

Federal Court



Cour fédérale

**Date: 20240402**

**Docket: IMM-3896-23**

**Citation: 2024 FC 508**

**Ottawa, Ontario, April 2, 2024**

**PRESENT: The Honourable Madam Justice Kane**

**BETWEEN:**

**MIZAR LAEL BARRIENTOS FLORES  
LAURA PILAR MENDOZA DOMINGUEZ  
NARET BARRIENTOS MENDOZA**

**Applicants**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

[1] The Applicants bring this application pursuant to subsection 72(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [the Act] to set aside a decision of the Refugee Appeal Division [RAD] of the Immigration and Refugee Board of Canada dated February 28, 2023. The RAD dismissed the Applicants' appeal from the Refugee Protection Division [RPD] and found that the Applicants were neither Convention refugees nor persons in need of

protection pursuant to sections 96 and 97 of the Act as they had an internal flight alternative [IFA] within Mexico in Cabo San Lucas.

[2] For the reasons that follow, the Application for Judicial Review is dismissed.

I. Background

[3] The Applicants – Mr. Mizar Barrientos Flores [Mr. Barrientos Flores], his spouse Laura Pilar Mendoza Dominguez [Ms. Mendoza Dominguez], and their daughter – recount that they fled their home in Mexico due to fear of death, extortion, and kidnapping from the Los Zetas cartel.

[4] Mr. Barrientos Flores worked as a travelling sales representative for a tobacco company in Tuxtla Gutiérrez, Chiapas state. He recounts that his job required him to handle large sums of cash and to make regular deposits at banks. Mr. Barrientos Flores attests that in May 2018 he was robbed at gunpoint and assaulted. His employer filed a police report and directed him to make future deposits and a different bank branch. Mr. Barrientos Flores recounts that he was robbed again by a different assailant. His employer filed a second police report. He also attests that he was later accosted twice (the last time in September 2019) by persons who claimed to be connected to Los Zetas. In September 2019, his assailant demanded that he pay 150,000 pesos within a week or they would kill Mr. Barrientos and his spouse and kidnap their daughter.

[5] The Applicants fled to Canada on October 3, 2019 and claimed asylum in December 2020.

[6] The RPD found that there was no evidence that the Applicants were targeted by Los Zetas based on a Convention refugee ground; i.e., on the basis of their race, nationality, political opinion, religion, or membership in a particular social group. The RPD then assessed the Applicants' claim under subsection 97(1) of the Act to determine if they were persons in need of protection.

[7] The RPD found that the determinative issue was the availability of an IFA in Cabo San Lucas. The RPD considered the two-prong test for determining the viability of an IFA. First, whether on a balance of probabilities, the Applicants would face a serious possibility of persecution or risk to their lives or of cruel and unusual treatment or punishment in the proposed IFA; and second, whether the conditions in the IFA are such that it would not be objectively unreasonable for the Applicants to relocate there. The RPD noted that once the possibility of an IFA is raised, the burden shifts to the Applicants to demonstrate on a balance of probabilities that there is a serious risk of persecution or a subsection 97(1) risk in the IFA location.

[8] The RPD found that it was unlikely that Los Zetas would put the time, money, or effort into tracking the Applicants to Cabo San Lucas given that the Applicants do not possess any specialized knowledge or skills to aid the cartel, and given that Cabo San Lucas is over 2,600 km away or 39 hours by bus from their home.

[9] The RPD also found that Mr. Barrientos Flores would likely be able to find work in Cabo San Lucas given that he has transferable skills, and that there were no significant barriers to the Applicants' relocation to the IFA.

II. The RAD decision under review

[10] The RAD confirmed the RPD's finding that the Applicants had no nexus to a Convention refugee ground and were otherwise not persons in need of protection under subsection 97(1) of the Act.

[11] The RAD agreed that the Applicants' allegations of risk from Los Zetas were related to criminal activity and were not based on a Convention ground.

[12] The RAD cited the two-prong test governing an IFA (citing *Ranganathan v Canada (Minister of Citizenship and Immigration)* (CA), 2000 CanLII 16789 (FCA) [*Ranganathan*]), noting that the IFA must be both safe, and reasonable and provided a plain language summary of the two-prong test: "[i]t is safe if there is no serious possibility of persecution or risk to life or cruel and unusual treatment or punishment or torture. It is reasonable if conditions in the IFA are not unduly harsh and do not jeopardize the life or safety of the appellant."

[13] With respect to the first prong of the IFA test, the RAD concluded that the IFA was safe. The RAD noted that the Applicants' circumstances and the agent of persecution's interest in and ability to find them are assessed when determining the first part of the test, the safety of the IFA.

[14] The RAD considered the National Documentation Package [NDP] for Mexico, which notes that there are no safe havens in Mexico from a "sufficiently motivated cartel". However, the RAD found that there was no objective evidence that Los Zetas would be motivated to

mobilize their resources to track the Applicants to Cabo San Lucas. The RAD relied on the NDP, which states that, generally, only high-ranking targets warrant the expenditure of a cartel's resources. The RAD also noted that none of the Applicants' extended family members, who were still located in Chiapas, had been contacted or threatened by the cartel in the intervening years and that there was no evidence Los Zetas was still pursuing Mr. Barrientos Flores.

[15] The RAD found the Applicants' argument – that the RPD erred in speculating that Los Zetas was not motivated to pursue them – was an attempt to reverse the onus of proof, which was clearly the Applicants' onus. The RAD found the Applicants had failed to submit corroborative evidence that Los Zetas continued to pursue them. The RAD noted that it is not required to accept an applicant's subjective belief as true absent corroborative evidence (citing *Olusola v Canada (Citizenship and Immigration)*, 2020 FC 799 at para 25).

[16] With respect to the second prong of the IFA test – regarding the reasonableness of the IFA – the RAD found that the Applicants had not met their onus to show that Cabo San Lucas was an objectively unreasonable IFA; i.e., that the IFA would be unduly harsh to the point of jeopardizing the life or safety of the Applicants (citing *Ranganathan*).

[17] The RAD reviewed the RPD's findings, assessed the evidence, and noted that personal factors are considered under the second prong of the test, such as language, religion, ethnicity, education, and the ability to earn a living. The RAD also noted that the Applicants had not objected to the RPD's finding on appeal that Mr. Barrientos Flores had transferable skills and would likely find employment in the IFA.

[18] The RAD noted the Applicants' core argument – that they should not be expected to live in hiding in Cabo San Lucas – related to the first prong of the test regarding the safety of an IFA, and that it had already concluded the IFA was safe. The RAD considered the crime rate in Cabo San Lucas, but found that the crime rate was similar to the rest of Mexico and was not a factor making it unreasonable.

### III. The Issues and the Standard of Review

[19] The Applicants raise two issues:

1. Whether the RAD erred by failing to apply the correct test for determining whether they had a nexus to a Convention refugee ground under section 96 of the Act; and,
2. Whether the RAD erred in finding that they had an IFA in Cabo San Lucas.

[20] The RAD is an appeal tribunal and applies the standard of correctness when reviewing a RPD decision (*Canada (Citizenship and Immigration) v Huruglica*, 2016 FCA 93 at para 103). The Court judicially reviews a decision of the RAD on the reasonableness standard: *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 16–17, 25 [*Vavilov*]; see also *Terganus v Canada (Citizenship and Immigration)*, 2020 FC 903 at para 15.

[21] 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” (*Vavilov* at para 85; see also paras 102, 105–07). A decision should not be set aside unless it contains “sufficiently serious shortcomings ... such that it cannot be said to exhibit the requisite

degree of justification, intelligibility and transparency” (*Vavilov* at para 100). Courts should refrain from reweighing and reassessing the evidence that was before the decision maker, although they may interfere where the decision maker has fundamentally misapprehended or failed to account for the evidence (*Vavilov* at paras 125–26).

#### IV. The Applicants’ Submissions

[22] The Applicants first argue that the RAD erred by applying an incorrect test to determine they are not Convention refugees.

[23] The Applicants note that although some cases have found that victims of crime, corruption, and vendettas do not constitute “membership in a particular social group or political opinion”, these claims should be assessed based on the evidence (citing *Klinko v Canada (Minister of Citizenship and Immigration)*, 1998 CanLII 7700 (FC) [*Klinko*]). The Applicants argue that the RAD failed to assess whether they were members of a particular social group.

[24] The Applicants submit that the RAD should have considered all possible bases for refugee protection arising from the evidence. They submit that the RAD failed to consider that they would be personally subjected to death and unusual treatment or punishment because Mr. Barrientos Flores witnessed a crime committed by a gang and was vulnerable to violence because of his employment activity, which could constitute “membership” in a group (i.e., witness to gang crime based on his employment).

[25] The Applicants argue that regardless of whether their submissions to the RAD alleged that the RPD erred in finding that they had no nexus to a Convention ground, they should be permitted to make the argument on judicial review because the RAD made its own independent assessment of the evidence and erred by concluding that there was no nexus.

[26] The Applicants also argue the RAD erred in finding that they had a viable IFA in Cabo San Lucas. They submit the RAD failed to assess their forward-looking risk of persecution and erroneously concluded that Los Zetas would not be motivated to pursue them in Cabo San Lucas.

[27] The Applicants argue that Los Zetas would likely have been aware that they fled Mexico and, therefore, would not have contacted their remaining family in Mexico (citing *Losada Conde v Canada (Citizenship and Immigration)*, 2020 FC 626 [*Losada Conde*]). The Applicants submit that once outside of Mexico, Los Zetas would have lost their ability to track them, which explains why the Applicants have not been contacted while in Canada.

[28] The Applicants dispute the RAD's finding that Los Zetas is not motivated to find them. They rely on Mr. Barrientos Flores' narrative where he describes witnessing two robberies that were reported to police, and that he recognized one of the robbers. The Applicants submit that Mr. Barrientos Flores' previous employment would motivate Los Zetas to pursue him and his family upon return, noting that one of the cartel members "has the belief" that Mr. Barrientos Flores recognizes him.



[29] The Applicants submit that cartels and organized crime groups in Mexico have a common *modus operandi* to retaliate against citizens. The Applicants add that Los Zetas' goal is to secure greater profits through extortion, kidnapping, and intimidating locals. The Applicants submit that the evidence suggests they remain of interest to Los Zetas, and that the RAD's demand for corroborative evidence is a veiled credibility finding.

[30] The Applicants also now argue that the requirement to provide evidence regarding why a particular IFA is inappropriate is a tall order given that IFAs are usually not proposed until the beginning of an RPD hearing. They also argue that there is no other possible evidence that could have been provided to the RPD or RAD to corroborate that Los Zetas remains motivated to pursue the Applicants in the proposed IFA of Cabo San Lucas.

[31] The Applicants submit that Los Zetas has splintered and merged with other criminal groups operating throughout Mexico and is therefore able to track anyone throughout the country. The Applicants argue that Los Zetas could easily find their location in Mexico for a small fee using the database for voter identification cards. The Applicants submit that if they reveal their identity in order to enrol their daughter in school they will put themselves at risk of being found by Los Zetas. They argue that as they would be forced to live in hiding, Cabo San Lucas is not a viable IFA.

[32] The Applicants now also argue that because the RAD agreed that Los Zetas have the means to track the Applicants, the Applicants should not be required to show that Los Zetas is

strongly motivated to find them. They argue that strong means can offset lower motivation. They argue that any motivation should be sufficient to establish that this is not a reasonable IFA.

[33] With respect to the reasonableness of the IFA, the Applicants argue that the RAD erred by failing to consider all relevant factors, including the cost of living, employment prospects, access to housing and social services and education in Cabo San Lucas. They submit that the RAD simply relied on the RPD's assessment that Mr. Barrientos Flores had transferable skills.

[34] The Applicants also argue that the RAD did not assess the reasonableness of the IFA given the prevalence of "femicide" in Mexico. They submit that Ms. Mendoza Dominguez and their daughter would face the risk of violent assault and/or murder in Cabo San Lucas given that femicide is rampant, rarely prosecuted, and not taken seriously by the government.

V. The Respondent's Submissions

[35] The Respondent submits that the Applicants cannot raise the argument that the RAD failed to correctly assess whether they had a nexus to a Convention ground because there is no evidence that they raised this argument on appeal to the RAD. The Respondent disputes the Applicants' contention that the RAD's independent assessment included an assessment of whether they had a nexus to a Convention ground and permits the Applicant to now argue that the RPD erred. The Respondent submits that the RAD simply reiterated and agreed with the RPD's finding that there was no nexus to a Convention ground.

[36] The Respondent notes that the determinative issue on judicial review is the existence of an IFA; if a viable IFA is found in any part of the country of origin, a claimant is not a refugee or person in need of protection.

[37] The Respondent submits that, contrary to the Applicants' submissions, the law is clear that the Applicants have the onus to establish that the proposed IFA is unreasonable. They failed to meet this onus by not providing any concrete evidence that they faced risks to their life or safety by relocating to the IFA.

[38] In response to the Applicants' argument that they had no opportunity to garner evidence to show the IFA was not reasonable given that the IFA was proposed at the outset of the RPD hearing, the Respondent notes that this argument was not raised with the RAD and cannot be raised now to suggest any error. Moreover, a refugee claimant presented with a proposed IFA by the RPD has the opportunity to make post-hearing submissions regarding the reasonableness of the IFA. The Respondent further notes that, in this case, the Applicants made submissions to the RAD disputing the IFA, which were considered by the RAD and ultimately did not establish that the IFA is unreasonable.

## VI. The Decision is Reasonable

### A. *The RAD did not err in confirming that there was no nexus to a Convention ground*

[39] The Applicants' reliance on *Klinko* is not helpful. In *Klinko*, the Federal Court of Appeal dealt with the issue of whether a refugee claimant expressing their opinion about persecution

based on corrupt conduct not sanctioned by the state constitutes an expression of political opinion falling within the definition of Convention refugee. Counsel for the Applicants could not satisfactorily explain to the Court what principle they relied on or how it supported their argument regarding nexus.

[40] As noted by the Respondent, the Applicants cannot argue on judicial review that the RAD erred in finding that there was no nexus to a Convention ground because the Applicants did not argue in their appeal to the RAD that the RPD erred in so finding. The Applicants did not include the RPD decision or their submissions to the RAD in their Application Record, however the Certified Tribunal Record [CTR] includes both and confirms that the Applicants' arguments to the RAD were confined to the determinative issue of the IFA.

[41] As noted by the Chief Justice in *Dahal v Canada (Citizenship and Immigration)*, 2017 FC 1102 at para 35 [*Dahal*]:

[35] However, where the RAD simply provides a brief summary of the RPD's findings regarding matters that were not raised on appeal, and then makes a general statement that it concurs with those findings, the situation is entirely different. In such circumstances, the errors alleged to have been made by the RAD are in essence errors that were allegedly made by the RPD. Where an applicant fails to raise an issue on appeal before the RAD in respect of those aspects of the RPD's decision, it should not be able to do so before this Court. To conclude otherwise would be to permit an applicant to, in effect, do an "end run" around the RAD. I agree with the Respondent that this would be contrary to the scheme set forth in the Rules.

[Emphasis added.]

[42] Contrary to the Applicants' argument that the RAD conducted an independent assessment and erroneously found that there is no nexus to a Convention ground, the Court finds that the RAD simply confirmed the RPD's conclusion before moving to the issue argued on appeal regarding the IFA. As in *Dahal*, the RAD's brief summary does not permit the Applicants to do an "end run" and raise an issue on judicial review not raised on appeal to the RAD.

[43] Even if the RAD's confirmation could be regarded as an independent finding (permitting the Applicants to argue that the RAD applied an incorrect test), they would not succeed. The RAD cited the correct test; there is no error in the RAD's understanding of the test. The RAD's confirmation of the finding is reasonable; it is justified, transparent and intelligible. The RAD noted – as had the RPD – the allegations of extortion by Los Zetas were criminal acts, which generally do not establish a nexus to a Convention ground unless those acts are also motivated by race, religion, nationality, membership in a particular social group, or political opinion. The Applicants did not demonstrate a clear nexus to a Convention ground.

B. *The RAD's conclusion that the Applicants have an IFA in Cabo San Lucas is reasonable*

[44] The test for determining the viability of an IFA is well established (*Rasaratnam v Canada (Minister of Employment and Immigration) (CA)*, 1991 CanLII 13517 (FCA); *Thirunavukkarasu v Canada (Minister of Employment and Immigration)*, 1993 CanLII 3011 (FCA) [*Thirunavukkarasu*]; *Ranganathan*). As noted in the RAD's Decision, the first prong requires that the decision-maker be satisfied, on a balance of probabilities, that there is no serious possibility of the refugee claimant being persecuted in the proposed IFA. Second, the conditions in the proposed IFA must be such that it would not be unreasonable for the refugee claimant to

seek refuge there, upon consideration of all the circumstances, including their personal circumstances (*Rasaratnam; Thirunavukkarasu*).

[45] While the Applicants propose that the requirement that the decision maker “be satisfied” does not place the onus on them, this is not the state of the law. As noted by the RAD, it is well established that the onus is on an applicant to demonstrate that a proposed IFA is unreasonable, and the threshold to show that it is unreasonable is “very high” (*Ranganathan* at para 15).

[46] The Federal Court of Appeal in *Thirunavukkarasu* described the relevant considerations for finding an IFA noting, among other things;

... the question is whether, given the persecution in the claimant’s part of the country, it is objectively reasonable to expect him or her to seek safety in a different part of that country before seeking a haven in Canada or elsewhere. Stated another way for clarity, the question to be answered is, would it be unduly harsh to expect this person, who is being persecuted in one part of his country, to move to another less hostile part of the country before seeking refugee status abroad?

[Emphasis added.]

[47] The Court of Appeal added that the IFA must be a “realistic attainable option”. While “hiding out” is not expected the FCA added:

... But neither is it enough for refugee claimants to say that they do not like the weather in a safe area, or that they have no friends or relatives there, or that they may not be able to find suitable work there. If it is objectively reasonable in these latter cases to live in these places, without fear of persecution, then IFA exists and the claimant is not a refugee.

In conclusion, it is not a matter of a claimant’s convenience or the attractiveness of the IFA, but whether one should be expected to

make do in that location, before travelling half-way around the world to seek a safe haven, in another country.

[48] The RAD's conclusion that there was no serious possibility of persecution in Cabo San Lucas is based on the objective evidence considered by the RAD. The RAD considered that while Los Zetas may have the means to track the Applicants to Cabo San Lucas, the cartel lacks the motivation to do so. The Applicants' own subjective beliefs do not establish that Los Zetas would mobilize resources to track them to Cabo San Lucas.

[49] The Applicants' submission – that motivation and means can offset each other and that once the means of the cartel is strongly established there should be less emphasis on their motivation – was not an argument made to the RAD, nor is this theory supported by the jurisprudence. The jurisprudence supports the analysis of the RAD; namely, that the agent of persecution must have both the means to track the applicant into the IFA and the motivation for doing so. The fact that the Los Zetas cartel was found by the RAD to be present in many parts of Mexico does not alleviate the onus on the Applicants to establish that the cartel would be motivated to track them to Cabo San Lucas. The RAD reasonably found that the Applicants do not have the profile that would motivate the cartel to pursue them.

[50] The RAD addressed the Applicants' arguments that the RPD erred in finding that Los Zetas had no motivation to track them to Cabo San Lucas. The Applicants reiterate many of the same arguments on judicial review that the RAD dismissed. The RAD's Decision states:

[25] ... Though I have accepted, above, that the Cartel does possess such means [to track the Appellants to Cabo San Lucas], the point is that should they be found to lack the motivation to find

and harm the Appellants, then their potential means or capacity to do so is immaterial.

[26] Second... Counsel for the Appellants is functionally reversing the onus before the IRB: it is the Appellants who must establish their factual claims in evidence, on a balance of probabilities standard; it is not the RPD which must introduce evidence that disproves the claim. ... I do not find that the RPD somehow unfairly speculated that the Cartel was not pursuing the Appellants, or that it erred by doing so. Nor do I find that the RPD somehow ignored evidence to this effect. In my view, the RPD considered the evidence before it, and appropriately concluded that this evidence did not indicate that the Cartel had been, or was motivated to, pursue the Appellants.

[27] Nor is it sufficient for the Appellants to baldly assert that no one knows what is in the mind of the agent of persecution. While this is clearly true, that fact does not provide evidence that the Appellants are currently being pursued or continually targeted, and the onus remains on the Appellants to provide evidence in support of these claims. I find that the Appellants have not provided any corroborative evidence indicating that this is the case.

[51] The Applicants appear to be asking the Court to reweigh the evidence considered by the RAD and to remake the decision. This is not the role of the Court. The Court's role is to ensure that the RAD's decision is justified in relation to the facts and the law and is transparent and intelligible.

[52] The Applicants relied on *Losada Conde* to submit that because Mr. Barrientos Flores witnessed gang violence and crime that he would continue to be a person of interest for Los Zetas. However, the facts differ greatly from *Losada Conde*, where the refugee claimant was the sole witness to a murder and was the reason the murderer was incarcerated. Mr. Barrientos Flores recounts that he was the victim of robberies and could identify one assailant, but there is



no evidence that the police have apprehended anyone or that he has identified anyone in particular or would be a witness in an on-going or future prosecution.

[53] The RAD relied on the objective evidence to note that only high-ranking targets warrant the expenditure of the cartel's resources. The RAD found that the Applicants had not provided any evidence that they would fit the profile of a high-ranking target. The RAD added that Mr. Barrientos Flores had not even been responsible for the police reports, as it was his employer who filed the reports.

[54] The Applicants' argument – that because Mr. Barrientos Flores was robbed and can identify one of the robbers – was not evidence to prove motivation of the Los Zetas to pursue them. The RAD's finding in this respect is reasonable.

[55] The RAD reiterated that it is the responsibility of the Applicants to establish that the cartel would be motivated to pursue them on a balance of probabilities. The RAD reasonably concluded that there was no such evidence.

[56] Contrary to the Applicants' submission, the RAD's conclusion is not a veiled credibility finding. The RAD does not question the Applicants' fear of Los Zetas generally, but found that their subjective fear of Los Zetas does not constitute the objective evidence necessary to establish that Los Zetas has the motivation to track them to Cabo San Lucas to extract revenge or vengeance.

[57] With respect to the second prong of the IFA test, the Applicants also failed to demonstrate any error by the RAD.

[58] The RAD noted that the threshold is high to establish that an IFA is unreasonable in the circumstances; i.e., that the IFA is unduly harsh to the point of jeopardising their life or safety and that actual and concrete evidence of such conditions is required. The RAD noted that the Applicants' only argument regarding the second prong of the test appeared to be related to the perceived threat from Los Zetas which pertains to the safety of the IFA, which is considered in the first prong of the test.

[59] Contrary to the Applicants' submission that the RAD did not address the reasonableness of the IFA in the context of their own circumstances, the RAD stated that it had reviewed the evidence and agreed with the RPD's findings and concluded, for the same reasons as the RPD, that the Applicants had not established that relocating to Cabo San Lucas was objectively unreasonable.

[60] The RAD acknowledged that there would be some difficulties and inconvenience in relocating but reasonably found that the threshold to find the IFA unreasonable had not been met.

[61] With respect to the Applicants' argument that they cannot relocate to Cabo San Lucas due to the risk of "femicide", the Court notes, as did the Respondent, that this assertion was never made in the Applicants' basis of claim, at the RPD hearing, or before the RAD. The Applicants' narrative did not mention the family's fear of gender-based violence, but focused

instead on Mr. Barrientos Flores' experience with Los Zetas. The RAD cannot be faulted for not addressing an issue that was not raised. Moreover, this allegation appears to have little to do with relocating to Cabo San Lucas or fearing Los Zetas, as it appears to apply generally to every female living in Mexico.

[62] In conclusion, no error can be found in the RAD's decision. The RAD considered the evidence and attributed more weight to the objective evidence than to the Applicants' more subjective belief about the risks they may face and the conditions in the IFA. The RAD's decision is intelligible, transparent, and well justified; in other words, it bears all the hallmarks of a reasonable decision.

**JUDGMENT in file IMM-3896-23**

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

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

"Catherine M. Kane"

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Judge

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

**DOCKET:** IMM-3896-23

**STYLE OF CAUSE:** MIZAR LAEL BARRIENTOS FLORES ET AL v THE  
MINISTER OF CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** TORONTO, ONTARIO

**DATE OF HEARING:** MARCH 18, 2024

**JUDGMENT AND REASONS:** KANE J.

**DATED:** APRIL 2, 2024

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