

Federal Court



Cour fédérale

**Date: 20250206**

**Docket: IMM-11977-23**

**Citation: 2025 FC 240**

**Toronto, Ontario, February 6, 2025**

**PRESENT: Madam Justice Go**

**BETWEEN:**

**Hector Hugo Sanchez Rojas**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION CANADA**

**Respondent**

**JUDGMENT AND REASONS**

**I. Overview**

[1] Hector Hugo Sanchez Rojas [Applicant], a citizen of Mexico, made a refugee claim alleging persecution from the Los Zetas Cartel and former members of the Los Zetas Cartel who have defected to the CJNG [the Cartel]. The Cartel extorted him when he ran a successful plastics business in Veracruz. The Applicant also alleges persecution from the Veracruz police for campaigning against his brother's wrongful death in police custody.

[2] The Refugee Protection Division [RPD] refused the Applicant's refugee claim. On appeal, the Refugee Appeal Decision [RAD] ordered a new hearing. The RPD once again refused the Applicant's claim. The Applicant appealed the RPD's second refusal.

[3] In a decision dated August 29, 2023, the RAD affirmed the RPD's second refusal [Decision]. The determinative issue was the existence of a viable internal flight alternative [IFA].

[4] The Applicant seeks judicial review of the Decision, submitting the RAD erred in its assessment of his testimony and documentary evidence. For the reasons below, I find the Decision reasonable and I dismiss the application.

## II. Issues and Standard of Review

[5] The Applicant raises the following issues to challenge the RAD's finding that the Applicant has a viable IFA.

- a. Did the RAD err by demanding corroboration of the Applicant's testimony?
- b. Did the RAD err in its assessment of the documentary evidence when it found that the agents of persecution do not have the motivation to harm the Applicant in the proposed IFA?
- c. Did the RAD err by insisting that the Applicant's family must be tortured or pressured before concluding that the agents of persecution are still interested in the Applicant?
- d. Did the RAD err by finding that the proposed IFA is safe and reasonable?

[6] The standard of review in this case is reasonableness, per *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [Vavilov].

[7] Reasonableness is a deferential, but robust, standard of review: *Vavilov* at paras 12-13. The reviewing court must determine whether the decision under review, considering both its rationale and outcome, is transparent, intelligible, and justified: *Vavilov* at para 15. 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.

### III. Analysis

[8] The two-pronged test for assessing an IFA was set out in *Rasaratnam v Canada (Minister of Employment and Immigration)*, [1992] 1 FC 706 (FCA), 140 NR 138 [Rasaratnam]. With respect to the first prong, the RAD must be satisfied, on a balance of probabilities, that there is no serious possibility of the claimant being persecuted in the part of the country to which it finds an IFA exists: *Rasaratnam* at para 6. The RAD must consider both the motivation and means of the agents of persecution. In this case, the RAD found there was a lack of motivation for the agents of persecution to go after the Applicant.

#### A. *Did the RAD err by demanding corroboration of the Applicant's testimony?*

[9] The Applicant submits the RPD erred by finding his oral testimony insufficient without providing any justification for doing so, citing *Kaya v Canada (Citizenship and Immigration)*, 2019 FC 1519 [Kaya] in support.

[10] At the hearing, Applicant's counsel clarified his submission by explaining that the RAD erred by requiring the Applicant to provide corroboration for his testimony that his mother has received threats. The RAD found the Applicant's evidence vague. The Applicant contends that this finding was unreasonable, as he gave "detailed" testimony at the RPD hearing about the threats his mother received.

[11] I find the Applicant's arguments lack merits for the following reasons.

[12] First, contrary to the Applicant's assertion, the RAD did provide justification for finding the Applicant's evidence insufficient.

[13] Specifically, with respect to the Applicant's statement about his mother having told him that people unknown to her have asked about the Applicant's whereabouts, the RAD found this evidence insufficient because there were "no details in the Record about who these individuals are, and when or how often they asked about the [Applicant]." The RAD also noted the Applicant's testimony confirming that his sister did not receive any threats, that the threats to the family regarding his brother's death stopped in 2015, and that there is no evidence of other threats to his mother. The RAD then concluded that the evidence that unknown individuals asked about the Applicant's whereabouts was too vague to support a finding that the Applicant faces a forward-looking risk of harm. The RAD's reasons are justified in light of the record before it.

[14] Second, the Applicant's assertion that he gave "detailed" evidence at the RPD hearing was not supported by the Record. According to the transcript, the RPD member asked the

Applicant whether his family members mentioned having had any visits from the cartel inquiring as to his whereabouts in Mexico. The Applicant replied: “Sometimes people we do not know – unknown people to us – would come to my mom, would approach my mom, and ask her where I was.” The RPD member continued to inquire if these individuals identified themselves, if they carried weapons, or if they were masked. The Applicant replied: “No. Just people my mom does not know.” In light of the Applicant’s testimony, I find the RAD made no error in finding the Applicant’s evidence vague.

[15] Finally, *Kaya* is distinguishable, as the deficiencies identified by Justice Fuhrer in *Kaya* are not present in the Decision.

B. *Did the RAD err in its assessment of the documentary evidence?*

[16] While finding that the Applicant was targeted for extortion in Veracruz and that his risk there was personalized, the RAD found the Applicant lacks the necessary profile or circumstances which might elevate the motivation of the agents of persecution to pursue him.

[17] The RAD referred to country conditions evidence describing some of the circumstances which would motivate cartels to track someone outside their areas of operation, such as personal feuds, a large debt or personal vendetta, refusing to join a cartel, or if an organization thinks a person has exposed them. The RAD noted common targets include failed recruits, people working for state authorities, journalists, and indigenous communities. The RAD concluded that the Applicant does not fit any of these profiles.

[18] The Applicant submits the RAD erred when it found that the agents of persecution do not have the motivation to use their resources to locate and harm the Applicant in the proposed IFA.

[19] The Applicant points to a country conditions report to argue that the proposed IFA is the subject of a brutal war involving the CJNG, and that the cartels are willing to kill people for failing to comply with their demands. The Applicant submits the RAD was selective in its assessment of documentary evidence and “turned a blind eye to critical evidence that goes to the very heart of the [Applicant’s] claim.”

[20] The Applicant cites *Ali v Canada (Employment and Immigration)*, 80 FTR 115, 1994 CarswellNat 646, *Okafor v Canada (Citizenship and Immigration)*, 2002 FCT 1108, [2002] FCJ No 1471, *Cepeda-Gutierrez v Canada (Citizenship and Immigration)*, [1999] 1 FC 52, 1998 CanLII 8667 (FC), and *Singh v Canada (Citizenship and Immigration)*, 2007 FC 1296 for the proposition that it is a reviewable error for a decision-maker to undertake a selective review of the evidence.

[21] I find Applicant’s arguments unpersuasive.

[22] I agree with the Respondent that the country conditions evidence the Applicant cites primarily addresses the Cartel’s “means,” as opposed to their “motivation” to track the Applicant. I also find that the country conditions evidence the Applicant cites support the Decision and contradict the Applicant’s own submission in describing the common targets of the cartels.

[23] Moreover, the Applicant's submission conflates the issue of "means" with "motivation" when he submits the RAD's conclusion that the Applicant does not have a profile high enough for the Cartel to spend resources on chasing him does not suggest it is "expensive or resource-intensive to track the Applicant."

[24] The Applicant may disagree with the Decision, however, he fails to demonstrate any reviewable error in the RAD's finding that the Applicant does not fit the profiles of individuals who are common targets of cartels was unreasonable.

[25] The Applicant additionally submits that the RAD raised a new issue not dealt with in the RPD decision when it found there is no evidence to establish that the Cartel viewed the Applicant as owing them a large or significant debt.

[26] As the Respondent submits, and I agree, the RAD made this finding in the context of assessing whether the Applicant has a profile to be a target for the Cartel. The finding also related to the Applicant's allegation that he was an extortion victim and therefore a source of income to the Cartel. In view of the Applicant's allegations, I find it appropriate for the RAD to consider the size of debt the Applicant owed in order to assess whether the agents of persecution would be motivated to track him down in the proposed IFA.

C. *Did the RAD err by insisting that the Applicant's family must be tortured or pressured before concluding that the agents of persecution are still interested in the Applicant?*

[27] The Applicant submits that the RAD unreasonably required him to demonstrate that his family was tortured or pressured by his agents of persecution. The Applicant maintains that, since his family are not the targets of persecution, the fact that they have not been harmed or contacted is immaterial to the Applicant's risk.

[28] I disagree.

[29] The RAD did not require the Applicant to show that his family had been pressured or threatened. Whether or not the Applicant's family received any threat was but one of several factors considered by the RAD.

[30] The RAD also noted the Applicant closed his business immediately after the demand for an increased weekly extortion payment, but the Applicant remained in his hometown for four months and was not located by the Cartel. While noting the Applicant testified that he was in hiding during that four months, the RAD noted no evidence about the Cartel mobilizing resources to locate him in the city where the Applicant's business was located. The RAD made its finding about the Applicant's family not being contacted in the context of the Applicant's argument that the Cartel operated in collusion with the police. The RAD determined if that was so, the police could have been a source of information as to the Applicant's whereabouts via his family, and yet his family was not contacted. I see no error arising from this finding.



D. *Did the RAD err by finding that the proposed IFA is safe and reasonable?*

[31] The Applicant submits that the proposed IFA is not reasonable due to the violence and tough economic situation brought about by the Cartel's stranglehold in the IFA.

[32] I reject the Applicant's submission for two reasons. First, the Applicant cites no evidence for this assertion. Second, as the Respondent points out, and I agree, the second prong of the test in *Rasaratnam* did not form the basis of any of the Applicant's grounds for appeal to the RAD. As such, the Applicant cannot raise this issue before the Court on judicial review.

#### IV. Conclusion

[33] The application for judicial review is dismissed.

[34] There is no question for certification.

**JUDGMENT in IMM-11977-23**

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

1. The application for judicial review is dismissed.
2. There is no question for certification.

"Avvy Yao-Yao Go"

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Judge

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

**DOCKET:** IMM-11977-23

**STYLE OF CAUSE:** HECTOR HUGO SANCHEZ ROJAS v THE MINISTER  
OF CITIZENSHIP AND IMMIGRATION CANADA

**PLACE OF HEARING:** HELD VIA VIDEOCONFERENCE

**DATE OF HEARING:** FEBRUARY 4, 2025

**JUDGMENT AND REASONS:** GO J.

**DATED:** FEBRUARY 6, 2025

**APPEARANCES:**

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Desmond Jung	FOR THE RESPONDENT

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