

CANADA / JUDGMENT

MB9-21962

COURT

Refugee Appeal Division

DECIDED

11 March 2020

Research copy typeset by Esheria. Not court-issued or certified. A source URL was not supplied in the case record.

RAD File / Dossier de la SAR : MB9-21962 MB9-21963 Private Proceeding / Huis clos Reasons and decision ? Motifs et décision Persons who are the subject of the appeal XXXX XXXX XXXX XXXX XXXXXXXX XXXX XXXX XXXX Personnes en cause Appeal considered / heard at Toronto, ON Appel instruit / entendu à Date of decision March 11, 2020 Date de la décision Panel Joseph W. Richards II Tribunal Counsel for the persons who are the subject of the appeal Marcos Ortiz Conseil des personnes en cause Designated representative XXXX XXXX XXXX XXXX Représentant(e) désigné(e) Counsel for the Minister N/A Conseil du ministre REASONS FOR DECISION OVERVIEW

- [1] I allow the appeals.
- [2] XXXX XXXX XXXX XXXX (the Principal Appellant or PA) and XXXX XXXX XXXX XXXX (the Minor Appellant or MA) are citizens of Colombia. The PA is the mother of the MA.
- [3] The Appellants fear their cousin, Mr. XXXX XXXX XXXX XXXX, an influential member XXXX XXXX XXXX XXXX XXXX XXXX XXXX) in Colombia. In 2000, the PA's brother XXXX XXXX XXXX, allowed a friend of XXXXs to live with him. Shortly thereafter, XXXX XXXX, then XXXX XXXX XXXX XXXX was arrested and detained on charges of kidnapping and extortion. Family conflict ensued, as the PA was the only person to maintain her brother's innocence; she believed that XXXX XXXX was set up by XXXX XXXX In contrast, XXXX openly conveyed to family members that XXXX XXXX was guilty. The PA took active steps to assist in her brother's defence, but in XXXX 2001, XXXX XXXX directed the PA to stop. He did not give an explanation but was so adamant that the PA complied, all the while suspecting that her brother had been threatened by XXXX. In XXXX 2001, XXXX XXXX was convicted and sentenced to XXXX XXXX XXXX XXXX.
- [4] In XXXX 2008, XXXX was arrested, due to information received from another relative, XXXX XXXX XXXX XXXX. The PA visited XXXX in jail to express satisfaction that he would pay for his nefarious activities. XXXX intimated that he would not be incarcerated for long. Indeed, he was released only four years later, in XXXX 2012. XXXX XXXX was released in XXXX 2012 on good behaviour. In XXXX 2017, a widespread corruption investigation led to the re-opening of XXXXs case and the XXXX XXXX XXXX XXXX XXXX XXXX. XXXX absconded before he could be arrested. In XXXX 2017, XXXX XXXX received phone calls from an angry XXXX XXXX Believing that the PA had provided incriminating information to the authorities

through her XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX, XXXX threatened the PA. When XXXX XXXX relayed these threats to the PA, she decided to flee Colombia. Having already planned to visit relatives in Canada, the Appellants left the country on XXXX XXXX XXXX 2018 using their visitor's visas.

- [5] The RPD rejected the Appellants' claims due to the PA's overall lack of credibility and the lack of any evidence of XXXX's interest in finding them.
- [6] The Appellants contend that the RPD erred by basing its credibility findings on microscopic discrepancies, by unduly speculating that XXXX could be dead, and by assigning no weight to the police report relating to threatening texts sent to the MA. The Appellants further allege that the Panel Member demonstrated a reasonable apprehension of bias. The Appellants have submitted new evidence in this appeal and are requesting an oral hearing.
- [7] The determinative issue is the Appellants' credibility. I have determined that the new evidence is inadmissible, and an oral hearing is not permitted. Nevertheless, after a fulsome assessment of the record, I find that the Appellants likely face a risk to their lives, or to cruel and unusual treatment or punishment, and are thus persons in need of protection, pursuant to section 97 of the Immigration and Refugee Protection Act (IRPA). DECISION
- [8] The appeals are allowed. I substitute my own decision that the Appellants are persons in need of protection. NEW EVIDENCE The evidence presented by the Appellants is rejected
- [9] According to the law,¹ I can only accept evidence that:
- (a) arose after the RPD decision; or
 - (b) was not reasonably available at the time of the decision; or
 - (c) that you could not reasonably have been expected in the circumstances to bring to the RPD before the decision.
- [10] If the evidence meets one or more of these requirements, I must then decide if the evidence is credible, relevant, and new before I can accept it.² The newness criterion is somewhat redundant, as it does not add to the explicit requirements of subsection 110(4).³
- [11] In this case, the Appellants describe the new evidence merely as the "Affidavit of [the PA]".⁴ In fact, the Appellants have submitted much more. In addition to the PA's affidavit, the Appellants' Record includes: a second sworn statement from the PA's brother (XXXX XXXX), a sworn statement from the PA's neighbour in Colombia, and news articles that explain XXXXs 2008 arrest and XXXX XXXX and that address the problem of XXXX XXXX XXXX XXXX armed groups.⁵ For the following reasons, I find that none of this evidence is admissible. The Affidavit of the PA

- [12] The PA's affidavit of October 12, 2019 repeats her Basis of Claim (BOC) narrative, summarizes her oral testimony, and contests the RPD's findings. Rather than new evidence, it consists mostly of arguments that ought to have been raised either at the RPD hearing or in the Appellants' memorandum.
- [13] The one exception is a reference to the fact that the PA works at XXXX and does not rely on social assistance.⁶ This information did arise after August 16, 2019, the date the asylum claim was rejected; it provides the PA's employment status as of the date the document was sworn. Her employment history in Canada, however, was not an issue at the RPD hearing and is not capable of proving or disproving a fact that is relevant to the Appellants' claims for protection. Given this lack of relevance, the employment update is inadmissible. As stated above, the rest of the affidavit is not new evidence. I will nevertheless consider it as an addendum to the Appellants' Memorandum. Sworn statements
- [14] The Appellants contend that the October 11, 2019 statement of the PA's brother, XXXX XXXX, is "more in-depth" and "confirm[s] XXXX's threats against the claimant".⁷ It also serves to clarify omissions from the previous statement.⁸ In advancing claims for refugee protection, the Appellants are responsible for adducing all relevant and available evidence. Claimants must put forward their entire case to the RPD, since an appeal to the Refugee Appeal Division (RAD) is not an opportunity to correct a deficient record.⁹ That is exactly what this new statement attempts to do. XXXX XXXX's original affidavit is included in the RPD Record.¹⁰ The one provided in this appeal explicitly links XXXX threats towards the PA to XXXX's belief that the PA caused the confiscation of his assets.
- [15] Though the statement is dated October 11, 2019, it is the facts or circumstances established by the documentary evidence which must postdate the date of the rejection of the claim.¹¹ The date of the statement is not determinative. XXXX XXXX's new statement refers only to events occurring up to XXXX XXXX XXXX 2017, while the Appellants still lived in Colombia. Therefore, this evidence arose well before the date of rejection (August 16, 2019). Moreover, it was reasonably available before then, given that XXXX XXXX was able to compose his first statement almost two years earlier, on XXXX XXXX, 2017.¹² Lastly, the new evidence contained in the most recent statement could be reasonably expected to have been presented prior to the date of the RPD's decision; it relates to the allegations of harmful threats, which lie at the core of the Appellants' claims. I also note the 18 days between the date of the hearing and the date of the decision; the Appellants have not shown that they even attempted to make an application to submit post-hearing documents, pursuant to Rule 43 of the RPD Rules. Thus, XXXX XXXX's new statement is inadmissible.
- [16] Almost identical reasons apply to the sworn statement of the PA's neighbour, also dated October 11, 2019. The document recounts interactions with the PA between 2015 and XXXX 2017, all occurring well before the Appellants' claims were rejected. As alluded to in her BOC and oral testimony, this deponent is the neighbour that the PA stayed with after learning of XXXX's threats in XXXX 2017.¹³ The Appellants have not explained why this statement was not reasonably available before the date of rejection or could not be expected to have been

presented before that date. Accordingly, this sworn statement is inadmissible. News Articles

- [17] The news articles are dated XXXX XXXX, 2008 and XXXX XXXX, 2018, and they were both retrieved from the internet.¹⁴ They give additional information about XXXXs involvement in XXXX and attest to the potential risk faced by the MA if she returned to Colombia. These documents both address central questions in the Appellants' claims, namely, the identity of the agent of harm and the nature of the risk faced by the Appellants. However, the articles arose well before the date that the Appellants' claims were rejected, were reasonably available before that date, and could be expected to have been presented before that date. Accordingly, they are inadmissible in this appeal. An oral hearing cannot be held
- [18] The Appellants have requested an oral hearing and provided submissions to explain why one is needed.¹⁵ Pursuant to subsection 110(6) of the IRPA, a prerequisite for an oral hearing is admissible new evidence. As there is no such evidence in this appeal, an oral hearing cannot be held. The Appellants' request is therefore denied.

ANALYSIS

The role of the RAD

- [19] The RAD reviews RPD decisions by conducting an independent assessment of the refugee claim. If the RAD's assessment differs from that of the RPD, the RAD may substitute its own decision.¹⁶ If the RPD has a meaningful advantage in assessing the credibility of oral testimony, then the RPD's finding may be accorded deference.¹⁷ Otherwise, the standard of correctness applies.¹⁸
- [20] In this case, the RPD did not have a meaningful advantage. Accordingly, I have conducted an independent assessment of the oral and documentary evidence using the correctness standard. The RPD hearing was procedurally fair
- [21] The Appellants submit that the RPD's credibility findings were made with a "clear apprehension of bias against the claimant."¹⁹ This is a serious allegation. Claimants have the right to be heard and the right to an impartial decision-maker, rights which are critical components of the rules of natural justice that the Immigration and Refugee Board (IRB) is bound to follow.²⁰ When displaying a reasonable apprehension of bias, a panel member fosters an appearance that the proceedings are unfair, thereby breaching the rules of natural justice. After reviewing the record, I find that the Appellants' argument is without merit.
- [22] Counsel did not specifically explain how an appearance of bias was manifested in this case. I gather from the appeal record that the alleged bias is tied to the Panel's aggressive questioning and microscopic credibility findings related to particular omissions in XXXX XXXX's original sworn statement of 2017.²¹ To support their position, the Appellants include the 2014 Federal Court's decision of Cipak in their appeal record.²² In that decision, Justice Roy held that aggressively pursuing an issue that is purportedly related to credibility can create a perception of bias when the pursuit goes beyond the issue's worth.²³

- [23] However, the facts in Cipak are completely distinguishable from the present case. In Cipak, the claimants explained that the omissions and inconsistencies in their narrative were a result of errors made by their former counsel who translated the document from Slovak to English.²⁴ The Panel decided to investigate the issue for several months and pressed the claimant to waive solicitor-client privilege.²⁵
- [24] This is altogether different than seizing an omission that drives to the heart of the refugee claim (e.g. the nature of the risk of danger) and giving the claimant multiple opportunities to account for the omission, which is precisely what the Panel Member did in this case. XXXX XXXX's statement did not mention XXXX alleged threat to the PA, and so ten minutes of the hearing was spent on questioning the PA about the discrepancy. ²⁶ Furthermore, the PA required an interpreter at the hearing, making it especially important for the Panel to take the time to ensure that the questions and responses were clear and accurate.
- [25] After listening to the hearing recording in its entirety, I did not notice any issues with the Panel's questioning, such as an overly aggressive or harsh tone. I therefore find that the Panel Member's conduct was entirely appropriate and did not, on a balance of probabilities, lead to an appearance of bias. Credibility The RPD erred in evaluating XXXX XXXX's Sworn Statement
- [26] The RPD found that the Appellants lacked credibility because the PA could not explain omissions in her brother's statement of XXXX XXXX, 2017. The Appellants' position is that the RPD's position was unduly microscopic. I agree with the Appellants that the RPD erred.
- [27] While claimants are expected to explain discrepancies in their evidence, the RPD erred by holding the PA to an unreasonable standard. The PA neither wrote the statement nor claimed to have dictated it to her brother. XXXX XXXX did not testify at the RPD hearing and resides in Colombia. Under these circumstances, the PA's response was eminently reasonable: she does not know why XXXX XXXX failed to mention the fact that XXXX blames the PA for the confiscation of XXXX's properties.²⁷
- [28] Therefore, the omission does not undermine the claimant's overall credibility, and it also does not justify assigning the statement no weight. The RPD erred in assessing the Appellants' relocations
- [29] The RPD drew a negative inference as to the credibility of the PA because her BOC asserts that she moved twice before leaving Colombia, while these relocations are not referenced in her Schedule A form.²⁸ The Appellants contest this finding, without providing reasons for their position.²⁹ Nevertheless, after reviewing the record, I find that the RPD erred.

- [30] The PA provided a reasonable explanation for the discrepancy. She testified that for two weeks in XXXX 2017, she spent the nights with her friend, who lived in the same apartment building. Because this was not a permanent move, she did not believe that it was necessary to mention it in the Schedule A form.³⁰ I further note that the precise wording in the BOC indicates that the Appellants "changed houses on two occasions", which does not necessarily imply a permanent relocation.³¹
- [31] The PA failed to mention the second place where she stayed in order to avoid detection from the agent of harm. Even so, I still conclude that a negative credibility finding is unwarranted, as the discrepancy does not involve a material portion of the Appellants' claims or their narrative. Therefore, I find that the RPD erred. The RPD correctly weighed the police report
- [32] The Panel placed no weight on the police report because the PA testified that it might not be related to the claim, and the PA could not remember when the incidents alleged in the report occurred. The Appellants claim that the RPD disregarded this evidence without a valid reason and that the PA never ruled out the possibility that the text messages were sent by XXXX.³² I find, for different reasons, that the RPD did not err in the weight placed on the police report.
- [33] In XXXX 2017, the PA reported to the police that the MA received threatening text messages via WhatsApp. The PA has consistently maintained that she does not know who sent the messages and that she simply submitted the police report as additional evidence of a potential risk faced by the MA if returned to Colombia. When she reported the text messages to the police, the PA was asked whether she had any suspicions regarding the sender's identity. She responded in the negative.³³
- [34] The text messages do not threaten harm to the MA, though they do imply that she is being monitored and that she will be outed as a XXXX. The MA blocked the sender's phone number, and the Appellants have not alleged that they received similar messages between XXXX 2017 and their departure in XXXX 2018.
- [35] The RPD's reasons were concise, but nevertheless correct: such isolated correspondence of unknown origin is insufficient to establish a risk of harm and, more specifically, fails to corroborate the alleged threats from XXXX. The police report itself is credible. It offers a contemporaneous account of the Appellants' concerns while they lived in Colombia. However, on a balance of probabilities, the content of the messages is not relevant to any of the issues raised in the Appellants' refugee claims, and thus it carries no probative value.
- [36] The RPD was thus correct in assigning the police report no weight, a finding which, to be clear, does not detract from the Appellants' overall credibility. The Appellants are persons in need of protection

- [37] At the RPD hearing, Counsel submitted that the Appellants exclusively met the refugee definition set out at section 97 of the IRPA.³⁴ An independent assessment is nevertheless required. After reviewing the entirety of the record, I agree with the Appellants: they are persons in need of protection, pursuant to section 97 of the IRPA.
- [38] To qualify as a person in need of protection, subjective fear is not required.³⁵ Instead, I must objectively assess the risk to life and the risk of cruel and unusual treatment or punishment. As the evidence does not reveal a danger of torture (i.e. a substantial risk of intentionally severe physical or mental pain or suffering), my analysis will focus on paragraph 97(1)(b) of the IRPA. The nature of the risk of danger
- [39] At the heart of this appeal is determining the nature of the risk faced by the Appellants. The PA believes that XXXX threatened her because he suspects that she caused his assets to be confiscated. On the facts of this case, the RPD provided insufficient reasons to rebut the presumption of truth.³⁶ Contrary to the RPD's findings, momentary lapses in remembering the marital status of one's siblings neither diminish overall credibility nor demonstrate an intent to mislead the tribunal.³⁷ Therefore, I rely on the PA's credible oral testimony to conclude that the Appellants likely face a personalized risk to their lives if returned to Colombia.
- [40] I also rely on XXXX XXXX's detailed sworn statement. The credibility of this document is enhanced by the fact that, when it was notarized on January 16, 2018, XXXX XXXX's identity was verified through biometrics.³⁸ According to XXXX XXXX, after being arrested in XXXX 2000, he tried to prove his innocence. The PA initially assisted him in that endeavour. During their investigation, they discovered that their cousin, XXXX XXXX had different aliases and that he was in fact an important member of a XXXX XXXX XXXX XXXX XXXX XXXX.³⁹ XXXX XXXX learned that his arrest was a "smokescreen" meant to hide the true nature of XXXX's criminal activities.⁴⁰ XXXX XXXX further contends that he is the only relative in Colombia who could potentially testify against XXXX, should XXXX ever be captured. XXXX XXXX indicates that he has received calls telling him to "remember to keep quiet because they know perfectly well where to find [the PA] and her daughters".⁴¹
- [41] XXXX XXXX's statement thus provides important context and offers an additional dimension to the harm that the Appellants face; so long as XXXX XXXX does not betray XXXX, the Appellants will be safe. When a claimant's life is conditioned on a criminal fugitive's subjective assessment of loyalty in such a manner, paragraph 97(1)(b) of the IRPA is still engaged, provided that the agent of harm has the means and motivation to carry through with the threat.
- [42] I have considered the harm faced by the MA, in particular. The MA is 15 years old and resides exclusively with the PA; the MA's father is not an active part of her life. I have considered the Child Guideline, and recognize that the objective evidence must be relied upon when deciding a child's claim because children often do not appreciate the gravity of the harm that they face.⁴² I find that the risk faced by the PA extends to the MA. Given

XXXX's ongoing influence in XXXX XXXX, the fact that the Appellants' live together, and XXXX's express reference to the PA's daughters in his veiled threats, any harm aimed at the PA would likely be inflicted on the MA as well. Cousin XXXX as agent of harm

[43] I find, on a balance of probabilities, that the Appellants' lives would be in danger if they returned to Colombia. The agent of harm is XXXX, along with his former associates in the XXXX. After reviewing the evidence, I observed the following:

- (a) A copy of the judgment in XXXX's 2008 court case was submitted to the RPD in the claim of the PA's cousin, XXXX XXXX XXXX XXXX. In XXXX XXXX's RPD decision, the Panel Member reviewed the Colombian judgment, which identified XXXX as an "XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX". It also confirmed that XXXX XXXX XXXX, the husband of the PA's cousin XXXX, testified against XXXX.⁴³
- (b) XXXX testified at XXXX XXXX RPD hearing as well as at the Appellants' RPD hearing. Listening to the hearing recording in this case, I find that XXXX testified in a forthright and spontaneous manner. He stated that he worked for XXXX and that he was a victim of XXXX's pattern of involving family members in criminal activities without them even knowing. The PA's brother, XXXX XXXX, also alleges to have been a victim of this pattern.⁴⁴ XXXX confirmed that in Colombia, the PA was a vocal critic of XXXX XXXX.⁴⁵ The PA actively denounced XXXX XXXX incarceration and personally confronted XXXX when the latter was arrested in XXXX 2008.⁴⁶
- (c) Per the Washington Post article of XXXX XXXX, 2008, the XXXX emerged from the XXXX XXXX, combining "XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX." ⁴⁷ Though the XXXX's leadership was largely XXXX XXXX XXXX, its influence continues through splinter groups such as the XXXX and XXXX.⁴⁸ The XXXX, for instance, has a significant presence in Colombia, consolidating its power by resorting to XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX. It funds approximately XXXX XXXX throughout Colombia.⁴⁹
- (d) XXXX's mother and the PA's mother are XXXX XXXX. In general conversation, both XXXX's mother and XXXX have inquired about the PA's return since they currently believe that the PA only came to Canada to XXXX XXXX.⁵⁰
- (e) Since arriving in Canada, the Appellants have associated with her cousins, all of whom fled Colombia and obtained refugee protection due to their involvement in XXXX's prosecution.⁵¹

[44] Based on these observations, I have reached the conclusion that XXXX continues to have the means and motivation to harm the Appellants if they returned. Though XXXX remains at large and the XXXX XXXX XXXX XXXX, the metastasizing nature of Colombian XXXX XXXX gives him the ability to easily pursue the Appellants. Their familial connection provides an additional route for XXXX to locate the Appellants. No adequate state protection and no viable IFA

- [45] The PA's brother and XXXX are both XXXX XXXX XXXX. XXXX continues to have connections within the Colombian government and drug trafficking organizations. Witness protection programs are limited in the country, as protection measures are subject to annual re-evaluation and can be subcontracted to private companies.⁵² Participating in these programs also significantly restricts one's liberties; conduct such as tending to an ill relative can lead to expulsion.⁵³ These types of restrictions caused the PA's cousin, XXXX XXXX, to refrain from joining the program. Even though the PA's other cousins did participate in it, they successfully sought asylum in Canada as soon as the program ended.⁵⁴
- [46] Under these circumstances, I find that the evidentiary record demonstrates that adequate state protection would not be forthcoming and that the Appellants would not be safe in any other location in Colombia. The Appellants' identities are established
- [47] I agree with the RPD's finding that the Appellants' identities as nationals of Colombia are established.⁵⁵
- [48] For the reasons set out above, I find that the Appellants are persons in need of protection under paragraph 97(1)(b) of the IRPA.

CONCLUSION

- [49] The appeals are allowed. Pursuant to paragraph 111(1)(b) of the IRPA, I set aside the determination of the RPD and substitute my own determination that the Appellants are persons in need of protection. (signed) "Joseph W. Richards II" Joseph W. Richards II March 11, 2020 Date 1 Subsection 110(4) of the IRPA. 2 M.C.I. v. Singh, Parminder (F.C.A., no. A-512-14), Nadon, Gauthier, de Montigny, March 29, 2016, 2016 FCA 96; Raza, Syed Masood v. M.C.I. (F.C.A., no. A-11-07), Linden, Sharlow, Ryer, December 6, 2007, 2007 FCA 385. 3 Singh, *ibid.*, at para. 46. 4 Exhibit P-2, Appellants' Record, at p. 1 (para. 4). 5 *Ibid.*, at pp. 4-37. 6 *Ibid.*, at p. 6 (para. 13). 7 *Ibid.*, at p. 53 (para. 5). 8 *Ibid.*, Memorandum, at p. 53 (para. 8). 9 Singh, *supra* endnote 2, at para. 54. 10 Exhibit RPD-1, RPD Record, at pp. 168-170. 11 Mavangou, Prisca Audrey v. M.C.I. (F.C., no. IMM-3722-18), Gascon, February 12, 2019, 2019 FC 177, at para. 26; Raza, *supra* endnote 2, at para. 16. 12 See Exhibit RPD-1, RPD Record, at pp. 163, 168. 13 In her narrative, the PA claims, "While organizing my departure, I changed houses on two occasions to make sure nobody would know where I resided": Exhibit RPD-1, RPD Record, at p. 23 (para. 21). Consider also Audio Recording of the RPD Hearing, at 01:24:20 - 01:27:40. 14 See Exhibit P-2, Appellants' Record, at pp. 22, 33. 15 *Ibid.*, at p. 55. 16 Huruglica, Bujar v. M.C.I. (F.C., no. IMM-6362-13), Phelan, November 7, 2014, 2014 FC 799, at paras. 54-55. 17 Rozas Del Solar, Paola v. M.C.I. (F.C., no. IMM-2645-17), Diner, November 14, 2018, 2018 FC 1145, at para. 105. 18 M.C.I. v. Huruglica, Bujar (F.C.A., no. A-470-14), Gauthier, Webb, Near, March 29, 2016, 2016 FCA 93, at paras. 70, 103. 19 Exhibit P-2, Appellants' Record, Memorandum, at p. 53 (para. 8). 20 See e.g. IRPA, s. 170(e); "Code of Conduct for Members of the Immigration and Refugee Board of Canada" (April 9, 2019), <https://irb-cisr.gc.ca/en/members/Pages/MemComCode.aspx>, at paras. 29-30. 21 Exhibit P-2, Appellants' Record, at pp. 4 (para. 2), 52 (para. 1), 53 (para. 8), 55 (para. 3). 22 Cipak, Milan v.

M.C.I. (F.C., no. IMM-12723-12), Roy, May 12, 2014, 2014 FC 453. See *ibid.*, at pp. 38-50. 23 Exhibit P-2, Appellants' Record, Cipak, at p. 47 (para. 33). 24 *Ibid.*, at p. 40 (para. 8). 25 *Ibid.*, at pp. 42 (para. 14), 46-47 (para. 31). 26 Audio Recording of the RPD Hearing, at 00:26:00 - 00:35:10. 27 *Ibid.*, at 00:30:10. 28 Exhibit RPD-1, RPD Record, RPD's Reasons and Decision, at p. 9 (para. 22). Cf. Exhibit RPD-1, RPD Record, at p. 23 (para. 21) to p. 70 (question 12). 29 Exhibit P-2, Appellants' Record, at p. 54. 30 Audio Recording of the RPD Hearing, at 00:26:00 - 00:35:10. 31 Exhibit RPD-1, RPD Record, at p. 23 (para. 21). 32 Exhibit P-2, Appellants' Record, Memorandum, at p. 53 (para. 7). 33 Exhibit RPD-1, RPD Record, at p. 162. 34 Audio Recording of the RPD Hearing, at 02:56:00. 35 Karafazilioglu, Emrah v. M.C.I. (F.C., no. IMM-4051-15), Martineau, March 10, 2016, 2016 FC 302, at para. 13. 36 Maldonado, Pedro Enrique Juarez v. M.E.I. (F.C.A., no. A-450-79), Heald, Ryan, MacKay, November 19, 1979; [1980] 2 F.C. 302 (C.A.). 37 Exhibit RPD-1, RPD Record, RPD's Reasons and Decision, at pp. 7-8 (para. 18); Audio Recording of the RPD Hearing, at 00:36:45 - 00:38:30 38 Exhibit RPD-1, RPD Record, at p. 172. 39 *Ibid.*, at p. 168. 40 *Ibid.*, at pp. 168, 170 41 *Ibid.*, at p. 170. 42 Guideline 3: Child Refugee Claimants: Procedural and Evidentiary Issues, Guideline Issued by the Chairperson, pursuant to Subsection 65(3) of the Immigration Act, IRB, Ottawa, September 10, 1996 as continued in effect by the Chairperson on June 28, 2002 in paragraph 159(1)(h) of the IRPA. <https://irb-cisr.gc.ca/en/legal-policy/policies/Pages/GuideDir03.aspx>, section B.II, "Assessing the Evidence". 43 Exhibit RPD-1, RPD Record, at pp. 154-155. 44 Audio Recording of the RPD Hearing, at 02:37:30. 45 *Ibid.*, at 02:46:30. 46 *Ibid.*, 00:46:00 - 00:49:00. 47 Exhibit RPD-1, RPD Record, at p. 174. 48 *Ibid.*, at p. 184. 49 NDP for Colombia (May 31, 2019), item 7.2, IRB, RIR COL105773, "Paramilitary successor groups and criminal bands", April 24, 2017, at pp. 12-13. 50 Audio Recording of the RPD Hearing at 01:48:20 - 01:52:00. 51 See Exhibit RPD-1, RPD Record, at pp. 152-157. 52 NDP for Colombia (May 31, 2019), item 7.3, IRB, RIR COL105470, "State protection programs for victims and witnesses of crimes...", April 6, 2016, at p. 5. 53 *Ibid.*, at pp. 9-10. 54 Exhibit RPD-1, RPD Record, pp. 152-153. 55 *Ibid.*, RPD's Reasons and Decision, at p. 5 (para. 11).

RAD File / Dossier de la SAR : MB9-21962 MB9-21963 RAD.25.02 (April 04, 2019) Disponible en français 2 Immigration and Refugee Board of Canada Refugee Appeal Division Commission de l'immigration et du statut de réfugié du Canada Section d'appel des réfugiés RAD.25.02 (April 04, 2019) Disponible en français

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

CASE PAGE <https://chat.esheria.ai/case-law/canada/Credibilityassessment-refugee-appeal-division-2020--6a40c3af4cf2c72690fb101f>

A source URL was not supplied in the case record. Consult the court's original record before reliance.

Prepared on 26 October 2026 · Esheria