

Federal Court



Cour fédérale

**Date: 20240118**

**Docket: IMM-9807-22**

**Citation: 2024 FC 79**

[ENGLISH TRANSLATION REVISED BY THE AUTHOR]

**Montreal, Quebec, January 18, 2024**

**PRESENT: Mr. Justice Sébastien Grammond**

**BETWEEN:**

**IRENE CONTRERAS CALLADO**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

[1] Ms. Contreras, a citizen of Mexico, claimed refugee protection. She alleges that she fears a client of the boutique where she used to work. She reportedly posted messages on Facebook claiming that this client was not paying her debts. The client then threatened Ms. Contreras and her employer. They were subsequently assaulted on a number of occasions.

[2] Ms. Contreras then attempted to flee to two other Mexican cities. She claims that two men attempted to approach her in one of the cities where she had sought refuge, and that she saw suspicious cars in the other city.

[3] In addition, Ms. Contreras alleges that she fears her ex-husband, whom she met while in Canada. He is a citizen of Ecuador and is also claiming refugee protection.

[4] The Refugee Protection Division [RPD] and the Refugee Appeal Division [RAD] of the Immigration and Refugee Board [IRB] rejected Ms. Contreras' claim for refugee protection. The RAD found that Ms. Contreras had an internal flight alternative [IFA] in the city of Mérida, Mexico. According to the RAD, the agent of persecution lacked the motivation to track down Ms. Contreras outside her hometown. It found that the evidence did not support the conclusion that the agent of persecution was linked to the events that took place in the two cities where Ms. Contreras had sought refuge. Similarly, the RAD determined that the evidence did not establish a link between the agent of persecution and a robbery of which Ms. Contreras's mother was a victim. The RAD further concluded that it would not be unreasonable for Ms. Contreras to move to Mérida.

[5] With respect to the ex-spouse, the RPD found that he had neither the interest nor the means to attack Ms. Contreras if she returned to Mexico. At the hearing before the RAD, Ms. Contreras did not dispute this finding.

[6] Ms. Contreras is now seeking judicial review of the RAD's decision.

[7] On judicial review, the Court's role is not to judge the matter anew or to substitute its opinion for that of the RAD, but rather to ensure that the RAD's decision was reasonable. With respect to factual issues, the Court will only intervene if the RAD has "fundamentally misapprehended or failed to account for the evidence before it": *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paragraph 126, [2019] 4 SCR 653. The issues raised by Ms. Contreras are essentially questions of fact. In my view, Ms. Contreras has not demonstrated that the RAD's conclusions were unreasonable, in the sense that they are not supported by the evidence.

[8] In her submissions, Ms. Contreras focuses on the IRB's Chairperson's Guideline No. 4 on Gender Considerations. She contends that the RAD failed to apply this guideline, even though it referred to it in its reasons. However, the onus was on the applicant to show in what respect the RAD had failed to take Guideline No. 4 into account. In reality, Ms. Contreras is simply using Guideline No. 4 to put the emphasis on submissions based on general principles regarding the assessment of the evidence. Ms. Contreras has not demonstrated that Guideline No. 4 adds anything to the analysis.

[9] With respect to the facts, Ms. Contreras's main contention is that the RAD erred in finding that the incidents in the other cities were speculative, because there was no evidence that they were related to the agent of persecution. In my opinion, Ms. Contreras has not demonstrated that this conclusion was unreasonable. Although the language used by the RAD was at times ambiguous, a reading of the decision as a whole makes it clear that this was a finding of insufficient evidence, not a credibility finding. In other words, the RAD did not doubt that the

events recounted by Ms. Contreras took place, but noted that there was nothing to link them to the agent of persecution. Since this was not a credibility issue, the RPD was not required to question Ms. Contreras further on the subject. There was no breach of procedural fairness or of Guideline No. 4.

[10] I would add that the principles set forth in *Maldonado v Minister of Employment and Immigration*, [1980] 2 FC 302 (CA), do not require us to accept inferences that applicants seek to draw from facts that they have personally witnessed: *Singh v Canada (Citizenship and Immigration)*, 2021 FC 1410 at paragraph 16.

[11] Similarly, the RAD could reasonably conclude, on the evidence, that the robbery of Ms. Contreras's mother was not related to the agent of persecution.

[12] Another aspect of Ms. Contreras's submissions relates to the second prong of the IFA test, namely the reasonableness of the relocation to Mérida. Her main contention in this regard is that it was unreasonable to require her to refrain from using her real name on social media. Ms. Contreras was questioned by the RPD about this. However, the RAD did not refer to this issue in its decision. I find it hard to understand how something that was not in the RAD's decision can render it unreasonable. In any case, it is not unreasonable to require a refugee protection claimant to take certain precautions to avoid being found by the agent of persecution in the IFA.

[13] More generally, Ms. Contreras contends that the RAD erred in assessing the reasonableness of the relocation to Mérida. In particular, she claims that the RAD failed to take Guideline No. 4 into account. However, the RAD explicitly referred to Guideline No. 4 and examined how gender-related issues might make relocation to Mérida unreasonable. The fact that Ms. Contreras disagrees with the conclusion reached by the RAD is not enough to make it unreasonable. Ms. Contreras's burden of proof with respect to this issue is quite heavy. She has not shown how the RAD failed to consider the evidence or how it fundamentally misapprehended its scope.

[14] For these reasons, Ms. Contreras's application for judicial review will be dismissed.

**JUDGMENT in IMM-9807-22**

**THIS COURT'S JUDGMENT is that:**

1. The application for judicial review is dismissed.
2. No question is certified.

“Sébastien Grammond”

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Judge

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** IMM-9807-22

**STYLE OF CAUSE:** IRENE CONTRERAS CALLADO v THE MINISTER  
OF CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** MONTREAL, QUEBEC

**DATE OF HEARING:** JANUARY 17, 2024

**JUDGMENT AND REASONS:** GRAMMOND J.

**DATED:** JANUARY 18, 2024

**APPEARANCES:**

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