

Federal Court



Cour fédérale

**Date: 20250908**

**Docket: IMM-12460-24**

**Citation: 2025 FC 1480**

**Ottawa, Ontario, September 8, 2025**

**PRESENT: The Honourable Mr. Justice Fothergill**

**BETWEEN:**

**FELIPE ALEXANDER GARCIA MORA  
MARIA MARLENY MORA HERNANDEZ  
MAURICIO ALEXANDER GACIA CORDOBA  
SARA PAULINA GARCIA MORA**

**Applicants**

**and**

**THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

**I. Overview**

[1] The Applicants Felipe Alexander Garcia Mora, his sister Sara Paulina Garcia Mora, and their parents, Maria Marleny Mora Hernandez and Mauricio Alexander Garcia Cordoba, are citizens of Colombia. They seek judicial review of a decision of the Refugee Protection Division

[RPD] of the Immigration and Refugee Board [IRB]. The RPD found that the Applicants are neither Convention refugees nor persons in need of protection pursuant to ss 96 and 97 of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA].

[2] For the reasons that follow, the RPD's decision was procedurally unfair and unreasonable. The application for judicial review is allowed.

## II. Background

[3] According to the Applicants, on April 15, 2023, three armed men came to their home in the village of El Pepino, Putumayo, Colombia looking for Felipe. They identified themselves as members of the Revolutionary Armed Forces of Colombia, known by their Spanish acronym FARC.

[4] The Applicants say that the FARC wanted to recruit Felipe, and were aware that he had previously performed military service in Colombia. The men forced their way into the house, but left when the Applicants cried out for help.

[5] On April 19, 2023, the same men returned to the house while the Applicants were asleep. The sound of dogs barking alerted the Applicants. They escaped through a back door and made their way to the house of Maria's sister.

[6] On April 21, 2023, the Applicants fled Colombia for Canada. They made refugee claims at the US-Canada border on May 2, 2023.

[7] The RPD heard the Applicants' claims on May 2, 2024. They were not represented by legal counsel in the preparation of their refugee claims or at the hearing.

[8] The RPD rejected the Applicants' refugee claims on June 4, 2024.

### III. Decision under Review

[9] The RPD found that the risks alleged by the Applicants did not have a nexus to any of the grounds for refugee protection enumerated in the UN Convention, and assessed the Applicants' claims under s 97(1) of the IRPA.

[10] The RPD held that the Applicants' claims were mostly credible, but found on a balance of probabilities that the men who came to the house did not know about Felipe's prior military service. Nor did they indicate that they wanted to take him away with them.

[11] Ultimately, the RPD found the determinative issue to be the availability of internal flight alternatives [IFAs] in Cartagena and Barranquilla. After considering the country condition evidence for Colombia, the RPD determined that: (1) the FARC did not operate in Cartagena and Barranquilla; (2) the Applicants did not fit the elevated profile for targeting by the FARC; and (3) the FARC did not have sufficient motivation to find the Applicants in the IFAs.

#### IV. Issues

[12] This application for judicial review raises the following issues:

A. Was the RPD's decision procedurally fair?

B. Was the RPD's decision reasonable?

#### V. Analysis

[13] The RPD's decision is subject to review by this Court against the standard of reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [Vavilov] at para 10). The Court will intervene only where “there are sufficiently serious shortcomings in the decision such that it cannot be said to exhibit the requisite degree of justification, intelligibility and transparency” (Vavilov at para 100).

[14] The criteria of “justification, intelligibility and transparency” are met if the reasons allow the Court to understand why the decision was made, and determine whether the decision falls within the range of acceptable outcomes defensible in respect of the facts and law (Vavilov at paras 85-86, citing *Dunsmuir v New Brunswick*, 2008 SCC 9 at para 47).

[15] Procedural fairness is subject to a reviewing exercise best reflected in the correctness standard, although strictly speaking no standard of review is being applied (*Canadian Pacific Railway Company v Canada (Attorney General)*, 2018 FCA 69 at para 54). The ultimate

question is whether an applicant had a full and fair chance to be heard (*Siffort v Canada (Citizenship and Immigration)*, 2020 FC 351 at para 18).

A. *Was the RPD's decision procedurally fair?*

[16] The Applicants say that the RPD unfairly rejected their claims based in part on the availability of an IFA in Barranquilla. However, the RPD did not identify Barranquilla as a possible IFA before rendering its decision. The RPD identified Medellin and Cartagena as possible IFAs during the hearing, but then relied on Cartagena and Barranquilla in its reasons.

[17] In *Utoh v Canada (Citizenship and Immigration)*, 2012 FC 399 [*Utoh*], Justice Donald Rennie said the following (at para 20):

Finally, a review of the hearing transcript reveals that one of the IFA locations relied on [in] the decision, Ibadan, does not appear to have been specifically identified by the Board as a proposed IFA and, more importantly, put to the applicant as a possible IFA. The jurisprudence is clear that the Board must identify the specific IFA locations; *Farias v Canada (Minister of Citizenship and Immigration)*, 2008 FC 1035 at para 34, and fairness requires that the applicant have an opportunity to address its suitability. Therefore, this error also requires that the decision be set aside.

[18] However, in *Manzoor-Ul-Haq v Canada (Citizenship and Immigration)*, 2020 FC 1077 [*Manzoor-Ul-Haq*], Justice Richard Southcott found that a failure to provide notice with respect to some IFAs did not necessarily invalidate those for which notice was properly given (at para 27):

The Respondent makes a more compelling argument that this breach of procedural fairness (related to IFAs in Multan, Lahore, Karachi and Hyderabad) does not relate to a determinative issue, because the RAD also found that the Applicant had viable IFAs in Dadu and Kasur. As the Respondent submits, the Applicant does not dispute that the RAD was entitled to consider Dadu and Kasur without further notice to him. Therefore, if the RAD's determination, with respect to either of Dadu and Kasur, is free of reviewable error, this application for judicial review must fail.

[19] In both *Utoh* and *Manzoor-Ul-Haq*, the decisions under review were also found to be unreasonable. Accordingly, the Court's consideration of the procedural fairness arguments was not determinative in either case.

[20] As will be seen in the analysis below, the RPD's reliance on Cartagena (the location for which proper notice was given) as a possible IFA was unreasonable. Taken together, the RPD's breach of the Applicants' right to procedural fairness with respect to Barranquilla as an IFA and the unreasonableness of Cartagena as an IFA require that this application for judicial review be granted.

B. *Was the RPD's decision reasonable?*

[21] The Applicants challenge the reasonableness of the RPD's decision on a number of grounds. One of these is determinative. The RPD's determination that Cartagena was a viable IFA was inconsistent with information contained in the National Documentation Package [NDP] for Colombia, and the RPD failed to address this inconsistency in its reasons.

[22] Contrary to the RPD's findings, the NDP did not expressly state that the FARC had no presence in Cartagena. Instead, the NDP referred to the FARC's operations "throughout the country" and its presence in "at least 19 departments", without specifying what those departments were.

[23] The NDP's narrative was accompanied by a series of interactive maps indicating the presence or absence of the FARC in different parts of Colombia. The Applicants say that the RPD misapprehended the information contained in the NDP in reaching the following conclusion:

The National Documentation Package (NDP) for Colombia, item 1.2 (August 31, 2023 version) does not show a FARC dissident presence in Cartagena. There was no evidence provided by the claimants on FARC dissident presence or operations, and as such the panel relies on the information in the NDP.

[24] According to the Applicants, the map in item 1.2 of the NDP, when used interactively and enlarged sufficiently, shows a FARC presence in Cartagena. They attached an image of the enlarged map in their Application Record. Although the certified tribunal record does not include all of the possible permutations of the interactive map, counsel for the Respondent did not object to the Applicants' reliance on the enlarged image of Cartagena and the surrounding area.

[25] While the matter is not free from doubt, I agree with the Applicants that the enlarged map of Cartagena and the surrounding area does appear to indicate a FARC presence in the vicinity. Considering the breach of procedural fairness arising from the RPD's failure to give notice of Barranquilla as a possible IFA, and the RPD's failure to grapple with conflicting evidence in the

NDP suggesting that Cartagena may not be a viable IFA, the Applicants' refugee claims must be redetermined.

VI. Conclusion

[26] The application for judicial review is granted, and the matter is remitted to a differently-constituted panel of the RPD for redetermination. Neither party proposed that a question be certified for appeal.



**JUDGMENT**

**THIS COURT’S JUDGMENT is that** the application for judicial review is granted, and the matter is remitted to a differently-constituted panel of the RPD for redetermination.

“Simon Fothergill”

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Judge

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

**DOCKET:** IMM-12460-24

**STYLE OF CAUSE:** FELIPE ALEXANDER GARCIA MORA, MARIA  
MARLENY MORA HERNANDEZ, MAURICIO  
ALEXANDER GACIA CORDOBA AND SARA  
PAULINA GARCIA MORA v THE MINISTER OF  
CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** CALGARY, ALBERTA

**DATE OF HEARING:** AUGUST 14, 2025

**JUDGMENT AND REASONS:** FOTHERGILL J.

**DATED:** SEPTEMBER 8, 2025

**APPEARANCES:**

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