

Federal Court



Cour fédérale

Date: 20210708

Docket: IMM-5678-20

Citation: 2021 FC 715

[ENGLISH TRANSLATION]

Ottawa, Ontario, July 8, 2021

PRESENT: The Honourable Mr. Justice Shore

BETWEEN:

NICOLAS PINEROS TORRES

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] This is an application for judicial review of a decision of a senior immigration officer dated March 4, 2020, rejecting a pre-removal risk assessment (PRRA) application.

[2] The applicant is a citizen of Colombia. An inadmissibility report on grounds of serious criminality and a deportation order were issued against him after he committed criminal

offences; he also lost his permanent residence in Canada. He subsequently filed a PRRA application. On March 4, 2020, an officer refused his application.

[3] This judicial review concerns the reasonableness of the officer's conclusions with respect to the documentary evidence. 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" (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 85).

[4] The applicant argues that the officer erred in failing to consider the following evidence: the letters of support; the applicant's father's medical report; his letter expressing regret and listing his accomplishments and ambitions; and, excerpts from his criminal record. The applicant also submits that the officer incorrectly applied a standard of proof of sufficiency, rather than the balance of probabilities.

[5] In this case, the officer stated that he did not consider the exhibits listed above as he felt that they fell under humanitarian and compassionate considerations and did not establish the allegations of personalized risk should the applicant return to Colombia. The officer did, however, consider the evidence submitted on guerrilla warfare and on crime in the country. After analyzing the allegations of risk, the officer concluded that the evidence was insufficient to demonstrate that the risk was personal.

[6] The identification of the risks of returning to a country is primarily a question of fact. The assessment of the weight, relevance and sufficiency of the evidence in a PRRA application lies within the discretion of the PRRA Officer (*Suresh v Canada (Minister of Citizenship and Immigration)*, 2002 SCC 1 at paras 29, 39, 41; *Sidhu v Canada (Minister of Citizenship and Immigration)*, 2004 FC 39 at para 15). “The risk must be individualized and must be established on a balance of probabilities; it is prospective and has no subjective component” (*Garces Canga v Canada (Citizenship and Immigration)*, 2020 FC 749 at para 49 [*Garces*]).

[7] The Court finds that the officer did consider and analyze the fears raised by the applicant, namely, the violence in Colombia, the fact that he did not complete his military service and the hardships of finding a job.

[8] The evidence mentioned is indeed of a general nature and does not contain any corroborating objective evidence on any personalized prospective risk. Furthermore, the documentary evidence establishing a problem affecting Colombia’s entire population was insufficient in itself for the officer to allow the PRRA application (see *Garces*, above, at para 52). Finally, the use of the term “sufficient” does not amount to a wrong standard of proof in this case.

[9] This Court is not satisfied that this is an application that warrants a departure from the principle referenced within *Mobil Oil Canada Ltd. v Canada-Newfoundland Offshore Petroleum Board*, [1994] 1 SCR 202 at p 228, to the effect that it is not warranted to remit a matter for redetermination if the outcome would be unaffected.

[10] The officer reasonably concluded that the applicant failed to demonstrate that he was facing a personalized prospective risk in Colombia. For all of these reasons, the Court dismisses the application for judicial review.

JUDGMENT in IMM-5678-20

THE COURT ORDERS AND ADJUDGES that the application for judicial review is dismissed. There is no question of importance to be certified. The name of the respondent is amended to The Minister of Citizenship and Immigration.

“Michel M.J. Shore”

Judge

Certified true translation
Johanna Kratz, Reviser

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-5678-20

STYLE OF CAUSE: NICOLAS PINEROS TORRES v THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: HEARD BY VIDEOCONFERENCE

DATE OF HEARING: JUNE 30, 2021

JUDGMENT AND REASONS: SHORE J.

DATED: JULY 8, 2021

APPEARANCES:

Stéphane Handfield FOR THE APPLICANT

Lynne Lazaroff FOR THE RESPONDENT

SOLICITORS OF RECORD:

Handfield & Associates, Counsel FOR THE APPLICANT
Montréal, Quebec

Attorney General of Canada FOR THE RESPONDENT
Montréal, Quebec