

CANADA / JUDGMENT

TB9-05790

COURT

Refugee Appeal Division

DECIDED

29 July 2020

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RAD File / Dossier de la SAR : TB9-05790 TB9-05791 / TB9-05792 / TB9-05793 Private Proceeding / Huis clos Reasons and decision ? Motifs et décision Persons who are the subject of the appeal XXXX XXXX XXXX XXXX XXXXXXXXXXX XXXX XXXX XXXX XXXXXXXXXXX XXXX XXXX XXXXXXXXXXX XXXX XXXX Personnes en cause Appeal considered / heard at Montreal, QC Appel instruit / entendu à Date of decision July 29. 2020 Date de la décision Panel Rouba Al-Salem Tribunal Counsel for the persons who are the subject of the appeal John W Grice 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] XXXX XXXX XXXX XXXX (Principal Appellant Mr. XXXX XXXX)¹ and XXXX XXXX XXXX XXXX (Associate Appellant Mrs. XXXX XXXX) and XXXX XXXX XXXX (First Minor Associate Appellant) are citizens of Colombia. Together with XXXX XXXX XXXX (Second Minor Associate Appellant) who has US citizenship, they appealed a decision by the Refugee Protection Division (RPD), rendered 31 January 2019, rejecting their claim for refugee protection.
- [2] The Appellants, who worked at XXXX XXXX XXXX XXXX XXXX XXXX (thereafter XXXX), allege that they fear being killed by Los Urabenos (also known as Clan de Golfo, Clan Usuga and Atudodefensas Gaitanistas of Colombia (AGC) if they were to return to Colombia, because of their refusal to provide information about the largest companies operating in the XXXX region to the XXXX, including financial information, that could be used to target those companies with extortion.²
- [3] In XXXX 2014, the Appellants left Colombia to the USA where they resided with Mr. XXXX XXXX mother, hoping to be granted US residency through a sponsorship application that had been by Mr. XXXX XXXX step-father.³ However, their sponsorship application fell through allegedly due to the age of the Principal and Associate Appellants, and because they were victims of a fraud by an immigration lawyer.⁴
- [4] On XXXX XXXX 2017, the Appellants crossed from the USA into Quebec, Canada, where they made their refugee claims.⁵

- [5] In its decision, the RPD found that the Appellants have established their identities as Colombian nationals,⁶ and that Mr. XXXX XXXX and Mrs. XXXX XXXX were credible with respect to their allegations that they were approached for information and subsequently threatened by members of Los Urabenos,⁷ and accepted that on a balance of probabilities, the Urabenos are the agents of persecution.⁸
- [6] However, the panel also found that there is a viable Internal Flight Alternative (IFA) for the Appellants in Tunja, the capital of Boyaca department.⁹ In this regard, the panel concluded, that neither the objective documentary evidence, nor the evidence submitted by the Appellants corroborated their allegations that they would face a serious possibility of persecution, or a risk of harm, in the proposed IFA.¹⁰ Secondly, the RPD concluded that the Appellants have not met their burden of proving that the proposed IFA of Tunja is unreasonable in all circumstances, including the particular circumstances of all of the Appellants holding Colombian citizenship.¹¹ The RPD reached its decision after conducting its assessment of whether or not the Appellants had a viable IFA in Tunja under section 97 of IRPA.¹²
- [7] Concerning the First Minor Associate Appellant, XXXX, the RPD concluded that neither the Appellants nor their counsel have provided any significant evidence to establish that there is a serious possibility of persecution on a Convention ground, or that on a balance of probabilities he would be subjected to a danger of torture or face a risk to life or risk of cruel and unusual treatment or punishment if he were to return to the United States of America.¹³ With respect to the Second Minor Associate Appellant Emmanuel, the RPD found that he would not face a serious possibility of persecution on any Convention ground, or that on a balance of probabilities, he would be personally subjected to a risk to life or to a risk of cruel or unusual treatment or punishment, or to a danger of torture upon his return to his country of citizenship (USA).¹⁴
- [8] On appeal, the Appellants submit that first, the RPD erred in its assessment of the availability of an IFA for the Appellants in the town of Tunja, Boyaca department,¹⁵ and the conclusions it reached that both prongs of the IFA test have not been met.¹⁶ Secondly, the Appellants submit that the RPD erred in its finding that there was no nexus between their claim and a Convention ground.¹⁷ Thirdly, the Appellants submit on appeal that the RPD breached the principle of natural justice by placing less weight on allegedly highly relevant pieces of documentary evidence that had been translated.¹⁸ The RPD's findings with respect to XXXX were not contested by the Appellants on appeal. The Appellants did not submit new evidence or request an oral hearing.¹⁹
- [9] I concur with the RPD that the determinative issue is the availability of a viable IFA for the Appellants who are Colombian citizens in Tunja. DECISION
- [10] I dismiss the appeal. I find that the RPD was correct in concluding that the Appellants are neither Convention refugees nor persons in need of protection.

BACKGROUND

- [11] According to the Appellants, XXXX constitutes the sole firm XXXX XXXX in the XXXX region. There, Mr. XXXX XXXX worked in XXXX XXXX XXXX XXXX XXXX, while Mrs. XXXX XXXX worked as an XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX.20
- [12] On XXXX XXXX 2013, one of the men called him demanding that he shows up for a meeting with them to continue discussing the request that they had made. The Principal Appellant decided not to go.
- [13] On XXXX XXXX 2013, two hooded men threatened Mr. XXXX XXXX with firearms, and tried to force him into a van before he narrowly escaped.21 A few days later, he alleges to have received a phone call in which one of the men who had met him at his company demands that he come to a meeting at the mall. In response, Mr. XXXX XXXX decides to leave to the USA to stay with his mother and to send his wife, the Associate Appellant to stay with her mother.22
- [14] Upon his return and staying at their grandparent's place for a while, in XXXX 2013, Mrs. XXXX XXXX and her son XXXX are allegedly approached by a man on their way to the supermarket, demanding that they collaborate if they did not want things to get worse for all of the Appellants. The Appellants allege that as a result of this incident they move to another district (Barcelona).23 However, the Appellants allege that in XXXX they were followed by a white van which changed its route when they decided to stop at the police station.24
- [15] Subsequently, the Appellants allege that a colleague from work informed him that people were asking about him during this month, and that they wanted his phone-number, which he gave to them because he was unaware of the situation.25 In XXXX 2014, the Appellants claim that they started getting threatening phone calls informing them that they knew where they were living and everything that they did.26
- [16] Afterwards, they allege that when on XXXX XXXX 2014, after having moved to Mr. XXXX XXXX father-in-law's house in Armenia, two men came into their house to threaten them, informing them that they do not fear the Appellants' denunciations, because they had infiltrated those organizations. In addition, they gave the Appellants an ultimatum of XXXX days to provide the information they had requested, before allegedly locking them up in the bathroom and leaving.27 The Appellants resigned from their jobs at XXXX, as of XXXX XXXX 2014.28
- [17] On XXXX XXXX, the Appellants allegedly moved to stay with Mr. XXXX father in Bogota but then on XXXX XXXX 2014 received a phone call, in which the caller mentioned that they were as good as dead. The Appellants left to the USA on XXXX XXXX 2014.29

ANALYSIS

- [18] My role is to look at all the evidence and decide if the RPD made the correct decision.³⁰ For the reasons explained below,
- [19] I agree with the RPD's finding that there is no need to decide with respect to the fear of returning to Colombia, of the US citizen and that the Appellants have not established that there is a serious possibility of persecution on a Convention ground, or that on a balance of probabilities he would be subjected to a danger of torture or face a risk to life or risk of cruel and unusual treatment or punishment if he were to return to the United States of America.
- [20] I have disclosed to the Appellants that I will be relying on the updated national documentation package (NDP) for Colombia (June 12, 2020) and invited submissions in response to this disclosure on June 18, 2020.
- [21] For the following reasons, I am satisfied that there is no serious possibility of the Appellants being persecuted in the proposed IFA of Tunja or that the Appellants would not, on a balance of probabilities, be personally subject to a risk to life or risk of cruel and unusual treatment or punishment or danger, believed on substantial grounds to exist, of torture in those locations. I also find that the RPD is correct in concluding that, in light of all the circumstances, including the particular circumstances of the Appellant, it is reasonable for the Appellants to seek refuge in Tunja.
- (1) Is there a nexus between the Appellants' refugee protection ground and one or more Convention grounds?
- [22] In its decision, the RPD concluded that the threats were the result of the Appellants' refusal to provide confidential financial information, and that therefore, the Appellants had failed to establish a link between the Appellants' refugee claim and one of the Convention grounds.³¹
- [23] On appeal, the Appellants submit that the RPD erred in its conclusion with respect to the lack of a nexus for the following reasons: the first is that although the Federal Court has previously held that victims of crime, corruption or vendettas generally fail to establish a link between their fear of persecution and one of the Convention, this is not always the case.³² In reaching its decision, the Appellants submit that the RPD must assess all of the evidence that they have submitted in order to determine whether mixed motives were sufficiently present to establish a nexus to a Convention ground.³³ Secondly, the Appellants claim that they belong to an identifiable social group, namely individuals who oppose organized armed groups in Colombia and that the level of violence and threat they are facing amounts to persecution,³⁴ because the AGC has the structure and ability to target civilians in an organized and hostile manner,³⁵ and to persecute opposition groups and individuals including the Appellants.³⁶

- [24] I do not agree with the Appellants that the RPD erred in finding that their claims had no nexus to a Convention ground. Nor do I find that their refugee protection claims fall under the Convention ground of a particular social group, namely that of individuals who oppose organized armed groups in Colombia.
- [25] I find that members of Los Urabenos have targeted the Appellants in an effort to coerce them to provide them with the information that they requested. Claims related to extortion of the kind raised in the present case are claims of criminality that have no nexus to the Convention.
- (2) Is there a viable IFA for the Appellants in the city of Tunja? First Prong: that the Appellants would not, on a balance of probabilities, be personally subject to a risk to life or risk of cruel and unusual treatment or punishment by the agent of harm in the city of Tunja
- [26] In response to a query from the RPD to Mr. XXXX XXXX XXXX why now almost five Osorio Malave years since they left, he thought that the Golf Clan would still try to find him, he responded that he believed this to be the case because the Appellants refused to provide them with the information that they wanted.³⁷ In addition, he testified that given that the agent of harm was able to locate him and his family in a much bigger city such as Bogota, he believes that it would hence be much easier to locate them in Tunja if they were to relocate there.³⁸
- (a) Regarding the Appellants' claim that the Urabenos are active in Boyoca Department more generally or in the proposed IFA of Tunja in particular
- (i) Information in the National Documentation Package (NDP) on Colombia does not support the Appellants' Allegations
- [27] With respect to the first prong of the IFA test, the RPD found that there was no significant objective documentation, indicating that the Urabenos have a presence in Tunja. Instead, according to the RPD, the NDP related sources indicate that it is the ELN which in the past (years 2016/2017) has been responsible for two incidents in Boyaca department, and that even when these incidents took place, none of them had reported it had taken place in Tunja.³⁹ In addition, the RPD pointed out that objective documentation contained in the NDP suggests that on a balance of probabilities that the Urabenos are not active in Boyoca department generally or in Tunja in particular,⁴⁰ as the Appellants allege. In this regard, the Appellants had argued that the Urabenos have informants everywhere and that since they managed to find them in a big city like Bogota, they will be able to find them in a smaller city like Tunja.⁴¹
- [28] In their post-hearing submissions, the Appellants have argued that Tunja is surrounded by areas where the Gulf Clan or AGC has significant influence and that given that the group outsources its activities it would be imprudent to assume that just because they do not have a heavy presence of its own members, they do not have influence or pose danger to those areas.⁴² On appeal, the Appellants submit that the RPD has ignored sources in the NDP

which indicates that the AGC operates, or at least has the capacity to operate at the national level and even poses a threat to the Colombian Armed Forces, and therefore would include Tunja regardless of whether or not any specific source in the NDP makes particular mention of Tunja or not.⁴³ In addition, they submit on appeal that in a country like Colombia, the absence of specific information regarding the geographic reach of non-state actors should be treated with caution, and that sources in the NDP indicate that a group like AGC with a recognized level of operation at the national level, is likely to operate beyond recognized boundaries of influence.⁴⁴ Moreover, the Appellants submit that the RPD misconstrued the evidence that the AGC and other paramilitary groups in Colombia have not been targeting civilians, therefore increasing the danger of travelling within Colombia for the Appellants.⁴⁵

[29] Based on my own independent assessment of the sources in the NDP, I do not find that the RPD erred with respect to its findings that the Urabenons are not active in Boyoca department generally or in Tunja in particular. While I agree with the Appellants that independent country documentation indicates that the AGC operates in Colombia with a national reach, and has been considered by one source to be a national security threat that is bigger than that of the Revolutionary Armed Forces of Colombia,⁴⁶ I do not agree with the Appellants' assessment that this indicates that their area of operation includes Tunja, regardless of whether or not any specific source in the NDP refers to it or not. More than one source within the NDP underscore that although the AGC operates in 12-22 departments across Colombia, neither Boyoca nor Tunja are one of them.⁴⁷ Another source providing an overview of the number of municipalities affected by narco-paramilitary presence (2008-2016), by level of intensity shows that in Boyoca, out of 123 municipalities within this department, only one municipality (Paya) is listed as a municipality facing a low level of narco-paramilitary presence, while one other (Puerto Boyaca) is listed as a municipality with a high level of such presence, particularly that of the Gulf Clan.⁴⁸ The remaining municipalities do not feature amongst those affected by a narco-paramilitary presence. Nor is Tunja located in either of the aforementioned municipalities that have been identified above. I also agree with the RPD's findings that the NDP related sources indicate that Boyoca department is an area of operation for the ELN fronts,⁴⁹ which is in conflict with the Los Urebenos.⁵⁰

[30] In addition, I also do not agree with the Appellants that the RPD misconstrued the evidence that the AGC and other paramilitary groups do not target civilians. Rather the RPD was drawing this conclusion with respect to one of the documentary evidence provided by the Appellants in the form of Exhibit 12 of the RPD file,⁵¹ and was not, I find, a general statement made by the RPD with respect to the modes of operation of criminal groups or organized armed groups in Colombia. In this regard, the independent country documentation does highlight that when a person, including a civilian, is declared a military objective, their life, physical integrity and freedom are endangered and this danger is extended to their families.⁵² According to the same source, the most common reason why a person is declared to be a military objective by these groups is if he/she is a leader or prominent person in the community, such as human rights defenders, journalists or public

servants, which the group wants to eliminate.⁵³

- [31] The Appellants are not such persons. And although Mr. XXXX XXXX initially alleged that when the Appellants relocated to Bogota to stay with his father, he had received a phone call declaring him to be a military target by the Urabeons,⁵⁴ this allegation was absent from his written narrative. However, when the RPD confronted him about this discrepancy,⁵⁵ he later conceded in his oral testimony that they never proclaimed that they had identified him as a military target, but said that "[he] is dead," and that he assumed that this meant one and the same thing.⁵⁶ The RPD concluded that the Principal Appellant did not mean to embellish his allegations and did not make a negative inference against the Principal Appellant.⁵⁷ Given the above, I find that the independent documentary evidence does not corroborate the allegations of the Appellants that on a balance of probabilities, the Urabenos are active in Tunja. (ii) The documentary evidence provided by the Appellants does not support the Appellants' allegations
- [32] According to the RPD, the documentary evidence submitted by the Appellants to the RPD in their post-hearing submissions, provided credible evidence to support their allegations that, contrary to what the objective country documentation (NDP) indicates, the Urabenos have on a balance of probabilities targeted Tunja, or that they have established themselves therein.⁵⁸
- [33] I agree with the RPD that given that where articles submitted as evidence were not fully translated from Spanish into English, the panel was correct in assigning little weight to these articles. Even if I were to only take into consideration what has been translated of these articles from Spanish into English, and disregard that some parts were not translated, I do not find that the translated documentary evidence provided by the Appellants persuasively supports their allegations that the Urabenos have established themselves in Tunja. Even where the evidence corroborates the Appellants' allegations that some Golf Clan/Urabenos operatives have had activities in the Boyaca department, the evidence indicates that the focus of their attacks are not individuals who have the particular profile or circumstances of the Appellants. Rather, it is law enforcement officials, pipelines, government authorities, social leaders and landowners. In addition, I also note that the sources of some of these articles were not clear. Here is my independent assessment of these articles:
- [34] The first article discusses the rise of the AGC (19 March 2018):⁵⁹ the article mentions on the one hand that the organization is loosely organized and that it outsources divisions of its operation. However, it also underscores that the AGC has a heavy presence in regions along the Pacific Coast and that unlike the ELN, the AGC did not use the demobilization of the 14,000 FARC members to expand its territory. Instead, it has consolidated control over areas where they had already entered.⁶⁰ I find that this article, contrary to the allegations by the Appellants, suggests that the organization is not focusing its efforts on expanding its control.

- [35] A second article states that there is a leaked police memo that the AGC may be planning bombing attacks in large cities (18 May 2017).⁶¹ The article also mentions that the AGC intends to expand into areas vacated by the FARC and that it is planning to carry out terrorist attacks in major Colombian cities and to assassinate local landowners. Here I find that the RPD was correct in finding that the article does not corroborate the Appellants' allegations that Tunja is a target because it is not a large city, and because as sources of the NDP have highlighted (and which I have cited in the previous section), Boyaca department seems to be an area of ELN influence.⁶²
- [36] A third article entitled "the Gulf Clan in Boyaca" dated 24 May 2017 mentions that a flyer was circulated in different departments of Colombia including Boyaca in which the Gulf Clan declares itself against the State, particularly police authorities.⁶³ It also calls upon civilians to stay away from IMPEC employees in certain areas like prisons, extended threats to the National Penitentiary and Jail Institute, the military, and the police, and that in their threats, they specifically cite La Combita in Boyaca. In this regard, the RPD correctly notes that the section on history had not been translated, but finds that in any event, it has not established on a balance of probabilities that the Gulf Clan or Urabenos have established themselves in Tunja.⁶⁴ I agree with the RPD's findings. I also note that the article suggests that even if there were Gulf Clan operatives in the area, their focus is on state authorities and personnel and not on targeting civilians in the area.
- [37] A fourth article by WRadio (and the date of which is not clear), states that the office of the Ombudsman estimates that there are threats to social leaders in 40 different municipalities in Boyaca, none of the municipalities is where Tunja is located.⁶⁵ In addition, the threat appears to target social leaders, a group of people to which the Appellants do not belong.
- [38] A fifth article (2 November 2018) mentions that in October Tunja was the object of a terrorist attack again police authorities, and came from the Meta Department.⁶⁶ Here, I agree with the RPD that there is no mention in the article that the Urabenos/Gulf Clan are responsible, and that if the threat is existent in Boyaca Department is not primarily against civilians but towards police.⁶⁷
- [39] A sixth article is dated 2 October 2018, but the source is not clear and not all of the article has been translated.⁶⁸ In any event, from the sections that have been translated, it specifically mentions that the ELN places a bomb on a road preventing communication between the two departments of Boyaca and Casanare and that the bomb was located in an area frequently used by police forces.
- [40] Given all of the above, I find that the RPD was correct in its conclusion that the documentary evidence submitted by the Appellants does not corroborate their allegations that the Urabenos have an established presence in Boyaca department more generally and in Tunja in particular. Even if I were to assume that some or all of these attacks which have taken place in Boyaca were allegedly carried out by the agent of harm, the evidence does not support the Appellants' allegations that, on a balance of probabilities, civilians with the

profile of the Appellants are the main target of these attacks.

- (b) Do the Urabenos have the means and motivation to find and harm the Appellants if they relocate to Tunja?

- [41] In its decision, the RPD found that the Appellants' profile was not one that, on a balance of probabilities, the Urabenos would be interested in following to Tunja, almost five years after the central events to their claim had taken place, and after having resigned from their positions at XXXX in XXXX 2014.⁶⁹ Furthermore, the RPD pointed out that even though the Urabenos apparently had knowledge that the Appellants had temporarily relocated to live with Mr. XXXX XXXX father in Bogota (having placed a threatening phone call to them), they took no steps to seek them out or threaten the Principal Appellant's father.⁷⁰ In this regard, the RPD concluded that, on a balance of probabilities, if the Urabenos knew that the Appellants were living with Mr. XXXX XXXX father or had an actual interest in hurting the claimants, then the father would have been approached at some point by them since the Appellants left Colombia. However, the panel highlights that in his affidavit the father made no mention of having been approached.⁷¹
- [42] On appeal, the Appellants submit that the contacts of the AGC are located everywhere in the country,⁷² and that the Appellants cannot be expected to live in hiding for an indefinite period of time.⁷³ In addition, they submit that the RPD cannot predict the actions of the agent of harm by claiming that the AGC was not actively looking for the Appellants,⁷⁴ or expect them to act rationally.⁷⁵ Nor, according to the Appellants, is there a basis for the RPD to suggest that the threat which has been made to the Appellants, including death threats, will not be carried out.⁷⁶
- [43] I do not find that, based on their written and oral testimony, the Appellants have provided persuasive evidence that the agent of harm has the motivation to find and harm them if they relocate to Tunja. And while I am prepared to accept that the agent of harm apparently had knowledge that the Appellants had temporarily relocated to live with Mr. XXXX XXXX father in Bogota, I agree with the RPD that the Urabenos took no steps to seek them out or threaten the Principal Appellant's father, and that this, on a balance of probabilities indicates that they were not interested in implementing their threats of harming the Appellants. Even if I were to presume that on a forward-looking basis, the Urabenons would have sought to harm the Appellants had they stayed in Bogota, the documentary evidence underscores that the city is known to be a hotspot for criminal activity by new armed groups such as the Urabenos who seek to dominate illegal economic activities controlled by small criminal organizations, and who reportedly extort persons working in the formal and informal economy for payment of protection money or bribes.⁷⁷ However, as I have previously discussed, there is no objective documentary evidence to support their allegation that the Urabenos have a level of involvement in Tunja similar to the one that they have in Bogota, and therefore that they have the means and motivation to find the Appellants if they move to Tunja.

- [44] In addition, I take note that both Appellants have testified that they have resigned from their jobs at XXXX on XXXX XXXX 2014.⁷⁸ Moreover, when Mrs. XXXX XXXX was asked by the RPD whether after leaving Colombia, she thinks that the company replaced her, she believes that this was the case.⁷⁹ Hence, I find that given that they no longer have access to the information which the Urabenos were seeking in the first place, that on a balance of probabilities they would not be pursuing them if they relocate to Tunja.
- [45] In addition, the Appellants have not provided convincing evidence that contacts of the AGC are located everywhere in the country as they allege. While sources in the updated NDP does state that the AGC has informants in civil society, the military and politics, it is not suggested that they are located everywhere in the country. Instead it notes that they are in control of the Caribbean and Pacific coast lines of Colombia and in control of Colombia's main ports.⁸⁰ I therefore do not find that the Appellants have persuasively established that the Urabenos have the Means and Motivation to find and harm the Appellants if they relocate to Tunja
- (b) Second Prong: that Conditions in the proposed IFA locations of Tunja must be such that it would not be unreasonable, in all the circumstances, including those particular to the Appellants, for them to seek refuge there
- [46] With respect to the second prong of the IFA test, the RPD established that the Appellants had valuable work experience and international exposure in both the USA and Canada, which, on a balance of probabilities, would increase their attractiveness as candidates for employment in Tunja.⁸¹ In addition, according to the RPD, they have not demonstrated that a higher unemployment rate in Tunja would result in conditions which would jeopardize the Appellants' life and safety.⁸² Moreover, the panel found that the Appellants have not demonstrated that they would have difficulty accessing education or healthcare in Tunja, or face serious social, economic or other barriers in relocating to Tunja, or hazards in travelling within Colombia to the proposed IFA, in a manner that would, on a balance of probabilities, render the proposed IFA unreasonable, in all circumstances, including those particular to the Appellants.⁸³
- [47] On appeal, the Appellants first submit that they would not be able to travel safely to the proposed IFA, due to the AGC's infiltration of the armed forces, the judiciary.⁸⁴ Secondly, they submit on appeal that due to the highly organized structure of the group, it is not unlikely for the Appellants to be traced upon arrival in Colombia because they would be flown back into the country,⁸⁵ thereby jeopardizing the Appellants' lives and safety.⁸⁶ Thirdly, the Appellants submit that it would be difficult for the Appellants to find employment due to unemployment in Tunja being higher than the national average, and the resulting hardship it would cause, especially for the Minor Associate Appellants.⁸⁷
- [48] I find that the RPD is correct in concluding that, in light of all the circumstances, including the particular circumstances of the Appellant, it is reasonable for the Appellants to seek refuge in Tunja. When the RPD panel inquired with the Appellants, whether there were reasons, other than the alleged security threats, that would make relocation to Tunja

unreasonable, or a poor place for their families,⁸⁸ Mrs. XXXX XXXX responded that if it is a safe place, she would go and live there hypothetically speaking, and that her only concern is whether or not she would be able to easily land a job in her domain.⁸⁹ With respect to Mr. XXXX XXXX, he testified that Tunja "would be outside of my thoughts because it is more of a farming area, it's an agricultural zone, and the studied that we have is more oriented towards larger cities. You know small cities, there's no future for our children. For that reason, I wouldn't go to Tunja."⁹⁰

- [49] However, even if it were the case that the Appellants might face some difficulty finding employment, either due to the higher unemployment rate in Tunja or because of it being a farming area, I still find that the RPD was cored in concluding that the Appellants have not demonstrated that they would have difficulty accessing education or healthcare in Tunja, or face serious social, economic or other barriers in relocating to Tunja, or hazards in travelling within Colombia to the proposed IFA, in a manner that would, on a balance of probabilities, render the proposed IFA unreasonable, including for the Minor Associate Appellants.
- [50] And although I do not necessarily agree with the RPD panel that the Appellants' valuable work experience and international exposure in both the USA and Canada would, on a balance of probabilities, increase their attractiveness as candidates for employment in Tunja, I still find that the Appellants' work experience and educational attainments would allow them, on a balance of probabilities to find employment there. In this regard, I note that both Appellants carry a diploma in XXXX XXXX XXXX from the XXXX XXXX XXXX XXXX,⁹¹ and have an estimated 15-16 years of education.⁹² In addition, Mr. XXXX XXXX worked seven years as an XXXX XXXX and had three years of work experience as a XXXX XXXX,⁹³ while Mrs. XXXX XXXX has an estimated four years of working experience in XXXX XXXX XXXX XXXX.⁹⁴ Furthermore, I note that based on the documentary evidence submitted by the Appellants, the unemployment rate in Tunja is only 1.3 percent (10.4%) above the national unemployment average in Colombia (at 9.1%).⁹⁵
- [51] And although sources in the NDP on Colombia such as UNHCR mention that in certain areas of Colombia such as Cordoba and Uraba the Urabenos reportedly exercise surveillance and control over daily life including the ability to move freely,⁹⁶ the objective country documentation does not corroborate the Appellants' allegations that this is the case in Tunja or the department of Boyaca, and that therefore, the Appellants would be traced upon arrival in Colombia.
- (3) Did the RPD breach the principles of natural justice by placing less weight on relevant documentary evidence provided by the Appellants?
- [52] In their Memorandum of Appeal, the Appellants alleged that the RPD breached the principles of natural justice, because despite acknowledging that Counsel had limited time to provide the translated articles, the RPD still attributed reduced weight or no weight at all to several key documents which were translated and provided to the panel.⁹⁷ Furthermore,

they allege that there was no legal or technical reasons for the evidence to be rejected by the panel because the RPD had held that the Appellants were credible and the sources of information themselves were credible.⁹⁸ In addition, they submit that it was incumbent upon the RPD to provide the Appellants and Counsel further time and opportunity to provide fuller translations where possible.⁹⁹ Lastly the Appellants submit that they were restricted by their financial means.¹⁰⁰

- [53] After conducting my own independent assessment of the documentary evidence provided by the Appellants, and listening to the recording of the RPD hearing I do not find that the RPD breached the principles of natural justice by placing less weight on these documents. Neither in the post-hearing submissions to the RPD,¹⁰¹ the correspondence between the Appellants and the Registrar nor during Counsel's submissions during the RPD hearing did the Appellants raise the issue that they did not have enough time to provide complete translations of the documentary evidence that they wanted to submit; that they are requesting an extension of time to complete these translations or that financial means were an impediment. The RPD cannot be faulted for not granting more time for the provision of fuller translations if it was not requested.
- [54] Furthermore, the RPD expressed its understanding that Counsel had limited time to provide translated articles, it attributed reduced weight to the article in the absence of a full translation. In addition, I find that the RPD did conduct its assessment of the parts of the articles that have been translated and provided clear reasons for why it concluded that the evidence does not support the Appellants' allegations that the agent of harm has the means and influence to find the Appellants in Tunja. Even if the RPD erred in giving less weight to these documents due to not having a translation in full of these articles, I do not find that this error by the RPD undermines the correctness of its overall decision. This is because I conducted my own independent assessment of the translated sections of these articles and have arrived at the same conclusion as the RPD, namely that they do not constitute persuasive evidence with regard to the influence of the Urabenos in Bayeca department more generally and in Tunja in particular is of such nature that they would seek to locate and harm the Appellants if they relocate to the proposed IFA.

CONCLUSION

- [55] I dismiss the appeal and confirm the decision of the RPD that the Appellants are neither Convention refugees nor persons in need of protection. Rouba Al-Salem Rouba Al-Salem 29 July 2020 Date 1 The Principal Appellant is the designated representative for the Minor Associate Appellants. RPD decision at para. 3. 2 Principal Appellant's written narrative attached to BOC at paras. 2 and 7. 3 Principal Appellant's written narrative at para. 18. 4 Principal Appellant's written narrative at para. 20. 5 Principal Appellant, Generic Application Form, (Exhibit 1), item 11. 6 RPD decision at para. 9. 7 RPD decision at para. 16. 8 RPD decision at para. 20. 9 RPD decision at para. 18. 10 RPD decision at para. 27. 11 RPD decision at paras. 37 and 38. 12 RPD decision at para. 15. 13 RPD decision at paras. 11-14. 14 RPD

decision at para. 40. 15 The Appellants' Memorandum of Appeal at para. 5. 16 The Appellants' Memorandum of Appeal at para. 19. 17 The Appellants' Memorandum of Appeal at paras. 44-51. 18 The Appellants' Memorandum of Appeal at paras. 52-59. 19 The Appellant's written statement submitted to the RAD. 20 RPD decision at para. 5. 21 The Principal Appellant's narrative at para. 6. 22 The Principal Appellant's narrative at para. 7. 23 The Principal Appellant's narrative at para. 8. 24 The Principal Appellant's narrative at para. 9. 25 The Principal Appellant's narrative at para.12. 26 The Principal Appellant's narrative at para. 13. 27 The Principal Appellant's narrative at paras. 14 and 16. 28 The Principal Appellant's narrative at para. 15. 29 The Principal Appellant's narrative at para. 17. 30 Canada (Citizenship and Immigration) v. Huruglica, 2016 FCA 93; Rozas del Solar v. Canada (Citizenship and Immigration), 2018 FC 1145. 31 RPD decision at para. 15. 32 The Appellants' Memorandum of Appeal at para. 45. 33 The Appellants' Memorandum of Appeal at para. 47. 34 The Appellants' Memorandum of Appeal at para. 48. 35 The Appellants' Memorandum of Appeal at para. 49. 36 The Appellants' Memorandum of Appeal at para. 50. 37 Principal Appellant's testimony, transcript of RPD hearing at p. 14 para 5. Associate Appellant's testimony, transcript of RPD hearing at p. 12, para. 25. 38 Principal Appellant's testimony, transcript of RPD hearing at p. 17, para. 10. 39 RPD decision at para. 22. 40 RPD decision at para. 27. 41 RPD decision at para. 22. 42 "Post-Hearing Submissions," Exhibit 12 submitted to RPD, pp. 316-317 of RPD file. 43 The Appellants' Memorandum of Appeal at para. 25. 44 The Appellants' Memorandum of Appeal at para. 31. 45 The Appellants' Memorandum of Appeal at para. 29. 46 RIR, (COL105044.E), "Colombia: The Urabenos (also known as Clan Usuga or Autodefensas Gaitanistas de Colombia), including areas of operation, especially in Buenaventura criminal activities and state response; whether the Urabenos seek out individuals, particularly Afro-Colombians who flee Buenaventura (2014-January 2015)" (6 March 2015) at p. 3. It features as item 7.15 of both the updated NDP on Colombia (June 12, 2020). 47 RIR, (COL105044.E) (6 March 2015) p. 9; RIR, (COL 106086.E), "Colombia: The presence and activities of Los Rastrojos, including in Buenaventura: information on their relationship with the Gaitanist Self Defense Forces of Colombia (Autodefensas Gaitanistas de Colombia, AGC) [also known as Gulf Clan (Clan del Golfo) or Usuga Clan (Clan Usuga) and formerly known as Los Urabenos], state response (2017-April 2018) (17 April 2018). It represents item 7.24 of the updated NDP on Colombia (June 12, 2020). 48 RIR, (COL105773.E), "Colombia: Paramilitary Successor Groups and Criminal Bands (bandas criminales, BACRIM), areas of operation and criminal activities, including the Clan del Golfo (also known as Urabenos or Autodefensas Gaitanistas de Colombia); state response, including reintegration of, and assistance to, combatants" (24 April 2017) at pp. 26-28 out of 37. It represents item 7.2 of the updated NDP on Colombia (June 12, 2020). 49 RPD decision at para. 22. 50 RIR, (COL 106085.E) (23 April 2018) at pp. 4 and 7 out of 16. 51 RPD decision at paras. 25 and 26. 52 RIR (COL105118.E), " Colombia: What it means to be a 'Military Objective' (objetivo militar), including who executes these threats and methods of issuing them; whether there is an internal flight alternative from someone who has been issued a threat; state response" (15 April 2015) at p. 1 out of 12. It represents item 7.21 of the updated NDP on Colombia (June 12, 2020). 53 RIR, (COL105118.E) (15 April 2015) at p. 3 out of 12. 54

Principal Appellant, transcript of RPD hearing at p. 13 para. 20. 55 Official transcript of RPD hearing at p. 14, para. 10 and p. 15, paras. 5 and 15. 56 Principal Appellant, transcript of RPD hearing at p. 15 at para. 5; para. 10; para. 15 and para. 20. 57 RPD decision at para. 17. 58 RPD decision at paras. 23-24 and 27. 59 Exhibit 12, p. 323 of RPD file. 60 Exhibit 12, p. 327 of the RPD file. 61 Exhibit 12 at p. 328 of the RPD file. 62 RPD decision at para. 23. 63 Exhibit 12 at p. 331 of the RPD file. 64 RPD decision at para. 24. 65 Exhibit 12, p. 334 of RPD file. 66 Exhibit 12, p. 336 of RPD file. 67 RPD decision at para. 25. 68 Exhibit 12, p. 339 of RPD file. 69 RPD decision at para. 29. 70 RPD decision at para. 30. 71 RPD decision at para. 30. 72 The Appellants' Memorandum of Appeal at para. 21. 73 The Appellants' Memorandum of Appeal at para. 22. 74 The Appellants' Memorandum of Appeal at para. 33. 75 The Appellants' Memorandum of Appeal at para. 34. 76 The Appellants' Memorandum of Appeal at para. 35. 77 UNHCR, "Eligibility Guidelines for Assessing the International Protection needs of Asylum-Seekers in Colombia" (HCR/EG/COL/15/01) (September 2015) at p. 13 out of 56 which is item 1.7 of the updated NDP on Colombia (June 12, 2020). 78 The Principal Appellant's written narrative at para. 15. Exhibit 7, Items 11 and 12 consisting of copies of the resignation letters submitted by the Appellants to the RPD. 79 Associate Appellant's testimony, p. 12 at para. 5. 80 Colombia Reports, "Colombia's Most Important Post-FARC drug trafficking group," (8 February 2017), which constitutes item 7.4 of the updated NDP on Colombia (June 12, 2020). 81 RPD decision at para. 34. 82 RPD decision at para. 34. 83 RPD decision at paras. 35-38. 84 The Appellants' Memorandum of Appeal at paras. 38-39. 85 The Appellants' Memorandum of Appeal at para. 39. 86 The Appellants' Memorandum of Appeal at para. 41. 87 The Appellants' Memorandum of Appeal at para. 42. 88 RPD, transcript of RPD hearing at p. 20, para. 25 and p. 21 at para. 30. 89 Associate Appellant's testimony, transcript of RPD hearing at p. 21, paras. 25 and 30. 90 Principal Appellant's testimony, transcript of RPD hearing at p. 22 at para. 5. 91 Exhibit 7 of RPD file, items 5 and 6. Schedule A of the Principal Appellant and of Associate Appellant, items 7. 92 Generic Application Form of the Principal Appellant Exhibit 1 of the RPD file. 93 Schedule A of the Principal Appellant, item 8, Exhibit 1 of RPD file. 94 Exhibit 7 of RPD file, item 15. 95 "Post-Hearing Submissions," Exhibit 12 submitted to RPD, p. 353 of RPD file. 96 UNHCR, "Eligibility Guidelines for Assessing the International Protection needs of Asylum-Seekers in Colombia" (HCR/EG/COL/15/01) (September 2015) at p. 10 out of 56. 97 The Appellants' Memorandum of Appeal at para. 53. 98 The Appellants' Memorandum of Appeal at para. 57. 99 The Appellants' Memorandum of Appeal at para. 58. 100 The Appellants' Memorandum of Appeal at para. 59. 101 Exhibit 12 of RPD file.

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