

CANADA / JUDGMENT

VC0-01181

COURT

Refugee Appeal Division

DECIDED

19 August 2020

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RAD File / Dossier de la SAR: VC0-01181 VC0-01182 / VC0-01183 Private Proceeding / Huis clos
Reasons and decision ? Motifs et décision Persons who are the subject of the appeal XXXX XXXX
XXXX XXXXXXXXXX XXXX XXXX XXXXXXXXXX XXXX XXXX Personnes en cause Appeal considered /
heard at Ottawa, ON Appel instruit / entendu à Date of decision August 19, 2020 Date de la
décision Panel Charles A. McDermott Tribunal Counsel for the persons who are the subject of the
appeal Tiana Knight Conseil des personnes en cause Designated representative XXXX XXXX
XXXX Représentant(e) désigné(e) Counsel for the Minister N/A Conseil du ministre REASONS
FOR DECISION OVERVIEW

- [1] I dismiss this appeal.
- [2] XXXX XXXX XXXX (Principal Appellant) and XXXX XXXX XXXX and XXXX XXXX XXXX
(Associate Appellants) are citizens of Colombia. The Principal Appellant worked as a XXXX
XXXX and XXXX XXXX in several municipalities of Colombia, most recently as a XXXX
XXXXandXXXX XXXX. Between 1998 and 2018, the Principal Appellant received many
threats from various paramilitary groups causing her to move numerous times. The
Principal Appellant filed a lawsuit against other XXXX due to their harassment of her and
their corruption. These XXXX have threatened to have the Principal Appellant killed.
- [3] The Refugee Protection Division (RPD) found that the Appellants have a viable internal flight
alternative (IFA) in Barranquilla. The Appellants argue that the RPD erred in finding that the
Appellants do not have a subjective fear, erred in finding that the Principal Appellant was not
a politician or part of any political group and erred in its analysis of the first prong of the IFA
analysis.
- [4] The Appellants have not submitted any new evidence and have not requested an oral
hearing.
- [5] The determinative issue in the appeal is IFA. DECISION
- [6] I dismiss the appeal. The RPD was correct in finding that the Appellants are neither
Convention refugees nor persons in need of protection.

ANALYSIS

- [7] My role is to look at all the evidence and decide if the RPD made the correct decision.¹
- [8] In their appeal, the Appellants relied on documents from the Immigration and Refugee Division (IRB) National Documentation Package for Colombia that were updated since the appeal was perfected. I invited the Appellants to provide additional submissions on these updated documents. Their submissions were received on July 29, 2020, and I have entered them as Exhibit P-3. The IRB did not advise Appellants' counsel that the appeal had been granted
- [9] From June 15 to 19, 2020, the IRB sent faxes to all counsel where appeals had been assigned to Members to inform them of the status of those appeals. In Exhibit P-3, counsel for the Appellants stated that the fax sent to her office indicated that the appeal at bar had been granted. This is not correct. The second paragraph of the fax states: "If you have an appeal in one of three categories identified below, your file number will appear. If there is no appeal then you will see <No file / Pas de dossier>"
- [10] Referring to the fax² sent to counsel, for the category Appeals where the RAD has substituted a favourable decision, "<No file / Pas de dossier>" is printed. This appeal's file number appears under the category Assigned appeals. I determined that I would require submissions from the Appellant after the fax was issued, which alerted counsel for the Appellants that a decision had not been made. The RPD did not err in its analysis of the first IFA prong
- [11] The first prong of the IFA analysis is to determine whether the Appellants would face a serious possibility of persecution or on balance of probabilities a risk to life or cruel and unusual treatment or punishment or danger of torture.
- [12] The RPD found that the Appellants could safely relocate to Barranquilla. The Appellants argue that Barranquilla is a hub of paramilitary activity and since all the paramilitary groups are connected, the Appellants could be found and murdered quite easily. Paramilitary groups' motivation and means to locate the Appellants
- [13] The RPD found that the Autodefensas Unidas De Colombia (AUC) may have been responsible for intimidating phone calls in early 2006, but that since the AUC no longer exists, it is speculative that its former leader continues to have any interest in the Principal Appellant. The Appellant argues that although paramilitary leaders may no longer be operating under the name AUC, they could still be responsible for the Principal Appellant's displacement, harassment and fear after 2006.
- [14] The RPD did not err and the Appellants' arguments must fail. The issue is whether any former AUC members or AUC successor groups have the motivation and means to locate the Appellants in Barranquilla. The Principal Appellant is no longer in a position of authority in Colombia and has never been in a position of authority in Barranquilla. The Appellants have not demonstrated that any paramilitary group or any former paramilitary group members

would have any ongoing interest in the Principal Appellant. There is also no evidence that the Associate Appellants have ever been targeted by paramilitary groups or former paramilitary group members. According to the objective evidence³, no illegal armed groups are operating in Barranquilla. I find that, on a balance of probabilities, paramilitary groups and former members of paramilitary groups have neither the motivation nor the means to successfully locate the Appellants in Barranquilla. Principal Appellant's profile as a XXXX XXXX

- [15] The RPD disagreed that the Principal Appellant has the profile of a XXXX XXXX within the community of XXXX and faces serious possibility of persecution due to this profile. The Appellants argue that one does not need to be a politician to be an authority figure and seen as influential.
- [16] The Appellants' argument has some merit. A XXXX XXXX answering directly to the XXXX XXXX XXXX is a position of authority and could be perceived as a XXXX XXXX. However, the question is not how the Principal Appellant is perceived in XXXX. What is relevant is how the Principal Appellant would be perceived in Barranquilla. In this respect, the RPD did not err. Although the Appellants argue that the Principal Appellant would not be less conspicuous in Barranquilla, they have not provided any evidence to support this assertion. There was no evidence before the RPD, nor is there any before me, that the Principal Appellant has any profile in Barranquilla. She has never lived there, nor has she worked there. Since XXXX 2018, the Principal Appellant has been working freelance related to the topic of her XXXX XXXX. The Principal Appellant is not affiliated with any university or school in Barranquilla, nor does she need to have any affiliation to continue her freelance work. I find that the Principal Appellant's profile is not such that she would be at risk in Barranquilla. Subjective fear
- [17] The RPD indirectly discussed the Principal Appellant's subjective fear in paragraphs 20 to 22 of its decision. The RPD was not as clear as it could have been, and I find that its discussion regarding the Principal Appellant's failure to claim protection earlier and her repeated returns to Colombia was peripheral to IFA. Since it decided the claim based on IFA, the RPD must have concluded that in at least some measure, the Principal Appellant's subjective fear was objectively well-founded. I agree.
- [18] However, with respect to Barranquilla, since I have found that paramilitary groups do not have the motivation or means to locate the Appellants and that the Principal Appellant's profile in Barranquilla is not such that the Appellants would be at risk in Barranquilla, I find that the Principal Appellant's subjective fear of relocating to Barranquilla is not objectively well-founded. Safety of Associate Appellants

- [19] The Appellants argue that the female Associate Appellant would be at increased risk in Barranquilla. The Appellants note that at a peaceful student protest at the University of the Atlantic in Barranquilla, the military used potentially lethal force when there was no imminent threat to life or bodily injury. If relocated to Barranquilla, the female Associate Appellant would likely attend this university.
- [20] The Appellants' argument must fail. The female Associate Appellant is not yet a student at the University and there is nothing in her profile that indicates she would participate in a student protest. To be found a person in need of protection, any risk that the Associate Appellant faces must not be faced generally by other individuals from Colombia, which is not the case here. I find that any increased risk is speculative and not faced by the Associate Appellant personally.
- [21] The Appellants have not presented any credible or trustworthy evidence that the Associate Appellants would face a serious possibility of persecution, or, on a balance of probabilities, that they are in danger of torture or they face a risk to life or cruel and unusual treatment in Colombia. Conclusion on first prong
- [22] I find that the Appellants have not established that they would face a serious possibility of persecution in Barranquilla or, on balance of probabilities, a risk to life or cruel and unusual treatment or punishment or danger of torture in Barranquilla. The RPD did not err in its analysis of the second IFA prong
- [23] The RPD found that it was objectively reasonable, in all the circumstances, including those particular to the Appellants, for them to seek refuge in Barranquilla. The Appellants have not made any specific arguments regarding this finding.
- [24] The RPD did not err. The RPD, in paragraphs 26 to 28 of its decision, discussed the reasonableness of Barranquilla as an IFA and I adopt this analysis as my own. I find that it would be reasonable for the Appellants to relocate to Barranquilla for the same reasons as the RPD did.

CONCLUSION

- [25] The Appellants have a viable IFA in Barranquilla.
- [26] I dismiss the appeal and confirm the decision of the RPD that the Appellants are neither Convention refugees nor persons in need of protection. (signed) "Charles A. McDermott" Charles A. McDermott August 19, 2020 Date 1Canada (Citizenship and Immigration) v. Huruglica, 2016 FCA 93; Rozas del Solar v. Canada (Citizenship and Immigration), 2018 FC 1145 2 Exhibit P-3, Counsel submission dated July 29, 2020, pp 5-7. 3 Exhibit RAD-1, National Documentation Package (NDP) for Colombia, June 12, 2020, version, item 1.2, Colombia's illegal armed groups (maps), Colombia Reports, July 20, 2019.

RAD File / Dossier de la SAR: VC0-01181 VC0-01182 / VC0-01183 RAD.25.02 (January, 2020)
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Commission de l'immigration et du statut de réfugié du Canada Section d'appel des réfugiés
RAD.25.02 (January, 2020) Disponible en français

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Prepared on 24 October 2026 · Esheria