Federal Court  Cour fédérale

Date: 20250929

Docket: IMM-19198-24

Citation: 2025 FC 1600

Ottawa, Ontario, September 29, 2025

PRESENT: The Honourable Justice Thorne

BETWEEN:

ESTEFANIA GONZALEZ MONTIEL
ORLANDO GAEL RAMIREZ GONZALEZ
ORLANDO ELIUTH RAMIREZ RUANO

Applicants

and

THE MINISTER OF CITZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The Applicants seek judicial review of a decision by the Refugee Appeal Division [RAD], confirming a finding by the Refugee Protection Division [RPD] that they are neither Convention refugees nor persons in need of protection. They allege that the RAD's decision was unreasonable because it misapprehended evidence and erred in its assessment of the agent of harm's motivation to locate the Applicants in the proposed internal flight alternative [IFA].

[2] For the following reasons, this application is dismissed, as I do not find the decision of the RAD unreasonable.

II. Background

[3] The Applicants are Mexican citizens. They state that the Principal Applicant, Ms. Monteil, had owned and operated a small food market store in Leon, Guanajuato and that on March 12, 2022, she was approached by men seeking to extort her store. The Applicants state that for a week afterwards, they received calls threatening them and demanding they begin to make the payments. The Applicants abandoned the store on March 17, 2022. They then went to Tizayuca, Hidalgo, where they stayed with the Principal Applicant's parents for three months, until their departure for Canada in June 2022. The Associate Applicant, the husband of Ms. Montiel, then returned to Mexico City from August 13, 2022, to September 8, 2022, in order to negotiate the terms of his departure with his employers. The Applicants note that they received threatening phone calls while they were in Hidalgo, and that the callers told them that they knew where the Applicants were, but that no one ever physically sought them out before they left for Canada. They also note that the calls ceased in June 2022, and that nothing further was received prior to September 2022, when the Principal Applicant disposed of her Mexican cellular phone.

[4] The Applicants state that they believe that the would-be extortionists were likely affiliated with a major criminal organization, and that this group will harm them should they return to Mexico.

[5] The RPD and the RAD each found that the Applicants were neither Convention refugees nor persons in need of protection, holding that they had an IFA in the city of Merida which they could safely and reasonably relocate to within Mexico. On its assessment of the evidence, the RAD found that the Applicants had not established that the extortionists ("agents of harm") were motivated to locate the Applicants in Merida. Among its findings on this front, the RAD found that the evidence indicated that: the Applicants lacked the profile of the sort of people who large criminal organizations tended to be interested in pursuing nationwide for failure to pay extortion; the Applicants had not established in evidence that the extortionists were likely affiliated with a cartel or large criminal organization; the agents of harm likely lacked motivation to pursue the Applicants as they had merely phoned the Applicants while the family was in Hidalgo, but had not actually physically sought them out during the months they were there; and the interest of the agents of harm in the Applicants had likely waned, as even the threatening calls had stopped by June 2022 and no further calls had been received from that time until the Principal Applicant changed her phone in September 2022.

[6] The RAD also found that it had not been established that it was unreasonable for the Applicants to relocate to the proposed IFA, after considering factors including the health of the Applicant's child, who suffers from cerebral palsy.

III. Issue and Standard of Review

[7] The sole issue at play in this matter is whether the decision under review is reasonable. Though the Applicant had initially also sought to challenge the RAD's determination with respect to admitting new evidence, at the hearing of this matter counsel abandoned those arguments.

[8] With respect to assessing the reasonableness of a decision, the role of a reviewing court is to examine the decision maker's reasoning and determine whether the decision is based on an "internally coherent and rational chain of analysis" and is "justified in relation to the facts and law that constrain the decision maker": *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*] at para 85; *Mason v Canada (Citizenship and Immigration)*, 2023 SCC 21 at para 64. Although the party challenging the decision bears the onus of demonstrating that the decision is unreasonable (*Vavilov* at para 100), the reviewing court must assess "whether the decision bears the hallmarks of reasonableness—justification, transparency and intelligibility" *Vavilov* at para 99.

IV. Legal Framework

[9] The underlying basis for an IFA is the notion that refugee claimants should seek safety elsewhere in their home country before seeking protection in Canada. The test for the determination of an IFA is well-established, and holds that an individual who faces a risk of harm in one part of a country may only be found to have an IFA in another part of that country if two criteria are met:

1. There must be no serious possibility of the claimant being persecuted, or subject to a personalized risk of torture, risk to life, or risk of cruel and unusual punishment in the part of the country where the IFA exists; and

2. It must not be unreasonable for the claimant to seek refuge in the IFA, considering all of their particular circumstances.

[10] Under the first part of this test, a serious possibility of persecution, or a risk of torture, risk to life, or risk or cruel and unusual punishment can only be found if it is demonstrated that the agents of harm have both the means and motivation to search for an applicant in the

suggested IFA: *Saliu v Canada (Citizenship and Immigration)*, 2021 FC 167 at para 46, citing *Feboke v Canada (Citizenship and Immigration)*, 2020 FC 155 at para 43. With respect to the second part, the threshold to establish unreasonableness is very high, requiring "nothing less than the existence of conditions which would jeopardize the life and safety of a claimant in travelling or temporarily relocating to a safe area": *Ranganathan v Canada (Minister of Citizenship and Immigration)*, 2001 2 FC 164, 2000 CanLII 16789 (FCA) at para 15. Once an IFA is proposed, the onus is on the claimant to prove that they do not have a viable IFA: *Olusola v Canada (Citizenship and Immigration)*, 2020 FC 799 at para 9; *Adeleye v Canada (Citizenship and Immigration)*, 2022 FC 81 at para 20.

V. Analysis

A. *The RAD decision was reasonable*

[11] In relation to the first part of the IFA test, the Applicants argue that the RAD erred in its assessment of the motivation of the agents of harm, stating that the RAD had wrongly held that criminal organizations were only motivated to pursue individuals who met a certain profile. The Applicants argue that such groups are not rational actors and that they may strike at targets simply to intimidate and demonstrate power. They further argue that the fact that the evidence established that the Applicants received threatening calls while in Hildalgo itself established that the agents of harm were motivated, willing and able to locate the Applicants, and that the RAD had erred in not finding that this was the case. They also asserted that the RAD had erred as it had merely speculated that the agents of harm lacked motivation to track and harm them and had further speculated in finding that the Applicants had failed to establish that the agents of harm were affiliated with a criminal organization.

[12] I do not find these arguments persuasive. With respect, in the argument as to the profile of the Applicants, counsel clearly misconstrues the reasoning of the RAD in characterizing it as finding that criminal organizations are only motivated to pursue individuals who correspond to a certain profile. This was not what was asserted by the RAD, which instead simply noted that objective evidence in the Immigration and Refugee Board's National Documentation Package [NDP] for Mexico indicated that cartels do not pursue everyone they come into conflict with, but rather only tend to do so for important, wealthy or high-profile targets or those against whom they have a personal grudge or vendetta. As the RAD stated in upholding the RPD's finding, and tracing this NDP criteria:

> "[17] The RPD correctly found that the evidence fails to establish that the Appellants fit within the profile of persons the agents of harm would be motivated to track down in the IFA. They were not prominent, wealthy or high-profile figures, had not gone to the police as they were afraid of the negative consequences, did not have specialized or sensitive information about the agents of harm, and had not caused serious injury to them."

[13] The RAD noted that the Applicants did not correspond to this profile, and that this was one indicia the RAD considered in assessing the motivation of the agents of harm. It was also not accurate for the Applicants to claim that the RAD did not conduct a personalized assessment of the Applicants' circumstances in its motivation analysis.

[14] Nor is there any merit to the arguments that the RAD somehow engaged in unfair speculation in finding that the evidence did not indicate that the agents of harm were motivated to pursue the Applicants or that they were not part of a large criminal organization. As in their other assertion that the RAD should have found that the telephone calls to the Applicants while in Hildalgo proved that the agents of harm were motivated and determined to locate and harm the

Applicants, in all of these arguments counsel simply disagrees with the RAD's assessment of the evidence. While I can appreciate that the Applicants have a different perspective on the information that was before the RAD, this effort to have the Court re-evaluate the evidence does not correspond to its role on judicial review. The RAD did not disregard or ignore evidence that ran contrary to its conclusions. Rather, the Applicants merely disagree with the way the RAD weighed the evidence and are essentially asking this Court to also do so, and to step in to displace the RAD's conclusion. That is not the role of this Court on judicial review: *Vavilov* at para 125.

[15] As the RAD correctly pointed out, while the Applicants may have believed that their would-be extortionists were affiliated with a powerful criminal organization, the onus was on the Applicants to present evidence establishing that this was the case. This was not done. In my view, the actual finding of the RAD was not an exercise in speculation, but rather reflected the lack of evidence presented that supported the contention that a large criminal group was involved, or that such a group was motivated to pursue the Applicants.

[16] In its decision, the RAD mentioned and considered all of the incidents cited by the Applicants. In its assessment, it noted that key evidence indicated that: (1) the Applicants had abandoned their store less than a week after the extortion attempts began and fled the country shortly after that; (2) they were apparently not people of consequence to the extortionists; (3) while the Applicants believed their assailants were affiliated with a large criminal organization, there was no evidence indicating this; and (4) the extortionists had telephoned the Applicants in Hildago, but had not sought them out in the months they were there, and had also stopped even calling by

June 2022. For the RAD, consideration of all these factors led to the conclusion that the Applicants had not established that their unknown assailants were motivated to pursue them across the country and to the proposed IFA. This is a rational chain of analysis that can be followed without encountering any fatal flaws in its overarching logic. I do not find that it is unreasonable.

[17] Finally, the Applicants also contend that the RAD erred in determining that they had not established that it would be unreasonable for them to seek refuge in the proposed IFA. Counsel for the Applicants' argument in this regard was rather curious. They asserted that the RAD's analysis for the second part of the test did not account for the medical condition of the family's son. It was also noted that the RAD had allowed new evidence in relation to the child's medical condition and had directly addressed this consideration, finding that there had been no evidence indicating that appropriate medical treatment was not available in Mexico and the IFA.

[18] However, as best as I can discern, at the hearing counsel argued that the RAD did not account for the danger the Applicants could face in travelling to Merida, were they to return to Mexico. They listed certain physical maladies which characterized the child's medical condition and asserted that these, along with his mobility issues would amount to hardship in accessing the IFA. They then cited the case of *Rasaratnam v Canada (Minister of Employment and Immigration)*, [1992] 1 F.C. 706 (C.A.) for the proposition that a claimant should not be required to undergo great physical danger or undue hardship in travelling to a proposed IFA. They further highlighted the case of *Hashmat, Suhil v MCI (FCTD, no. IMM-2331-96),* Teitelbaum, May 9, 1997 [*Hashmat*], noting that in that case "the Court found there was undue hardship in reaching the IFA because the claimant's wife and child, who were not claimants, would have to travel with

him to reach the IFA and there was evidence of widespread rape of women and children making that journey." I note that, beyond being a 28-year-old case, *Hashmat* was a refugee claim where the events in question took place in Afghanistan, though it did indeed point out the dangers of road travel for women and children in certain areas of that country. Though I agree that the second part of the IFA test could well involve consideration of travel hazards or attendant hardship in the assessment of whether an IFA is reasonable, citing a nearly thirty-year-old matter, involving wholly disparate facts on the ground in an entirely different country, is of rather limited utility. So, too, was the second similar precedent presented, which made the same point.

[19] In any event, given that counsel conceded that, in the matter at hand, there was no evidence specifically indicating that transportation was dangerous for the Applicant's child, or that road travel between cities in Mexico bore the same hazards as had been highlighted or was particularly dangerous, or which indicated that it would be necessary for the Applicants to travel by road to Merida, rather than by other means of transport, such as by air, I do not find this argument persuasive. I further do not find the RAD's assessment of the second part of the IFA test unreasonable.

[20] For the reasons above, I find that the Applicant has failed to establish that the RAD's decision was unreasonable.

VI. Conclusion

[21] For the reasons set out above, this application for judicial review is dismissed. The parties proposed no question for certification, and I agree that none arises.

JUDGMENT in IMM-19198-24

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed.

2. No question of general importance is certified.

3. No costs are awarded.

"Darren R. Thorne"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-19198-24
STYLE OF CAUSE:	ESTEFANIA GONZALEZ MONTIEL et Al. v. MCI
PLACE OF HEARING:	TORONTO, ONTARIO
DATE OF HEARING:	SEPTEMBER 11, 2025
JUDGMENT AND REASONS:	THORNE J.
DATED:	SEPTEMBER 29, 2025

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