

Federal Court



Cour fédérale

Date: 20250612

Docket: IMM-7790-24

Citation: 2025 FC 1061

Ottawa, Ontario, June 12, 2025

PRESENT: The Honourable Madam Justice Heneghan

BETWEEN:

**JOAQUINA CARMELINA PIRES ALBERTO
SIBINGO
ALONSO CESAR ALBERTO SIBINGO
ARMINDO CESAR ALBERTO SIBINGO
HAMILTON CESAR ALBERTO SIBINGO
CAMILA CESAR ALBERTO SIBINGO**

Applicants

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

REASONS AND JUDGMENT

[1] Ms. Joaquina Carmelina Pires Alberto Sibingo (the “Principal Applicant”) and her minor children Alonso Cesar Alberto Sibingo, Armindo Cesar Alberto Sibingo, Hamilton Cesar Alberto Sibingo, and Camila Cesar Alberto Sibingo (collectively “the Applicants”) seek judicial

review of the decision of the Immigration and Refugee Board, Refugee Appeal Division (the “RAD”), dismissing their appeal.

[2] The Applicants are citizens of Angola and Portugal. The Principal Applicant is a victim of domestic violence. They fled Angola in August of 2022 and went to Portugal where they stayed for one month before coming to Canada.

[3] The Immigration and Refugee Board, Refugee Protection Division (the “RPD”) determined that the Applicants had rebutted the presumption of state protection in Portugal.

[4] The Minister of Citizenship and Immigration (the “Respondent”) appealed and the RAD allowed the appeal, on the grounds that the state protection finding was unreasonable.

[5] The Applicants now argue that the decision of the RAD is unreasonable, in particular the finding that they did not face racial discrimination amounting to persecution in Portugal, when they had not made arguments on that issue.

[6] The Applicants also contend that the RAD unreasonably failed to address their explanation for not seeking state protection in Portugal.

[7] The Respondent submits that the decision of the RAD is reasonable and should be maintained.

[8] Following the decision in *Canada (Minister of Citizenship and Immigration) v. Vavilov*, [2019] 4 S.C.R. 653, the decision is reviewable on the standard of reasonableness.

[9] In considering reasonableness, the Court is to ask if the decision under review “bears the hallmarks of reasonableness – justification, transparency and intelligibility – and whether it is justified in relation to the relevant factual and legal constraints that bear on the decision”; see *Vavilov, supra*, at paragraph 99.

[10] Upon reviewing the materials in the Certified Tribunal Record and in the records filed by the parties, and upon considering the submissions made, I am not satisfied that the RAD’s decision meets the standard of reasonableness.

[11] State protection was the determinative issue before the RAD, as it was before the RPD.

[12] In my opinion, the conclusion of the RAD is not reasonable. Apparently, it was based upon a misapprehension of the evidence submitted by the Applicants and upon arguments that were not made.

[13] The Applicants had argued that racial discrimination had incentivised them not to seek state protection in Portugal. The reasons of the RAD do not reflect consideration of that argument, or of those circumstances.

[14] In the result, the application for judicial review will be allowed, the decision of the RAD will be set aside and the matter remitted to a differently constituted panel of the RAD for redetermination. There is no question for certification.

JUDGMENT IN IMM-7790-24

THIS COURT'S JUDGMENT is that the application for judicial review is allowed, the decision of the Refugee Appeal Division is set aside and the matter is remitted to a differently constituted panel of the Refugee Appeal Division for redetermination. There is no question for certification.

"E. Heneghan"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-7790-24

STYLE OF CAUSE: JOAQUINA CARMELINA PIRES ALBERTO SIBINGO
ET AL v. MCI

PLACE OF HEARING: TORONTO, ON

DATE OF HEARING: FEBRUARY 28, 2025

REASONS AND JUDGMENT: HENEGHAN J.

DATED: JUNE 12, 2025

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