

Federal Court



Cour fédérale

Date: 20231025

Docket: IMM-8229-21

Citation: 2023 FC 1416

[ENGLISH TRANSLATION]

Ottawa, Ontario, October 25, 2023

PRESENT: Mr. Justice McHaffie

BETWEEN:

MARYSOL RAMIREZ PERALTA

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] After witnessing an armed robbery, Marysol Ramirez Peralta fled Mexico because she was afraid of reprisals from the perpetrators of the crime. The Refugee Appeal Division [RAD] found that Ms. Ramirez Peralta could reasonably find refuge elsewhere in Mexico. A claimant with an internal flight alternative [IFA] does not meet the description of a Convention refugee under section 96 of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA], or that

of a person in need of protection under section 97 of the IRPA. The RAD denied Ms. Ramirez Peralta's claim for refugee protection in a decision rendered October 15, 2021, and

[2] Ms. Ramirez Peralta is now seeking judicial review of this decision. When reviewing an RAD decision, this Court applies the standard of reasonableness: *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 16–17, 23–25. This means that the Court may only set the decision aside if it finds it unreasonable, that is, 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. For the following reasons, I am satisfied that the RAD decision is reasonable.

[3] In challenging the reasonableness of the RAD's decision, Ms. Ramirez Peralta raises two arguments.

[4] Ms. Ramirez Peralta claims that the RAD did not adequately analyze her arguments regarding the discrimination she would suffer because of her Indigenous identity. I cannot accept this argument.

[5] The RAD raised the possibility of an IFA, which was a new issue on appeal. In this context, the RAD sent a notice to Ms. Ramirez Peralta on September 24, 2021, informing her of this new issue and giving her an opportunity to respond. Ms. Ramirez Peralta filed written submissions, as well as a statement in which she attests to the truth of the facts alleged in her submissions. In these new submissions, Ms. Ramirez Peralta refers to her Indigenous identity in

only one paragraph, which simply reads as follows: [TRANSLATION] “She also claims to have been rejected and discriminated against in Mexico because she is a modest Indigenous woman on a low income.”

[6] Despite the rather limited nature of this submission, the RAD undertook an analysis of the risks related to Ms. Ramirez Peralta’s identity as an Indigenous woman. It found that Ms. Ramirez Peralta had not established that she had been discriminated against in Mexico or that the alleged cumulative discrimination amounted to persecution. The RAD also referred to the detailed findings of the Refugee Protection Division [RPD] regarding Ms. Ramirez Peralta’s profile and the risk she faced before concluding that the fact that Ms. Ramirez Peralta was an Indigenous woman did not invalidate the RPD’s finding. In view of the brief submissions and the limited evidence put forward by Ms. Ramirez Peralta on her Indigenous identity and its impact on her prospects for refuge in Mexico, the RAD’s reasons responded sufficiently to her submissions: *Vavilov* at paras 127–28. In other words, the RAD did not unreasonably fail to address the key issues or central arguments made by Ms. Ramirez Peralta: *Vavilov* at para .

[7] Nor can I accept Ms. Ramirez Peralta’s argument that the RAD did not give her an opportunity to speak at a hearing, and that the RAD could not conclude without such a hearing that the evidence did not establish discrimination or persecution. The RAD invited Ms. Ramirez Peralta to respond to the opinion on the availability of an IFA. Ms. Ramirez Peralta responded with submissions and evidence in the form of a statement. As the Minister points out, the RAD is not required to convene a hearing to compensate for the insufficiency of the evidence filed by a claimant, who has the burden of establishing the elements of his or her refugee protection claim:

Akram v Canada (Citizenship and Immigration), 2018 FC 785 at paras 18–20; *Singh v Canada (Citizenship and Immigration)*, 2016 FCA 96 at para 51; *Thirunavukkarasu v Canada (Minister of Employment and Immigration) (C.A.)*, [1994] 1 FC 589 at 594. On the contrary, paragraph 110(6) of the IRPA provides that the RAD may hold an oral hearing only if it considers that there is new evidence that, among other things, raises a serious issue with respect to the credibility of the person who is the subject of the appeal. Ms. Ramirez Peralta does not claim that the RAD questioned the credibility of her statement or her own credibility in any way. The RAD was therefore not required to convene a hearing to further explore Ms. Ramirez Peralta's brief reference to her Indigenous identity.

[8] Next, Ms. Ramirez Peralta claims that the RAD made erroneous findings about the ability of her agents of persecution to find her anywhere in Mexico with the help of the police. In particular, she claims that (i) the RAD ignored her statement that her agents of persecution belong to a criminal group and (ii) the RAD's finding that the evidence did not show that the police would help Ms. Ramirez Peralta's assailants find her elsewhere in Mexico is inconsistent because the criminals had obtained her identity and telephone number through the police.

[9] I disagree. The RAD considered the evidence and concluded that Ms. Ramirez Peralta had been unable to identify her agents of persecution, show whether they were part of a criminal organization with networks across the country, or demonstrate that they had the interest or ability to find her anywhere in Mexico. The RAD justified its findings with clear and detailed reasons. It was open to the RAD to make these findings, and Ms. Ramirez Peralta's submissions merely

invite the Court to reweigh the evidence or draw different inferences from it, which is not its role on judicial review: *Vavilov* at paragraph 125.

[10] I therefore find that Ms. Ramirez Peralta has not met her burden of demonstrating that the RAD's decision is unreasonable. The application for judicial review is dismissed.

[11] Neither party proposes a question to certify, and in my opinion, no such question arises in this case.

JUDGMENT in IMM-8229-21

THIS COURT'S JUDGMENT is as follows:

1. The application for judicial review is dismissed.

“Nicholas McHaffie”

Judge

Certified true translation
Johanna Kratz

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-8229-21

STYLE OF CAUSE: MARYSOL RAMIREZ PERALTA v THE MINISTER
OF CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: MONTRÉAL, QUEBEC

DATE OF HEARING: APRIL 12, 2023

JUDGMENT AND REASONS: MCHAFFIE J.

DATED: OCTOBER 25, 2023

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