

Federal Court



Cour fédérale

Date: 20250124

Docket: IMM-1733-24

Citation: 2025 FC 151

Toronto, Ontario, January 24, 2025

PRESENT: The Honourable Justice Battista

BETWEEN:

**LUIS ENRIQUE RUBIO GUILLEN
ELIZABETH STEPHANIA RUBIO MORALES
EMILY XIMENA RUBIO RUBIO
ANDRES EMILIANO RUBIO RUBIO**

Applicants

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS
(Delivered orally from the Bench on January 23, 2025.
Edited for grammar, syntax, and citations.)

[1] The Applicants seek judicial review of a decision made by the Refugee Appeal Division (RAD) dismissing the appeal of the negative decision made on their refugee claims. The claims were rejected on the basis that the Applicants had an Internal Flight Alternative (IFA) in Merida, Mexico. While there are two components in the IFA test, the Applicants challenge only the determination that they do not have a well-founded fear of persecution in Merida.

[2] The IFA determination was based on the finding that the Jalisco New Generation Cartel (CJNG), the Applicants' feared agent of persecution, was not motivated to find them in Merida. The RAD found that the Refugee Protection Division (RPD) was correct to infer CJNG's lack of motivation due to the absence of continued contact with the Applicants' family members in Mexico.

[3] First, the Applicants challenge the RAD's reliance on factually distinguishable jurisprudence. Second, the Applicants state that the RAD breached natural justice by not dealing with their submission that they were at risk due to their profiles.

[4] The RAD relied upon Federal Court decisions for the principle that "where there is no evidence of efforts made by an agent of harm to locate a claimant or contact their family, it is reasonable to infer that they do not have an ongoing interest and are not motivated to pursue the claimants in a proposed IFA."

[5] The RAD reasonably relied upon this principle from this Court's jurisprudence and evaluated the salient evidence to determine that the CJNG lacked motivation to pursue the Applicants since their departure from Mexico (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*] at para 99). The RAD did not merely rely upon the factual similarity between the cited cases and the Applicants' circumstances.

[6] Second, while it is true that the RAD did not deal with the Applicants' profiles as a basis for fearing the CJNG, this issue relates to the reasonableness of the decision rather than the standards of procedural fairness because it is an issue of responsiveness (*Vavilov* at paras 127–128).

[7] For the RAD, the lack of evidence of the CJNG's motivation since the Applicants' departure from Mexico was determinative; this was regardless of the Applicants' profile that they suggested as a motivating factor for the CJNG. It is reasonable for the RAD to have not dealt with this issue given its finding that the CJNG was not motivated to locate the Applicants in the proposed IFA.

[8] For these reasons, the RAD's decision is reasonable and does not raise an issue of procedural fairness.

JUDGMENT in IMM-1733-24

THIS COURT’S JUDGMENT is that:

1. The application for judicial review is dismissed.
2. There is no order related to costs and no question for certification.

“Michael Battista”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-1733-24

STYLE OF CAUSE: RUBIO GUILLEN ET AL.
v THE MINISTER OF CITIZENSHIP AND
IMMIGRATION

PLACE OF HEARING: HEARD BY VIDEOCONFERENCE

DATE OF HEARING: JANUARY 23, 2025

JUDGMENT AND REASONS: BATTISTA J.

DATED: JANUARY 24, 2025

APPEARANCES:

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