

CANADA / JUDGMENT

Perez Sanchez v. Canada (Citizenship and Immigration)

2025 FC 1980

COURT

Federal Court

DECIDED

16 December 2025

Source: norma.lexum.com · Research copy typeset by Esheria. Not court-issued or certified.

Perez Sanchez v. Canada (Citizenship and Immigration) Court (s) Database Federal Court Decisions Date 2025-12-16 Neutral citation 2025 FC 1980 File numbers IMM-18756-24 Decision Content Date: 20251216 Docket: IMM-18756-24 Citation: 2025 FC 1980 Ottawa, Ontario, December 16, 2025 PRESENT: The Honourable Madam Justice Blackhawk BETWEEN: JOSE ALONSO PEREZ SANCHEZ Applicant and THE MINISTER OF CITIZENSHIP AND IMMIGRATION Respondent JUDGMENT AND REASONS I. Overview [1] This is an application for judicial review of a decision of the Refugee Appeal Division (“RAD”) dated September 19, 2024, dismissing the Applicant’s appeal of the decision of the Refugee Protection Division (“RPD”) that denied the Applicant’s claim as a Convention refugee or person in need of protection, based on credibility (“the Decision”).

- [2] The Applicant argues that the RAD erred by unreasonably excluding certain new evidence and in its failure to grapple with the totality of the evidence when making a finding of general negative credibility.
- [3] The Respondent argues that the Decision is reasonable; the new evidence was properly excluded and the credibility findings are rooted in the record and evidence before the RAD.
- [4] For the reasons that follow, this application is dismissed. II. Background [5] The Applicant is a citizen of Mexico. He was a police officer in Mexico.
- [6] The Applicant claims he is at risk in Mexico from two criminal organizations: the Cartel Jalisco Nueva Generation [“CJNG”] and the Los Zetas cartel [“Zetas”]. The Applicant claims that he was targeted by these organizations because of his work as a police officer.
- [7] The Applicant indicated that the CJNG have approached him on multiple occasions to work for them, which he refused.
- [8] In 2019, the Applicant’s brother disappeared; the Applicant believes that his disappearance is linked to the CJNG or the Zetas.

- [9] The Applicant's efforts to locate his brother have made him a target of the CJNG and the Zetas.
- [10] The Applicant fled Mexico in September 2019.
- [11] On June 3, 2024, the RPD determined that the Applicant is not a Convention refugee and is not a person in need of protection pursuant to Sections 96 and 97(1) of the Immigration and Refugee Protection Act, SC 2001, c 27 [IRPA] as amended. The RPD found that the determinative issues was credibility.
- [12] The Applicant appealed the RPD decision and on September 19, 2024, the RAD dismissed his appeal. III. Issues and Standard of Review [13] The parties submit, and I agree, that the standard of review applicable to the Decision in this case is reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 (*Vavilov*) at paras 25, 86).
- [14] Reasonableness review is a deferential standard and requires an evaluation of the administrative decision to determine if the decision is transparent, intelligible, and justified (*Vavilov* at paras 12–15, 95). The starting point for a reasonableness review is the reasons for decision. Pursuant to the *Vavilov* framework, a reasonable decision is “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).
- [15] To intervene on an application for judicial review, the Court must find an error in the decision that is central or significant to render the decision unreasonable (*Vavilov* at para 100).
- [16] The sole issue in this Application concerns the reasonableness of the Decision. IV. Analysis
A. Fresh evidence at the RAD [17] The Applicant argues that the RAD excluded new evidence in err. The Applicant suggests that the RAD improperly made findings of credibility in respect of the content of the letters prior to excluding them and that he was denied procedural fairness because the RAD did not hold an oral hearing after excluding the new evidence.
- [18] The Respondent argued that the RAD reasonably excluded the new evidence. They submit that the RAD properly considered the credibility, relevance, newness and materiality of the evidence, consistent with the guidance set out by the Federal Court of Appeal in *Raza v Canada (Citizenship and Immigration)*, 2007 FCA 385 [*Raza*].
- [19] The Applicant requested that the RAD consider the following new pieces of evidence, which were submitted in support of his appeal: (i) Letter from the Appellant's first aunt and ID, dated June 22, 2024; (ii) Letter from the Appellant's friend and ID, dated June 15, 2024; (iii) Letter from the Appellant's sister and ID, dated June 7, 2024; (iv) Letter from the Appellant's father and ID, dated June 7, 2024; and (v) Letter from the Appellant's second aunt and ID, dated June 22, 2024.

- [20] Pursuant to subsection 110(4) of the IRPA, the RAD may only accept evidence that: (i) arose after the RPD's decision; or (ii) was not reasonably available at the time of the decision; or (iii) that the Appellant could not reasonably have been expected in the circumstances to have brought to the RPD before the decision.
- [21] If the new evidence meets one or more of the requirements set out at subsection 110(4) of the IRPA, the RAD must determine if the evidence is new, credible, material and relevant before it can be accepted; *Canada (Citizenship and Immigration) v Singh*, 2016 FCA 96; *Raza*.
- [22] The Applicant has argued that the RAD's refusal to admit the new evidence also denied him of a right to an oral hearing and therefore, was a breach of his procedural fairness. This argument is without merit, in view of the legal considerations set out above for the admission of new evidence before the RAD.
- [23] A review of the Decision illustrates that the RAD accepted that the new evidence—the letters—were all drafted after the RPD decision. However, the RAD found that the evidence lacked credibility because the timing of the new evidence was coincidental and raised a reasonable question concerning the truthfulness of the content of the letters.
- [24] At the RPD hearing, the Applicant testified that he speaks to his family on a weekly basis, and that the last time anyone went looking for him in Mexico was May 2023. The RPD rejected his claim, in part because it found the CJNG had not been looking for him since his departure from Mexico. While the Applicant testified that unknown persons, whom he assumed were from a cartel, had looked for him at his mother's house in May 2023, the RPD found the evidence incredible. The RPD noted that that evidence had been omitted from the Applicant's Basis of Claim ("BOC") and they did not accept his explanations for the omission of such a central detail in support of his claim. Further, the RAD noted that the Applicant was represented and therefore, should have known that he could have amended his BOC narrative prior to the RPD hearing.
- [25] The new evidence provided by the Applicant post-dates the RPD decision and suggests that there are ongoing threats from the cartels who are still looking for the Applicant. The new evidence contradicts some of the Applicant's testimony before the RPD and the narrative set out in his BOC. Therefore, the RAD found the evidence lacked credibility and was not admitted for consideration.
- [26] This Court has cautioned against making findings based on the plausibility of evidence, save in the clearest of cases. In *Valtchev v Canada (Minister of Citizenship and Immigration)*, 2001 FCT 776 [Valtchev] at paragraph 7, Justice Muldoon stated:

- [7] A tribunal may make adverse findings of credibility based on the implausibility of an applicant's story provided the inferences can be reasonably said to exist. However, plausibility findings should be made only in the clearest of cases, i.e., if the facts as presented are outside the realm of what could reasonably be expected, or where the documentary evidence demonstrates that the events could not have happened in the manner asserted by the claimant. [emphasis added]
- [27] I am persuaded by the Respondent's argument that the RAD has made a reasonable plausibility finding that is rooted in the evidence that was before them. Conversely, the Applicant has pointed to no specific error that warrants this Court's intervention. In my view, the Decision is transparent, intelligible and justified in view of the applicable legal and factual matrix. B. RAD credibility findings [28] The Applicant argued the RAD erred in accepting the RPD's negative credibility findings and in failing to grapple with the totality of the evidence.
- [29] The Respondent argued that the Decision is reasonable and within the realm of the specialised expertise of the RAD. This Court ought to accord such decisions considerable deference in the absence of evidence that the finding was made in a perverse or capricious manner; *Santillan v Canada (Minister of Citizenship and Immigration)*, 2011 FC 1297 at paras 26, 29.
- [30] A review of the Decision illustrates that the RAD found the following contradictions undermined the Applicant's credibility: The Applicant's testimony concerning information from his cousin Claudia, who was also looking into the disappearance of his brother, contradicted the Applicant's evidence set out in his BOC. Notably, in his BOC, he indicates that threats were directed at her, but at the RPD hearing, the Applicant indicated that he was threatened, and when asked to explain this contradiction he indicated that he took the threats against her personally; and The Applicant provided testimony at the RPD hearing in respect of information he received from an ex-girlfriend that cartel members were looking for him; however, this information was missing from his BOC and he did not provide a clear explanation for the omission of this information.
- [31] The Applicant argued that the omission of the information concerning the CJNG threats to his ex-girlfriend were captured in his BOC narrative, where in he indicates that there were several threats; but he did not mention them all during his testimony. In addition, he argued that in the BOC narrative, both he and his cousin were threatened by the cartel.
- [32] Finally, the Applicant argues that the RAD failed to consider his profile as a police officer and how that would place him at a heightened risk for forward-facing risks to his safety.
- [33] In response to the Applicant's argument that the RAD erred by ignoring the presumption of the truthfulness of his evidence, the Respondent argued that this presumption is predicated on an absence of reasons to doubt credibility of the evidence. In the case at bar, the Respondent notes that the RPD made findings of credibility that were found to be correct and were adopted by the RAD. The Respondent argued that the RAD reasonably considered

the RPD's findings and the Applicant's explanations for the inconsistencies and omissions and reasonably adopted the RPD's findings.

- [34] The Applicant has not persuaded me that the RAD erred in its assessment of his claim.
- [35] Generally, deference is owed to an administrative decision maker's assessment of credibility. The RPD had the advantage of observing the Applicant during the hearing. The RAD found that the RPD appropriately drew negative credibility inferences in its determination that the Applicant lacked general credibility. In my view, the RAD's adoption of the RPD credibility assessment as its own was reasonable, in view of the evidence.
- [36] The Applicant argues that the RAD failed to grapple with the totality of the evidence. I do not agree. The Decision states:
- [16] I find the Appellant's testimony that he had been threatened is inconsistent with his narrative, which indicates that his cousin had been threatened. He also failed to provide a reasonable explanation for failing to mention in his BOC that the CJNG had approached his former girlfriend about him. The Appellant's evidence is inconsistent and therefore lacks credibility. The threats by the CJNG to stop searching for his brother have not been established on a balance of probabilities. ...
- [19] After looking at all the evidence, including the inconsistencies identified by the RPD, I find its credibility assessment is correct, and I adopt its findings as my own. I find the Appellant has failed to establish his core allegations, on a balance of probabilities. This is determinative whether considered under section 96 or subsection 97(1) of the IRPA.
- [37] A general negative credibility finding can refute the core elements of both of the Section 96 and subsection 97(1) claim; *Cerra Gomez v Canada* (Minister of Citizenship and Immigration), 2018 FC 1233 at para 43; *Ikeme v Canada* (Immigration, Refugees and Citizenship), 2018 FC 21 at paras 39-42; *Qahramanloei v Canada* (Minister of Citizenship and Immigration) 2021 FC 422 at para 28; *Chukwunyere v Canada* (Minister of Citizenship and Immigration), 2021 FC 210 at para 18; *Fabunmi v Canada* (Minister of Citizenship and Immigration), 2020 FC 1009 at para 22.
- [38] In *Ugaas v Canada* (Minister of Citizenship and Immigration), 2021 FC 411, Justice Gleason notes that this Court has held that a negative credibility assessment is a sufficient ground for dispensing with both Sections 96 and 97 of the IRPA:
- [27] A general negative credibility finding is often a sufficient ground for dispensing with both a section 96 and section 97 analyses (*Ali v Canada* (Minister of Citizenship and Immigration), 2021 FC 77 at paras 28-29; *Canada* (Minister of Citizenship and Immigration) *v* *Sellan*, 2008 FCA 381 at para 3; *Ikeme v Canada* (Immigration, Refugees and Citizenship), 2018 FC 21 at paras 41-42). Exceptionally, a negative credibility finding that is conclusive of a refugee claim under section 96 of the IRPA, will not dispose of a section 97 analysis where the facts that form the basis of the Applicant's fear of persecution are not in issue (*Odetoyinbo v Canada* (Minister of Citizenship and Immigration), 2009 FC 501 at para 6).

- [39] The Respondent persuasively argued that to support a claim pursuant to Section 96 of the IRPA, an applicant is required to demonstrate, with evidence, that he had a “well founded” fear of persecution; *Canada (Attorney General) v Ward*, [1993] 2 S.C.R. 689 at para 47. Further, to support a claim pursuant to subsection 97(1) of the IRPA, an applicant is required to demonstrate with clear, convincing evidence they have a forward-facing risk of persecution; *Laguerre v Canada (Minister of Citizenship and Immigration)*, 2021 FC 701 at para 68; *103 Beecher v Canada (Minister of Citizenship and Immigration)*, 2021 FC 126 at paras 22-23.
- [40] A review of the record for this application illustrates that the Applicant’s claims and supporting evidence were based, in part, on new evidence he submitted for the RAD’s consideration that, as noted above, was reasonably excluded as well as on evidence that was found to generally lack credibility.
- [41] The Applicant pointed to documentation in the National Documentation Package for Mexico that illustrated citizens of Mexico are afraid to make reports to police and the CJNG has significant resources to reach most people. However, with respect, this evidence is of a general nature and does not speak to the risks or fears faced by the Applicant.
- [42] The RAD noted that the Applicant is a police officer and they noted that he had interactions with cartel members who tried to recruit him. However, the core elements of his claim for protection were tied to the disappearance of his brother and the threats from the cartels following his efforts to find him. Unfortunately, as explained above, based on the evidence that was submitted, the RAD has found that the Applicant’s evidence in support of the core elements of his claim lacked credibility. In my view, it was reasonable for the RAD to dismiss the Applicant’s appeal on this basis. V. Conclusion [43] The Decision bares the hallmarks of a reasonable decision as the reasons are transparent, intelligible and justified. The Applicant has not persuaded me that there is any error that would warrant this Court’s intervention.
- [44] The parties did not pose a question for certification, and I agree that none arise in this matter. JUDGMENT in IMM-18756-24 THIS COURT’S JUDGMENT is that: The application for judicial review is dismissed. No question is certified. "Julie Blackhawk" Judge FEDERAL COURT SOLICITORS OF RECORD DOCKET: IMM-18756-24 STYLE OF CAUSE: JOSE ALONSO PEREZ SANCHEZ v THE MINISTER OF CITIZENSHIP AND IMMIGRATION PLACE OF HEARING: Toronto, Ontario DATE OF HEARING: November 18, 2025 JUDGMENT AND REASONS: BLACKHAWK J. DATED: December 16, 2025 APPEARANCES: Gokhan Toy For The Applicant Suzanne Bruce For The Respondent SOLICITORS OF RECORD: Lewis & Associates LLP Barrister and Solicitors Toronto, Ontario For The Applicant Attorney General of Canada Toronto, Ontario For The Respondent

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.

ORIGINAL SOURCE <https://norma.lexum.com/fc-cf/decisions/en/item/529528/index.do>

CASE PAGE <https://chat.esheria.ai/case-law/canada/perez-sanchez-v-canada-citizenship-and-immigration-2025>

Prepared on 25 October 2026 · Esheria