

Federal Court



Cour fédérale

Date: 20250805

Docket: IMM-16534-24

Citation: 2025 FC 1354

Ottawa, Ontario, August 5, 2025

PRESENT: The Honourable Mr. Justice Duchesne

BETWEEN:

**JUAN MIGUEL PEREZ ISLAS,
ANA YURIDIA WALLE SALAZAR,
JORDAN MIGUEL PEREZ WALLE AND
AFRICA VIOLETA PEREZ WALLE**

Applicants

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] The Applicants seek judicial review of a determination by the Refugee Appeal Division [RAD] dated August 19, 2024 [the Decision], which dismissed their appeal from the prior decision by the Refugee Protection Division [RPD] and agreed with the RPD's finding that they are neither Convention refugees nor persons in need of protection pursuant to section 96 or

subsection 97(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA]. The Applicants request that the Decision be quashed and remitted to the RAD for reconsideration.

[2] The determinative issue for the RAD was that the Applicants had a viable IFA in Merida or Sonora, Mexico.

[3] The Applicants have not met their burden of demonstrating that the RAD decision was unreasonable. I find that the Decision is justified in relation to the facts and the law that constrain the RAD and is reasonable. This application is therefore dismissed for the reasons that follow.

I. **Background**

[4] The Applicants are a family from Mexico. All are Mexican citizens. The Principal Applicant, Juan Miguel Perez Islas, is 30 years old. The Associate Applicant, Ana Yuridia Walle Salazar, is the Principal Applicant's spouse and is 31 years old. The Minor Applicants, Jordan Miguel Perez Walle and Africa Violeta Perez Walle, are ten years old and six years old respectively.

[5] The Principal Applicant formerly worked for a beverage distributor in Heroica Matamoros, Tamaulipas, Mexico. The Applicant alleges that he and his family have been targeted for kidnapping and extortion by the Gulf Cartel [the Cartel].

[6] He claims that his brother-in-law, Joseph Alexis Salazar [JAS] was kidnapped by organized groups in Heroica Matamoros in November 2018, though he does not know why JAS

was targeted but believes that he may have been targeted as a result of the kidnappers confusing him with someone else. The Principal Applicant alleges that his father-in-law and uncles-in-law were also kidnapped by organized groups in June 2019. The Principal Applicant describes these organized groups as either one “cartel” or several groups in his evidence.

[7] The Principal Applicant claims to have been kidnapped by the Cartel with the participation of a government crimefighting group on May 18, 2021. He claims to have been taken in a truck with other persons (all unrelated to him) and forced to disclose his address and other identifying information to his kidnappers. He claims that he was asked about JAS but denied having a relationship with him. The Principal Applicant was released after the payment of an extorted ransom of 200,000 pesos.

[8] After the kidnapping the Applicants relocated to Victoria, Tamaulipas, Mexico. They remained there until October 2021.

[9] They claim that in June 2021, they learned from neighbours that their house in Heroica Matamoros was being monitored and was surrounded by trucks, and that the alleged agents of harm “took over” their house. They also claim that the Cartel had tried to contact them via the Associate Applicant’s mother, Maria De Jesus Salazar Reyes [MSR], in September 2021 and that they were monitored at the airport in October 2021 before leaving for Canada on October 15, 2021. There is no other evidence that they were the subject of any inquiry, search or tracking by the Cartel while they were in Victoria

[10] JAS relocated to Canada and was successful in his refugee claim. MSR also relocated to Canada and was successful in her refugee claim.

II. **The RPD Decision**

[11] The RPD dismissed the Applicants' claim on March 28, 2024. The RPD found no nexus to enumerated grounds of persecution applicable to *Convention* refugees pursuant to section 96 of the IRPA. The RPD nevertheless considered the Applicant's claim pursuant section 97(1) of the IRPA. The determinative issue for the RPD was lack of credibility. The RPD found the presumption of truthfulness rebutted by discrepancies between the Applicants' original and amended Basis of Claim forms in naming the agent of harm, and by the Applicants' delay in claiming refugee protection.

[12] The Applicants appealed the RPD decision, suggesting that the RPD erred by ignoring corroborative evidence, including support letters and other documents pertaining to the Principal Applicant's kidnapping, and that erred in their credibility assessment.

III. **The RAD Decision**

[13] On July 31, 2024, the Applicants were provided with a notice letter indicating that the RAD was considering several new issues on appeal. The letter included that the RAD was considering the viability of internal flight alternatives [IFA] in Merida or Sonora, Mexico, based on submissions already provided to the RPD by the Applicants

[14] The RAD accepted all of the new evidence adduced by the Applicants on appeal, including various pieces of documentary evidence related to their former counsel, a follow-up document from a Mexican Prosecutor's office, draft basis of claim narratives, the RPD decisions for JAS' and MSR's refugee claims, as well as supplementary appeal submissions.

[15] The RAD found that the Applicants do not face a likelihood of harm in the proposed IFA locations because they had not shown that the Cartel would be motivated to take steps to find and harm them outside of Tamaulipas state. The RAD supported their finding with reference to country conditions indicating the declining reach of the Cartel. The RPD also considered the Principal Applicant's evidence and profile, finding that on the balance of probabilities, he had been kidnapped not in relation to JAS, but rather "as part of a generalized campaign of kidnapping for extortion".

[16] The RAD considered the RPD decisions that accepted JAS' and MSR's claims and distinguished those claims from the Applicants' claims.

[17] The RAD explained that the RPD in JAS' matter had found that JAS had not credibly established that he was at risk of life or persecution in the suggested the IFA location (Cabo San Lucas). The RAD also explained that the RPD had nevertheless accepted JAS' claim based on medical evidence of psychological conditions that rendered him incapable of having a functional life in the IFA location.

[18] The RAD also explained that the RPD found that MSR's claim was substantiated because she had made a police complaint about the Cartel and that that complaint had raised the Cartel's ire and had received retaliatory threats as a result. The RAD found that the Applicants here were not similarly situated as they had not made such a police complaint nor received threats as MSR had.

[19] The RAD considered submissions that the Applicants could face cultural and financial or employment difficulties in the proposed IFA locations and concluded that those difficulties were reasonable, not unduly harsh in the Applicants' circumstances, and fell short of the concrete evidence of conditions which would jeopardize their life and safety in the IFA (*Ranganathan v Canada (MCI)*, 2000 CanLII 16789 (FCA), at para 15). The RAD was not satisfied that the Applicants' lives or safety would be jeopardized in Merida or Sonora.

IV. **Issues and the Standard of Review**

[20] The issue before the Court is whether the RAD's decision was reasonable:

- a) in finding that the Applicants have a viable IFA; and,
- b) in finding that the Applicants had not led concrete evidence of conditions which would jeopardize their life and safety in the IFA.

[21] The parties submit that the standard of review with respect to the merits of the Decision is reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [Vavilov] at paras 10, 25). I agree.

[22] On a reasonableness review, the reviewing court asks whether the decision under review bears the hallmarks of reasonableness, that is, whether it is justified, transparent and intelligible in relation to the relevant factual and legal constraints that bear on the decision (*Vavilov* at para 99).

[23] The challenging party bears the burden of establishing that the decision under review is unreasonable because there are “sufficiently serious shortcomings in the decision such that it cannot be said to exhibit the requisite degree of justification, intelligibility and transparency”. The Court must be satisfied that any shortcomings or flaws relied on by the party challenging the decision are more than merely superficial or peripheral to the merits. They must be sufficiently central or significant to render the decision unreasonable (*Vavilov* at paras 100 and 101). A reasonableness review is not a “line-by-line treasure hunt for error” (*Vavilov* at para 102). Rather, where “there is [a] line of analysis within the given reasons that could reasonably lead the tribunal from the evidence before it to the conclusion at which it arrived” the reviewing court will not intervene (*Vavilov* at para 102).

[24] The Court’s role on judicial review is not to reweigh, reassess or second-guess the evidence (*Vavilov* at para 124; *Doyle v. Canada (Attorney General)*, 2021 FCA 237, at para 3 [*Doyle*]).

V. The Parties’ Arguments

A. *The Applicants’ Argument*

[25] The Applicants claim that the RAD erred:

- i. in concluding that the Cartel lacked the motivation to seek and harm them in light of objective evidence in “key sections” of the NDP; and,
- ii. in making unfounded assertions and inferences about the motivation behind the Principal Applicant’s kidnapping, and the Applicants’ risk being generalized and not targeted/familial in nature, particularly in light of JAS’ and MSR’s successful refugee claims.

[26] The Applicants also allege that the RAD was “overly selective” in its analysis of risk of harm and in finding insufficient harm in the proposed IFA locations. They argue that the RAD failed to consider the Applicants’ circumstances including their poor employment/financial prospects and the prospect of separation from family in Canada in the proposed IFA.

B. *The Respondent’s Arguments*

[27] The thrust of the Respondent’s argument is that the Applicants improperly ask this Court to reweigh evidence that was before and considered by the RAD and to come to a different conclusion despite that the RAD’s decision was reasonable, justified, and amply explains the basis of the Decision in light of the facts and the law.

[28] The Respondent argues that the RAD considered the objective evidence about the Cartel and reasonably concluded that the Applicants’ profiles are not such that the Cartel would be motivated to track them across Mexico to harm them.

[29] The Respondent argues that the RAD's finding that the Principal Applicant was more likely than not kidnapped as a part of a generalized campaign is supported by evidence in the record, including that the Principal Applicant was kidnapped alongside others who are not part of his near or extended family. The Respondent argues that the RAD noted that the Applicant was not kidnapped for the purposes of information extraction with respect to his family or otherwise, but for ransom and was released after the payment of the ransom. The RAD's analysis on this point, argues the Respondent, follows the Principal Applicant's own evidence.

[30] The Respondent notes that the RAD took into account that the Applicants have not alleged or led evidence to suggest that they were sought out or harmed after relocating to Ciudad Victoria for six months after the Principal Applicant's May 2021 kidnapping. The Respondent argues that the RAD also noted that a lack of attempts to locate the Applicants through their family members who continue to live in Mexico is a good indicator of the Cartel's lack of motivation to find them (*Altamirano v Canada (Citizenship and Immigration)*, 2023 FC 989 at paras 47-49).

[31] The Respondent argues that the RAD did not overlook the Principal Applicant's testimony and allegations about the Cartel's motivations but was not obliged to accept it in light of other evidence on the record about his kidnapping and the Cartel's "limited" efforts to pursue him (*Arije v Canada (Citizenship and Immigration)*, 2023 FC 1369 at para 16).

[32] The Respondent argues that the RAD did not overlook JAS' and MSR's successful refugee claims but distinguished each of those decisions on the facts in light of JAS's medical

evidence of psychological conditions and the fact that MSR had established retaliatory Cartel threats after having filed a police complaint. The Respondent argues that the RAD's conclusion that the Applicant's evidence and facts of this case, as distinguished from the facts in JAS' and MSR's cases, does not establish a motivation that the Gulf Cartel would track them to the proposed IFA locations.

[33] Finally, the Respondent argues that the RAD accepted the Applicants' evidence as to the conditions they would face in the IFA, but that that conditions are not conditions that would jeopardize the life or safety of the Applicants (*Bakare v Canada (Citizenship and Immigration)*, 2021 FC 967 at para 35). The Respondent argues that this Court has held that "more than the undue hardship resulting from, among others, loss of employment, separation from family and friends, or a reduction in the quality of life" is required to establish that the IFA would not be appropriate (*Olori v Canada (Citizenship and Immigration)*, 2021 FC 1308 at para 40, citing *Haastrup v Canada (Citizenship and Immigration)*, 2020 FC 141 at para 30).

VI. Analysis

[34] The Court agrees with the Respondent that the Applicants have not identified errors in the Decision but ask this Court to reweigh and second-guess the evidence adduced to come to a different conclusion. Reweighing, reassessing and second-guessing the evidence adduced and considered by the administrative decision-maker is not this Court's role on judicial review (*Vavilov* at para 124; *Doyle*).

[35] A claimant has an IFA when 1) they will not be subject to a serious possibility of persecution nor to a risk of harm under section 96 and section 97 of the IRPA in the proposed IFA location; and 2) it would not be objectively unreasonable for them to seek refuge there, taking into account all the circumstances. Both prongs of the IFA test need to be satisfied to conclude that a claimant has an IFA (*Bassi v Canada (Citizenship and Immigration)*, 2024 FC 910 [Bassi] at paras 15-16, citing *Rasaratnam v Canada (Minister of Employment and Immigration)*, 1991 CanLII 13517 (FCA), [1992] 1 FC 706, and *Thirunavukkarasu v Canada (Minister of Employment and Immigration)*, 1993 CanLII 3011 (FCA), [1994] 1 FC 589 (FCA) at pp 597-598) [Thirunavukkarasu].

[36] Once the decision-maker identifies an IFA, the applicant must establish that the IFA is unreasonable.

[37] Mr. Justice Guy Régimbald explains the burden on an applicant as follows in *Bassi v. Canada (Citizenship and Immigration)*, 2024 FC 910 at para 17:

[17] On the first prong of the test, the applicants bear the onus of demonstrating that the proposed IFA is unreasonable because they fear a possibility of persecution throughout their entire country. In order to discharge their burden, a claimant must demonstrate that they will remain at risk in the proposed IFA from the same individual or agents of persecution that originally put them at risk. The risk assessment considers whether the agents of persecution have the “means” and “motivation” to cause harm to the claimant in the IFA (*Singh v Canada (Citizenship and Immigration)*, 2023 FC 996 at para 8 [Singh 2023 FC 996]). The applicants must establish that the agents of harm have both elements: the means and the motivation to cause harm (*Ortega v Canada (Citizenship and Immigration)*, 2023 FC 652; *Leon* at para 13). This assessment must be made by the decision maker, is a prospective analysis, and is considered from the perspective of the agents of persecution, not from the claimant’s perspective (*Vartia v Canada (Citizenship and*

Immigration), 2023 FC 1426 at para 29; *Adeleye v Canada (Citizenship and Immigration)*, 2022 FC 81 at para 21; *Aragon Caicedo v Canada (Citizenship and Immigration)*, 2023 FC 485 at para 12). The onus is therefore on the applicants to adduce sufficient evidence or facts to discharge their burden of proof and demonstrate, on a balance of probabilities, that the agents of persecution have the means and motivation to locate them in the proposed IFA and that therefore, they will be subject to a serious possibility of persecution under section 96, or to a likelihood of a section 97 danger or risk in the proposed IFA (*Singh* 2023 FC 1623 at para 17).

[38] The Applicants contend that the RAD did not properly consider a specific passage contained in the National Documentation Package regarding the means available to a sophisticated criminal organization such as the Cartel to track somebody throughout Mexico by bribing people working in telephone companies in order to track phone calls or SMS messages, or other contacts through their target's relatives' social networks.

[39] While such means of tracking may be available to an agent of harm, their consideration becomes relevant only if the agent of harm is shown to be motivated to use the means available to them to track their target. The RAD considered the Applicants' evidence including the National Documentation Package information and concluded that the Applicants had not established that the Cartel they fear has a history of engaging in cross-country pursuits of other individuals who had been kidnapped for ransom, or are likely to engage in such pursuit in light of disintegrating cartel alliances. It was open to the RAD to conclude as it did in light of the evidence adduced before it. The Applicants have not established any failure of justification in the RAD's reasoning or conclusions in this regard.

[40] The Applicants also contend that the RAD was incorrect in not applying the findings made by the RPD in JAS' and MRS's refugee claims that it appeared that they and their family members had been specifically targeted by the Cartel as a result of a police report against the Cartel.

[41] The RAD thoroughly and thoughtfully considered the Applicants' evidence as well as the content of the JAS and MRS RPD decisions and concluded that the Applicants' agent of harm was not motivated to locate them in the IFA. The RAD's consideration of the evidence before it, including the National Document Package information, and its conclusion that the Principal Applicant was abducted in the past not as part of a targeted campaign to pursue individuals in his family, but instead as part of a generalized campaign of kidnapping for extortion such that there is no established motivation for the Cartel to seek out the Applicants in the IFA is reasonable and supported by the evidence in the record. The Applicants have not established that the RAD's decision was unjustified or unreasonable despite that they disagree with the RAD's appreciation of the evidence before it and its conclusions based on that evidence.

VII. **Conclusion**

[42] The Applicants have not established that there are serious shortcomings in the RAD Decision such that the Decision is unreasonable. I have reviewed the evidence and the Decision in light of the parties' respective arguments and find that the Decision is justified and reasonable. There is no basis for the Court to intervene.

[43] The parties submit that there is no question to be certified in this proceeding. I agree.

JUDGMENT in IMM-16534-24

THIS COURT’S JUDGMENT is that:

1. This application for judicial review is dismissed.
2. There is no question to be certified in this proceeding.
3. No costs are awarded to any party.

“Benoit M. Duchesne”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

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