

Federal Court



Cour fédérale

**Date: 20240708**

**Docket: IMM-7772-23**

**Citation: 2024 FC 1065**

**Ottawa, Ontario, July 8, 2024**

**PRESENT: The Honourable Madam Justice Aylen**

**BETWEEN:**

**JELUVAD BRISSNA PINILLA SANCHEZ  
DIEGO ARMANDO CASTILLO JOYA  
KAYTLEEN SOFIA CASTILLO PINILLA**

**Applicants**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

[1] The Applicants — the Principal Applicant, her spouse [Associate Applicant] and their minor daughter [Minor Applicant] — are all citizens of Colombia. They claimed refugee protection in Canada based on the allegation that the Principal Applicant received threats to her life from the Black Eagles, whom she describes as a “right wing paramilitary group.” The Applicants assert that the Principal Applicant began receiving threats as a result of her volunteer work with the local community action board [Board]. As part of her volunteer work, the Principal

Applicant would report known incidents of children at risk of domestic abuse, or recruitment by gangs, to the Board and child welfare authorities, which interfered with the interests of the gangs. The Applicants further assert that the threats against the Principal Applicant culminated in an assassination attempt via drive-by shooting, which resulted in the Principal Applicant's father-in-law being shot multiple times.

[2] The Applicants seek judicial review of a decision of the Refugee Protection Division [RPD] of the Immigration and Refugee Board dated May 8, 2023, in which the RPD held that the Applicants are neither Convention refugees nor persons in need of protection under sections 96 and 97 of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA]. The RPD rejected the Applicants' claims after finding that they lacked credibility.

[3] The sole issue for determination on this application is whether the RPD's decision is reasonable. When reviewing for reasonableness, the Court must take a "reasons first" approach and determine whether the decision under review, including both its rationale and outcome, is transparent, intelligible and justified [see *Mason v Canada (Citizenship and Immigration)*, 2023 SCC 21 at paras 8, 59]. 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 [see *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 15, 85]. The Court will intervene only if it is satisfied there are sufficiently serious shortcomings in the decision such that it cannot be said to exhibit the requisite degree of justification, intelligibility and transparency [see *Adeniji-Adele v Canada (Citizenship and Immigration)*, 2020 FC 418 at para 11].

[4] While the Applicants have alleged that the RPD committed a number of reviewable errors, I find that the determinative issue was the RPD's failure to provide a rational chain of analysis in respect of its finding that all of the Applicants were not credible as a result of the misrepresentations made by the Associate Applicant.

[5] The RPD found that the Associate Applicant was not credible because he attempted to conceal his work history as a Colombian police officer (including related disciplinary history) from Canadian immigration authorities in order to prevent a negative effect on his refugee claim and that he fabricated his alleged employment in a family business as part of the obfuscation of his police career. The RPD found that the concealment of the Associate Applicant's employment as a Colombian police officer and the reasons for his termination and disciplinary sanction were relevant and material as: (a) it could have been the basis for a finding that the Associate Applicant was excluded from refugee protection under Article 1F of the United Nations Convention Relating to the Status of Refugees; (b) the Associate Applicant's status with the National Police (or as a former police officer) would give him and his family a profile that is different from that of ordinary Colombians with respect to the availability and priority of state protection; and (c) his willingness to conceal his work with the National Police and the circumstances surrounding his termination and disciplinary sanction relate to his general credibility, which led the RPD to then pose the following query: "If the claimant isn't being truthful with respect to his employment for nearly a decade of his life, how can the Board continue to presume the remainder of testimony can be true as well?"

[6] As a result of these determinations, the RPD drew “a strong negative inference against the overall credibility of the [Applicants].” In terms of the rationale for this negative global credibility finding, the RPD stated:

[51] Those concerns extend to the [Principal Applicant] as well and as she is the designated representative whose allegations are relied upon by the [Minor Applicant], these concerns extend to the [Minor Applicant]’s claim as well. As the [Applicants] have all claimed together and the narrative they collective [*sic*] rely upon does not disclose the [Associate Applicant]’s work as a police officer, any negative credibility findings would extend to her as well.

[7] However, I find that the RPD failed to provide adequate reasons to explain how the Associate Applicant’s omission was material to the Applicants’ collective narrative. The Applicants’ application was based on a collective narrative rooted in the Principal Applicant’s work with the Board and the threats she claims to have received from the Black Eagles, as well as the assassination attempt. The narrative does not rely on any threats made to the Associate Applicant or his status as a police officer or former police officer. In fact, the narrative makes no reference at all to the Associate Applicant’s occupation.

[8] As noted above, the RPD identified three reasons why the Associate Applicant’s omission is material. However, the RPD’s reasons relate primarily to the materiality of the omission to his claim, rather than the Applicants’ collective claim. While the RPD had concerns that Article 1F might apply to the Associate Applicant, such that he was barred from claiming Convention refugee status in Canada, it is unclear from the RPD’s reasons how this would be material to the collective narrative that formed the basis of the Applicants’ claim.

[9] Further, while it is possible that the availability of protections for current and/or former police officers in Colombia may have made the Associate Applicant's omission material to the Applicants' collective claim, the RPD did not cite evidence in support of this statement, nor is it evident from the balance of the RPD's reasons precisely what protections the RPD was referencing. For instance, later in their reasons, the RPD described the protections offered by the Attorney General and National Protection Unit in their assessment of whether the Principal Applicant had made an application for protection under various programs. At paragraph 83 of their decision, the RPD noted that the programs "offer protection to a variety of claimants with different profiles, including 'human rights defenders,' 'social leaders' and police officers and their families." The RPD then rejected the Principal Applicant's claim that her family was not eligible for support under these programs and cited Item 7.3 of the National Documentation Package in support. However, there is no direct mention of current or former police officers in the excerpts cited. It is not evident from the RPD's reasons how they concluded that families of police officers (past or present) are eligible for protection under these programs.

[10] In addition, the RPD provided no explanation as to how the Associate Applicant's independent credibility impacts the underlying claim, nor how it impacts the credibility of the other Applicants. The third ground of materiality listed by the RPD was simply a negative credibility finding specific to the Associate Applicant.

[11] In the absence of a rational chain of analysis as to why the RPD's negative credibility findings regarding the Associate Applicant extend to the Principal Applicant (and the Minor

Applicant), I find that the RPD's adverse credibility finding against the Principal Applicant and the Minor Applicant is unreasonable.

[12] I acknowledge that the RPD made other adverse credibility findings about the Principal Applicant that were independent of the Associate Applicant's omission. For instance, the RPD drew a negative credibility inference about the Principal Applicant from the Applicants' failure to make an asylum claim in the United States without credible excuse and the lack of evidence that the Principal Applicant applied for state protection in Colombia. However, I find that the RPD's reasons with respect to the Associate Applicant's omission (and the extension of the negative credibility finding to the Principal Applicant and Minor Applicant) played a central role in the RPD's decision as it relates to the Principal Applicant's (and Minor Applicant's) credibility and appears to have coloured the RPD's assessment of the corroborative evidence submitted by the Applicants. As such, I find that the RPD's error is sufficiently central to render the decision as a whole unreasonable [see *Lawani v Canada (Citizenship and Immigration)*, 2018 FC 924 at para 24; *Jayaraman v Canada (Citizenship and Immigration)*, 2022 FC 458 at paras 65-66; *Vavilov*, *supra* at para 100].

[13] Accordingly, the application for judicial review shall be granted, the decision of the RPD set aside and the matter remitted to a different panel for redetermination.

[14] The parties propose no question for certification and I agree that none arises.

**JUDGMENT in IMM-7772-23**

**THIS COURT'S JUDGMENT is that:**

1. The application for judicial review is granted. The decision of the Refugee Protection Division dated May 8, 2023, is hereby set aside and the matter is remitted for redetermination by a different panel of the Refugee Protection Division.
2. The parties proposed no question for certification and none arises.

“Mandy Aylen”

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Judge

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** IMM-7772-23

**STYLE OF CAUSE:** JELUVAD BRISSNA PINILLA SANCHEZ, DIEGO  
ARMANDO CASTILLO JOYA AND KAYTLEEN  
SOFIA CASTILLO PINILLA v MINISTER OF  
CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** TORONTO, ONTARIO

**DATE OF HEARING:** JULY 4, 2024

**JUDGMENT AND REASONS:** AYLEN J.

**DATED:** JULY 8, 2024

**APPEARANCES:**

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