

Federal Court



Cour fédérale

**Date: 20210929**

**Docket: IMM-895-21**

**Citation: 2021 FC 1013**

[ENGLISH TRANSLATION]

**Ottawa, Ontario, September 29, 2021**

**PRESENT: The Honourable Madam Justice Roussel**

**BETWEEN:**

**CESAR GONZALEZ RODRIGUEZ  
GRISSEL SOSA VIVEROS  
CESAR GONZALEZ SOSA  
AXEL GONZALES SOSA**

**Applicants**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

I. Background

[1] The applicant, Cesar Gonzalez Rodriguez, his spouse, Grissel Sosa Viveros, and their two minor children are Mexican citizens. They are seeking judicial review of a decision by the

Refugee Appeal Division, dated January 21, 2021, in which the RAD confirmed the rejection of their claims for refugee protection because an internal flight alternative [IFA] was available elsewhere in their country of origin.

[2] The applicants allege fearing the Jalisco Nueva Generacion [JNG] cartel. They state that in December 2018, two armed men entered the office of the businesses that the male applicant owns with his spouse and demanded a payment of 80,000 pesos, as well as monthly fees of 15,000 pesos for protection. The first payment was collected the next day, and others followed in January and February 2019. In March 2019, the male applicant and his spouse decided to close their businesses and take their children out of school. They happened to run into two men who told them that they knew about the closure. The male applicant denied everything and said that he would keep paying. In April 2019, the male applicant found an envelope in his office containing five photographs of his spouse picking up the children at their former school. The male applicant went to the prosecutor's office to file a complaint and was told that he would have to pay 10,000 pesos to have the extortionists caught. The next day, the JNG cartel kidnapped the male applicant and held him prisoner for five days. He was freed after his spouse paid 100,000 pesos. Fearing for their safety, the applicants left Mexico on May 10, 2019, and travelled to Canada, where they made claims for refugee protection.

[3] On April 23, 2020, the Refugee Protection Division [RPD] rejected the claims, finding that the applicants had an IFA in two other cities in Mexico. The applicant filed an appeal with the RAD against that decision, alleging that the RPD had erred in its assessment of the IFA. They only challenged the RPD's analysis under the first prong of the test for establishing an IFA.

[4] The RAD concluded that the applicants had an IFA in the two proposed locations and that the RPD had not made an error. It found that the evidence did not show, on a balance of probabilities, that the JNG cartel would still to this day be interested in hunting down the applicants in the proposed cities should they return to Mexico. It was also of the opinion that the applicant and his spouse had not alleged any other reason than their fear of the JNG cartel that would prevent them from relocating elsewhere in Mexico.

[5] The applicants submit that the RAD's decision is unreasonable. In particular, they criticize the RAD for erring in its assessment of the motivation of the agents of harm to find them in the proposed IFAs.

## II. Analysis

[6] The parties agree that the applicable standard of review is reasonableness. The Court shares this view.

[7] Where the reasonableness standard applies, the Court must develop an understanding of the decision maker's reasoning process in order to determine whether the decision as a whole is reasonable. It must ask whether the decision 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" (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 99 [*Vavilov*]). Furthermore, the "burden is on the party challenging the decision to show that it is unreasonable" (*Vavilov* at para 100).

[8] The test for establishing an IFA has two prongs. The RAD has to be satisfied, on a balance of probabilities, (1) that there is no serious possibility of the claimants being persecuted in the part of the country where an IFA exists; and (2) that it is not unreasonable, in light of all the circumstances, including the personal situation of the claimants, for the claimants to seek refuge there (*Rasaratnam v Canada (Minister of Employment and Immigration)*, [1992] 1 FC 706 at pp 709–11 (FCA) (QL); *Thirunavukkarasu v Canada (Minister of Employment and Immigration)*, [1994] 1 FC 589 (FCA)). The onus is on refugee protection claimants to prove that the IFA is unreasonable.

[9] In this case, the applicants are essentially challenging the RAD's findings regarding the first prong.

[10] Contrary to the applicants' arguments, the RAD did consider the objective documentary evidence, which shows that large debts or personal vengeance may motivate a cartel to hunt people down outside their region. However, the RAD found that the applicants were not in such a situation. It noted that the applicants paid the money the JNG cartel extorted from them and that the male applicant was released safe and sound when the 100,000 peso sum was paid. As for the complaint lodged with the police against the agents of harm, the RAD pointed out that it was filed on April 3, 2019, one month before the applicants left Mexico, but that it was made against unspecified assailants and made no reference to the JNG cartel, thus failing to incriminate this group. The RAD concluded that the applicants had not shown, on a balance of probabilities, that the JNG cartel would still to this day have the interest or motivation to track them down in the

proposed IFAs, which are located several hundred kilometres from the city where they lived. The applicants did not demonstrate that this conclusion is unreasonable.

[11] The applicants argue in their memorandum that they still owe a debt to the JNG cartel. Specifically, counsel for the male applicant alleges that the applicants did not pay the amount owed for the month of March 2019. Yet the record does not clearly show that such a debt exists. Moreover, the Court finds that it was reasonable for the RAD to conclude that no such debt exists because the male applicant was released safe and sound after paying 100,000 pesos.

[12] It is important to bear in mind that the RAD's findings as to whether there was an IFA are essentially findings of fact and are based on its assessment of all the evidence, including the objective documentary evidence. This falls within its area of expertise and commands a high degree of deference from this Court. In light of all the evidence, the RAD could reasonably conclude that the applicants had not demonstrated, on a balance of probabilities, that the agents of harm were interested in tracking them down someplace other than their city of residence, and that they would be at risk in the cities proposed as an IFA. It is not this Court's place to reassess and reweigh the evidence to arrive at a conclusion that would be more favourable to the applicants. Its role is to assess whether the decision bears the hallmarks of reasonableness (*Vavilov* at paras 99, 125; *Canada (Citizenship and Immigration) v Khosa*, 2009 SCC 12 at para 59). The Court finds that such is the case.

[13] For all these reasons, the application for judicial review is dismissed. No question of general importance was submitted for certification, and the Court finds that this case does not raise any.

**JUDGMENT in IMM-895-21**

**THIS COURT'S JUDGMENT is as follows:**

1. The application for judicial review is dismissed.
2. No question of general importance is certified.

“Sylvie E. Roussel”

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Judge

Certified true translation  
Johanna Kratz

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** IM-895-21

**STYLE OF CAUSE:** CESAR GONZALEZ RODRIGUEZ ET AL v THE  
MINISTER OF CITIZENSHIP AND IMMIGRATION

**DATE OF HEARING:** HELD BY VIDEOCONFERENCE

**DATE OF HEARING:** SEPTEMBER 27, 2021

**JUDGMENT AND REASONS:** ROUSSEL J.

**DATED:** SEPTEMBER 29, 2021

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