Federal Court  Cour fédérale

Date: 20230419

Docket: IMM-8217-22

Citation: 2023 FC 566

Ottawa, Ontario, April 19, 2023

PRESENT: Mr. Justice Norris

BETWEEN:

ANDRES GERARDO VAAMONDE WULFF

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

[1] The applicant is a 51 year-old citizen of Venezuela. After entering Canada as a visitor in August 2017, he sought refugee protection on the basis of his fear of persecution due to his refusal to obtain a *Carnet de la Patria* ("Homeland Card") and because of his opposition to the government of President Nicolas Maduro. The Refugee Protection Division ("RPD") of the Immigration and Refugee Board of Canada ("IRB") rejected the claim on November 27, 2018. The Refugee Appeal Division ("RAD") of the IRB dismissed the applicant's appeal of the RPD's

decision on July 29, 2020. In doing so, the RAD agreed with the RPD that the applicant had failed to establish that his alleged fear of persecution was well-founded.

[2] The applicant now applies for judicial review of the RAD's decision under subsection 72(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 ("*IRPA*"). For the reasons that follow, this application will be dismissed.

[3] The parties agree, as do I, that the RAD's decision should be reviewed on a reasonableness standard.

[4] 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). A decision that displays these qualities is entitled to deference from a reviewing court (*ibid.*). When applying the reasonableness standard, it is not the role of the reviewing court to reweigh or reassess the evidence considered by the decision maker or to interfere with factual findings unless there are exceptional circumstances (*Vavilov* at para 125). To set aside a decision on the basis that it is unreasonable, the reviewing court must be satisfied that "there are sufficiently serious shortcomings in the decision such that it cannot be said to exhibit the requisite degree of justification, intelligibility and transparency" (*Vavilov* at para 100).

[5] In attempting to show that the RAD's decision is unreasonable, the applicant relies almost entirely on information in the IRB's National Documentation Package for Venezuela that

post-dates the RAD's decision. New evidence is generally not admissible on judicial review (*Sharma v Canada (Attorney General)*, 2018 FCA 48 at paras 7-9). While exceptions to this general rule have been recognized (see *Sharma* at para 8), none of them apply here. On the contrary, the applicant's attempt to rely on the new evidence effectively asks me to make a *de novo* determination of the issues determined by the RAD on the basis of freshly adduced evidence. This is not my role on judicial review: see *Bekker v Canada*, 2004 FCA 186 at para 11; and *Association of Universities and Colleges of Canada v Canadian Copyright Licensing Agency (Access Copyright)*, 2012 FCA 22 at paras 18-19.

[6] Viewed against the record that was before it, the RAD's determinations are entirely reasonable.

[7] Looking first at the Homeland Card, the applicant claimed that this card is necessary to obtain food and medicine at affordable prices as well as various social services. He had suffered hardship in Venezuela because he refused to obtain the card. That refusal was based on the applicant's belief that anyone who obtains a Homeland Card is automatically registered as a member of the ruling political party (the United Socialist Party of Venezuela). He is ideologically opposed to that party so he refuses to be registered as a member of it. The RAD rejected the claim for protection in this regard because it concluded that the applicant had failed to establish that his beliefs about how the government was using the Homeland Card are well-founded.

[8] The applicant has not persuaded me that this conclusion is unreasonable. The Venezuelan government introduced the Homeland Card in early 2017 to facilitate access to social services, including subsidized food, drugs and medical treatment. As reflected in the country conditions evidence before the RAD, concerns have been expressed about, among other things, the intrusiveness of the questions one must answer when applying for a Homeland Card (e.g. regarding membership in a political party and social media use), about pressure being placed on members of certain groups to obtain the card (e.g. government employees and university students), and about the potential for the card to be misused by the state to collect information on citizens. The RAD considered all this evidence but found that it did not support the applicant's belief that obtaining a Homeland Card results in one automatically being registered as a member of the governing party, the sole reason the applicant gave for refusing to obtain the card. There is no basis to interfere with that determination.

[9] The applicant also based his claim for protection on his participation in anti-government demonstrations in 2017. The RAD accepted that the applicant had participated in these demonstrations. The RAD also accepted that the applicant's account of the repressive responses to the demonstrations by state authorities was consistent with objective reporting. The RAD found, however, that the applicant's participation in these mass demonstrations was peripheral at best and that he had not been personally singled out by state authorities because of his involvement in the demonstrations. On this basis, the RAD concluded that, in this regard as well, the applicant had not established either a well-founded fear of persecution under section 96 of the *IRPA* or that he was a person in need of protection under section 97 of that Act. Crucially, the RAD found that the applicant's situation was not similar to that of individuals who have been

identified by authorities as having participated in anti-government demonstrations and who had suffered abusive treatment as a result. These were all reasonable determinations on the record before the RAD. Once again, there is no basis to interfere with them.

[10] For these reasons, the application for judicial review will be dismissed.

[11] The parties did not propose any serious questions of general importance for certification under paragraph 74(d) of the *IRPA*. I agree that no question arises.

JUDGMENT IN IMM-8217-22

THIS COURT'S JUDGMENT is that

1. The application for judicial review is dismissed.

2. No question of general importance is stated.

"John Norris"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-8217-22
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APPEARANCES:

Manpreet Singh Batra	FOR THE APPLICANT
Leanne Briscoe	FOR THE RESPONDENT

SOLICITORS OF RECORD:

Globe Immigration Toronto, Ontario	FOR THE APPLICANT
Attorney General of Canada Toronto, Ontario	FOR THE RESPONDENT