

Federal Court



Cour fédérale

Date: 20230112

Docket: IMM-8926-21

Citation: 2023 FC 47

St. John's, Newfoundland and Labrador, January 12, 2023

PRESENT: The Honourable Madam Justice Heneghan

BETWEEN:

**YEFERSON ENRIQUE ARIZA BONILLA
YULI VIVIANA PARRA LOZADA
GABRIELA ARIZA PARRA**

Applicants

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

REASONS AND JUDGMENT

[1] Mr. Yeferson Enrique Ariza Bonilla (the “Principal Applicant”), his wife Yuli Viviana Parra Lozada and their daughter Gabriela Ariza Parra (collectively “the Applicants”) seek judicial review of the decision of the Immigration and Refugee Board, Refugee Appeal Division (the “RAD”). In that decision, the RAD upheld the decision of the Immigration and Refugee Board, Refugee Protection Division (the “RPD”), finding that the Applicants are neither

Convention refugees nor persons in need of protection, pursuant to section 96 and subsection 97(1), respectively, of the *Immigration and Refugee Protection Act*, S.C. 2001, c. 27 (the “Act”).

[2] The Applicants are citizens of Colombia and allege a fear of persecution from the Revolutionary Armed Forces of Colombia (the “FARC”). The RPD expressed concerns about the credibility of the Applicants. It also found that a viable Internal Flight Alternative (“IFA”) is available to the Applicants in Cartagena.

[3] The Applicants now argue that the RAD selectively reviewed the objective evidence about the FARC and its activities, and failed to explain why it rejected evidence that contradicted its findings. They also submit that the RAD erred by assigning little weight to a decision of the RPD that they provided; this decision found that the FARC remained a threat in Colombia.

[4] The Minister of Citizenship and Immigration (the “Respondent”) argues that the RAD is presumed to have considered all the objective evidence and that the Applicants have not rebutted that presumption. He submits that the Applicants are, in effect, complaining about the weight given to the evidence.

[5] Further, the Respondent submits that the RAD was not bound by any prior decision of the RPD and in any case, it did consider it and found that it was not persuasive. It noted that decisions of the RPD are fact specific.

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

[7] 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 the decision"; see *Vavilov, supra* at paragraph 99.

[8] The dispositive issue in this application for judicial review is the RAD's finding about the availability of an IFA.

[9] The test for a viable IFA is addressed in *Rasaratnam v. Canada (Minister of Employment and Immigration)*, [1992] 1 F.C. 706 at 710-711 (Fed. C.A.). The test is two pronged and provides as follows:

- First, the Board must be satisfied that there is no serious possibility of a claimant being persecuted in the IFA and
- 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] In order to show that an IFA is unreasonable, an applicant must show that conditions in the proposed IFA would jeopardize life and safety in travelling or relocating to that IFA;

see *Thirunavukkarasu v. Canada (Minister of Employment and Immigration)*, [1994] 1 F.C. 589 at 596-598 (Fed. C.A.).

[11] Upon considering the evidence in the Certified Tribunal Record, and the written and oral submissions of the parties, I am not persuaded the decision of the RAD is unreasonable.

[12] The RAD was mandated to consider the evidence submitted and to weigh that evidence. It did so. It was not obliged to follow another decision made by the RPD, involving other claimants from Columbia. The RAD's consideration of that decision is not "unreasonable" because it chose not to follow it.

[13] Insofar as the Applicants argue that the RAD ignored parts of the National Documentation Package (the "NDP"), I agree with the submissions of the Respondent that the Applicants are asking the Court to reweigh the evidence.

[14] I also agree with the position of the Respondent that the Applicants are now trying to impute errors to the RAD arising from the manner in which the RPD made its credibility findings. The RAD made clear findings about the Applicants' credibility.

[15] In the result, the application for judicial review is dismissed. There is no question for certification.

JUDGMENT in IMM-8926-21

THIS COURT'S JUDGMENT is that the application for judicial review is dismissed.

There is no question for certification.

“E. Heneghan”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-8926-21

STYLE OF CAUSE: YEFERSON ENRIQUE ARIZA BONILLA, YULI VIVIANA PARRA LOZADA, GABRIELA ARIZA PARRA v. THE MINISTER OF CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: HELD BY WAY OF VIDEOCONFERENCE BETWEEN TORONTO, ONTARIO AND ST. JOHN'S, NEWFOUNDLAND AND LABRADOR

DATE OF HEARING: NOVEMBER 3, 2022

REASONS AND JUDGMENT: HENEGHAN J.

DATED: JANUARY 12, 2023

APPEARANCES:

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