

Federal Court



Cour fédérale

Date: 20250627

Docket: IMM-13533-24

Citation: 2025 FC 1159

Toronto, Ontario, June 27, 2025

PRESENT: Madam Justice Whyte Nowak

BETWEEN:

**LADY DIANA RAMIREZ ORTEGA
ALIRIO QUINTERO RANGEL
SANTIAGO QUINTERO RAMIREZ
SEBASTIAN QUINTERO RAMIREZ**

Applicants

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The Applicants, Lady Diana Ramirez Ortega, Alirio Quintero Rangel, Santiago Quintero Ramirez and Sebastian Quintero Ramirez [collectively, the Applicants], seek judicial review of a decision of the Refugee Appeal Division [RAD] dated July 11, 2024 [Decision] denying their

claim to be Convention refugees or persons in need of protection under the *Immigration and Refugee Protection Act*, SC 2001, c 27 [Act].

[2] For the reasons that follow, this application is dismissed as I find that the Applicants have not met their onus of showing that the Decision is unreasonable.

II. Facts

A. *The Applicants' History in Colombia*

[3] The Applicants' claim of persecution was based on their repeated refusal to give in to extortion attempts by the *Ejército de Liberación Nacional* or the National Liberation Army [ELN] between June 2021 and December 2022. The ELN's extortion demands were accompanied by threats that the Applicants would be kidnapped or murdered if they did not comply. The Applicants reported the extortion calls to the prosecutor's office, which only served to increase the sums demanded by the ELN, who advised that they were aware of the Applicants' complaints. The calls continued even after the male Applicant changed his telephone number. Nothing came of their reports to the prosecutor's office.

[4] In the middle of the night on September 2022, two men came to the Applicants' house, shouted for them and left a pamphlet stating that the ELN declares the Applicants "a military objective," a designation considered to be the highest informal threat someone can receive, and according to evidence from the National Documentation Package [NDP], one that usually ends with the target being murdered.

[5] The Applicants further claim that on September 26, 2022, the male Applicant was approached and beaten by ELN members who demanded payment in full by October 10, 2022. Before the deadline expired, the Applicants fled Colombia, travelled through Mexico and the United States, and arrived in Canada on October 31, 2022 where they made a refugee claim.

[6] At their refugee hearing, the Applicants testified that the ELN last contacted their family in December 2022 to ask about their whereabouts.

B. *The Refugee Protection Division Decision*

[7] By decision dated March 1, 2024, the Refugee Protection Division [RPD] refused the Applicants' refugee claim [RPD Decision] finding that they are neither Convention refugees nor persons in need of protection.

[8] The RPD accepted the core of the Applicants' allegations of risk and accepted that the ELN has the ability to track targets throughout Colombia; however, the RPD refused their claim on the basis that the Applicants had failed to show that the ELN had the motivation to do so. The RPD determined therefore that the Applicants had a viable Internal Flight Alternative [IFA]. The RPD considered the case to be one of "simple extortion" rather than one involving either high profile targets or the forceful recruit of minors.

[9] The RPD also considered the conditions in the IFA and the Applicants' personal circumstances and found that the Applicants had failed to establish that relocating to the IFA would jeopardize their lives or safety and would therefore be unreasonable.

C. *The RAD Decision*

[10] Like the RPD, the determinative issue for the RAD was the availability of an IFA and, more specifically, the lack of motivation on the part of the agent of persecution to pursue the Applicants to the IFA.

[11] The RAD accepted both that the Applicants were targeted as “military objectives” and that the ELN has the ability to track targets of interest anywhere in Colombia. However, the RAD relied on evidence from the NDP to find that not all such threats end in the subjects of those threats being pursued and that sometimes the ELN may simply be looking to instill fear in a community in order to control it. The RAD agreed with the RPD that the lack of motivation on the part of the ELN to track the Applicants could reasonably be inferred from the fact that they had not inquired about the Applicants’ whereabouts since December 2022 and by reason that the Applicants did not fit the profile of individuals commonly pursued by the ELN according to information found in the NDP. The RAD found no evidence to support the Applicants’ suggestion that the ELN was motivated by vengeance or a loss of profit, given that the Applicants had never given in to the attempt to extort them.

III. Issues and Standard of Review

[12] The Applicants have raised the following issues that all go to the reasonableness of the Decision:

- A. Is the RAD’s finding that the ELN lacked the motivation to pursue the Applicants unreasonable?

B. Is the RAD's assessment of the Applicants' risk profile unreasonable?

[13] The applicable standard of review of the merits of a decision of the RAD is that of reasonableness as set out in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [Vavilov]. A reasonable decision bears the hallmarks of justification, transparency and intelligibility with the burden resting on the challenging party to show that the decision is unreasonable (*Vavilov* at paras 99-100).

IV. Analysis

A. *Is the RAD's finding that the ELN lacked the motivation to pursue the Applicants unreasonable?*

[14] The Applicants say that it was unreasonable for the RAD to adopt the RPD's finding that if the ELN was still interested in the Applicants, it would have continued to inquire about them after December 2022 but had not done so. They contend that the RAD mischaracterized the Applicants' testimony by broadening the Applicants' statement that the ELN had not made inquiries of family members since December 2022 to mean that the ELN had not tracked them since that time. The Applicants say that the RAD erred in failing to acknowledge that the ELN relies on more sophisticated and covert methods of tracking targets that the Applicants cannot be expected to account for (citing *Monsalve v Canada (Citizenship and Immigration)*, 2022 FC 4 at para 17 [Monsalve]). The Applicants place great emphasis on the fact that there was a 15-month gap between June 2021 and September 2022 during which time the ELN was clearly tracking the Applicants other than by way of inquiries of their family, as the ELN was aware of the Applicants' complaints to the prosecutor's office and had obtained their new cell number.

[15] I am not persuaded by the Applicants' argument for three reasons.

[16] First, I agree with the Respondent that ultimately, it was the Applicants' burden to prove that they do not have a viable IFA (*Mohammed v Canada (Citizenship and Immigration)*, 2022 FC 1333 at paras 16-17). While the Applicants contend that it was unreasonable for the RAD to focus exclusively on the lack of family inquiries, this was justified on the record given that the ELN's most recent inquiries had been made to the Applicant's sister by way of repeated calls and a letter. The fact remains that there was no other evidence in the record supporting the ELN's continued interest in the Applicants in the 18-month gap in time between the ELN's last inquiry in December 2022 and the RAD's Decision.

[17] Second, the RAD based its assessment of the ELN's motivation to pursue the Applicants on more than the ELN's failure to continue to make inquiries of their family. The RAD's assessment included evidence of the profile of the type of targets that the ELN was known to pursue, which did not match the Applicants.

[18] Finally, the Applicants have not challenged the reasonableness of the RAD's finding that there was no evidence that the ELN harboured an enduring motivation to pursue the Applicants, such as vengeance or a loss of revenue. I agree with the Respondent that this distinguishes the Applicants' circumstances from those in the authorities cited by the Applicants in *Monsalve, Losada Conde v Canada (Citizenship and Immigration)*, 2020 FC 626 and *Rivera Benavides v Canada (Citizenship and Immigration)*, 2020 FC 810.

B. *Is the RAD's assessment of the Applicants' risk profile unreasonable?*

[19] The Applicants submit that the RAD erred in finding that the Applicants do not fit the profile of individuals commonly targeted by the ELN given that the Applicants *were* targeted by the ELN. The Applicants submit that it is not enough for the RAD to say that some people who are the subject of a military objective threat do not get killed – the RAD was required to “identify a clear factual basis for finding that the Applicants will not be killed by the ELN,” which it did not do.

[20] I agree with the Respondent that the Applicants' argument erroneously places the burden on the RAD when the onus was on the Applicants to establish on a balance of probabilities that there was a serious possibility of persecution in the proposed IFA. Based on the RAD's assessment of the evidence, the Applicants failed to do this, and the Applicants' argument amounts to a call for the Court to reassess the evidence, which is not its role on judicial review (*Vavilov* at para 125).

V. Conclusion

[21] The RAD's Decision is justified on the facts and law that constrained it and demonstrates the requisite intelligibility and transparency. Having found the Decision to be reasonable, this application is dismissed.

JUDGMENT in IMM-13533-24

THIS COURT'S JUDGMENT is that:

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

"Allyson Whyte Nowak"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-13533-24

STYLE OF CAUSE: LADY DIANA RAMIREZ ORTEGA, ALIRIO
QUINTERO RANGEL, SANTIAGO QUINTERO
RAMIREZ, SEBASTIAN QUINTERO RAMIREZ v THE
MINISTER OF CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: HELD BY WAY OF ZOOM VIDEOCONFERENCE

DATE OF HEARING: JUNE 23, 2025

JUDGMENT AND REASONS: WHYTE NOWAK J.

DATED: JUNE 27, 2025

APPEARANCES:

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