Federal Court  Cour fédérale

Date: 20211001

Docket: IMM-1015-21

Citation: 2021 FC 1021

[ENGLISH TRANSLATION]

Ottawa, Ontario, October 1, 2021

PRESENT: The Honourable Madam Justice Roussel

BETWEEN:

BRUNO CHAVEZ PEREZ
LAURA FLORES MORENO
JOEL FLORES MORENO
MIRANDA CHAVEZ FLORES

Applicants

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Background

[1] The applicants, Bruno Chavez Perez, his spouse, Laura Flores Moreno, and their two minor children, are seeking judicial review of a decision rendered on January 28, 2021, by the

Refugee Appeal Division [RAD] that confirmed the rejection of their claims for refugee protection on the grounds that an internal flight alternative [IFA] was available elsewhere in their home country.

[2] The applicants are citizens of Mexico. They fear municipal police officers who targeted the male applicant and subjected him to extortion. Specifically, the male applicant alleges that he was arrested by masked police officers as he was leaving a restaurant on March 9, 2018. They forced him into a car, beat him and threatened him. They drove him to his home. When they arrived, the police officers entered with the male applicant and took a number of valuable items. The following day, the male applicant filed a complaint against the police officers but then received threats by telephone. The police officers went to the male applicant's home approximately every two weeks from March to May, extorting money, a video game console and a laptop computer. The applicants then left Mexico and came to Canada as tourists on August 8, 2018. In January 2019, they made their claims for refugee protection.

[3] On December 31, 2019, the Refugee Protection Division [RPD] rejected the claims for refugee protection, concluding that safe and reasonable IFAs were available to the applicants in two different locations in Mexico. The RPD found that the applicants were credible but had failed to demonstrate, on a balance of probabilities, that the agents of harm would have an interest in pursuing them and going after them in the proposed IFAs.

[4] The applicants appealed this decision to the RAD. They argued that the RPD's analysis of their fear was overly superficial, describing it as a fear of being subjected to extortion by

police officers. They stated that their fear also stemmed from the threats they received from those police officers after filing a complaint against them. The applicants pointed out to the RAD that the police officers could locate them anywhere in Mexico because they had access to a databank containing security information on all the inhabitants of Mexico. The applicants also alleged that the RPD had incorrectly assessed the motivation of the agents of harm.

[5] Like the RPD, the RAD concluded that the applicants had failed to establish the existence of a serious possibility that the police officers of the municipality in which they resided would have the interest or motivation to locate them in the two locations identified as IFAs. The RAD acknowledged that the identity of the agent of harm was an important consideration in assessing whether the IFA was appropriate. It acknowledged that it might truly be easier for municipal police officers to locate the applicants elsewhere in Mexico. However, the RAD was of the view that it was not sufficient to establish that the agents of harm could locate them. It also had to be demonstrated that they would be motivated to do so, which was not done in this case. The RAD then pointed out that the applicants did not challenge the reasonableness of the proposed IFAs. It therefore confirmed the RPD's decision and dismissed the applicants' appeal.

[6] The applicants submit that the RAD's decision is unreasonable. In particular, they allege that the RAD erred in analyzing the motivation of the agents of harm and that it focused mainly on the distance between their hometown and the proposed IFAs. Contrary to what they allege in their memorandum, the applicants conceded at the hearing that the RAD reasonably considered the complaint that was filed and the threats that were then made against the male applicant. Moreover, they did not raise any arguments regarding the second prong of the IFA test

(*Rasaratnam v Canada (Minister of Employment and Immigration) (CA)*, [1992] 1 FC 706 at 709–711 (QL); *Thirunavukkarasu v Canada (Minister of Employment and Immigration) (CA)*, [1994] 1 FC 589).

II. Analysis

[7] The parties agree that the applicable standard of review is reasonableness. The Court agrees.

[8] Where the reasonableness standard applies, this Court must develop an understanding of the decision maker's reasoning process in order to determine whether the decision as a whole is reasonable. It must ask whether the decision bears the "hallmarks of reasonableness — justification, transparency and intelligibility — and whether it is justified in relation to the relevant factual and legal constraints that bear on the decision" (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 99 [*Vavilov*]). Moreover, the "burden is on the party challenging the decision to show that it is unreasonable" (*Vavilov* at para 100).

[9] Contrary to the applicants' argument, the RAD did not focus solely on the distance between their hometown and the proposed IFAs in concluding that the agents of harm would not have the interest or motivation to locate them in the proposed IFAs. The RAD also took the following into account: (1) three years had elapsed since the alleged events; (2) the applicants successfully evaded three extortion attempts in June and July 2018 simply by not answering the door when the police officers came to their home; and (3) after the applicants left, the male

applicant's parents moved into their home, and the police never bothered them, never tried to subject them to extortion, and never inquired about the whereabouts of the applicants.

[10] The applicants submit that it was unreasonable for the RAD to take into account the fact that the male applicant's parents were never bothered by the police officers. The Court disagrees. The absence of evidence that the agents of harm tried to locate the applicants is an element that can reasonably support a finding of a lack of ongoing interest in pursuing them and therefore a finding of an IFA (*Leon v Canada (Citizenship and Immigration)*, 2020 FC 428 at paras 16, 18; *Rodriguez Llanes v Canada (Citizenship and Immigration)*, 2013 FC 492 at para 10).

[11] In this case, the applicants did not satisfy the Court that it was unreasonable for the RAD to rely on those elements to determine that the police would not have the interest or motivation to locate them in the proposed IFAs.

[12] Moreover, the applicants rely on objective documentary evidence from the National Documentation Package on Mexico in arguing that personal revenge may motivate the agents of harm to search for them outside their region. However, it is not sufficient for a refugee protection claimant to merely refer to general evidence about the conditions in the claimant's home country as justification for receiving the protection sought (*Del Real v Canada (Citizenship and Immigration)*, 2008 FC 140 at para 25). In this case, the applicants had to establish a nexus between their personal situation and the documentary evidence on which they were relying, which they failed to do. The RAD could reasonably conclude that the police officers in question were not motivated by a desire for revenge because they made no effort to locate the applicants

after they left Mexico and, when they arrived at the applicants' home and no one answered the door, they turned around and left.

[13] It is important to remember that the RAD's IFA findings are essentially factual and are based on its assessment of all the evidence, including objective documentary evidence. They fall within its area of expertise and are owed a high degree of deference by this Court. In light of all the evidence, the RAD could reasonably conclude that the applicants had failed to demonstrate, on a balance of probabilities, that the agents of harm had an interest in locating them in places other than their city of residence and that they would be at risk in the cities proposed as IFAs. It is not the role of this Court to reassess and weigh the evidence in order to reach a conclusion that would be favourable to the applicants. Its role is to determine whether the decision bears the hallmarks of a reasonable decision (*Vavilov* at paras 99, 125; *Canada (Citizenship and Immigration) v Khosa*, 2009 SCC 12 at para 59). The Court finds that it does.

[14] For these reasons, the application for judicial review is dismissed. No question of general importance was submitted for certification, and the Court is of the opinion that this case does not raise any.

JUDGMENT in IMM-1015-21

THIS COURT'S ORDER is as follows:

1. The application for judicial review is dismissed; and

2. No question of general importance is certified.

"Sylvie E. Roussel"
Judge

Certified true translation
Johanna Kratz

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-1015-21
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APPEARANCES:

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