

CANADA / JUDGMENT

XY v. Canada (Citizenship and Immigration)

2026 FC 609

COURT

Federal Court

DECIDED

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XY v. Canada (Citizenship and Immigration) Court (s) Database Federal Court Decisions Date 2026-05-07 Neutral citation 2026 FC 609 File numbers IMM-2679-25 Decision Content Date: 20260507 Docket: IMM-2679-25 Citation: 2026 FC 609 Toronto, Ontario , May 7, 2026 PRESENT: Mr. Justice Brouwer BETWEEN: xy, yx, yz Applicants and THE MINISTER OF CITIZENSHIP AND IMMIGRATION Respondent JUDGMENT AND REASONS

- [1] XY, YX, and YZ are nationals of Mexico who seek judicial review of the decision by the Refugee Appeal Division [RAD] of the Immigration and Refugee Board [IRB] affirming the Refugee Protection Division's [RPD] dismissal of their refugee claim, on the basis that they have an internal flight alternative [IFA] in Mérida, Mexico. For the reasons that follow, I agree with the Applicants that the decision is unreasonable and must be set aside. I. Background [2] The Applicants, a mother [XY] and her two children, are citizens of Mexico. XY is a survivor of sexual assault, threats and harassment by a local leader of the Jalisco New Generation Cartel [CJNG], a violent and powerful Mexican criminal organization. The CJNG had killed XY's partner and, after XY attempted to escape their persecution, threatened, extorted, beat and attempted to kidnap her immediate family members.
- [3] The Applicants fled to Canada to seek refugee protection in November 2022, a few months after her mother and sister did so. However, while her mother and sister were granted refugee protection by a member of the RPD of the IRB, the Applicants, whose claims were heard by a different RPD member, were not. The RPD accepted the truth of XY's testimony about what she had experienced in Mexico and agreed that she and her children are at risk of persecution in their native city of El Salto, Jalisco; however, the RPD determined that they could safely relocate to a different city, Mérida, to avoid further persecution.
- [4] On appeal, the RAD endorsed the RPD's findings. The RAD determined that there was no connection between XY's persecution by the CJNG and that of her family members, and that Mérida constituted a viable IFA because, although the cartel had the ability to locate and persecute the Applicants there, they would not be motivated to do so. II. Issues [5] The Applicants challenge the reasonableness of the RAD's IFA finding.

- [6] To assess whether an administrative decision meets this standard, the Court asks, “whether the decision bears the hallmarks of reasonableness — justification, transparency and intelligibility — and whether it is justified in relation to the relevant factual and legal constraints that bear on the decision” (Canada (Minister of Citizenship and Immigration) v. Vavilov, 2019 SCC 65 at para 99 [Vavilov]). A decision that fundamentally misapprehends or fails to account for the evidence or submissions before it may be unreasonable (Vavilov at paras 125-128).
- [7] The need for justification is heightened in decisions that have particularly harsh consequences, as discussed in Vavilov:
- [133] [...] Where the impact of a decision on an individual’s rights and interests is severe, the reasons provided to that individual must reflect the stakes. The principle of responsive justification means that if a decision has particularly harsh consequences for the affected individual, the decision maker must explain why its decision best reflects the legislature’s intention. This includes decisions with consequences that threaten an individual’s life, liberty, dignity or livelihood.
- [8] As in any decision denying refugee protection, the stakes involved in the RAD’s decision are very high indeed, encompassing the risk of persecution, torture or death. III. Analysis [9] To determine that a refugee claimant has a viable IFA, a decision maker must be satisfied that 1) there is no serious possibility of persecution in the part of the country where the proposed IFA is located; and 2) the conditions in the IFA are such that it would not be unreasonable, in all the circumstances, including those particular to the claimant, for them to seek refuge there (Singh v. Canada (Citizenship and Immigration), 2023 FC 996 at paras 7-8 [Singh] and the cases cited therein).
- [10] Assessing the first criterion of the IFA test often requires examining whether the agent of persecution has both the means to cause the claimant harm in the proposed IFA, and the motivation to do so (Singh at para 8).
- [11] In the case at bar, the RAD apparently accepted the RPD’s finding that the CJNG has a “sophisticated ability to track people throughout Mexico” and that in fact the cartel had obtained significant information about XY and her family before. However, the RAD, like the RPD, determined that “there is little indication” that the cartel would be motivated to track and persecute the Applicants in Mérida. The RAD determined that the incidents of persecution experienced by XY’s mother and siblings for the most part lacked any “noticeable connections” to one another and to XY but stemmed from the fact that the family lived in El Salto, a CJNG stronghold, concluding: [T] he Appellants’ position – that the CJNG has taken some special interest in their whole family – is unsupported. The Appellants are not being specifically targeted. They simply happened to live in a part of Mexico that was badly affected by the CJNG’s activities. In my view, their problems with the CJNG are of a local character. There is insufficient evidence to show that the CJNG is now motivated to pursue the Appellants outside of their home area, such as in Merida. There is no serious

possibility of persecution in the proposed IFA.

- [12] The Applicants argue that the RAD's findings on this point do not reflect the evidence. I agree.
- [13] Although the RAD acknowledged that the cartel member who attempted to kidnap XY's sister was also one of the persons who had extorted her mother, it failed to address the further link between a statement made by the CJNG to XY's mother with similar statements made to XY herself by her abuser. While the connection may or may not have been sufficient to demonstrate an actual connection between the events, it needed to be evaluated as it was clearly relevant to the finding that the Applicants "are not being specifically targeted." Considering that XY's testimony was generally accepted as credible, the RAD's finding that, contrary to her evidence, "the CJNG members did not say anything to the [Applicants] or their family members to indicate that what was happening to each of them was tied to any other family members," needed at least to be explained.
- [14] A similar concern arises from the RAD's finding that the country conditions evidence does not support a finding that the Applicants have the profile of individuals who the CJNG would be motivated to target. The RAD relied on an IRB Response to Information Request report [RIR] to find "by and large, the CJNG and other major criminal groups tend to track and pursue those they perceive as a threat to their interests, and where there is personal animosity with their members. Here, the Appellants did not do anything to harm the group's interests." However, the same RIR states explicitly that the cartel "is motivated to track and locate someone if they have 'valuable' or 'sensitive' information, betrayed them, or if they hold a personal animosity with them, such as previous romantic partners" as well women who "refuse their advances" (emphasis added). XY clearly fits into this category, and the RAD's failure to address this portion of the very report it says it relied on is unreasonable.
- [15] While judicial review of administrative decisions is not "a treasure hunt for errors," (Vavilov at para 102) and requires a certain degree of deference to administrative decision makers, when a decision maker does not deal with evidence squarely contradicting its findings of fact, the Court may infer that the decision maker overlooked the contradictory evidence when reaching its conclusion (*Ozdemir v. Canada (Minister of Citizenship and Immigration)*, 2001 FCA 331 at paras 9–10; *Cepeda-Gutierrez v. Canada (Minister of Citizenship and Immigration)*, 1998 CanLII 8667 (FC) at para 17; *Hernandez Cortez v. Canada (Citizenship and Immigration)*, 2021 FC 1392 at para 29). That is what occurred here.
- [16] Given the interests at stake – namely protection from refoulement – the RAD was required to demonstrate that its decision reflected the evidence. For the reasons set out above, I find that the RAD's decision failed to do so and therefore must be set aside.
- [17] Neither party proposed a serious question of general importance for certification under s. 79 of the Immigration and Refugee Protection Act, SC 2001, c 27, and I agree that none arises. JUDGMENT in IMM-2679-25 THIS COURT'S JUDGMENT is that: The application is granted. The appeal is remitted to a differently constituted panel for re-determination in accordance

with these reasons. No question of general importance is certified. "Andrew J. Brouwer"
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