

Federal Court



Cour fédérale

Date: 20231213

Docket: IMM-8390-22

Citation: 2023 FC 1685

Toronto, Ontario, December 13, 2023

PRESENT: The Honourable Justice Fuhrer

BETWEEN:

JOHN ANDRES CAIPA GONZALEZ

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The Applicant is John Andres Caipa Gonzalez, a citizen of Colombia. He is a business owner who was subject to extortion for six years. When he no longer was able to pay, he was beaten. He fled Colombia, initially for Mexico, and subsequently claimed refugee protection in Canada, because he feared gangs in all parts of Colombia.

[2] The Refugee Protection Division [RPD] found that the Applicant was the victim of neighbourhood criminals, as opposed to a major organized crime group or gang. As such, the RPD concluded that the Applicant had a viable internal flight alternative [IFA] in Tunja, Boyacá, Colombia, because the criminals would not have the means to locate him there.

[3] Conducting its own assessment of the evidence, the Refugee Appeal Division [RAD] agreed with the RPD and dismissed the Applicant's appeal, finding that he is neither a Convention refugee nor a person in need of protection [Decision].

[4] There is no dispute that the presumptive reasonableness review standard applies to the matter before the Court: *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [Vavilov] at paras 10, 25. To avoid judicial intervention, the challenged decision must bear the hallmarks of reasonableness—justification, transparency and intelligibility (para 99). A decision may be unreasonable if the decision maker misapprehended the evidence before it (paras 125-126).

[5] I am persuaded that the Applicant has not met his requisite onus to show that the Decision is unreasonable: *Vavilov*, above at para 100. For the reasons that follow, this judicial review application will be dismissed.

II. Analysis

[6] The Applicant has not shown any serious misstep by the RAD that rises to the level of a reviewable error warranting the Court's intervention.

[7] The fact that the RAD reached the same conclusion as the RPD does not mean, in itself, that the RAD failed to carry out its own analysis of the evidence: *Jean Baptiste v Canada (Minister of Citizenship and Immigration)*, 2019 FC 1106 at para 29. The Decision on its face reflects that the RAD conducted an independent assessment of the evidence.

[8] In my view, the Decision reasonably explains the RAD's rationale for reaching its result; in other words, the reasons demonstrate that the decision maker was alert to the matter before it and the Decision is internally coherent and justified in relation to the applicable factual and legal constraints: *Vavilov*, above at para 85.

[9] In particular, the Applicant has not shown that the RAD unreasonably determined that the IFA is reasonable despite the challenges the Applicant may face finding work. As an example, the Applicant submits that the RAD should have made specific mention of the two articles that the RAD admitted as new evidence regarding criminal activity and food insecurity in its determination of the reasonableness of the IFA. I disagree for at least two reasons. First, the submission demands a level of perfection in the RAD's reasons that is not warranted: *Vavilov*, above at para 91. Second, taking into account that the RAD specifically admitted the two articles, and is presumed to have considered them, the Applicant has not persuaded me that the RAD did not take them into account on a holistic review of the Decision.

[10] Put simply, it is not the role of the reviewing court to reweigh the evidence before the administrative decision maker: *Vavilov*, above at para 125. In my view, this is largely what the Applicant here requests.

III. Conclusion

[11] For the above reasons, the Applicant's judicial review application will be dismissed.

[12] Neither party proposed a question for certification. I find that none arises in the circumstances.

JUDGMENT in IMM-8390-22

THIS COURT'S JUDGMENT is that:

1. The Applicant's application for judicial review is dismissed.
2. There is no question for certification.

"Janet M. Fuhrer"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-8390-22

STYLE OF CAUSE: JOHN ANDRES CAIPA GONZALEZ V THE
MINISTER OF CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: DECEMBER 11, 2023

JUDGMENT AND REASONS: FUHRER J.

DATED: DECEMBER 13, 2023

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