

Federal Court



Cour fédérale

Date: 20250507

Docket: IMM-4093-24

Citation: 2025 FC 830

Toronto, Ontario, May 7, 2025

PRESENT: The Honourable Mr. Justice A. Grant

BETWEEN:

**JUAN SALVADOR MENDEZ GOYRI
PEREZ
BEATRIZ ALEJANDRA MEJIA RANGEL**

Applicants

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. OVERVIEW

[1] The Applicants seek judicial review of a decision by the Refugee Appeal Division [RAD]. In that decision, the RAD confirmed a determination that the Applicants are not in need of refugee protection in Canada because they have a safe and viable internal flight alternative [IFA] in Merida, Mexico.

[2] For the brief reasons that follow, I will grant this application for judicial review.

II. BACKGROUND

A. *Facts*

[3] The Applicants are citizens of Mexico, who allege a personalized risk to life, risk of torture, or risk of cruel and unusual punishment from the Principal Applicant's former employers, one of whom is his brother-in-law, and their connections. The events that make up the basis of their claim are as follows.

[4] The Principal Applicant [PA], Juan Salvador Mendez Goyri Perez ("Mr. Mendez") completed a law degree in Mexico and worked as general manager for a company called Capital Satelite. His spouse, Beatriz Alejandra Mejia Rangel ("Ms. Mejia") is the Associate Applicant [AA]. As general manager, Mr. Mendez worked closely with the company's two partners, Mr. Blanco and Mr. Lopez. Mr. Blanco is Mr. Mendez's brother-in-law, being married to Mr. Mendez's half-sister, Diana. Mr. Lopez additionally owns a family business running a slaughterhouse.

[5] In November 2018, Mr. Blanco attempted to fire Mr. Mendez, alleging he had been rude to a client.

[6] On June 10, 2019, Mr. Mendez was kidnapped while he was driving to work. He was drugged, tortured, and interrogated, before eventually being released. While the PA was being held captive, Ms. Mejia and others reported his disappearance to the police. While Mr. Mendez

was missing, Mr. Blanco was generally unsympathetic with his plight; he commented that some money was missing from the company, and that Mr. Mendez likely stole it and left town. Ms. Mejia additionally stayed with Mr. Blanco and Diane during the PA's kidnapping, who expressed no concern for Mr. Mendez's wellbeing.

[7] On June 25, 2019, Mr. Mendez returned to work after being kidnapped and was fired without compensation. Mr. Blanco and Mr. Lopez appeared angry with the PA and accused him of skipping work the days he was kidnapped.

[8] On August 6, 2019, the Applicants found that someone had broken into their garage and left a severed pig's head bearing a black cross and the word "Goyri," which is Mr. Mendez's other last name. As noted above, one of Mr. Mendez's bosses – Mr. Lopez – also runs a slaughterhouse, and the Applicants assumed that he was behind the incident, though they also came to suspect a connection to cartels, as this practice of leaving pigs' heads is one of their common ways of communicating death threats. The next day, the Applicants moved to a different state.

[9] On September 12, 2019, Mr. Mendez's mother was summoned to the Capital Satellite office, where Mr. Blanco and Mr. Lopez threatened her and demanded to know Mr. Mendez's whereabouts. Later in September 2019, Mr. Mendez's father contacted the police to follow up on the kidnapping investigation but was told that the file had gone missing.

[10] The Applicants left Mexico for Canada on October 2, 2019, and made claims for refugee protection at the airport. The Applicants allege that Mr. Mendez had been targeted as a scapegoat

by Mr. Lopez and Mr. Blanco, who had stolen money from a client, Mr. Campos, a former drug dealer. They intended to frame Mr. Mendez. The Applicants further allege that Mr. Lopez and Mr. Blanco have connections in the police and government and, through Mr. Campos, with the *Cártel de Jalisco Nueva Generación* [CJNG].

[11] In late 2021 – a little more than two years following the Applicants’ arrival in Canada – the parents of Mr. Mendez were again threatened by Mr. Blanco, who demanded that they share Mr. Mendez’s location.

[12] The Refugee Protection Division [RPD] of the Immigration and Refugee Board refused the Applicants’ claim for refugee protection. The determinative issue was the availability of an IFA in Merida. The RAD confirmed this finding.

B. *Decision under Review*

[13] The determinative issue for the RAD was once again the availability of an IFA in Merida. The RAD found that the Applicants’ allegations that Mr. Blanco and Mr. Lopez (the agents of harm, or “AOHs”) were behind the kidnapping and delivery of the pig’s head, and that the AOHs have connections to police, politicians, and the CJNG, were speculative. Therefore, the RAD concluded that the AOHs would not have the means to locate the Applicants in Merida.

[14] The RAD found that, while the Applicants may genuinely believe that the AOHs have connections that would allow them to locate the Applicants, that belief does not establish it as fact. While there were no concerns with the Applicants’ credibility, their testimony as to the connections between the agents of harm and cartels was speculative. It found it similarly

speculative that Mr. Blanco and Mr. Lopez would have the means to find the Applicants if they were to relocate to Merida.

[15] Finally, the RAD concluded that it would not be unduly harsh for the PA to relocate to Merida. The Applicant could find work in Merida outside of the legal field, as he failed to establish that not being able to continue his former career would jeopardize his or Ms. Mejia's lives or safety. The RAD further noted that Mr. Mendez has a law degree, but is not licensed to practice law in Mexico.

III. ISSUES

[16] The only issue raised in this matter is whether the RAD reasonably confirmed the RPD's determination that the Applicants have a viable IFA.

IV. STANDARD OF REVIEW

[17] The parties do not dispute that the standard of review is reasonableness: *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [Vavilov]. A reasonable decision contains no fatal flaws in its overarching logic. In conducting a reasonableness review, a court "must consider the outcome of the administrative decision in light of its underlying rationale in order to ensure that the decision as a whole is transparent, intelligible and justified" (Vavilov at para 15).

[18] It is the role of administrative decision-making bodies to assess and evaluate the evidence before it. Absent "exceptional circumstances," a reviewing court should not interfere with a

tribunal's factual findings. The reviewing court must refrain from reweighing the evidence considered by the decision maker: *Vavilov* at para 125.

V. ANALYSIS

[19] The test for assessing whether a refugee claimant may find safety within their own country, commonly referred to as an internal flight alternative, is well-established and often repeated. It is a two-part test.

[20] In the first part of the test, the decision-maker must assess the risk of harm that the claimant may face if required to relocate to the IFA location.

[21] Second, the decision-maker must consider whether, aside from the assessment of that risk, it would be objectively unreasonable for the claimant to seek refuge in the IFA location, considering all the circumstances. If the claimant establishes that *either* of the prongs is not met, there is no IFA: *Rasaratnam v Canada (Minister of Employment and Immigration)*, 1991 CanLII 13517 (FCA), [1992] 1 FC 706 and *Thirunavukkarasu v Canada (Minister of Employment and Immigration)*, 1993 CanLII 3011 (FCA), [1994] 1 FC 589 (FCA) at pp 597-598).

[22] In this case, the Applicants do not argue that the RAD misapprehended the IFA test. They argue, rather, that it erred in applying this test to the facts at hand. I agree with the Applicants that the RAD erred in its assessment of the first part of the IFA test. As such, I need not consider the second part of the test, though I would briefly note that in my review of this part of the RAD's analysis, I perceived no unreasonable findings.

A. *Prong One: The RAD erred in failing to consider the family connection between the Agents of Harm and the Applicants*

[23] In assessing whether a claimant faces a risk of harm in the proposed IFA location, decision-makers frequently ask themselves two questions: 1) does the agent of harm have the **motivation** to find and harm the claimant in the IFA location; and 2) does the agent of harm have the **means**, or the capacity, to find and harm the claimant in the IFA location.

[24] In this case, the RAD did not consider in any detail the motivation of the agents of harm. In other words, it did not call into question that Mr. Blanco and Mr. Lopez are motivated to harm Mr. Mendez. Rather, it found that the Applicants had failed to establish that these individuals had the means to find them in Merida. This conclusion was somewhat different than the RPD's assessment, which was that there was insufficient information to establish that the agents of harm had *either* the motivation or the means to find the Applicants in the IFA location.

[25] As indicated above, an important aspect of the Applicants' claim was that one of the agents of harm – Mr. Blanco – was the brother-in-law of Mr. Mendez. The Applicants also provided testimony and documentary evidence indicating that Mr. Blanco has attempted, on multiple occasions, to find the Applicants through Mr. Mendez's parents.

[26] In the Applicants' amended Basis of Claim [BOC] form, they stated:

In the time I have been in Canada my parents have received deadly threats from Mr. Igual Blanco. On December 20th 2021 my father was alone in my parents home...when Mr. Igual Blanco arrived to threaten them. He arrived with 3 other men and started screaming at my parents thinking they were both there. My father did not dare come out and confront [sic] them, they kept attacking and started throwing stones and bricks at the windows breaking them. The

neighbors started getting worried and called the police, they also videotaped the incident. The police never arrived and only left when he had made his threats known. My parents after this had to go into hiding at my grandmothers house.

My parents after that were to [sic] scared to go to police. They fear Mr. Igual Blanco since he is married to my step-sister, thinking he might hurt her to get my information out of my parents.

[27] The mother of Mr. Mendez provided a letter in support of the Applicants' claim. In it, she also spoke of Mr. Blanco's attempts to locate Mr. Mendez through threats to her. She stated:

I lost contact with my daughter since June 25, but on August 28 she called me to invite me to my granddaughter Isabella Igual Coronado's first birthday party that would be the next day, and I attended.

September 2, 2019. I attended Joaquin Igual Blanco's office at Capital Satellite because three days before he called me to arrange an appointment with me saying that the interview would be pleasant. I attended with the confidence that I could resume the communication with my daughter, but they were only shouting and insulting me, demanding that I give them my son's physical location and threatening that he would not rest until he finds my son since they are not the only people looking for him. The fact that I could see my granddaughter at her party was part of the moral blackmail that he wanted to apply to me to give him information about my son, but since I did not give it to him, he told me that he would use all the necessary means to find my son and continued to separate my daughter and granddaughter from me without allowing them to see me.

[28] The essence of this part of the Applicants' claim is that they feared Mr. Blanco could acquire the means to find them in any IFA location, through their family. Indeed, the close familial relationship between the agents of harm and the Applicants was an important and somewhat distinctive feature of this claim.

[29] This being the case, it is somewhat surprising that the RAD made no mention in its reasons of the familial relationship between Mr. Blanco and Mr. Mendez. Reading the RAD's reasons alone, one could not discern any relationship at all, outside of their employment. Given that the RAD relied exclusively on the insufficiency of evidence related to the means of the agents of harm to locate the Applicants, I find this to be a reviewable error. The RAD arrived at a conclusion without reference to an important aspect of the Applicants' claim, for which there was evidentiary support. It is trite that the RAD need not mention each item of evidence before it, but it is equally trite that where there is evidence in the record that runs directly contrary to its conclusions, such evidence must be actively considered in the reasons: *Cepeda-Gutierrez v. Canada (Minister of Citizenship and Immigration)*, 1998 CanLII 8667 (FC) at para 15; *Mouassa Tsaty v Canada (Citizenship and Immigration)*, 2024 FC 138 at para 34.

[30] To some extent, I can understand the RAD's failure to consider this aspect of the Applicants' claim, as it was not the focus of their appeal submissions. Nevertheless, the RAD's decision to rely solely on the capacity of the agents of harm to find the Applicants in the IFA brought this issue to the forefront of the appeal. As a result, its failure to even mention this aspect of the claim is a reviewable error.

[31] In their submissions before this Court, the Respondent noted that there is no evidence in the record that the agents of harm have approached Mr. Mendez's family since late 2021. While this may be the case, and while this might be squarely relevant to the current motivation of the agents of harm to find the Applicants, this was not a finding made by the RAD and so I will not consider it further.

[32] I also refer here to two principles drawn from the jurisprudence of this Court that underscore the importance of actively considering family relationships in arriving at IFA findings. The first principle is that it is unreasonable for decision-makers to base IFA findings on a requirement that claimants conceal their whereabouts from family members. These cases suggest that such a requirement would be tantamount to forcing refugee claimants into hiding, which is contrary to the very rationale of an IFA: see *A.B. v Canada (Citizenship and Immigration)*, 2020 FC 915 at para 20 [A.B.]; and *Zamora Huerta v Canada (Citizenship and Immigration)*, 2008 FC 586 at para 29.

[33] The second principle is that it is unreasonable to premise IFA findings on the ability of individuals to conceal the whereabouts of family members who relocate to a different location, particularly where such concealment may pose a risk to the family members: see *Ali v Canada (Citizenship and Immigration)*, 2020 FC 93 at para 49; and *A.B.* at paras 20, 23.

[34] As mentioned above, in this case, the evidence before the RAD was that one of the agents of harm – Mr. Blanco – was a relative of Mr. Mendez. The RAD did not question that Mr. Blanco has tried to locate Mr. Mendez. The RAD did not question that Mr. Blanco means to harm Mr. Mendez. The RAD did not consider that Mr. Blanco has attempted to coerce other family members into disclosing the Applicants' whereabouts. In these circumstances, it was therefore unreasonable for the RAD to disregard the possibility that the agents of harm had the means to locate the Applicants through their family members.

VI. CONCLUSION

[35] For the above reasons, this application for judicial review is granted. As noted above, my findings on the RAD's analysis of the first prong of the IFA test are determinative of this application. This being the case, I will not make further comment on the RAD's assessment of the second prong.

[36] The parties did not propose a question for certification, and I agree that none arises.

JUDGMENT in IMM-4093-24

THIS COURT'S JUDGMENT is that:

1. This application for judicial review is granted.
2. The matter is returned to the Refugee Appeal Division for reconsideration.
3. There is no question for certification.

"Angus G. Grant"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-4093-24

STYLE OF CAUSE: JUAN SALVADOR MENDEZ GOYRI PEREZ AND
BEATRIZ ALEJANDRA MEJIA RANGEL v THE
MINISTER OF CITIZENSHIP AND IMMIGRATION

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