

Federal Court



Cour fédérale

**Date: 20251002**

**Docket: IMM-14820-24**

**Citation: 2025 FC 1624**

**Ottawa, Ontario, October 2, 2025**

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

**BETWEEN:**

**BRAYAN DANIEL AGUIRRE MANJARREZ  
DIANA BERENICE REYES MUNOZ  
IAN SEBASTIAN AGUIRRE REYES  
PAULA NAOMI AGUIRRE REYES**

**Applicants**

**and**

**MINISTER OF CITIZENSHIP  
AND IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

**I. Overview**

[1] The Applicants Brayan Daniel Aguirre Manjarrez, his wife Diana Berenice Reyes Munoz, and their children, Ian Sebastian Aguirre Reyes and Paula Naomi Aguirre Reyes, are citizens of Mexico. They seek judicial review of a decision by a senior immigration officer

[Officer] to refuse their request to apply for permanent residence from within Canada based on humanitarian and compassionate [H&C] grounds.

[2] The Officer did not properly consider the Applicants' submissions respecting their personalized risk of violence in Mexico, and did not conduct an adequate analysis of the best interests of the younger child, Paula. The application for judicial review is therefore allowed.

# I. Background

[3] Brayan entered Canada as a visitor on August 6, 2018. He then obtained a visitor record extending his stay until August 6, 2019. Diana, Ian and Paula entered Canada on November 29, 2018 as visitors.

[4] On November 10, 2023, the Applicants asked to apply for permanent residence from within Canada on H&C grounds pursuant to s 25(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA]. The Applicants relied on their establishment in Canada and the undue hardship they would face if they returned to Mexico. They also asserted that it would be in the best interests of the children [BIOC], then aged 13 and 8, to remain in Canada.

[5] The Officer refused the application on July 30, 2024.

## II. Decision under Review

[6] The Officer gave “some positive weight” to the Applicants’ ties to their community in Canada. However, the Officer assigned negative weight to the Applicants’ failure to regularize their immigration status. The Officer observed that the Applicants could maintain connections with friends and relations in Canada via modern communication methods, which would lessen the impact of removal.

[7] With respect to the BIOC, the Officer accepted that the children had adapted well to life in Canada. However, the Officer also found there was minimal evidence to suggest the children could not reintegrate into Mexican society. Overall, the Officer gave this factor “some positive weight.”

[8] The Officer repeatedly stated that the Applicants had provided insufficient evidence to demonstrate they would face a risk of violence if they returned to Mexico. The Officer acknowledged that crime and corruption are present in Mexico, but found a lack of evidence of personalized risk to the Applicants. The Officer gave this factor “neutral weight”.

## III. Issues

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

- A. Was the Officer’s decision procedurally fair?
- B. Was the Officer’s decision reasonable?

#### IV. Analysis

[10] The Officer'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).

[11] 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).

[12] 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 Officer's decision procedurally fair?*

[13] The Applicants' written submissions to the Officer provided an overview of their interactions with an organized criminal group connected to Los Zetas, which they described as one of the largest and most dangerous cartels in Mexico. The submissions referred to a "narrative

letter”, but it appears that this letter was never provided to the Officer. According to an affidavit submitted by a representative of the organization that assisted the Applicants in submitting their documents, this was due to technical difficulties in uploading documents electronically or an oversight on their part.

[14] The narrative letter was referenced in three footnotes in the Applicant’s written submissions. The Applicants argue that a reasonable decision maker would have noticed the missing narrative letter and would have asked that it be provided (citing *Gorgulu v Canada (Citizenship and Immigration)*, 2023 FC 23 [*Gorgulu*] at paras 51-52).

[15] The obligation on decision makers to alert applicants and allow them to correct obvious errors is constrained by the burden on an applicant to supply all documentation necessary to establish their claim (*Toney v Canada (Public Safety and Emergency Preparedness)*, 2009 FC 904 at para 84). As Justice Shirzad Ahmed remarked in *Chizengwe v Canada (Citizenship and Immigration)*, 2025 FC 30 at paragraph 22, *Gorgulu* was a case involving “a near-complete record with a single obvious, technical flaw”.

[16] In this case, the omission of the narrative letter from the Applicants’ supporting documents was not immediately obvious. Nor was the document a requirement of the application (see *Gorgulu* at para 52). I am not persuaded that the Officer should have noticed the missing document or given the Applicants an opportunity to provide it.

[17] The Applicants have not demonstrated that the Officer’s decision was procedurally unfair.

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

[18] The Applicants' written submissions included the following:

[...] Mr. Aguirre and his family fled to Canada after moving several times within Mexico to escape threats and extortion from an organized criminal group connected to Los Zetas, one of the largest and most dangerous Cartels in Mexico at that time.

The persecution of Mr. Aguirre and his family began in December 2009 and lasted until he fled to Canada in August 2018. Mr. Aguirre's first encounter with organized crime occurred on December 26, 2009, a day after the same criminal organization murdered his nephew. Following his nephew's death, members of the criminal organization demanded Mr. Aguirre pay them 500,000 Mexican pesos. Fearing for the family's safety, Mr. Aguirre and his partner (now wife) Diana fled their home and were forced to find a new place to live. Despite changing addresses, members of the same criminal organization found Mr. Aguirre two years later. They demanded Mr. Aguirre pay them 500,000 Mexican pesos. They also warned Mr. Aguirre against going to the police as the police worked for them. In the hope that they would leave him and his family alone, Mr. Aguirre—with the help of his family—raised 360,000 Mexican pesos and paid the members of the criminal organization. After this, Mr. Aguirre and his family once again changed addresses.

However, in January 2015, members of the same criminal organization, tracked down Mr. Aguirre and his family and demanded the remaining 140,000 Mexican pesos. When Mr. Aguirre refused to pay them any more money, members of the criminal organization physically assaulted both Mr. Aguirre and his wife. Fearing for their lives, Mr. Aguirre sold all his possessions, raised 70,000 Mexican pesos, and paid the members of the criminal organization. In March 2015, Mr. Aguirre and his family moved to a new residence hoping to evade the criminal organization that was terrorizing them. In February 2016, fearing that they would be found yet again by members of the criminal organization, Mr. Aguirre and his family changed addresses once more. Mr. Aguirre and his family moved to a gated community where access to their residence was more regulated. However, despite taking such precautions, in July 2018, Mr. Aguirre was again confronted by members of the criminal organization. They demanded that Mr. Aguirre pay them 150,000 Mexican pesos and

once again warned him against seeking assistance from the police. Despite having previously complied with the demands of the criminal organization and having taken precautions such as changing addresses multiple times, Mr. Aguirre and his family continued to be terrorized by organized crime. For the safety of himself and his family, Mr. Aguirre had no option but to escape to Canada along with his family in 2018.

[19] The Officer acknowledged that crime and corruption are present in Mexico, and that the Applicants may experience some difficulties upon their return to that country. However, the Officer found they had submitted little evidence of their encounters with organized crime, including when it occurred, what the dispute was about, and why they did not seek help from local authorities. Ultimately, the Officer found that the Applicants had not demonstrated a personalized risk arising from general country conditions, or that they would be refused state protection in Mexico.

[20] While the Officer did not have the benefit of the Applicants' narrative letter, their written submissions provided sufficient detail of their interactions with the organized criminal organization in Mexico to demonstrate personalized risk. In particular, the written submissions explained that the criminal organization had murdered Brayan's nephew and extorted the family. The criminal organization had pursued the family despite their attempts to relocate within Mexico, and warned them against going to the police.

[21] The Officer's reasons failed to account for the particulars provided in the Applicant's written submissions (*Vavilov* at para 127). The Applicants provided numerous details of their encounters with organized crime, as well as an explanation for why they did not seek the assistance of local authorities.

[22] There were also shortcomings in the Officer's BIOC analysis. The Officer did not acknowledge either the ages or the genders of the children, beyond noting that they were both under the age of 18 at the time of the application. The Officer found that that were "a lack of submissions that would suggest the child [singular] would not be able to reintegrate into Mexican society", seemingly oblivious to the fact that Paula was just three years old when she fled Mexico with her family. The Officer's observation that both children were born and raised in Mexico, understood the culture, and spoke the local language failed to account for Paula's young age when she left that country.

V. Conclusion

[23] The application for judicial review is allowed, and the matter is remitted to a different immigration officer 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 allowed,  
and the matter is remitted to a different immigration officer for redetermination.

“Simon Fothergill”

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Judge

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

**DOCKET:** IMM-14820-24

**STYLE OF CAUSE:** BRAYAN DANIEL AGUIRRE MANJARREZ, DIANA  
BERENICE REYES MUNOZ, IAN SEBASTIAN  
AGUIRRE REYES AND PAULA NAOMI AGUIRRE  
REYES v MINISTER OF CITIZENSHIP AND  
IMMIGRATION

**PLACE OF HEARING:** BY VIDEOCONFERENCE

**DATE OF HEARING:** SEPTEMBER 8, 2025

**JUDGMENT AND REASONS:** FOTHERGILL J.

**DATED:** OCTOBER 2, 2025

**APPEARANCES:**

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