

Federal Court



Cour fédérale

**Date: 20240212**

**Docket: IMM-8485-22**

**Citation: 2024 FC 236**

**Ottawa, Ontario, February 12, 2024**

**PRESENT: The Honourable Mr. Justice Manson**

**BETWEEN:**

**JOAN FRANCISCO LADINO TORRES**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

**I. Introduction**

[1] This is an application for judicial review of a decision (the “Decision”) of the Refugee Protection Division (the “RPD”) finding that the Applicant is neither a Convention refugee nor a person in need of protection under sections 96 and 97 of the *Immigration and Refugee Protection Act*, SC 2001, c 27 (the “Act”).

II. Background

[2] Mr. Joan Francisco Ladino Torres (the “Applicant”) is a 22-year-old citizen of Colombia.

[3] The Applicant alleges that a paramilitary organization called the *Autodefensas Compensinas* (the “AC”) killed his mother’s common-law spouse in 2001 (the “2001 murder”), before the Applicant was born. The Applicant’s mother made a “denunciation” (that is, a complaint) to the Colombian authorities in 2006.

[4] The investigation into the 2001 murder took many years. The Applicant’s mother continued to follow up with the Colombian authorities for updates on their investigation. The Applicant alleges that, when he was young, he would usually accompany his mother whenever she would go to the Colombian authorities to follow up on the investigation.

[5] Because of her complaint, his mother became the target of alleged threats from the AC. From 2007 until 2017, she and the Applicant, along with the Applicant’s siblings, moved around Colombia to minimize their risk.

[6] In 2017, the Colombian authorities charged a member of the AC in relation to the 2001 murder. Fearing reprisals, the Applicant’s mother sent him to live with her half-sister. In 2021, the Colombian authorities issued a report naming further members of the AC who were responsible for the 2001 murder.

[7] The Applicant alleges that, two months after the report was issued, he began receiving phone calls from unknown callers. On the first call, no one spoke when the Applicant answered. The Applicant informed his mother of the first call and she reassured him that there was no indication that the AC was aware of his whereabouts.

[8] On a second call the following month, the caller, who identified himself as a member of the AC this time, threatened the Applicant and told him he was going to disappear for being a “snitch”, citing the 2001 murder. On a third call a few days later, the caller again identified himself as a member of the AC. He warned the Applicant that he has “very little time left” because he was a “snitch” and demanded the Applicant “[l]eave the matter alone”.

[9] The Applicant filed a complaint with the Colombian authorities. He was advised to leave the city and change his number. The Applicant subsequently moved to Bogota and changed his number. The calls ceased. However, the Applicant was still advised to leave the country.

[10] The Applicant arrived in Canada in June 2021 through the United States. Some of his siblings claimed asylum in the United States after alleged threats to their life. The Applicant claimed refugee protection in Canada.

[11] The Applicant identifies the AC as the agents of harm, along with other paramilitary organizations affiliated or allied with the AC, specifically the *Clan del Golfo* (the “AGC”). The Applicant states that the AC and its allies are threatening his life.

III. The Decision

[12] The RPD denied the Applicant's claim. The determinative issue was whether the Applicant had an internal flight alternative ("IFA") in the city of Tunja. The RPD held that he did.

[13] The RPD assessed whether the AC has any affiliates that are also among the alleged agents of harm. It found that the AC does not have any links to other paramilitary organizations. It also noted that there was no evidence suggesting that any organization other than the AC was contacting the Applicant or his siblings and threatening their life. The AC was therefore the only agent of harm for the purpose of the RPD's analysis.

[14] The RPD assessed whether the AC had the means to find the Applicant in Tunja. It concluded from the documentary evidence that, although some of its former members have created new paramilitary groups that continue to operate today, on a balance of probabilities, the AC itself is now a defunct organization.

[15] The RPD also found that the AC did not have a national presence. It observed that, when the Applicant moved to Bogota and changed his phone number, the threatening calls ended. From this, the RPD inferred that the AC would not necessarily be able to find the Applicant anywhere in Colombia, as alleged.

[16] The RPD also concluded that the Applicant would not be recognized by the AC. It acknowledged that the Applicant often accompanied his mother as a child when she would go

speak with the Colombian authorities. However, the RPD noted that the Applicant was, by his own admission, too young at the time to remember the details. The RPD concluded that the Applicant would not be recognizable today by the AC.

[17] On the question of motivation, the RPD observed that there is no evidence suggesting the AC has approached any member of the Applicant's family, nor that it was able to locate the Applicant in the city he resided in before moving to Bogota. The RPD also noted that the Applicant has not received any threats after moving to Bogota and changing his phone number.

[18] Finally, the RPD held that it is not unreasonable to expect the Applicant to relocate to Tunja. The Applicant has a high school education and would be able to seek employment and accommodation in Tunja, particularly with the continued assistance of his family, who continue to support him while he is in Canada.

[19] The Applicant alleges that the RPD's finding that he had an IFA in Tunja is unreasonable. He specifically argues that the RPD misapprehended or ignored the evidence, engaged in speculation, and "[m]ade findings based on inference".

#### IV. Issue

[20] Was the RPD's finding that the Applicant had an IFA in Tunja unreasonable?

#### V. Analysis

[21] The standard of review is reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 25).

[22] The Applicant argues that the RPD erred in the following ways: (1) it disregarded evidence that links the AC and the AGC; (2) it failed to note the unique structure of the AGC and its reach; (3) its conclusion that the AC was no longer looking for the Applicant was speculative; and (4) it failed to consider the socioeconomic conditions that make living in Tunja an unreasonable choice for the Applicant.

A. *Evidence of Alliance*

[23] The Applicant argues that the RPD disregarded evidence of an alliance between the AC and the AGC. He notes in particular an article that he put before the RPD, which he alleges shows the AC and the AGC collaborating to some degree.

[24] The RPD did not disregard the evidence put forth by the Applicant. In fact, it engaged with it in detail and concluded that “[l]ittle information is provided about what happened to the AC [...] and no information is provided about any alliances”.

[25] The Applicant suggest that the article shows the AC acting in a manner that creates an advantage for the AGC. However, even if that is correct, the Applicant engages in speculation when he infers from this that the AC and the AGC are “directly linked”. As the RPD observed, there is “no information provided about any alliances”.

[26] Further, even if the inference that the AC and the AGC are linked was not speculative based on the article, it was open to the RPD to make other reasonable inferences. Here, the RPD understood the article to be covering a single event that occurred around May 2018, not a well-established and ongoing alliance between the AC and the AGC.

[27] The RPD's finding that the AC and the AGC are not linked is reasonable based on the evidence.

B. *Nature and Structure of the AGC*

[28] The Applicant makes further submissions regarding the nature and structure of the AGC. Citing references within the National Documentation Package, he states that the AGC operates as a leader of many local criminal organizations. He claims that this shows the extent of the AGC's reach.

[29] The Applicant's submission is predicated on the assumption that the AC and the AGC are directly linked. Again, the RPD reasonably held that there is insufficient evidence to support any such link. Therefore, even if the Applicant were to conclusively demonstrate that the AGC has a nation-wide reach within Colombia, that conclusion would have no effect on the RPD's analysis, since the RPD reasonably concluded that the AGC was not linked to the AC and that the sole agent of harm is the AC.

[30] The Applicant's claims with respect to the AGC have no bearing on the outcome.

C. *Motivation of the Agents of Harm*

[31] The Applicant alleges that the RPD's finding that the AC is not motivated to pursue him is unreasonable. The Applicant specifically claims that the RPD engaged in speculation by concluding, without evidence, that because the AC did not continue threatening the Applicant while he was in Bogota, the Applicant is no longer being pursued by the AC.

[32] In considering the burden of proof on an IFA analysis, the RPD is merely required to identify a potential IFA location. Once it does so, the onus to show that the IFA is not suitable lies with the claimant. This includes the onus to show that the alleged agents of harm are motivated to find the claimant in the IFA (*Thirunavukkarasu v Canada (Minister of Employment and Immigration)*, [1994] 1 FC 589 (CA) at 594).

[33] The Applicant seeks to discharge that onus by simply citing the allegations his siblings made in their asylum claim in the United States. In my view, however, the Applicant's siblings' claims make no mention of the threat allegedly faced by the Applicant to this day. The Applicant's siblings' claims discuss their own circumstances. It was not unreasonable of the RPD to not consider that evidence when its task was to assess the availability of an IFA *for the Applicant* and his own individualized circumstances.

[34] Moreover, the RPD's analysis provided the following elements that, together, persuaded it that the AC did not have the motivation to pursue the Applicant: there was no evidence that the Applicant was pursued or threatened since he left the city he resided in initially to Bogota and then



Canada, and there was no evidence that the AC has contacted the Applicant's family or friends to ask about his whereabouts. It was open for the Respondent to conclude from the lack of evidence that the AC is not motivated to find the Applicant.

D. *IFA's Reasonableness*

[35] The Applicant states that the IFA is unreasonable under the second prong of the IFA analysis. He alleges that he would struggle to find employment and housing in Tunja.

[36] I agree with the Respondent that, in order to show that an IFA is unreasonable, the Applicant must show with concrete evidence that relocating and staying in Tunja would endanger his life or safety (*Ranganathan v Canada (Minister of Citizenship and Immigration)*, [2001] 2 FC 164 (FCA) at para 15). In other words, the Applicant must prove that the IFA would create an unacceptable risk of persecution (at para 16).

[37] The Applicant has not met this high bar. He merely alleged that relocating to the IFA may give rise to socioeconomic challenges, which is not sufficient to establish undue hardship or risk of persecution.

[38] The RAD's finding on the second prong of the IFA analysis was reasonable.

VI. Conclusion

[39] The application is dismissed.

**JUDGMENT in IMM-8485-22**

**THIS COURT'S JUDGMENT is that:**

1. The application is dismissed.
2. There is no question for certification.

"Michael D. Manson"

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Judge

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

**DOCKET:** IMM-8485-22

**STYLE OF CAUSE:** JOAN FRANCISCO LADINO TORRES v THE  
MINISTER OF CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** TORONTO, ONTARIO

**DATE OF HEARING:** JANUARY 31, 2024

**JUDGMENT AND REASONS:** MANSON J.

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**APPEARANCES:**

Omolola Fasina FOR THE APPLICANT

Maneli Bagherzadeh-Ahangar FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

Michael Loebach FOR THE APPLICANT  
Barrister and Solicitor  
London, Ontario

Attorney General of Canada FOR THE RESPONDENT  
Toronto, Ontario