

CANADA / JUDGMENT

VC0-00152

COURT

Refugee Appeal Division

DECIDED

19 February 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 : VC0-00152 VC0-00153 / VC0-00154 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 XXXX Personnes en cause
Appeal considered / heard at Toronto, ON Appel instruit / entendu à Date of decision February 19,
2020 Date de la décision Panel J. Lourenço Tribunal Counsel for the persons who are the subject
of the appeal Fiona Begg 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), XXXX XXXX XXXX XXXX (Associate Appellant), and XXXX XXXX XXXX XXXX (Minor Appellant), are citizens of Mexico. They appealed a decision of the Refugee Protection Division (RPD), dated December 2, 2019, rejecting their claims for refugee protection. The Appellants allege that they face a risk to life at the hands of the Jalisco New Generation (CJNG) cartel. The RPD found that the Appellants were credible however it rejected their claims finding that they had a viable internal flight alternative (IFA) in Mérida.
- [2] For the reasons that follow I agree with the RPD that the Appellants have a viable IFA in Mérida. As such the appeal is denied.

BACKGROUND

- [3] The Appellants allege that the Principal Appellant was threatened by thugs of the CJNG cartel. They allege that the cartel approached the Principal Appellant and wanted him to open an illegal account for them at the bank where he worked. The Principal Appellant alleges that the cartel wanted him to help them launder money. The Appellants allege that when the Principal Appellant refused to open an account for the cartel, they demanded that he pay them a significant sum of money and threatened him. The Appellants allege that the Principal Appellant took out a loan from the bank and paid the extortion money. The Appellants allege that the following year, the Principal Appellant was again approached by the cartel who asked him for more money and once again threatened the Appellants. The Principal Appellant alleges that he was unable to collect all of the money they requested and gave them partial payment a few days after the initial threat. The Appellants allege that they

were unable to collect the rest of the money the cartel was demanding and therefore they feared for their safety. They moved from their home and stayed with a family member until they were able to leave Mexico. They came to Canada and advanced refugee claims.

- [4] The RPD found that the Appellants were credible. However, the RPD rejected the Appellants' claims as it found that they had a viable IFA in Mérida. ROLE OF THE REFUGEE APPEAL DIVISION
- [5] The Refugee Appeal Division (RAD) reviews decisions of the RPD on a standard of correctness after conducting an independent assessment of the evidence before it. The exception to this rule is where the RPD enjoys a meaningful advantage in the assessment and weighing of oral testimony heard, which in particular cases, attracts deference. Unless specifically stated below, I have applied a correctness standard.¹

ANALYSIS

Appellants' Arguments

- [6] The Appellants argue that the RPD erred in its IFA analysis. They argue that the RPD failed to fully consider the reach of the CJNG cartel and its ability to locate the Appellants throughout Mexico. The Appellants argue that the RPD failed to consider the objective evidence about the reach of the cartel and its ability to track people. Therefore, the Appellants argue that they do not have a viable IFA in Mérida as they would continue to face a risk to life there. The determinative issue is IFA
- [7] As noted by the Appellants, the RPD found that their claims were credible. As such the determinative issue in this appeal is whether the Appellants have a viable IFA.
- [8] The test for assessing an IFA is two-pronged and is set out in the Federal Court of Appeal's decision in *Rasaratnam*:²
- (1) The Board must be satisfied on a balance of probabilities that there is no serious possibility of the claimant being persecuted in the part of the country to which it finds an IFA exists and/or the claimant would not 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 the IFA.
- (2) Moreover, the conditions in the part of the country considered to be an IFA must be such that it would not be unreasonable in all the circumstances, including those particular to the claim, for him to seek refuge there.
- [9] Both prongs must be satisfied to find that the Appellants have an IFA. Once the issue of IFA has been raised and the potential IFAs have been identified, the burden of proof rests with the Appellants to show that they do not have an IFA. An IFA must be a realistic and attainable option.³ First prong: Is there a serious possibility of persecution in Mérida?

- [10] Mexico is a large country with an area of over 1.9 million square kilometres with a population of over 125 million people.⁴ Mérida is the capital of Yucatán state in southeastern Mexico.⁵ The Appellants have not established that the CJNG cartel have the means and motivation to locate them in Mérida
- [11] The RPD found that the Appellants had not established that the CJNG cartel would have the means and motivation to locate them in Mérida. The RPD acknowledged that the Appellants believed that the cartel would locate them in that location, however the RPD found that the objective evidence did not support that assertion. The RPD acknowledged that the CJNG cartel is one of the largest and most dangerous cartels in Mexico. It also acknowledged that the cartel had a wide reach and had established a presence in 22 of the 32 Mexican states. However, the RPD found that there was no objective evidence establishing that the cartel had a presence in Yucatán state where Mérida is located. The RPD also found that the cartel was only interested in the Appellants to extort money. The RPD noted that the Appellants had not made any reports against the cartel and therefore found that it was unlikely the cartel would continue to be motivated to locate them.
- [12] The Appellants argue that the RPD's analysis is flawed. They argue that the RPD failed to consider all of the documentary evidence about the reach and influence of the CJNG cartel. The Appellants acknowledge that the objective evidence establishes there is a lower risk from crime in Mérida. However, the Appellants argue that homicides in the neighbouring state of Quintana Roo recently increased and that many of those homicides appeared to be targeted assassinations linked to organized crime. The Appellants also argue that item 7.2 of the National Documentation Package (NDP) of August 30, 2019 establishes that the CJNG cartel has the most extensive reach of all the cartels in Mexico. They argue that the objective evidence establishes that the cartel is expanding and has pushed into new territory including internationally. They also argue that item 7.15 of the NDP establishes that cartels are known to go to great lengths to track people who have a debt to them. The Appellants also argue that the objective evidence establishes that the CJNG cartel has made alliances with other cartels that operate in the region and therefore they would be able to have the connections required to locate the Appellants in Mérida. They argue that the nature of this cartel is brutal and aggressive and that this is clearly established in the objective evidence including item 7.22 of the NDP. They argue that in view of the objective evidence, the cartel would have the means and motivation to locate the Appellants in Mérida.
- [13] I have considered the objective evidence before me and I agree with the conclusion of the RPD. While I acknowledge the objective evidence pointed to by the Appellants that the CJNG cartel has engaged in brutal practices including extortion and murder, I find that the objective evidence does not support the Appellants' assertion that the cartel would be motivated and able to track them in Mérida. I acknowledge that the objective evidence sets out that this cartel is one of the most dangerous and powerful cartels in Mexico. I find that the RPD correctly identified that the cartel has a presence in 22 of 32 Mexican states.⁶ While this speaks to the reach and influence of the cartel, I note that there is nothing in the

objective evidence to suggest that this cartel has a presence in Yucatán state where Mérida is located. The evidence establishes that while the cartel has expanded its territory in Mexico it has not reached the southeastern corners of the country. The objective evidence sets out that this region of Mexico is not under the control of the CJNG cartel, and indicates that the largest organized crime presence in the area is the Tamaulipas.⁷ There is nothing in the objective evidence establishing a strong connection between this organization and the CJNG cartel⁸ such that they would assist the cartel in locating the Appellants. Given that the CJNG cartel has not established an operation in Yucatán state, I find that they would not have the presence and infrastructure to locate the Appellants in Mérida.

- [14] I also agree with the RPD's conclusion that it is unlikely that the cartel would continue to be motivated to locate the Appellants. The cartel contacted the Principal Appellant on two occasions in an attempt first to establish a bank account to launder money, but ultimately settled on extorting money from the Appellants. The Appellants were able to meet the cartel's demands for the first extortion but were unable to pay the full amount requested on the second occasion. While it is likely that the cartel would continue to seek money from the Appellants if they were to return to their home in Jalisco, where the CJNG cartel has its base, I am not persuaded that the cartel would be motivated to locate them throughout Mexico. I agree with the RPD's analysis that there is nothing indicating that these Appellants continue to be of particular interest to the cartel or that they have angered the cartel in a meaningful way. There is no indication from the record that they are of significant value such that the CJNG cartel would attempt to locate them outside of an area of their control.
- [15] I would also note that the Appellants' evidence is that people have approached the Principal Appellant's mother-in-law asking very general questions about why the Appellants have not been seen in the neighbourhood. The Appellants themselves are unsure about who is asking these questions and there is no indication of any threats being received by the Appellants' families despite the fact that they remain in their homes. The Principal Appellant's mother-in-law remains in their home community but there is no indication that the cartel has taken any steps to threaten her or extort money from her in an attempt to locate the Appellants. As such, I find that there is no evidence that the cartel continues to be actively looking for the Appellants.
- [16] While I accept that the Appellants were threatened by text message on their phones, I note that these messages were sent to the same telephone number that the Principal Appellant had in Mexico. Aside from contacting him on a number that he had previously, it appears that the cartel has not taken any further steps to try to locate the Appellants or threaten their family. Given this, I am not persuaded that the CJNG cartel would be motivated to locate them in Mérida, a city which is outside of their area of control.
- [17] I also agree with the RPD's analysis of the general situation in Yucatán. The objective evidence establishes that the crime rate is quite low in this state. It is described as one of the safest areas in Mexico, and according to the objective evidence it has not suffered from a significant increase in homicide or other violent crime.⁹ While I acknowledge the

Appellants' argument that there has been an increase in homicides, including those linked to cartels generally, in neighbouring Quintana Roo, there is no indication of this spilling over into Yucatán and more specifically Mérida. Further, there is no indication that this violence is linked to the CJNG cartel or that it is a reflection of them expanding into this area of Mexico. Given the general lack of violence in the region, coupled with the fact that the CJNG does not have a presence in Yucatán, I find that the Appellants have not established that they face a risk to life in that city. Second prong: The Appellants have not established that it would be unreasonable for them to relocate to the IFA

- [18] The RPD found that the Appellants could reasonably relocate to Mérida given their education and work experience. The RPD noted that the Principal Appellant had experience working in financial institutions and the Associate Appellant also had work experience including running a clothing store. As such it found that the Appellants could reasonably relocate to Mérida.
- [19] I note that the Appellants make no argument about the second prong of the IFA analysis in their memorandum. Despite this, I have independently reviewed the record before me and I determined that the RPD's analysis was correct. I note that the Appellants themselves were asked if, aside from their fear of the cartel, they would be able to relocate to Yucatán state, specifically the city of Mérida. Both Adult Appellants testified that they would have no other difficulties in relocating to the region.¹⁰ I agree with the RPD that both Adult Appellants have work experience that would assist them in relocating. There is no indication of any linguistic, religious or transportation difficulties faced by the Appellants. I would also note that the Appellants have demonstrated an ability to relocate internationally and obtain employment in a new country. I find that this, coupled with their previous work experience, establishes that they are resourceful individuals who would be able to reasonably relocate. For these reasons, I find that the Appellants have a viable IFA in Mérida.

CONCLUSION

- [20] The RAD dismisses the appeal and confirms the decision of the RPD that the Appellants are neither Convention refugees nor persons in need of protection, pursuant to paragraph 111(1) (a) of the Immigration and Refugee Protection Act.¹¹ (signed) "J. Lourenço" J. Lourenço February 19, 2020 Date 1 Canada (Citizenship and Immigration) v. Huruglica, 2016 FCA 93, [2016] 4 FCR 157, at para 103. 2 Rasaratnam v. Canada (Minister of Employment and Immigration), [1992] 1 F.C. 706 (C.A.). 3 Thirunavukkarasu v. Canada (Minister of Employment and Immigration), 1993 CanLII 3011 (FCA), [1994] 1 FC 589. 4 Exhibit RPD-1, RPD Record, Exhibit 3, National Documentation Package (NDP) for Mexico (30 August 2019), item, 1.2. 5 Exhibit RPD-1, RPD Record, Exhibit 3, NDP for Mexico (30 August 2019), item 1.1. 6 Exhibit RPD-1, RPD Record, Exhibit 3, NDP for Mexico (30 August 2019), item 7.12. 7 Exhibit RPD-1, RPD Record, Exhibit 3, NDP for Mexico (30 August 2019), item 7.2, at p. 29. 8 Exhibit RPD-1, RPD Record, Exhibit 3, NDP for Mexico (30 August 2019), item 7.2, at p. 29. 9 Exhibit RPD-1, RPD Record, Exhibit 3, NDP for Mexico (30 August 2019), item 7.9. 10 RPD

Hearing Recording, December 2, 2019, at 34:45 and 1:07:13. 11 Immigration and Refugee Protection Act, S.C. 2001, c. 27, as amended.

RAD File / Dossier de la SAR : VC0-00152 VC0-00153 / VC0-00154 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/Internalflightalternative-refugee-appeal-division-2020--6a40c3b44cf2c72690fb287c>

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

Prepared on 27 October 2026 · Esheria