

CANADA / JUDGMENT

Alipio Ruiz v. Canada (Citizenship and Immigration)

2026 FC 102

COURT

Federal Court

DECIDED

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Alipio Ruiz v. Canada (Citizenship and Immigration) Court (s) Database Federal Court Decisions Date 2026-01-23 Neutral citation 2026 FC 102 File numbers IMM-15228-24 Decision Content Date: 20260123 Docket: IMM-15228-24 Citation: 2026 FC 102 Ottawa, Ontario, January 23, 2026 PRESENT: Madam Justice Sadrehashemi BETWEEN: DUMMAR ALIPIO RUIZ DORIS ADRIANA CADENA NUNEZ SAMUEL DAVID ALIPIO CADENA Applicants and THE MINISTER OF CITIZENSHIP AND IMMIGRATION Respondent JUDGMENT AND REASONS I. Overview [1] The Applicants are a family of three: Mr. Dummar Alipio Ruiz, his wife and their minor child. They made a refugee claim in Canada based on their fear that the police in Colombia could not protect them from targeted threats and violence. The Refugee Protection Division ["RPD"] dismissed their case, finding that the Applicants did not have a well-founded fear of persecution because they could not demonstrate their alleged agents of harm (the police or a criminal organization) had attacked them or that the attacks on Mr. Alipio and his wife were connected to each other or related to Mr. Alipio's work investigating criminal organizations and fighting corruption in the National Police. The Applicants appealed the refusal and provided new evidence about further attacks. The Refugee Appeal Division ["RAD"] dismissed their appeal, also finding the Applicants did not have a well-founded fear of persecution.

[2] The Applicants challenge the RAD's dismissal on judicial review. The Applicants argue that the RAD erred when it did not admit evidence relating to an attack that had happened just prior to their refugee hearing. The Applicants also argue that the RAD failed to consider the totality of their circumstances holistically when evaluating whether they had a well-founded fear of persecution or faced a risk as contemplated under section 97 of the Immigration and Refugee Protection Act, SC 2001, c 27 [IRPA].

[3] I do not agree that the RAD was unreasonable in refusing to admit the Applicants' new evidence. I do, however, agree with the Applicants that the RAD's determination and evaluation of whether they had established a link between their profile, the threats and the agents of harm was unreasonable and requires redetermination. I am allowing the application for judicial review. II. Background and Procedural History [4] The Applicants are citizens of Colombia. The principal Applicant, Mr. Alipio, worked for many years with the

National Police in Colombia. In the latter part of his career, he worked as an investigator tasked with dismantling criminal organizations. In 2018, when he was asked to lie about the amount of money seized in an investigation, he refused. Mr. Alipio and his brother, who also worked for the National Police, both faced retaliatory discipline, leading to Mr. Alipio taking a leave of absence and then eventually being constructively dismissed in November 2020.

- [5] The Applicants described a series of attacks against them that they allege are related to Mr. Alipio's work in the latter part of his career. Their view is that these attacks are either from the National Police or a criminal organization. The female Applicant was attacked and robbed when leaving work in January 2020. Then in April 2021, two individuals attacked Mr. Alipio near his home. The attackers threatened to kill Mr. Alipio for "being so stubborn" and took his gun. Mr. Alipio reported the incident to the police, but he alleged that no investigation was really done.
- [6] The Applicants fled Colombia two days after the last incident and made a refugee claim in Canada shortly after. The Applicants' claim was heard in December 2023. Both adult Applicants testified.
- [7] The RPD accepted that Mr. Alipio worked at the National Police, had worked investigating criminal organizations, refused to follow a corrupt order by a superior at the National Police and was constructively dismissed. The RPD also accepted that the threats and attacks happened. The RPD did not accept that the attacks were related or connected to Mr. Alipio's former work. The RPD also found that the retaliatory discipline Mr. Alipio faced at his workplace was discriminatory but did not amount to persecution.
- [8] Just prior to the RPD hearing, Mr. Alipio learned about another threat. This evidence was not put forward before the RPD. At the RAD, Mr. Alipio argued that it was because of incompetence of his former counsel that this evidence was not presented. The RAD did not admit this evidence. The RAD also did not admit a psychological assessment. As I will discuss below, I find these determinations on new evidence to be reasonable.
- [9] The RAD admitted into evidence documents related to an incident that occurred after the RPD hearing: a written threat left at Mr. Alipio's mother in law's home in March 2024, where he is referenced by name and threatened to be harmed when he returns and called a snitch.
- [10] The RAD, like the RPD, found that the events, including the March 2024 event, were not connected to one another and it had not been established that any were related to Mr. Alipio's former work as a police officer investigating criminal organizations and fighting corruption within the National Police. The RAD also agreed that the discrimination he faced at work did not amount to persecution. III. Issues and Standard of Review [11] The Applicants raised a number of arguments with the substance of the RAD's decision. I agree with the Respondent that the arguments about the RAD's decision to not admit evidence is to be reviewed on a reasonableness standard (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [Vavilov] at para 23; *Singh v Canada (Minister of Citizenship and Immigration)*, 2016 FCA 96 at para 29). I also address the RAD's analysis of

the relationship between the threats and Mr. Alipio's profile, leading to its ultimate determination that the Applicants do not have a well-founded fear of persecution or face a section 97 risk. This also is about the substance of the RAD's decision and therefore I will also review this issue on a reasonableness standard.

- [12] The reasonableness standard is a deferential but nonetheless “robust form of review,” where the starting point of the analysis begins with the decision-maker's reasons (Vavilov at para 13). A decision-maker's reasons are assessed “in light of the record and with due sensitivity to the administrative regime in which they were given” (Vavilov at para 103). The Supreme Court of Canada described a reasonable decision as “one that is based on an internally coherent and rational chain of analysis and that is justified in relation to the facts and law that constrain the decision maker” (Vavilov at para 85). Administrative decision-makers, in exercising public power, must ensure that their decisions are “justified, intelligible and transparent, not in the abstract, but to the individuals subject to it” (Vavilov at para 95). IV. Analysis A. New Evidence [13] The legal test for the admission of new evidence at the RAD is set out in subsection 110(4) of the IRPA: 110(4). On appeal, the person who is the subject of the appeal may present only evidence that arose after the rejection of their claim or that was not reasonably available, or that the person could not reasonably have been expected in the circumstances to have presented, at the time of the rejection. 110(4) Dans le cadre de l'appel, la personne en cause ne peut présenter que des éléments de preuve survenus depuis le rejet de sa demande ou qui n'étaient alors pas normalement accessibles ou, s'ils l'étaient, qu'elle n'aurait pas normalement présentés, dans les circonstances, au moment du rejet.
- [14] The Applicants challenge the RAD's decision to not admit two sets of evidence: i) evidence relating to an incident that took place in Colombia on November 15, 2023, shortly before the Applicant's refugee hearing, and ii) a psychological assessment of Mr. Alipio that occurred after the RPD hearing. The RAD found that both sets of evidence failed to meet the statutory requirements in that they were not “new,” and the Applicants had not established that they could not have reasonably been expected to have presented this evidence before the RPD's decision.
- [15] First, the Applicants argue that the RAD failed to consider that it was a sufficient basis to admit the documents if the RAD found them to have “arose after the rejection of their claim.” The Applicants rely on Justice Gascon's decision in *Olowolaiyemo v Canada* (Citizenship and Immigration), 2015 FC 895 [Olowolaiyemo] at paragraph 19, which highlights that the statutory requirements for admitting new evidence is disjunctive and therefore evidence that “arose after the rejection of the claim” is a sufficient basis on its own to meet the statutory requirement in section 110(4) of the IRPA.

- [16] Justice Gascon references his reasoning in *Olowolaiyemo* in a recent decision *Moyo v Canada (Citizenship and Immigration)*, 2025 FC 1899 [Moyo] and explains that “evidence is not ‘new’ merely because of its date of creation and that the focus must rather be on the time of the event or circumstance sought to be provided by ‘new evidence’” (Moyo at para 42). In my view, the RAD undertook this analysis, considering whether the evidence could be admitted, based on the first prong in section 110(4) of the IRPA.
- [17] The Applicants also argue that in considering whether they could have reasonably been expected to present the evidence of the November 23, 2023 incident, the RAD failed to explain why it preferred the evidence of the Applicants' former counsel in letter form over Mr. Alipio's affidavit evidence.
- [18] I am not persuaded by this argument because I see no basis in the decision to find that the RAD preferred the former counsel's version of events. In fact, the RAD's reasoning relies on the Applicants' view that they were told by their former counsel that the evidence they wished to present was not relevant. The RAD found that given they were directly asked under oath by the RPD about whether there were any further threats since they left Colombia, they had an opportunity to raise the incident, which they were aware of at the time of the hearing.
- [19] Overall, the Applicants have not persuaded me that there is a sufficiently serious shortcoming in the RAD's analysis of the admission of their new evidence. B. Links to the Agents of Harm [20] The determinative issue for both the RPD and the RAD was the Applicants' failure to establish that the threats were linked to the agents of harm – namely the police or a criminal organization. In my view, the RAD took a siloed approach to the question of nexus to an agent of harm that did not holistically consider Mr. Alipio's profile, the country condition documentation, and the threats in the aggregate.
- [21] The RAD, like the RPD, accepted the central facts of the Applicants' claim: -Mr. Alipio was a former police officer in the National Police; -the latter part of his career involved investigating criminal organizations; -he refused to alter the facts of his investigation of a criminal organization when pressured by a superior to do so; -he was constructively dismissed after he refused to engage in a corrupt act; -there was objective evidence linking his former supervisor to a drug cartel; and -three instances of threats/attacks had taken place, including the most recent threat where Mr. Alipio was personally named in a written threat.
- [22] The RAD did not accept that the attacks were linked or had to do with either Mr. Alipio's work as a police officer dismantling criminal organizations or his refusal to participate in and report on corrupt police practices.

- [23] The RAD considered Mr. Alipio's profile and found that since he left the police in 2020, he did not have any other problems with his former employer. Of course, this assumes that the threats after he left the police had nothing to do with Mr. Alipio's former work. Then, the RAD considered each threat and assessed each, on its own, to determine whether there was sufficient evidence to demonstrate that the threat came from either the police or a criminal organization.
- [24] The RAD noted that some threats were personally targeted to Mr. Alipio and considered the use of the words "snitch" and being "so stubborn" in some threats. The RAD found that it was not "only criminal organizations" who "would frame threats of stubbornness or as death threats." The RAD also found that since Mr. Alipio's complaints about the police resulted in "ineffective remedies," "any threat that [Mr. Alipio] may have posed to his police superiors due to his complaints about their corruption are diminished as his complaints have already been heard and no effective remedy has been imposed against them." Further, the RAD found that the country condition documentation that established widespread corruption in the National Police did not "on its own, lead to a conclusion that it has acted to harm the Appellants." The RAD then reasoned that the Applicants had not been able to establish on a balance of probabilities that the agent of harm was either the police or a criminal organization.
- [25] The RAD considered each factor "on its own," dismissing each as not establishing the link, without considering the factors holistically in the aggregate. In order to evaluate whether the Applicants were at risk under section 97 of the IRPA or had a well-founded fear of persecution under section 96 of the IRPA, the RAD had to consider the totality of the circumstances together. The failure to do this on the central issue of the claim was unreasonable.
- [26] For the benefit of redetermination, I also note that the RAD may also have to explain, even if it is not satisfied that the Applicants have established a nexus between the threats and the agents of persecution, whether this matters for its assessment of the probability of the Applicants' risk under section 97 of the IRPA. As this Court has noted, the evaluation of the probability of risk under section 97 may not depend on knowing the identity of the agent of persecution (See *Gomez Giraldo v Canada (Citizenship and Immigration)*, 2022 FC 950 at paras 20-23; *Diaz v Canada (Citizenship and Immigration)*, 2010 FC 797 at para 19). V. Disposition [27] The application for judicial review is allowed. Neither party raised a question for certification, and I agree none arises. JUDGMENT IN IMM-15228-24 THIS COURT'S JUDGMENT is that:
1. The application for judicial review is allowed;
 2. The decision dated July 29, 2024 is quashed, and the matter is sent back to be redetermined by a different decision-maker; and

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3. No serious question of general importance is certified. blank “Lobat Sadrehashemi” blank Judge FEDERAL COURT SOLICITORS OF RECORD DOCKET: IMM-15228-24 STYLE OF CAUSE: DUMMAR ALIPIO RUIZ, DORIS ADRIANA CADENA NUNEZ, SAMUEL DAVID ALIPIO CADENA v THE MINISTER OF CITIZENSHIP AND IMMIGRATION PLACE OF HEARING: Toronto, Ontario DATE OF HEARING: July 9, 2025 JUDGMENT AND REASONS: SADREHASHEMI J. DATED: JANUARY 23, 2026 APPEARANCES: Oltion Toro For The Applicants Aneta Bajic For The Respondent SOLICITORS OF RECORD: Lewis & Associates LLP Barristers and Solicitors Toronto, Ontario For The Applicants Attorney General of Canada Toronto, Ontario For The Respondent
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