Federal Court  Cour fédérale

**Date: 20250113**

**Docket: IMM-4855-23**

**Citation: 2025 FC 25**

**Ottawa, Ontario, January 13, 2025**

**PRESENT: Mr. Justice Norris**

**BETWEEN:**

**RIZWAN**
**AYSHA RIZWAN**
**SAIMA RIZWAN**

**Applicants**

**and**

**THE MINISTER OF CITIZENSHIP AND IMMIGRATION**

**Respondent**

## JUDGMENT AND REASONS

[1] Rizwan, the principal applicant, his spouse Saima Rizwan, and their daughter Aysha Rizwan, are citizens of Pakistan. They sought refugee protection in Canada in May 2019 on the basis of the principal applicant's fear of harm at the hands of Ghulab Khan and the Jamaat-ud-Dawa (the "JuD"), a militant Islamist group. The principal applicant claimed that in February 2019 he had refused to allow Khan (who was associated with the JuD) to use his prize

bond business in Lahore, Pakistan, for money laundering and had reported the matter to the police the following month, angering Khan and his associates.

[2] In a decision dated October 17, 2022, the Refugee Protection Division (RPD) of the Immigration and Refugee Board of Canada (IRB) rejected the applicants' claims, primarily because it found that the applicants have a viable internal flight alternative (IFA). This decision was a redetermination of the claims by the RPD after the Refugee Appeal Division (RAD) of the IRB had allowed the applicants' appeal of an earlier RPD decision.

[3] On March 27, 2023, the RAD rejected the applicants' appeal of the RPD's redetermination, finding that the RPD was correct in concluding that the applicants have a viable IFA.

[4] The applicants now seek judicial review of the RAD's decision under subsection 72(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 (*IRPA*). They contend that the IFA finding is unreasonable. As I will explain, I do not agree. This application for judicial review must, therefore, be dismissed.

[5] The parties agree, as do I, that the RAD's decision should be reviewed on a reasonableness standard. Reasonableness review "is an approach meant to ensure that courts intervene in administrative matters only where it is truly necessary to do so in order to safeguard the legality, rationality and fairness of the administrative process" (*Canada (Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 12). While it "finds its starting point in the

principle of judicial restraint and demonstrates a respect for the distinct role of administrative decision makers," reasonableness review is nevertheless "a robust form of review" (*Vavilov*, at para 12).

[6] A reasonable decision "is one that is based on an internally coherent and rational chain of analysis and that is justified in relation to the facts and law that constrain the decision maker" (*Vavilov*, at para 85). A decision that displays these qualities is entitled to deference from a reviewing court (*ibid*.). When applying the reasonableness standard, it is not the role of the reviewing court to reweigh or reassess the evidence considered by the decision maker or to interfere with factual findings unless there are exceptional circumstances (*Vavilov*, at para 125). To set aside a decision on the basis that it is unreasonable, the reviewing court must be satisfied that "there are sufficiently serious shortcomings in the decision such that it cannot be said to exhibit the requisite degree of justification, intelligibility and transparency" (*Vavilov*, at para 100).

[7] The determinative issue for the RAD was the availability of a viable IFA in a specific city in Pakistan other than Lahore, the city where the material events had taken place. (There is no need to name the IFA location identified by the RAD.)

[8] Briefly, an IFA is a place in their country of nationality where a party seeking protection would not be at risk (in the relevant sense and on the applicable standard, depending on whether the claim is made under section 96 or 97 of the *IRPA*) and to which it would not be unreasonable for them to relocate. When there is a viable IFA, a claimant is not entitled to protection from

another country. To counter the proposition that they have a viable IFA, a party seeking protection has the burden of showing either that they would be at risk in the proposed IFA (in the relevant sense and on the applicable standard) or, even if they would not be at risk in the proposed IFA, that it would be unreasonable in all the circumstances for them to relocate there. For the IFA test generally, see *Rasaratnam v Canada (Minister of Employment and Immigration)*, 1991 CanLII 13517 (FCA), [1992] 1 FC 706; *Thirunavukkarasu v Canada (Minister of Employment and Immigration)*, 1993 CanLII 3011 (FCA), [1994] 1 FC 589 (CA); and *Ranganathan v Canada (Minister of Citizenship and Immigration)*, 2000 CanLII 16789 (FCA), [2001] 2 FC 164 (CA).

[9] In rejecting the applicants' claims, the RPD had drawn a negative inference concerning the credibility of the applicants' narrative because the events giving rise to their fear were said to have occurred shortly after the applicants happened to have obtained travel visas for the United States. Nevertheless, the determinative consideration for the RPD was the availability of a viable IFA. The applicants challenged both aspects of the RPD's decision in their appeal to the RAD but the RAD did not find it necessary to address the applicants' credibility because the availability of an IFA would be determinative. Thus, in assessing that issue, the RAD accepted that the applicants' allegations were credible.

[10] In this application for judicial review, the applicants challenge the RAD's IFA determination in several respects but their submissions do not demonstrate anything more than that they disagree with the RAD's findings. In effect, they are asking me to reweigh the

evidence and reach a different conclusion than the RAD did. As stated above, this is not the proper role of a court conducting judicial review on a reasonableness standard.

[11] The RAD provided comprehensive reasons addressing both branches of the IFA test. It explained that the applicants had not established that they faced a risk under either section 96 or 97 of the *IRPA* in the IFA location because they had not established that the agents of persecution had a continuing motivation to pursue the principal applicant and, even if the agents of persecution did have this motivation, they lacked the means to locate the principal applicant in the IFA. These findings were reasonably open to the RAD on the evidence before it.

[12] The applicants submit that it was unreasonable for the RAD to reach a conclusion concerning the capacities of the JuD to locate individuals that was contrary to the findings of two other RAD panels. I do not agree. In the present case, the RAD provided transparent and intelligible reasons explaining why it found that the other two decisions were not of assistance. The applicants have not identified any basis for interfering with that conclusion. As well, even if the applicants are correct that the RAD should have referred to the most recent National Documentation Package (NDP) for Pakistan, they have not established that the RAD's reliance on an earlier version of the NDP made any material difference to the result.

[13] The RAD also gave detailed reasons explaining why it concluded that it would not be unreasonable, in all the circumstances, for the applicants to relocate to the IFA. The applicants challenge the RAD's finding that the principal applicant would be able to find employment in the IFA but they have not established that this finding is unreasonable. The RAD's analysis of this

issue is grounded in the evidence and was responsive to the submissions on appeal. It is entitled to deference on review.

[14] In sum, while the applicants obviously disagree with the RAD's IFA determination, they have not established that it is unreasonable. As a result, this application for judicial review must be dismissed.

[15] The parties did not suggest any serious questions of general importance for certification under paragraph 74(d) of the *IRPA*. I agree that no question arises.

**JUDGMENT IN IMM-4855-23**

**THIS COURT'S JUDGMENT is that**

1. The application for judicial review is dismissed.

2. No question of general importance is stated.

"John Norris"
Judge

**FEDERAL COURT**

**SOLICITORS OF RECORD**

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| **DOCKET:** | IMM-4855-23 |
| **STYLE OF CAUSE:** | RIZWAN ET AL v THE MINISTER OF CITIZENSHIP AND IMMIGRATION |
| **PLACE OF HEARING:** | TORONTO, ONTARIO |
| **DATE OF HEARING:** | JULY 15, 2024 |
| **JUDGMENT AND REASONS:** | NORRIS J. |
| **DATED:** | JANUARY 13, 2025 |

**APPEARANCES:**

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|---|---|
| Richard Wazana | FOR THE APPLICANTS |
| Nicole John | FOR THE RESPONDENT |

**SOLICITORS OF RECORD:**

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|---|---|
| WAZANALAW<br>Toronto, Ontario | FOR THE APPLICANTS |
| Attorney General of Canada<br>Toronto, Ontario | FOR THE RESPONDENT |