

Federal Court



Cour fédérale

Date: 20251104

Docket: IMM-14022-24

Citation: 2025 FC 1773

Toronto, Ontario, November 4, 2025

PRESENT: Madam Justice Whyte Nowak

BETWEEN:

**RUMALDO JOSE CALDERA
YARITZA DEL CARMEN URIARTE RIVAS**

Applicants

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The Applicant, Rumaldo Jose Caldera [Principal Applicant] and his partner, Yaritza del Carmen Uriarte Rivas [Associate Applicant] [collectively, the Applicants], are citizens of Nicaragua who claimed refugee protection pursuant to sections 96 and 97(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27. The Refugee Protection Division [RPD] refused

their claims by decision dated July 19, 2024 [Decision] with the determinative issue being credibility. The Applicants seek judicial review of the Decision.

[2] The Applicants who are representing themselves, did not attend the hearing despite having received notice. Pursuant to the discretion afforded to the Court by Rule 38 of the *Federal Courts Rules*, SOR/98-106, the hearing proceeded despite their absence. My decision is based on the oral and written submissions from counsel for the Respondent and the Applicants' written submissions.

[3] For the reasons that follow, I find that the Applicants have not met their onus of showing that the Decision is unreasonable or procedurally unfair.

II. Facts

[4] The Applicants are citizens of Nicaragua who claimed protection in Canada based on the Principal Applicant's belief that his life is at serious risk because of his participation in protests against the Sandinista National Liberation Front, which has made him the target of authorities controlled by the Ortega government [Government].

[5] The RPD found that the Applicants are not convention refugees or persons in need of protection finding instead that the Applicants are asylum shoppers and economic migrants. The determinative issue for the RPD was the Applicants' credibility relating to core elements of the Principal Applicant's claim of persecution.

[6] The RPD considered that the Principal Applicant had not credibly established a subjective fear of persecution based on a number of findings including that: (i) the only event he credibly established having participated in was a single protest on April 18, 2018; (ii) the summons and notices he relied on to show the Government was pursuing him were issued four years after he participated in the 2018 protest and were found to be fraudulent; (iii) the Principal Applicant's explanation for not having been arrested for his political opinion/activity was implausible given the known practices of the Nicaraguan police; (iv) the Principal Applicant's subjective fear of persecution was undermined by his return to Nicaragua after trips to Panama and Costa Rica and the fact that he failed to make a refugee claim in Honduras, Guatemala, Mexico and the United States of America, all of which are signatories of the *Convention relating to the Status of Refugees*, 28 July 1951, 189 UNTS 137.

[7] The RPD also found that there is no serious possibility that the Associate Applicant would face persecution if returned to Nicaragua, either alone or with the Principal Applicant upon whose claim she relied.

III. Issues and Standard of Review

[8] The Applicants have raised the following issues:

- A. Was the RPD's determination that the Applicants lack credibility unreasonable?
- B. Was the RPD's determination that the Principal Applicant is not at risk of persecution in Nicaragua unreasonable?
- C. Were the Applicants denied procedural fairness?

[9] The role of the Court in a reasonableness review is to holistically and contextually examine the administrative decision maker's reasoning and the outcome to determine whether the decision is "based on an internally coherent and rational chain of analysis and that 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 at paras 97 and 85 [Vavilov]).

[10] Issues of procedural fairness on the other hand, are determined on a standard of review akin to correctness (*Canadian Pacific Railway Company v Canada (Attorney General)*, 2018 FCA 69 at paras 34, 54-56 [*Canadian Pacific*]) with the ultimate question being, whether the party knew the case they had to meet and had an opportunity to respond before an impartial decision maker (*Canadian Pacific* at para 41).

IV. Analysis

A. *Was the RPD's determination that the Applicants lack credibility unreasonable?*

[11] The Applicants have made three arguments as to why the RPD's credibility finding is unreasonable.

[12] First, the Applicants contend that the RPD unreasonably put questions to the Principal Applicant at the hearing which asked him to speculate about the motivations of others which responses the RPD then used to draw negative inferences regarding his credibility (citing *Weng v Canada (Citizenship and Immigration)*, 2011 FC 1483 at paras 30-32 [Weng]). The Applicants

note for example, that the Principal Applicant was asked why the police did not arrest him despite knowing where he lived?

[13] I do not consider the RPD to have engaged in the type of improper questioning identified in *Weng*. Again, using the RPD's question as to why the police did not arrest him, the RPD appropriately gave the Applicant the opportunity to explain why authorities who he says came to his residence and slipped notices and summonses under the door, did not simply arrest him. The RPD's negative credibility finding was not based on the Applicant's inability to explain the actions of others, but on the implausibility of his evidence which was also inconsistent.

[14] Second, the Applicants allege that the RPD failed to consider the corroborating documents independently of any general concerns about the Applicants' credibility (citing *Liu v Canada (Citizenship and Immigration)*, 2020 FC 576 at para 89 [*Liu*]).

[15] Contrary to the Applicants' contention, the RPD based its finding on the authenticity of the notices and summonses on the very objective criteria listed in *Liu*: discrepancies and modifications on the face of the documents and inconsistencies with standard templates for the type of document in question (*Liu* at para 87). The RPD also questioned why the Principal Applicant would not have been able to produce originals of documents slipped under his mother's door and found his answer to this question to be unsatisfactory and "evolving." These findings were reasonably open to the RPD on the record.

[16] Finally, the Applicants contend that the RPD arbitrarily viewed the evidence through a “Western lens,” which led it to unjustifiably impugn his credibility. I am unable to agree with this bald submission. The RPD found that the Principal Applicant did not provide credible and trustworthy evidence that authorities were interested in him or that his participation in the April 2018 protest was noticed by them. The RPD found the evidence on this key issue either wanting (in the case of the supporting letters), fraudulent (in the case of the notices and summonses) or unjustified (in the case of objective country condition evidence).

B. *Was the RPD’s determination that the Principal Applicant is not at risk of persecution in Nicaragua unreasonable?*

[17] The Applicants submit that the RPD applied the incorrect test for persecution by requiring that they show that they *would* face persecution if forced to return to Nicaragua, whereas they were only required to demonstrate a *mere possibility* of persecution.

[18] There is no basis for this alleged error, which is fully answered by the following conclusory paragraph of the RPD’s Decision:

In summary, the panel finds, on a balance of probabilities, that the claimants are not credible. The credibility concerns examined above, which are central to the core of the claim, cause the panel to doubt the veracity of all of the claimants’ allegations. Thus, the panel finds, on a balance of probabilities, that the principal claimant’s allegations of persecution by the state authorities and paramilitaries are not credible, and there is not a serious possibility that he would face persecution in Nicaragua if returned.

C. *Were the Applicants denied procedural fairness?*

[19] The Applicant points to the RPD's finding that the Applicants were economic migrants who left Nicaragua for economic reasons and not due to fear of persecution. They say the RPD's conclusion was based on their answer to questions at the hearing where they said they left Nicaragua for a "better life" in Canada. The Applicants submit that they were denied procedural fairness when the RPD failed to ask them what they meant by "better life" before speculating that "better" meant "economically 'better'." The Applicants contend that without an opportunity to explain what they meant, they could not have known the case they had to meet.

[20] There is no merit to this submission which relies on a selective reading of the RPD's Decision. The RPD based its finding that the Applicants were economic migrants on more than this stray line from the Applicants' testimony. It was also based on: (i) the fact that the Principal Applicant did not mention his fear of persecution when asked by a Canada Border Services Agency officer why he decided to come to Canada; (ii) the contents of a letter from the Principal Applicant's family friend who stated that the Applicants left for Canada "with the dream of being able to work in freedom and get ahead"; and (iii) the contents of a letter from the Associate Applicant's sister who referred to the "lack of job opportunities for people who oppose the Government."

[21] No issue of procedural fairness arises in these circumstances: the Applicants were aware of the need to demonstrate a subjective and well-founded fear of persecution and failed to do so.

V. Conclusion

[22] As the Applicants have not met their burden of showing that the Decision is unreasonable or procedurally unfair, this application is dismissed.

JUDGMENT in IMM-14022-24

THIS COURT'S JUDGMENT is that:

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

"Allyson Whyte Nowak"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-14022-24

STYLE OF CAUSE: RUMALDO JOSE CALDERA, YARITZA DEL
CARMEN URIARTE RIVAS v THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: OCTOBER 30, 2025

JUDGMENT AND REASONS: WHYTE NOWAK J.

DATED: NOVEMBER 4, 2025

APPEARANCES:

No one appearing	FOR THE APPLICANTS
Ferishtah Abdul-Saboore	FOR THE RESPONDENT

SOLICITORS OF RECORD:

Attorney General of Canada Toronto, Ontario	FOR THE RESPONDENT
--	--------------------