

Federal Court



Cour fédérale

Date: 20250228

Docket: IMM-13817-23

Citation: 2025 FC 385

Toronto, Ontario, February 28, 2025

PRESENT: The Honourable Madam Justice Heneghan

BETWEEN:

ALESANDRO DEL PIERO SERPA DURAND

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

REASONS AND JUDGMENT

[1] Mr. Alesandro Del Piero Serpa Durand (the “Applicant”) seeks judicial review of the decision of the Immigration and Refugee Board, Refugee Protection Division (the “RPD”), refusing his claim for refugee protection, on the grounds that an Internal Flight Alternative (“IFA”) is available to him in Peru, his country of nationality.

[2] The Applicant came to Canada with his mother and a younger sister in 2018, they entered from the United States. His father was already in Canada and a brother came to Canada later in 2018.

[3] The Applicant is a citizen of Peru. Prior to the departure of his father from Peru, the family business has been subject to extortion and harassment by Los Malditos de Bayovar (the “Gang”).

[4] The RPD determined that extortion was not a ground for refugee protection and assessed the Applicant’s claim only under subsection 97(1) of the Act. It found that an IFA was available to the Applicant in Iquitos or Tacna in Peru.

[5] The Applicant now argues that the IFA finding is unreasonable.

[6] The Minister of Citizenship and Immigration (the “Respondent”) submits that the decision of the RPD is reasonable.

[7] Following the decision of the Supreme Court of Canada in *Canada (Minister of Citizenship and Immigration) v. Vavilov*, [2019] 4 S.C.R. 653, the decision is reviewable on the standard of reasonableness.

[8] In considering reasonableness, the Court is to ask if the decision under review "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 that decision"; see *Vavilov*, *supra* at paragraph 99.

[9] The test for an IFA was set out by the Federal Court of Appeal in *Rasaratnam v. Canada (Minister of Employment and Immigration)*, [1992] 1 F.C. 706 at 710-711 (F.C.A.). The test is two-part and provides as follows:

First, the Board must be satisfied that there is no serious possibility of a claimant being persecuted in the IFA.

Second, it must be objectively reasonable to expect a claimant to seek safety in a different part of the country before seeking protection in Canada.

[10] Upon consideration of the Certified Tribunal Record and the submissions of the parties, I am satisfied that the RPD conclusion upon the second part of the IFA test does not meet the applicable standard of review.

[11] The Applicant is a young man, aged 18 at the time of the RPD decision. According to the country condition evidence, economic conditions are poor, in Peru. He has no family support in Peru, since his whole family is now in Canada. It was not reasonable for the RPD to find that the Applicant could "reasonably" relocate to an IFA in Peru.

[12] The application for judicial review will be allowed, the decision will be set aside and the matter will be remitted to a differently constituted panel of the RPD for redetermination. There is no question for certification.

JUDGMENT IN IMM-13817-23

THIS COURT’S JUDGMENT is that the application for judicial review is allowed, the decision is set aside and the matter is remitted to a differently constituted panel of the Refugee Protection Division for redetermination. There is no question for certification.

"E. Heneghan"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-13817-23

STYLE OF CAUSE: ALESANDRO DEL PIERO SERPA DURAND v. MCI

PLACE OF HEARING: HELD BY VIDEOCONFERENCE IN TORONTO,
ONTARIO

DATE OF HEARING: FEBRUARY 19, 2025

REASONS AND JUDGMENT: HENEGHAN J.

DATED: FEBRUARY 28, 2025

APPEARANCES:

Carlos Vera	FOR THE APPLICANT
Hannah Shaikh	FOR THE RESPONDENT

SOLICITORS OF RECORD:

Carlos Eduardo Vera De Freitas Barristers & Solicitors Toronto, ON	FOR THE APPLICANT
Attorney General of Canada Toronto, ON	FOR THE RESPONDENT