

Federal Court



Cour fédérale

Date: 20230426

Docket: IMM-2895-22

Citation: 2023 FC 603

Toronto, Ontario, April 26, 2023

PRESENT: The Honourable Madam Justice Heneghan

BETWEEN:

**SEBASTIAN HOYOS GRAJALES
YEIMI VANESSA GIL CARDONA
DANNA HOYOS GIL**

Applicants

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

REASONS AND JUDGMENT

[1] Mr. Sebastian Hoyos Grajales (the “Principal Applicant”), his spouse Ms. Yeimi Vanessa Gil Cardona, and their minor child Danna Hoyos Gil (collectively the “Applicants”) seek judicial review of the decision of the Immigration and Refugee Board, Refugee Protection Division (the “RPD”), dismissing their claims for protection either as Convention refugees or persons in need

of protection, within the scope of 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. They sought protection on the basis of a fear of persecution from the Revolutionary Armed Forces of Colombia People’s Army (the “FARC”). They alleged that the recent kidnapping of a cousin of the Principal Applicant and previous violence against family members puts them at risk.

[3] The RPD determined that an Internal Flight Alternative (“IFA”) is available to the Applicants in Barranquilla and Florencia.

[4] The decision of the RPD 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.

[5] The Applicants argue that the RPD made an unreasonable decision in finding that an IFA is available in Colombia. They contend that the RPD erred in applying the test for an IFA, as set out in *Rasaratnam v. Canada (Minister of Employment and Immigration)*, [1992] 1. F.C. 706 at 710-711 [*Rasaratnam*].

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

[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] I am not persuaded by the Applicants’ arguments. According to the decision in *Rasaratnam, supra* at 710-711, the following test applies to finding an IFA:

- 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.

[9] The RPD addressed the two branches of the IFA test, that is whether the agents of persecution have the means and motivations to pursue the Applicants, and whether the Applicants have shown that their relocation to one of the two IFAs is unreasonable.

[10] The decision shows that the RPD considered both the personal, subjective evidence submitted by the Applicants, as well as the country condition evidence. The RPD, not the Court, is mandated to weigh the evidence.

[11] The RPD’s conclusions about the availability of an IFA are supported by the evidence and conform with the legal test for an IFA. There is no basis for judicial intervention.

[12] In the result, this application for judicial review will be dismissed. There is no question for certification.

JUDGMENT in IMM-2895-22

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-2895-22

STYLE OF CAUSE: SEBASTIAN HOYOS GRAJALES
YEIMI VANESSA GIL CARDONA
DANNA HOYOS GIL. v. THE
MINISTER OF CITIZENSHIP AND
IMMIGRATION

PLACE OF HEARING: Toronto, Ontario

DATE OF HEARING: April 5, 2023

REASONS AND JUDGMENT: HENEGHAN J.

DATED: April 26, 2023

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