

Federal Court



Cour fédérale

**Date: 20240409**

**Docket: IMM-6731-22**

**Citation: 2024 FC 561**

**Ottawa, Ontario, April 9, 2024**

**PRESENT: Madam Justice Sadrehashemi**

**BETWEEN:**

**IVAN ALEJANDRO MANRIQUEZ  
RAMIREZ  
KARLA MARISOL DELGADO SANCHEZ  
MARIAN ALEJANDRA MANRIQUEZ DELGADO**

**Applicants**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

[1] The Applicants are a married couple and their minor daughter. The Applicants made refugee claims in Canada because of their fear of a cartel in Mexico. The Refugee Protection Division [RPD] refused their claim, finding that there was an internal flight alternative [IFA] available where there was not a serious possibility of the Applicants being persecuted (*Rasaratnam v Canada (Minister of Employment and Immigration)*, 1991 CanLII 13517 (FCA)).

The Applicants appealed this refusal to the Refugee Appeal Division [RAD]. The RAD dismissed the appeal, confirming the Applicants had an IFA and therefore were not in need of protection.

[2] The Applicants are challenging the RAD's refusal on judicial review. The sole issue relates to the RAD's finding that it had not been sufficiently established that the cartel remained motivated to pursue the Applicants in the proposed IFA. Both parties agree, as do I, that I ought to review this determination on the merits on the basis of a reasonableness standard (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 25).

[3] The Applicants make two arguments: 1) the RAD ignored evidence that demonstrated the cartel's links with the police authorities and 2) the RAD erred in not following the jurisprudence of this Court that has found that an absence of contact does not necessarily establish that the persecutor has lost their motivation to pursue an applicant.

[4] I am dismissing this judicial review because I find that the Applicants have not shown a sufficiently serious shortcoming in either the RAD's consideration of the evidence or the relevant jurisprudence.

[5] On the first issue, the Applicants have not explained how the evidence linking the particular cartel to the police authorities would be relevant to the RAD's determination on the cartel's motivation. It was not suggested that the police themselves were interested in the Applicants, but rather that the cartel could use the resources of the police to track the Applicants.

The RAD, like the RPD, accepted that the cartel was powerful and found that the cartel had the means necessary to find the Applicants. The RAD's determinative finding was the cartel lacked the motivation to locate the Applicants in the proposed IFA. In the circumstances of this case, it is not clear how the cartel's general connections with the police would be relevant to the issue of motivation.

[6] With respect to the second issue, the Applicants cite a number of cases of this Court that have found a lack of motivation finding to be unreasonable where it was based on an absence of contact by the agent of persecution (*Rivera Benavides v Canada (Citizenship and Immigration)*, 2020 FC 810 at para 75; *Losada Conde v Canada (Citizenship and Immigration)*, 2020 FC 626 at paras 91–93; *Monsalve v Canada (Citizenship and Immigration)*, 2022 FC 4 at para 17; *Campos v Canada (Citizenship and Immigration)*, 2022 FC 1641 at paras 70–71). The Respondent also cites a number of cases that have found the RAD's lack of motivation finding to be reasonable after years of no contact by the agent of persecution (*Leon v Canada (Citizenship and Immigration)*, 2020 FC 428 at paras 16, 18, 23; *Torres Zamora v Canada (Citizenship and Immigration)*, 2022 FC 1071 at para 14).

[7] Ultimately, these are fact-specific decisions that depend on how the RAD considered a number of factors including, among others: the reason the claimants were initially targeted, the steps the agents of persecution have taken, the length of time that has passed without contact, and the relationship the agents of persecution have to the applicants. There is no magic formula to making this determination; an absence of evidence of contact for X number of years does not necessarily establish a lack of motivation (*Rendon Segovia v Canada (Citizenship and*

*Immigration*), 2023 FC 868 at para 23). These are context-specific evaluations that depend on the facts of the claim and the reasons given by the decision-maker.

[8] In this case, I am satisfied that the RAD considered the nature of the threats and the agent of persecution and, based on the evidence before it, reasonably found and explained their reasons for finding the Applicants had not established that the cartel remained interested in finding them in the proposed IFA. The male adult Applicant paid extortion fees to the cartel in question for approximately two years, from May 2015 to May 2017. The cartel then told him that they wanted to store or sell drugs at his place of business. It was at that point that the Applicants decided to flee, and they left the country the following month. The RAD noted that since that time, in an approximately five-year period, there is no evidence that the cartel had any continuing contact with the Applicants or any of their nine immediate family members who live in the same area. Based on this evidence, the RAD explained that the Applicants had not established that the cartel remained interested in pursuing them in the proposed IFA. I see no basis to interfere with this determination.

[9] Neither party raised a question for certification and I agree none arises.

**JUDGMENT in IMM-6731-22**

**THIS COURT'S JUDGMENT is that:**

1. The application for judicial review is dismissed; and
2. No serious question of general importance is certified.

"Lobat Sadrehashemi"

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Judge

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** IMM-6731-22

**STYLE OF CAUSE:** IVAN ALEJANDRO MANRIQUEZ RAMIREZ,  
KARLA MARISOL DELGADO SANCHEZ, AND  
MARIAN ALEJANDRA MANRIQUEZ DELGADO v  
THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION

**PLACE OF HEARING:** TORONTO, ONTARIO

**DATE OF HEARING:** NOVEMBER 29, 2023

**JUDGMENT AND REASONS:** SADREHASHEMI J.

**DATED:** APRIL 9, 2024

**APPEARANCES:**

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