

Federal Court



Cour fédérale

Date: 20250616

**Dockets: IMM-4990-24
IMM-4991-24**

Citation: 2025 FC 1079

Ottawa, Ontario, June 16, 2025

PRESENT: The Honourable Madam Justice Turley

Docket: IMM-4990-24

BETWEEN:

MARIA GUADALUPE CONTRERAS BRAVO

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

Docket: IMM-4991-24

AND BETWEEN:

MARIA GUADALUPE CONTRERAS BRAVO

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The Applicant seeks judicial review of two decisions made by the same immigration officer refusing her application for permanent residence on humanitarian and compassionate grounds [H&C] under subsection 25(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA], as well as her application for a pre-removal risk assessment [PRRA] under section 96 and subsection 97(1) of the IRPA. These applications were heard at the same time given the overlap in evidence and submissions.

[2] The applications are granted because the officer improperly engaged with the Applicant's submissions that she would suffer gender-based violence in Mexico as a single mother. In both decisions, the officer based their reasoning on the finding that the Applicant had not demonstrated hardship nor persecution as a single, impoverished mother while living in Mexico in the past. However, the Applicant only became a mother once she was in Canada.

II. Background

[3] A citizen of Mexico, the Applicant first came to Canada on a temporary resident visa in January 2019. Shortly after arriving, she met her partner, who is also from Mexico but had claimed asylum in Canada. They married in November 2021 before she gave birth to their child. Subsequently, her partner became abusive, and the Applicant obtained a restraining order. They separated in November 2022, and the Applicant filed for divorce in December 2023.

[4] In February 2023, the Applicant submitted an H&C application. A removal order was issued on March 30, 2023. The Applicant then filed her PRRA on April 13, 2023. Both applications were refused by the same officer — the PRRA on January 29, 2024, and the H&C on January 30, 2024.

III. Analysis

A. *New evidence is inadmissible*

[5] As a preliminary matter, the Respondent objected to evidence filed on these applications that was not before the officer when they made their decisions. The Applicant conceded that Exhibits E to I of the two affidavits filed in support of her applications were not before the officer. These exhibits were therefore not considered by the Court in assessing the decisions under review.

B. *The officer's decisions are unreasonable*

[6] There is no question that the applicable standard of review is reasonableness. A reasonable decision 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”: *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 85 [Vavilov]; *Mason v Canada (Citizenship and Immigration)*, 2023 SCC 21 at para 8 [Mason]. A decision should only be set aside if there are “sufficiently serious shortcomings” such that it does not exhibit the requisite attributes of “justification, intelligibility and transparency”: *Vavilov* at para 100; *Mason* at paras 59–61.

[7] In my view, the determinative factor in both the H&C and the PRRA applications is the officer's failure to properly assess the Applicant's risk in Mexico as a single mother. A decision-maker's failure to meaningfully grapple with key issues or central arguments may vitiate their decision: *Vavilov* at para 128.

[8] This was a new profile as the Applicant's child was born in 2021, two years after she left Mexico for Canada. In addition, she was effectively single as of the date of her H&C and PRRA applications as she was separated as of November 2022, and she obtained a divorce in December 2023.

[9] In support of her claims, the Applicant relied on objective country condition evidence about discrimination against single mothers with low incomes. According to item 5.7 of the National Documentation Package [NDP] for Mexico dated September 29, 2022, "low-income single mothers with children under 15 years of age [translation] 'face limited access and enjoyment of the right to food, as well as economic, social and cultural rights' due to, among others, the 'vulnerable income status in which they find themselves, the discrimination they have suffered in different sectors such as social, labour and family, unequal access to employment opportunities, as well as low-paid jobs'".

(1) H&C decision (IMM-4990-24)

[10] In their H&C decision, the officer dealt with this allegation of hardship under "risk and adverse country conditions". The officer acknowledged the argument that "as a result of her being an impoverished, single mother", the Applicant would face an increased risk of gender-based

discrimination: Humanitarian & Compassionate Grounds Reasons for Decision dated January 30, 2024, at 3 [H&C Decision]. However, the officer concluded that the Applicant had presented “little evidence” demonstrating that she had suffered discrimination while growing up in Mexico.

[11] Furthermore, the officer held that the Applicant had failed to demonstrate how her situation would change as a single mother. In that regard, the officer referred to the Applicant’s university education and prior employment in Mexico.

[12] There are two fundamental errors with the officer’s approach. First, the officer failed to meaningfully engage with the Applicant’s new profile as a single mother, instead focusing on the lack of past discrimination. In doing so, the officer failed to assess whether the Applicant — now as a single mother — would have access to similar opportunities as she had previously. As the NDP evidence above suggests, single mothers face discrimination in many sectors of society in Mexico, including employment. The officer, however, did not grapple with this objective evidence through the lens of the Applicant’s new profile.

[13] Second, the officer conflated the notions of hardship and risk. *Kanthasamy v Canada (Citizenship and Immigration)*, 2015 SCC 61 [*Kanthasamy*], explained that H&C officers are tasked with determining whether evidence that is insufficient to support a refugee claim may nonetheless justify an exemption under subsection 25(1) of the *IRPA*: *Kanthasamy* at paras 50–56.

[14] Here, the officer fell into the same error as in *Kanthasamy* by requiring the Applicant to adduce evidence that she faced “mistreatment, violence or discrimination while growing up in

Mexico”: H&C Decision at 3. The Supreme Court cautioned against requiring an applicant to “present direct evidence that [they] would face such a risk of discrimination if deported” because this “not only undermines the humanitarian purpose of s. 25(1), it reflects an anemic view of discrimination that [the Court] largely eschewed decades ago”: *Kanthasamy* at para 54.

[15] I recognize that this allegation of hardship was but one factor in the officer’s decision. However, it is not for the Court to speculate what the officer’s overall assessment would have been had they properly considered the objective evidence and the Applicant’s new risk profile in assessing the hardship she may endure upon return to Mexico.

(2) PRRA decision (IMM-4991-24)

[16] The officer similarly erred in their evaluation of the Applicant’s claim of persecution based on membership in a particular social group under section 96 of the *IRPA*. The PRRA was the Applicant’s first risk assessment. Decision-makers must ensure that their reasons reflect the seriousness of the consequences and that “those consequences are justified in light of the facts and law”: *Vavilov* at para 135.

[17] The officer acknowledged the Applicant’s allegation of risk: “women in Mexico face alarmingly high levels of gender-based violence and within this overall context, single mothers and poor women face an even higher risk than women in general”: Pre-Removal Risk Assessment dated January 29, 2024, at 4 [PRRA Decision].

[18] However, the officer determined that the Applicant: (i) had not demonstrated that “she was impoverished while living in Mexico”; (ii) “presented little evidence [...] that she was a victim of gender-based violence while living her in Mexico life [sic]”; and (iii) “did not make a claim for refugee protection upon entry into Canada based on her being a single, impoverished woman in Mexico”: PRRA Decision at 4. On this basis, the officer determined the Applicant had failed to establish a forward-facing risk as a poor, single mother: PRRA Decision at 4, 5.

[19] The officer fell into two errors in this assessment. First, as in the H&C decision, the officer failed to appreciate that the Applicant was invoking a risk that had newly arisen since coming to Canada. It was simply illogical for the officer to premise their decision on the Applicant’s failure to adduce evidence of past discrimination, or her failure to make a refugee claim on this ground upon arrival. Moreover, as the Applicant expressly stated, her risk of gender-based violence has since intensified due to her new profile as a single mother.

[20] Second, in any event, evidence of past persecution is not necessary to demonstrate a serious forward-facing risk based on membership in a particular group under section 96 of the *IRPA*: *Salibian v Canada (Minister of Employment and Immigration)*, 1990 CanLII 7978 (FCA) at 259; *Abusamra v Canada (Citizenship and Immigration)*, 2022 FC 917 at para 29; *Garces Canga v Canada (Citizenship and Immigration)*, 2020 FC 749 at para 51; *Lakatos v Canada (Citizenship and Immigration)*, 2019 FC 864 at para 55; *Debnath v Canada (Immigration, Refugees and Citizenship)*, 2018 FC 332 at para 31. The officer thus erred in requiring the Applicant to show a history of discrimination in Mexico as a single, impoverished mother.

IV. Conclusion

[21] For these reasons, the applications for judicial review of the officer's H&C and PRRA decisions are granted. The matters are remitted to another officer for redetermination.

[22] The parties did not propose a certified question, and I agree that none arises in this case.

JUDGMENT in IMM-4990-24 and IMM-4991-24

THIS COURT’S JUDGMENT is that:

1. The applications for judicial review are granted.
2. The officer’s PRRA decision dated January 29, 2024, is set aside and the matter is remitted to another officer for redetermination.
3. The officer’s H&C decision dated January 30, 2024, is set aside and the matter is remitted to another officer for redetermination.
4. There is no question for certification.

“Anne M. Turley”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKETS: IMM-4990-24 AND IMM-4991-24

DOCKET: IMM-4990-24

STYLE OF CAUSE: MARIA GUADALUPE CONTRERAS BRAVO v THE
MINISTER OF CITIZENSHIP AND IMMIGRATION

AND DOCKET: IMM-4991-24

STYLE OF CAUSE: MARIA GUADALUPE CONTRERAS BRAVO v THE
MINISTER OF CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: HELD BY WAY OF VIDEOCONFERENCE

DATE OF HEARING: JUNE 4, 2025

JUDGMENT AND REASONS: TURLEY J.

DATED: JUNE 16, 2025

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