

Federal Court



Cour fédérale

Date: 20250402

Docket: IMM-13014-23

Citation: 2025 FC 616

Ottawa, Ontario, April 2, 2025

PRESENT: The Honourable Mr. Justice Ahmed

BETWEEN:

MUHAMMAD USMAN AZFAR

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The Applicant, Muhammad Usman Azfar, seeks judicial review of a decision of the Refugee Appeal Division (“RAD”) dated September 19, 2023, which confirmed the decision of the Refugee Protection Division (“RPD”) 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 (“IRPA”). The Applicant was also found to be excluded from

refugee protection under section 98 of the IRPA and Article 1E of the *Convention Relating to the Status of Refugees* (the “Convention”) due to his permanent resident status in Mexico. The determinative issue on appeal was the existence of two viable internal flight alternatives (“IFAs”) in Merida and Cabo San Lucas.

[2] The Applicant submits the RAD’s decision is unreasonable, as the RAD disregarded the Applicant’s evidence and failed to provide a rational chain of analysis for finding the Applicant would not be at risk in Mexico.

[3] For the reasons that follow, I disagree. The RAD’s decision is reasonable. This application for judicial review is dismissed.

II. **Background**

[4] The Applicant is a citizen of Pakistan. He holds permanent resident status in Mexico.

[5] The Applicant is a Shi’a Muslim. The Applicant fled Pakistan following attacks against him and his family for his charitable endeavours in the local Shi’a community.

[6] In 2019, the Applicant fled to Mexico to live with his spouse, CMB, who is a Mexican citizen. The Applicant eventually obtained permanent resident status in Mexico.

[7] The Applicant states that CMB and her family began to pressure him to convert to Catholicism shortly after his arrival. The Applicant alleges that he was attacked and held hostage by members of the Juarez Cartel at the request of CMB’s family due to his refusal to

convert. He states that CMB's brother, a corrupt police officer with ties to the Juarez Cartel, was instrumental in these attacks.

[8] The Applicant fled to Canada and submitted a refugee claim, which was refused by the RPD on November 9, 2022. Shortly afterward, the Applicant learned that CMB had filed for divorce in Mexico.

[9] The Applicant appealed the RPD's refusal. On appeal, the RAD confirmed the decision of the RPD. Noting that the Applicant did not challenge the RPD's determination that he held surrogate protected status in Mexico, the RAD found the determinative issue was the existence of two viable IFAs in Merida and Cabo San Lucas. This is the decision that is presently under review.

III. **Preliminary matter**

[10] The Applicant requests the style of cause be amended to correct the misspelling of his last name from "Afzar" to "Azfar."

[11] The Applicant's request is granted. The style of cause is amended to identify the Applicant as "Muhammad Usman Azfar," effectively immediately (*Federal Courts Rules*, SOR/98-106, s 76(a)).

IV. **Issue and Standard of Review**

[12] The sole issue in this application is whether the RAD's decision is reasonable.

[13] The parties submit that the applicable standard of review is reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 16–17, 23–25 (“*Vavilov*”)). I agree.

[14] Reasonableness is a deferential, but robust, standard of review (*Vavilov* at paras 12-13, 75, 85). The reviewing court must determine whether the decision under review, including both its rationale and outcome, is transparent, intelligible and justified (*Vavilov* at para 15). A decision that is reasonable as a whole 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). Whether a decision is reasonable depends on the relevant administrative setting, the record before the decision maker, and the impact of the decision on those affected by its consequences (*Vavilov* at paras 88-90, 94, 133-135).

[15] For a decision to be unreasonable, the applicant must establish the decision contains flaws that are sufficiently central or significant (*Vavilov* at para 100). Not all errors or concerns about a decision will warrant intervention. A reviewing court must refrain from reweighing evidence before the decision maker, and it should not interfere with factual findings absent exceptional circumstances (*Vavilov* at para 125). Flaws or shortcomings must be more than superficial or peripheral to the merits of the decision, or a “minor misstep” (*Vavilov* at para 100).

V. Analysis

[16] The Applicant submits the RAD’s decision is unreasonable. The Applicant asserts the RAD disregarded his personal circumstances and psychological evidence in determining that it

would be reasonable for him to relocate to the two IFAs. The Applicant argues the RAD failed to account for country condition evidence indicating that the Applicant's permanent resident status in Mexico may be cancelled. The Applicant further argues that the RAD provided no rational chain of analysis for finding that CMB and her family would lack the means and motivation to locate him following his divorce from CMB in 2021.

[17] The Respondent submits the RAD made no reviewable error. The Respondent argues that the RAD considered the Applicant's personal circumstances and psychological report in assessing the reasonableness of the IFAs. The Respondent submits the Applicant himself confirmed that he holds permanent resident status in Mexico. The Respondent further submits that the RAD reasonably determined the Applicant would not face persecution in the two proposed IFAs, as neither the Cartel nor CMB's family would have an interest in the Applicant following his divorce from CMB.

[18] I agree with the Respondent.

[19] The RAD accounted for the Applicant's personal circumstances in assessing the reasonableness of the proposed IFAs. The Applicant submits that the RAD ignored his isolation from family in Mexico, his limited educational background, and his lack of fluency in Spanish. However, the RAD acknowledged these factors and reasonably determined that they fell short of "conditions which would jeopardize the life and safety of a claimant in travelling or temporarily relocating" to the proposed IFAs (*Ranganathan v Canada (Minister of Citizenship and Immigration)* (CA), 2000 CanLII 16789 at para 15 (FCA) ("*Ranganathan*"). For instance, the RAD noted that "a lack of family or loved ones does not meet the threshold for

unreasonableness” per the IFA test in *Rasaratnam v Canada (Minister of Employment and Immigration)* (CA), 1991 CanLII 13517 (FCA). Similarly, the RAD acknowledged “the [Applicant] only has a Grade 10 education.” However, the RAD also found the Applicant “has lived in multiple countries,” “speaks multiple languages, including...some Spanish,” and “has previous work experience for over two years in Mexico,” ultimately determining that the Applicant would have “a competitive advantage in his employment prospects in Merida and Cabo San Lucas.” I therefore cannot find that the RAD ignored these factors.

[20] I similarly cannot agree that the RAD disregarded the Applicant’s psychological report. The Applicant submits that “[t]he RAD in the case at bar notes there was a report and the diagnoses but offers nothing in the form of any analysis of the information contained in the report and how, if at all, it considered those details in assessing the reasonableness” of the proposed IFAs. The Applicant’s assertions are contradicted by the RAD’s written reasons, in which the RAD provided the following assessment of the Applicant’s psychological report:

I also acknowledge the psychological report that forms part of the Record. The [Applicant] has been diagnosed with anxiety, depression, and post-traumatic stress disorder. The fears expressed in this document are specifically about his return to Pakistan, not Mexico. While I accept the [Applicant]’s diagnosis, there is no evidence before me that these conditions would render his relocation to Merida or Cabo San Lucas as unreasonable.

[21] I find no error in the RAD’s assessment of this evidence. Although the Applicant rightly notes that his written submissions to the RAD included claims that he would be unable to access mental health support in the proposed IFAs, it was within the ambit of the RAD to conclude that the Applicant’s mental health diagnoses did not constitute a threat to his life and safety, per the threshold in *Ranganathan* (at para 15).

[22] Furthermore, I find no grounds for disturbing the RAD's assessment of the Applicant's status in Mexico. The Applicant asserts that the RAD ignored country condition evidence stating that "individuals whose permanent resident card was lost, stolen or destroyed, will face cancellation of their permanent residence visa" in Mexico. Since the Applicant's permanent residence card was seized by the Juarez Cartel, the Applicant submits "[t]he RAD was required to consider, or at least show how it considered" how the loss of his documents would affect his status. I note that the Applicant did not raise this issue on appeal. Moreover, the RAD agreed with the RPD that "[the Applicant's] allegations of harm in Mexico are lacking in credibility, on a balance of probabilities." Although the RAD did not comment further on this point, finding instead that the two IFAs were determinative of the appeal, the RPD's negative credibility findings encompassed the attacks in which the Applicant's permanent resident card was allegedly seized. Furthermore, the record before the RAD included confirmation from the Applicant that he had received permanent resident status in Mexico. There was no evidence that his permanent resident status had been cancelled or was expired. I therefore agree with the Respondent that the RAD's assessment of the Applicant's status in Mexico should not be disturbed.

[23] The Applicant submits that the RAD erred in finding he would no longer be at risk of persecution following his divorce from CMB, as "the RAD ha[d] nothing before it to indicate that [the Applicant]'s risk in Mexico would cease on a divorce being applied for." With respect, this submission is meritless. The Applicant's agents of persecution are CMB's brother and "unknown members of the Juarez Cartel," who participated in attacking the Applicant and taking him hostage for his refusal to convert to Catholicism. The only link between the Applicant and his agents of persecution was his spousal relationship with CMB. The RAD therefore reasonably

determined that “there [would be] no reason for the agents of persecution to pursue [the Applicant]” following his divorce from CMB.

VI. **Conclusion**

[24] For these reasons, I find the RAD’s decision is reasonable. The RAD’s decision is justified in light of the evidence and the Applicant’s submissions on appeal (*Vavilov* at paras 126, 127). This application for judicial review is dismissed.

JUDGMENT in IMM-13014-23

THIS COURT’S JUDGMENT is that:

1. The style of cause is amended to identify the Applicant as “Muhammad Usman Azfar,” effective immediately.
2. This application for judicial review is dismissed.
3. There is no question to certify.

“Shirzad A.”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-13014-23

STYLE OF CAUSE: MUHAMMAD USMAN AZFAR v THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: CALGARY, ALBERTA

DATE OF HEARING: MARCH 4, 2025

JUDGMENT AND REASONS: AHMED J.

DATED: APRIL 2, 2025

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