Federal Court  Cour fédérale

Date: 20250402

Docket: IMM-12307-23

Citation: 2025 FC 618

Ottawa, Ontario, April 2, 2025

PRESENT: The Honourable Mr. Justice Ahmed

BETWEEN:

HUGO SERGIO LARA BLANCARTE

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The Applicant, Hugo Sergio Lara Blancarte, seeks judicial review of a decision of the Refugee Appeal Division ("RAD") dated September 6, 2023, which confirmed the decision of the Refugee Protection Division ("RPD") that the Applicant is not a Convention refugee nor a person in need of protection under sections 96 and 97 of the *Immigration and Refugee Protection*

Act, SC 2001, c 27 ("IRPA"). The determinative issue was the existence of a viable internal flight alternative ("IFA") in Merida.

[2] The Applicant submits the RAD erred in their assessment of the reasonableness of the IFA in Merida.

[3] I disagree. For the reasons that follow, this application for judicial review is dismissed.

II. **Facts**

[4] The Applicant is a citizen of Mexico. He is a doctor.

[5] In May 2022, the Applicant was extorted by the Jalisco New Generation Cartel ("CJNG") due to his perceived wealth.

[6] The Applicant attempted to report the extortion to the police. The CJNG learned of the attempted report and increased the Applicant's monthly extortion fee.

[7] The Applicant then fled to Canada and submitted a claim for refugee protection.

[8] On June 7, 2023, the RPD rejected the Applicant's claim due to the existence of a viable IFA in the city of Merida. The Applicant appealed the RPD's decision.

[9] On September 6, 2023, the RAD confirmed the decision of the RPD. The RAD agreed with the RPD that it would be reasonable for the Applicant to seek protection in Merida, as

Merida is safer than other cities in Mexico and the Applicant's skills and work experience would permit him to live in safe neighbourhoods within the city. This is the decision that is presently under review.

III. **Issue and Standard of Review**

[10] The sole issue in this application is whether the RAD's decision is reasonable.

[11] The parties submit that the applicable standard of review is reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 16–17, 23–25 ("*Vavilov*")). I agree.

[12] Reasonableness is a deferential, but robust, standard of review (*Vavilov* at paras 12-13, 75, 85). The reviewing court must determine whether the decision under review, including both its rationale and outcome, is transparent, intelligible and justified (*Vavilov* at para 15). A decision that is reasonable as a whole is one that 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 (*Vavilov* at para 85). Whether a decision is reasonable depends on the relevant administrative setting, the record before the decision maker, and the impact of the decision on those affected by its consequences (*Vavilov* at paras 88-90, 94, 133-135).

[13] For a decision to be unreasonable, the applicant must establish the decision contains flaws that are sufficiently central or significant (*Vavilov* at para 100). Not all errors or concerns about a decision will warrant intervention. A reviewing court must refrain from reweighing evidence before the decision maker, and it should not interfere with factual findings absent

exceptional circumstances (*Vavilov* at para 125). Flaws or shortcomings must be more than superficial or peripheral to the merits of the decision, or a "minor misstep" (*Vavilov* at para 100).

IV. **Analysis**

[14] The Applicant submits the RAD's decision is unreasonable, as the RAD misapprehended the reasons of the RPD, disregarded generalized risk in its assessment of the reasonableness of the IFA, and evaluated the safety of the IFA in comparative, rather than absolute terms. The Applicant further asserts that the RAD misconstrued the country condition evidence.

[15] The Respondent submits that the RAD made no reviewable error. It is the Respondent's position that the RAD did not misapprehend the RPD's findings and duly considered generalized risk in assessing the reasonableness of the proposed IFA. The Respondent further submits that the RAD properly assessed the comparative safety of the IFA and did not undertake a selective review of the country condition evidence. According to the Respondent, the Applicant is simply requesting the Court to reweigh the evidence in his favour, which falls outside the scope of reasonableness review.

[16] I agree with the Respondent.

[17] The RAD did not misapprehend the RPD's findings. The Applicant submits that the RAD "transplant[ed] the RPD Member's exclusion of generalized violence" by "wrongly attributing it to the second branch – i.e., the reasonableness branch" of the two-part test set out in *Rasaratnam v Canada (Minister of Employment and Immigration) (CA),* 1991 CanLII 13517

(FCA), [1992] 1 FC 706 ("*Rasaratnam*"). The Applicant cites the following passage from paragraph 14 the RAD's decision as part of the basis for this submission [emphasis added]:

> [14] The RPD did not dispute [the Applicant]'s assertion that he might be subjected to extortion in Merida by criminal elements or by the police. Rather, the RPD found that the risk of extortion was a generalized one and that [the Applicant], as a medical professional, did not face a disproportionately higher risk of extortion than any other Mexican living in Merida. [The Applicant] has not challenged that particular finding, and I see no obvious error with the RPD's reasoning on that point.

[18] In my view, this passage does not stand for the proposition put forward by the Applicant. Although the RAD does refer to the RPD's assessment under the first prong of the test for an IFA in this passage, it does so simply to demonstrate that "[t]he RPD did not dispute [the Applicant's] assertion that he might be subjected" to some criminality in the proposed IFA. The RAD's findings on the second prong of the test appear later in the decision. As stated by the RAD at paragraphs 19 and 20 [emphasis added]:

> [19] An IFA location does not have to be completely free of violence in order to be viable. I find, on a balance of probabilities and based on the evidence before me, that [the Applicant] will be able to relocate to a middle or upper-class neighbourhood in Merida.
>
>]20] Consequently, I find that [the Applicant] has an IFA in Merida…

[19] Read in the context of the decision as a whole, I find the RAD's reference to generalized violence at paragraph 14 was a precursor to its substantive findings on the reasonableness of the IFA, rather than a component of the substantive findings themselves. In other words, there was no "transplant." The RAD rightly referred to generalized violence under the first prong of the test in *Rasaratnam* for the limited purpose of establishing that criminality in Merida was not in

dispute. The RAD then proceeded to assess the second prong of the test in *Rasaratnam* in subsequent paragraphs, finding that the proposed IFA was reasonable because the Applicant would be insulated from criminality in "a middle or upper-class neighbourhood" in Merida.

[20] The income and social class of the Applicant's neighbourhood could hardly be relevant without some recognition of criminality and generalized risk. In framing its assessment in this manner, I find the RAD gave obvious consideration to generalized risk. The RAD's attention to generalized risk under the second prong of the test in *Rasaratnam* is further evidenced by its discussion of the rates of crime, homicide, and intentional injury in Merida. The Applicant's submission that generalized risk was ignored is not supported by the evidence.

[21] The Applicant's submission on comparative versus absolute safety is similarly without merit. The RAD did not err by assessing the safety of the IFA in comparative terms. The test for an IFA is necessarily comparative in nature (*Thirunavukkarasu v Canada (Minister of Employment and Immigration) (CA)*, [1994] 1 FC 589, 1993 CanLII 3011 (FCA) at 598 ("*Thirunavukkarasu*")). As held by my colleague Justice Turley in *Guzman Coronel v Canada (Citizenship and Immigration)*, 2024 FC 517, "merely asserting that Mérida is unsafe [is] insufficient" to satisfy the Applicant's "high evidentiary burden" on the second prong of the test for an IFA (at para 29; see also *Trejo Marin v Canada (Citizenship and Immigration)*, 2025 FC 164 at paras 14, 36).

[22] Given the thorough assessment of criminality in the refusal decision, the Applicant's submission that the RAD ignored country condition evidence of violence and crime in Merida must fail. I find the RAD accounted for this evidence, directly acknowledging that the Yucatan

is not “completely free from crime” and Merida is not “completely free of cartel activity.” The RAD correctly noted that evidence of criminality does not foreclose a finding that an IFA may nonetheless be reasonable “in the circumstances of the individual claimant” (*Thirunavukkarasu* at 597). To the extent the Applicant argues that the RAD misapprehended the record, I agree with the Respondent that the Applicant is effectively requesting the Court to reweigh the evidence before the decision-maker. This is not the role of the Court on reasonableness review (*Vavilov* at para 125).

V. **Conclusion**

[23] This application for judicial review is dismissed. The RAD’s decision is justified in light of the record and accords with the jurisprudence on the reasonableness of IFAs (*Vavilov* at para 105).

JUDGMENT in IMM-12307-23

THIS COURT'S JUDGMENT is that:

1. This application for judicial review is dismissed.

2. There is no question to certify.

"Shirzad A."
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-12307-23
STYLE OF CAUSE:	HUGO SERGIO LARA BLANCARTE v THE MINISTER OF CITIZENSHIP AND IMMIGRATION
PLACE OF HEARING:	TORONTO, ONTARIO
DATE OF HEARING:	MARCH 10, 2025
JUDGMENT AND REASONS:	AHMED J.
DATED:	APRIL 2, 2025

APPEARANCES:

Anthony Navaneelan	FOR THE APPLICANT
Joseph Granton	FOR THE RESPONDENT

SOLICITORS OF RECORD:

Refugee Law Office Barristers and Solicitors Toronto, Ontario	FOR THE APPLICANT
Attorney General of Canada Toronto, Ontario	FOR THE RESPONDENT