Her employer at the publishing company offered for her to stay for free in one of his apartments.

[16] Since she had a visa for the United States, the claimant decided to leave Haiti on August XXXX, 2017. She arrived in Canada on September 2, 2017, with the intention of claiming refugee protection.

IDENTITY

[17] The claimant's identity was established to the panel's satisfaction through a copy of her passport filed into evidence.¹

ANALYSIS

[18] On August 31, 2018, the claimant's lawyer sent the panel additional submissions, which it read.

[19] The panel considered *Guideline 4: Women Refugee Claimants Fearing Gender-Related Persecution*.²

[20] Given the evidence on the record and paragraph 97(1)(a) of the IRPA, the latter does not apply. The panel will therefore analyze the refugee protection claim under section 96 and subsection 97(1)(b) of the IRPA only.

¹ Document 2 – Information package provided by the Canada Border Services Agency or Immigration, Refugees and Citizenship Canada.

² Chairperson's *Guideline 4: Women Refugee Claimants Fearing Gender-Related Persecution*, IRB, Ottawa, November 13, 1996.

[21] The claimant was credible with respect to her allegations that she was robbed in 2015, that she was the victim of a break and enter in July 2017, and that she had to give money to criminals when she had her part-time business.

[22] However, the panel cannot allow the refugee protection claim for the following reasons.

[23] At the hearing, the claimant stated that she fears returning to Haiti because she is a single woman. When asked why she did not apply for asylum in the United States during her trips in 2013, 2016 and May 2017 for vacation, given that she has been living alone with her daughter since 2009, she testified that it was because she had no one in the United States and her daughter was in Haiti.

[24] The panel finds that the claimant's behaviour is inconsistent with her allegation that she fears returning to Haiti because she is a single woman. Moreover, she has sisters in Canada who helped her financially in Haiti, including one who claimed refugee protection several years ago and, in the panel's opinion, was in a position to help her come to Canada during her trips to the United States.

[25] But there is more.

[26] The claimant testified she was afraid to arrive alone at the airport in Port-au-Prince. However, when she was asked about her returns to Haiti after her trips to the United States, she testified that each time she returned from the United States she had arranged for a colleague and friend, Ms. XXXX, to come pick her up at the airport. She was asked whether someone could pick her up at the airport if she had to return to Haiti, and she answered yes, by making arrangements in advance. The panel is of the opinion that the claimant has the means to make sure that she is not alone when she arrives at the airport in Port-au-Prince.

[27] The claimant also has family that appears to be very involved in her life. Her sisters provided her with financial help. She was able to move in with her family in XXXX in 1991, after her stepfather's disappearance, and was later taken care of after the break and enter at her home in 2017.

[28] Her employer even offered her an apartment in Port-au-Prince for a period of time before she left for Canada. Ms. XXXX has looked after her daughter each time the claimant traveled to the United States. Her daughter is currently living with Ms. XXXX.

[29] The panel concludes that even though the claimant lives alone with her daughter, she has a strong family and social network looking out for her.

[30] The claimant also stated that she believed that the criminals who robbed her in 2015 were the same criminals who demanded money from her at the market. She did not know the criminals who robbed her. The panel is of the opinion that the claimant is speculating.

[31] The panel is of the opinion that being the victim of a random crime in 2015 and in 2017 is not sufficient to establish, on a balance of probabilities, that the claimant would be personally subjected to a risk to her life or to a risk of cruel and unusual treatment or punishment under paragraph 97(1)(b) of the IRPA if she were to return to her country.

[32] The claimant's lawyer argues that, if she were to return to Haiti, she would be perceived to have money after having lived in Canada. The Federal Court previously ruled on this type of argument in *Prophète* and concluded that all Haitians face the same risk.³

³ *Prophète, Ralph v. M.C.I.* (F.C., IMM-3077-07), Tremblay-Lamer, March 12, 2008, 2008 FC 331.

CONCLUSION

[33] For these reasons, the panel determines that the claimant is not a “Convention refugee” under section 96 of the IRPA or a “person in need of protection” within the meaning of subsection 97(1) of the IRPA.

[34] Accordingly, the panel rejects the refugee protection claim of **XXXX XXXX XXXX XXXX**.

Donna Ramacieri

Donna Ramacieri

September 13, 2018

Date

IRB translation

Original language: English