Federal Court  Cour fédérale

Date: 20250224

Docket: IMM-16549-23

Citation: 2025 FC 358

Ottawa, Ontario, February 24, 2025

PRESENT: The Honourable Mr. Justice Duchesne

BETWEEN:

LEONARDO DAVID CHAVERO RAMIREZ
TANIA MICHELLE PEREZ LUNA
ARIADNE MICHEL PEREZ LUNA
LEONARDO ABRAHAM CHAVERO PEREZ

Applicants

and

THE MINISTER OF PUBLIC SAFETY AND EMERGENCY PREPAREDNESS

Respondent

JUDGMENT AND REASONS

I. Overview

[1] This is an application for judicial review of the decision of a Canada Border Services Agency [CBSA] Inland Enforcement Officer [the Officer], dated December 21, 2023, not to defer the Applicants' removal from Canada [the Deferral Decision], pursuant to the limited

discretion afforded to enforcement officers by subsection 48(2) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [the IRPA].

[2] The Applicants argue that the Deferral Decision was unreasonable because: 1) the Officer unreasonably assessed the evidence provided in support of their deferral request; and, 2) because the Officer inadequately considered the best interests of the children [BIOC] affected by the Deferral Decision. They seek an order for the redetermination of their deferral request.

[3] For the reasons that follow, I find that the Deferral Decision was reasonable and that the Applicants have not shown that the Deferral Decision was unreasonable. This application for judicial review is therefore dismissed.

II. **The Facts**

[4] The Applicants, Leonardo David Chavero Ramirez, Tania Michelle Perez Luna, Adriadne Michel Perez Luna and Leonardo Abraham Chavero Perez are citizens of Mexico. Leonardo David Chavero Ramirez [the Principal Applicant] is 35 years old, and Tania Michelle Perez Luna is 31 years old. Ariadne and Leonardo Perez [the Minor Applicants] are 14 and 11 years old, respectively.

[5] Prior to his arrival in Canada, the Principal Applicant was employed by Paradigm en Confort S.A [Paradigma], a remodeling company specializing in air conditioner installations, located in Guadalajara, Jalisco, Mexico. He acquired information regarding Paradigma's client through his employment. That client information was sought by the Cartel Jalisco Nueva

Generacion [CJNG] with the presumed aim of identifying future targets of extortion in the Guadalajara area.

[6] The Principal Applicant alleges that he faces threats of unusual treatment or punishment and threat to life at the hands of the CJNG in Mexico should he and his family be returned there.

[7] On February 14, 2022, the Principal Applicant testified at the Applicants' refugee protection hearing at the Immigration and Refugee Board's Refugee Protection Division [the RPD]. He testified that, on December 21, 2017, he began receiving calls from CJNG members who demanded information about Paradigma's clients. He did not provide client information to the CJNG callers. He also testified that a police officer approached him in Guadalajara on January 2, 2018, and threatened that he should follow the CJNG's instructions, otherwise the CJNG "might eat him" (CJNG members have been reported to engage in cannibalism). He testified that he continued to receive such threats over the following month.

[8] The Principal Applicant came to Canada in February 2018, having visited Canada in January and February 2017 to begin the process of obtaining a work permit. He settled in Calgary with his son, returning to Mexico briefly in June 2018 and re-entering Canada with his wife and daughter that same month. The Applicants remained in Canada when the Principal Applicant's work permit was extended during the COVID-19 pandemic.

[9] The Principal Applicant has also alleged that, in 2018 and 2019, police and other unidentified individuals contacted his neighbour as well as his brother, Oliver Ramirez, to inquire about the Applicants' whereabouts.

[10] The Applicants filed a refugee claim on March 19, 2021.

A. Proceedings before the RPD, the Refugee Appeal Division, and the Federal Court

[11] On February 28, 2022, the RPD assessed the Applicants' refugee claims pursuant to sections 96 and 97 of the IRPA. The RPD found the Applicants' testimony "credible, consistent, sincere, forthright and heartfelt" and accepted their subjective fear of danger, risk to life and risk of cruel and unusual treatment or punishment by the CJNG, but nonetheless rejected their refugee claim.

[12] The determinative issue for the RPD was the existence of an internal flight alternative [IFA] in Mérida, Yucatan, Mexico. The RPD found that the CJNG could locate persons of interest who relocated from Guadalajara to Mérida, but that the Applicants' evidence that the CJNG would track them to Mérida was insufficient. The RPD reasoned that the Principal Applicant was a low-profile target, was no longer able to provide up-to-date information about Paradigma's clients because of the passage of time and his absence from Mexico, and did not adduce recent evidence of attempted contact by the CJNG. The RPD concluded that the CJNG lacked the motivation to seek out the Applicants in Mérida and to harm them there. Therefore, the RPD found that the Applicants had not established a likely danger of torture, risk to life or cruel and unusual treatment or punishment in Mérida. The RPD also found that the Applicants

did not establish that their lives or safety would be jeopardized in Mérida and that it would not be unreasonable that they relocate and seek refuge there.

[13] The Applicants appealed the RPD decision to the Refugee Appeal Division [RAD] on March 29, 2022.

[14] On July 22, 2022, the RAD upheld the RPD decision and dismissed the Applicants' appeal. The RAD admitted new objective evidence about the CJNG in Mexico but, upon an independent review of the evidentiary record, agreed with the RPD that Mérida was a viable IFA. The RAD likewise found insufficient evidence that the Applicants had a profile that would motivate the CJNG to pursue them across Mexico to Mérida. The RAD also agreed that it would not be unreasonable for the Applicants relocate to Mérida in the circumstances.

[15] On July 19, 2023, Justice McHaffie, writing for this Court, dismissed the Applicants' application for judicial review of the RAD decision: *Chavero Ramirez v Canada (Citizenship and Immigration)*, 2023 FC 984 [*Chavero Ramirez*]. Justice McHaffie was satisfied that the RAD's identification of the IFA in Mérida was reasonably open to it on the record, including the Applicants' submissions to the RAD on a new risk of harm by the CJNG in Mexico. On the matter of the CJNG's motivation, at para 21, Justice McHaffie noted "lack of evidence the CJNG had any motive of personal vengeance, that [the Principal Applicant] had knowledge that could expose CJNG's financial interests, or that he cooperated with authorities as an informant."

[16] He noted, at para 23, that "[a] refugee claimant may, as here, be entirely credible in their evidence and may subjectively fear a return yet not meet their burden to establish they would be at risk if they returned to a different part of their country." Justice McHaffie concluded that:

> [24] … [o]n my review of the evidence and the decision of the RAD, it appears that the RAD thoroughly and reasonably considered the evidence and arguments that were raised by the applicants on appeal, including the new evidence filed, described the evidence on the record fairly, and concluded based on this assessment that the applicants had not established the CJNG was motivated to track them to Mérida such that they would be in danger there. The applicants have not met their onus to show this was an unreasonable finding: *Vavilov* at para 100.

B. The Deferral Decision

[17] The Applicants were provided a direction to report for removal on December 5, 2023.

[18] On December 18, 2023, the Applicants requested that the Officer exercise the limited discretion granted by subsection 48(2) of the IRPA to temporarily defer their January 2, 2024, removal from Canada. The Applicants claimed that the Officer should not enforce their removal because they faced a new risk of death, extreme sanction and inhumane treatment that arose after the February 2022 RPD decision should they be returned to Mexico. They also requested that their removal order be deferred pending an application for permanent residence on humanitarian and compassionate grounds [H&C]. The Applicants' H&C application was not filed at the time of their deferral request but has since been filed since.

[19] The Applicants' submissions to the Officer included five letters of support from family members which generally allege that the Applicants face ongoing threats and risk of harm by the CJNG in Mexico. The Applicants also submitted seven online media articles to the Officer, which they suggest show that the CJNG had the means to track the Applicants across Mexico and would be motivated to harm them for failing to cooperate with their demands. Finally, the Applicants claimed that the Minor Applicants would lose access to first-rate medical care and schooling if removed from Canada, and that the CJNG remains a threat to their safety as well.

[20] The Officer declined the Applicants' deferral request and issued the Deferral Decision on December 21, 2023. The Officer noted that deferral is not a "long-term reprieve" and is intended to address temporary obstacles to removal. The Officer found that a yet-to-be-filed H&C application was not appropriate grounds for deferral because H&C processing time currently stands at 17 months, and that a decision on their H&C application is neither imminent nor overdue.

[21] The Officer cited Justice McHaffie's analysis and decision, at paras 12, 17 and 26 of *Chavero Ramirez*, that the RAD did not unreasonably determine that the CJNG lacked the motivation to pursue them to Mérida due to a personal vendetta or the Applicants' profile. The Officer emphasized that a deferral request was not an opportunity to appeal prior decisions but rather a limited assessment of new risks and risks not previously considered by competent decision makers should the Applicants return to Mexico. After carefully considering the Applicants' evidence, the Officer found overall that the Applicants' evidence and submissions raised "the same risk allegations" previously considered by the RPD, RAD and by this Court.

The Officer found that the Applicants' new support letters were "heartfelt and sincere" but insufficient evidence of a new risk of harm because they did not demonstrate new occurrences or events with regards to their safety in Mexico. The Officer found that Applicants' objective evidence, taken together, discussed the CJNG's tactics and illustrated imperfect country conditions, but did not provide evidence of a new personal risk that was granular, clear, convincing and non-speculative should they return to Mexico. The Officer considered and relied upon this Court's decision in *Ajilore v Canada,* 2023 FC 206 in this regard. The Officer also considered the Applicants' submissions about the best interest of the Minor Applicants, acknowledging that removal would be a "period of adjustment" but found insufficient evidence that the Minor Applicants would face exceptionally difficult circumstances if removed from Canada. The Officer considered and relied upon the Federal Court of Appeal's decision in *Ghanaseharan v Canada (Minister of Citizenship and Immigration),* 2004 FCA 261, at para 13, in this regard.

[22] The Officer concluded that the Applicants had "submitted insufficient compelling evidence" to warrant the deferral of their removal. The next day, on December 22, 2023, the Applicants filed an application for leave and judicial review of the Deferral Decision. The Applicant successfully obtained a stay of their removal pending the outcome of this judicial review.

III. **Preliminary Issue: New Evidence**

[23] The Applicants submitted the Principal Applicant's affidavit sworn on January 17, 2024, in support of their application for judicial review [the Ramirez Affidavit]. The Ramirez Affidavit

contains 11 attached exhibits marked respectively as Exhibits A through K. The Respondent does not contest the admissibility of Exhibits A to H, J, and K. Exhibits A to G are documents that pre-date the Deferral Decision and set out the procedural history leading to the Applicants' deferral request. These documents were before the decision-maker at the time of the Deferral Decision. These exhibits are admissible evidence in this proceeding. Exhibit H is a copy of the Applicants' Application for Leave and Judicial Review and is properly before the Court. Exhibits J and K are copies of a direction from this Court and a copy of the stay order made on January 1, 2024. The exhibits are not relevant to the merits of the matter before the Officer or to this application for judicial review and are but extracts from the Court file.

[24] Exhibits A to H, J and K to the Ramirez Affidavit are properly admissible evidence in this proceeding. Exhibit I, however, is inadmissible and will be disregarded.

[25] Exhibit I to the Ramirez Affidavit is a copy of the January 10, 2023, RPD decision granting the Principal Applicant's brother's, sister-in-law, and nephew's refugee claim. The RPD decision reflects that the Principal Applicant testified before the RPD, as did his brother, and that their combined evidence persuaded the panel to accept that there was no acceptable IFA for the Principal Applicant's brother in Mexico and that he and his associate claimants were persons in need of protection. The Principal Applicant seeks to adduce his brother's favourable RPD decision as evidence that the risks he described in his brother's hearing apply equally to him as they flow from his status as a former employee of Paradigma. He also seeks to have this Court consider the evidence the Principal Applicant gave before the RPD in his brother's case as evidence that should be considered in this judicial review.

[26] The Applicants frame Exhibit I as “noteworthy” and claim that it was mentioned in support letters made available to and reviewed by the Officer in connection with the Deferral Decision. In oral submissions, the Applicants also emphasized that, due to the relationship between the Principal Applicant and his brother, the related nature of their refugee claims and the fact that the Principal Applicant testified at his brother’s RPD hearing, the Officer could have sought out and considered Exhibit I as evidence corroborating the Applicants’ claims of new and unassessed risks in Mexico regardless of whether it was actually provided in support of their deferral request.

[27] The Respondent argues that this Court should not consider Exhibit I because the Applicants failed to provide it to the Officer prior to the Deferral Decision.

[28] I agree with the Respondent that Exhibit I is inadmissible in this proceeding. Exhibit I is inadmissible because it was not submitted to the decision-maker for their review and consideration in coming to the decision under review. Admitting the exhibit would contravene the general rule that this Court cannot, on judicial review, infringe on the unique fact-finding role of the administrative decision maker by considering new evidence relevant to the merits of the decision that was not before the decision-maker at the time of the decision (*Bernard v Canada (Revenue Agency)*, 2015 FCA 263 at para 17 [*Bernard*], citing *Association of Universities and Colleges of Canada v Canadian Copyright Licensing Agency (Access Copyright)*, 2012 FCA 22 at paras 17 - 20 [*Access Copyright*]. Although there are limited exceptions to this general rule, Exhibit I does not fall within any of them and the Applicants have not sought to justify the Court’s consideration of Exhibit I on any legal grounds at all.

[29] An applicant has the onus of providing the decision-making officer with evidence demonstrating that they should exercise their limited discretion to defer their removal because the removal, as scheduled, would expose the applicant to new or unassessed risk of death, extreme sanction or inhumane treatment (*Atawnah v Canada (Public Safety and Emergency Preparedness)*, 2016 FCA 144 at para 13 [*Atawnah*], citing *Baron v Canada (Minister of Public Safety and Emergency Preparedness)*, 2009 FCA 81 at para 51 [*Baron*]). There is no requirement that the decision-maker seek out or assess RPD files that are not put before them as evidence, even if RPD files might be related in nature. Each refugee claim must be settled on its own merits (*Azvar v Canada (Citizenship and Immigration)*, 2024 FC 1879 at para 8). Accepting the Applicants' argument that the Officer here should have sought out the Exhibit I decision leads to accepting that a decision-maker considering a removal deferral request has the discretion to take it upon themselves to unilaterally engage in their own investigation of matters that are not before them to find evidence that would be helpful to the applicant seeking the deferral. This argument is problematic because it condones the abandonment of an independent and impartial decision-maker in favour of an investigating decision-maker, who quite properly could be visited with bias allegations that would taint a decision made on the deferral request. It is also not contemplated by the legislation or the governing jurisprudence, and is inconsistent with the cornerstone of the common law duty of procedural fairness and is rejected (*Charkaoui v Canada (Citizenship and Immigration)*, 2007 SCC 9 at para 32). It is also quite different from the situation where an officer would rely on extrinsic evidence that was not brought forward by a party and was not known to it (*Level (litigation guardian) v. Canada (Public Safety and Emergency Preparedness)*, 2008 FC 227; *Jiminez v. Canada (Citizenship and Immigration)*, 2010 FC 1078).

IV. Issues and Standard of Review

[30] This matter raises two issues:

Did the Officer unreasonably assess the Applicants' evidence and submissions?

Did the Officer inadequately assess the best interests of the Minor Applicants?

[31] The parties submit, and I agree, that reasonableness is the standard of review applicable to the Deferral Decision (*Fedorio v Canada (Public Safety and Emergency Preparedness)*, 2025 FC 233 at paras 18-19 [*Fedorio*], citing *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*]).

[32] Reasonableness is a deferential standard of review which does not allow a reviewing court to reweigh evidence, interfere with a decision maker's factual findings or substitute the conclusion that the court would have reached in the shoes of the decision maker (*Vavilov* at paras 15, 125). A reviewing court must consider the reasonableness of the decision as a whole, considering both its outcome and the decision maker's underlying rationale (*Vavilov* at paras 15, 83). A reasonable decision is based on a rational and logical chain of analysis and is justified, transparent and intelligible in light of the factual and legal constraints bearing upon it (*Vavilov* at paras 99, 102, 105). It is the onus of the challenging party to demonstrate "sufficiently serious" shortcomings or fundamental flaws in a decision, which are more than superficial or peripheral to its merits and thereby render it unreasonable (*Vavilov* at para 100).

[33] The Applicants also submit that the adequacy of the Officer's reasons is an issue of procedural fairness reviewable on a correctness standard. They argue that the Deferral Decision

does not adequately address the complexity of the legal and factual issues raised, nor demonstrate that the Officer adequately considered and applied the relevant laws with respect to credibility.

[34] I note this Court's findings in *Banik v Canada (Citizenship and Immigration)*, 2013 FC 777 at para 18 [*Banik*], as follows:

> In *Newfoundland and Labrador Nurses' Union v Newfoundland and Labrador (Treasury Board)*, 2011 SCC 62, the Supreme Court of Canada held at paragraph 14 that the adequacy of reasons is not a stand-alone basis for quashing a decision. Rather, "the reasons must be read together with the outcome and serve the purpose of showing whether the result falls within a range of possible outcomes." Thus, any issue that may arise as to the adequacy of reasons will be considered in a context of the reasonableness of the Decision.

[35] The Applicants' have conflated reasonableness and the hallmarks of reasonableness with procedural fairness. Their argument as to the adequacy of the reasons contained in the Deferral Decision is in reality an argument that Deferral Decision is unreasonable, not that it is procedurally unfair. I therefore need not consider the Applicants' procedural fairness argument regarding the adequacy of the Officer's reasons beyond the scope of analysis suggested by *Banik*, above.

V. Analysis

A. Legal Framework

[36] Where, as here, a foreign national is subject to an enforceable removal order, subsection 48(2) of the IRPA requires that person to leave Canada "immediately" and mandates enforcement officers to execute the order "as soon as possible". In light of the strong language

chosen by Parliament for section 48(2) of the IRPA, abundant case law constrains the "very limited" and "relatively narrow" discretion of an enforcement officer to defer removal pursuant to this provision (see e.g Lewis *v Canada (Public Safety and Emergency Preparedness)*, 2017 FCA 130 at paras 54, [*Lewis*], citing *Baron* at para 51; *Shpati v Canada (Public Safety and Emergency Preparedness)*, 2011 FCA 286 at para 45 [*Shpati*]).

[37] Deferral is generally restricted to a question of "when, not if" removal will be executed (*Fedorio* at para 25, citing *Qin v Canada (Public Safety and Emergency Preparedness)*, 2023 CanLII 104915 at para 9 [*Qin*]). To this end, deferral may be granted pending "temporary, short-term exigent circumstances" such as facilitating travel arrangements, obtaining specialized, ongoing medical care, allowing a child to finish the school year, or awaiting an unresolved H&C application brought on a timely basis (*Revell v Canada (Citizenship and Immigration)*, 2019 FCA 262 at para 50; *Ledshumanan v Canada (Public Safety and Emergency Preparedness*, 2021 FC 1463 at para 21). Alternatively, deferral may be granted to applicants who provide clear evidence of "risk of death, extreme sanction or inhumane treatment" (*Lewis* at para 54 - 55, citing *Baron* at paras 49, 51). An enforcement officer may consider risks that are new in that they arose after an applicant's latest risk assessment, such as a refugee claim determination, as well as risks never assessed by a competent body (*Atawnah* at para 22, citing *Etienne v Canada (Public Safety and Emergency Preparedness)*, 2015 FC 415 at para 52). This limited exercise does not allow or oblige an enforcement officer "to conduct a preliminary or mini humanitarian and compassionate assessment or to make a pre-removal risk assessment decision" (*Qin* at para 9, citing *Shpati* at para 45).

B. The Deferral Decision did not unreasonably assess the Applicants' evidence and submissions

[38] The Applicants allege that the Officer overlooked and unreasonably assessed their support letters and submissions on country conditions, and that the Deferral Decision is unjustified in light of this evidence. Enforcement officers have a "heightened responsibility" to ensure that deferral decisions are thoroughly justified in light of the facts and the law: *Dhaliwal v Canada (Public Safety and Emergency Preparedness)*, 2020 CanLII 7806, citing *Vavilov* at para 133. Notwithstanding, for the reasons that follow, I find that the Applicants have not shown any shortcomings in the Officer's assessment of their evidence, much less sufficiently serious ones, such that the Deferral Decision lacks the requisite degree of justification, intelligibility and transparency to be considered reasonable (*Vavilov* at para 100).

[39] The support letters produced by the Applicants in support of their deferral request generally contrast an unstable and violent situation in Mexico because of the cartels to the relative safety and security of Canada. Each letter also speaks to unspecified risks, threats and danger that the Applicants may face because they are hard-working, honest people who would be returning to a Mexico where violent and disruptive cartels operate. They do this through general and vague terms. There is no granularity or particularization of any new event or threat referred to in the support letters. Several letters address the Applicants' situation with some limited additional specificity by referring very vaguely to the events of December 2017 to late February 2018 that led the Principal Applicant and the Associate Applicants to seek refuge in Canada and to events involving the Principal Applicant's brother in April and May 2018 or 2019. These

events were before and considered by the RPD (see para 25 of Exhibit B), the RAD (see para 32 of Exhibit C) and by this Court (see Exhibit E, at para 10).

[40] The Applicants argue that these support letters, taken together, suggest that agents of harm continued to seek the Applicants in Guadalajara at some point after their departure to Canada in 2018, including through the Principal Applicant's brother. Although the support letters were not before the RPD, the RAD or this Court previously, the events they refer to generally and the argument they make on the basis of those events were before and considered by the RPD, the RAD and this Court in their respective decisions involving Applicants.

[41] The Applicants claim that their reiteration of previously considered events through new support letters demonstrates an ongoing threat by the CNJG that has been unassessed to date and emphasize that it is a reviewable error to discount such corroborative evidence "without reasonable justification" (*Yousif v Canada (Citizenship and Immigration)*, 2013 FC 753 at para 52). They argue that the Officer unreasonably discounted the letters and failed to justify their finding that they not do not establish new risks to the Applicants' safety should they return to Mexico.

[42] I disagree. The Officer's analysis regarding the support letters supports the outcome of the Deferral Decision and is not unjustified in light of the overall evidentiary record, including the contents of the letters themselves. This Court has no grounds to interfere with the Officer's findings or decision in this regard.

[43] The Applicants also submitted seven articles and reports on country conditions to the Officer in support of their deferral request. These submissions address and depict conditions of violence and danger in Mexico related to the expanding operations of CJNG, including information about the CJNG's brutal practices and tactics. The Applicants allege that the country conditions evidence aligns with personalized risk factors detailed in their support letters, and that their submissions, considered globally, establish a specific threat by the CJNG should the Applicants return to Mexico. The Applicants argue that the Officer's discounting of their objective evidence indicates that evidence was overlooked and that the Officer's finding of risk is insufficient to warrant a deferral was therefore unreasonable. On this point, they cite the established principle that an administrative decision maker may err by failing to acknowledge evidence that directly contradicts their conclusion (see e.g *Cepeda-Gutierrez v Canada (Minister of Citizenship and Immigration)*, 1998 CanLII 8667 at para 17).

[44] Neither the Officer's reasoning nor their findings on the country conditions submissions provides any grounds for this Court to intervene in the Deferral Decision. The Officer did not fail to acknowledge the Applicants' submissions on risks to their safety posed by the CJNG's operations in Mexico. To the contrary, the Deferral Decision reflects that the Officer thoroughly considered the Applicants' objective evidence in both form and content. The Officer outlines their primary concern that, while the submissions illustrate a difficult situation, they are "speculative in nature" and "insufficient… to show that [the Applicants] would personally be targeted or subjected to the conditions within the reports." This finding is supported by the broader evidentiary record before the Officer, including both the country conditions submissions and the letters of support, neither of which provides a specific link between the Applicants and

any operations or brutalities described in the country conditions evidence. Overall, the Deferral Decision provides a rational, logical analytical chain in which the Officer considered the Applicants' objective evidence but was unsatisfied that it amounted to sufficient personalized risk to defer removal. The Applicants have not established that that finding was unjustified or otherwise unintelligible in light of the evidence before the Officer and given their limited discretion to defer removal under the subsection 48(2) of the IRPA (*Gasca Bermudez v Canada (Public Safety and Emergency Preparedness*, 2023 CanLII 40 at para 19).

C. The Officer did not unreasonably assess the best interests of the Minor Applicants

[45] There are also no grounds for this Court's intervention in relation to the Officer's BIOC analysis. The Federal Court of Appeal has confirmed that an enforcement officer considering a deferral request is not required or permitted to undertake a "full blown" analysis of the best interests of children affected by their decision, as such an analysis would usurp the function of H&C officers under section 25 of the IRPA. An officer may engage in a "truncated consideration" of the "short-term best interests" of affected children, including the timing of removal in relation to the school year or arrangements made for children remaining in Canada: *Lewis* at paras 59, 61, citing *Munar v Canada (Minister of Citizenship and Immigration)*, 2005 FC 1180 at paras 36 – 40.

[46] Given the legal constraints bearing upon the Officer that considerably narrow the scope of a BIOC analysis in the context of a deferral decision, I cannot agree with the Applicants that the Officer was obliged to undertake a "comprehensive assessment" of the best interests of the Minor Applicants considering their establishment in Canada. I also do not find the Officer's

BIOC analysis to be unreasonable or inadequate. The Officer addresses the Applicants' submissions to the Officer, including their specific concerns about disrupting the Minor Applicants' "access to first-rate medical care, schooling and routine", by noting that the Deferral Decision cannot offer the Minor Applicants an "indefinite reprieve." It was open to the Officer to find such matters not in the nature of "short-term" best interests available for consideration in a "truncated" BIOC analysis (*Lewis* at para 61). The Officer also justified their conclusion that the Minor Applicants may face challenges ahead but will suffer no exceptional hardship with reference to the fact that similar arguments were brought to the RAD, which found that the Minor Applicants may attend school and could still be financially supported by their parents in Mexico. I do not wish to understate the serious consequences of removal from Canada on children affected by an enforcement officer's deferral decision. That being said, neither the evidentiary record nor the Applicants' arguments on this point support a finding that the Officer's BIOC analysis inadequately considered how the Deferral Decision would affect the Minor Applicants or failed to justify those consequences in light of the constraining facts and the law (*Vavilov* at para 135).

VI. Conclusion

[47] The Applicants have not established any basis for this Court to interfere with the Deferral Decision. Neither the Officer's rejection of the deferral request nor the Officer's underlying rationale regarding the Applicants' evidence and the best interests of the Minor Applicants have been shown to lack justification, intelligibility or transparency (*Vavilov* at para 15). Accordingly, this application must be dismissed.

JUDGMENT IN IMM-16549-23

THIS COURT'S JUDGMENT is that:

1. The Applicants' application for judicial review is dismissed.

2. No costs are awarded to any party to the proceeding.

"Benoit M. Duchesne"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-16549-23
STYLE OF CAUSE:	LEONARDO DAVID CHAVERO RAMIREZ, TANIA MICHELLE PEREZ LUNA, ARIADNE MICHEL PEREZ LUNA, LEONARDO ABRAHAM CHAVERO PEREZ v THE MINISTER OF PUBLIC SAFETY AND EMERGENCY PREPAREDNESS
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