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Alub Ruiz v. Canada (Citizenship and Immigration), 2025 FC 1969

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Federal Court Cour fédérale

Date: 20251215

Docket: IMM-15156-24

Citation: 2025 FC 1969

2025 FC 1969 (CanLII)

Ottawa, Ontario, December 15, 2025

PRESENT: The Honourable Madam Justice Saint-Fleur

BETWEEN:

PAUL ALUB RUIZ
MARJORIE ROCA ROCA
SHEIKA ALUB ROCA

Applicants

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Overview

[1] This is an application for leave and for judicial review of the decision by the Refugee Protection Division [RPD] of the Immigration and Refugee Board, dated July 23, 2024 [Decision]. The RPD determined the Applicants were neither Convention refugees nor persons in need of protection under sections 96 and 97(1) of the *Immigration and Refugee Protection Act*,

SC 2001, c 27 [*IRPA*] and their refugee protection claim had “no credible basis” pursuant to subsection 107(2) of *IRPA*.

[2] The Applicants challenge this Decision, arguing it is unreasonable because the RPD erred in its credibility assessment and its finding of no credible basis. They also raise the incompetence of their former representatives who failed to provide competent representation and argue this negatively impacted the fairness of the proceedings before the RPD.

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[3] The Respondent argues none of the Applicants’ arguments raise a reviewable error and the RPD reasonably found the Applicants failed to establish their core allegations.

[4] As I explain in more detail below, I find that the RPD conducted an unreasonable analysis of Mr. Ruiz’s credibility by focusing on the language and the way he presented himself, and erred in disregarding the psychological report submitted by Mr. Ruiz.

[5] This application for judicial review is allowed.

II. Background Facts

[6] The Applicants, Paul Alub Ruiz, his wife Marjorie Roca Roca, and their minor daughter Sheika Alub Roca, are all citizens of Bolivia. The minor Applicant is also a citizen of the United States of America.

[7] In 2013, Mr. Ruiz began a business relationship with an acquaintance by investing money in a company operated by this man's mother. The acquaintance's mother has connections to the Movimiento al Socialismo - Instrumento Político por la Soberanía de los Pueblos [MAS-IPSP] political party. In return for his investment, Mr. Ruiz was promised regular repayments and received a vehicle as collateral.

[8] However, Mr. Ruiz was not repaid his investment and began to experience financial difficulties in 2020. He was coerced into returning the vehicle he held as collateral and began receiving threats. The threats and coercive messages escalated in 2021 as Mr. Ruiz claimed he was pressured to sign away any claim to his original investment. Mr. Ruiz also describes a "near-fatal incident" involving a vehicle registered to an associate of his business partner's mother.

[9] The Applicants fled Bolivia in October 2021 and arrived in Canada in December 2021.

III. Decision Under Review

A. *The Applicant's evidence does not credibly support their core allegations*

[10] Firstly, the RPD found, despite the expansive nature of their allegations, the claimants provided little corroborative personal evidence.

[11] The RPD found that letters about the Applicants volunteering with Canadian institutions have no apparent connection to their allegations of danger in Bolivia. Documents proving Mr. Ruiz's employment in Bolivia as well as his father's illness and subsequent passing were accepted for the truth of their contents. The RPD gave no weight to the letter from Mrs. Roca's

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mother explaining the Applicants left Bolivia due to unjust persecution, extortion, risk of life and torture by their business partners and the MAS-IPSP. For the RPD, given the broad, vague, and brief nature of this statement, the letter does not credibly corroborate any of the Applicants' allegations. According to the RPD, the letter provides no relevant details and is “similarly conspiratorial and bombastic in tone” to the Applicants’ allegations. The RPD wrote the letter “does not enhance the credibility of an allegation for claimants to produce a witness willing to reiterate their allegations second-hand in this manner, as that amounts to merely putting their words in another person’s mouth.”

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[12] Several Facebook profiles and photographs indicating the mother of Mr. Ruiz’s business partner is a MAS-IPSP supporter were analyzed by the RPD. The RPD found this evidence does not credibly corroborate this person is a powerful and influential member of the MAS-IPSP who can call on the powers of a vast political corruption network to harm the Applicants. Regarding the WhatsApp messages between Mr. Ruiz and the business partner’s mother repeating demands for repayment, the RPD found the third message, the only one indicating a direct and aggressive threat, has multiple features inconsistent with the other two. The explanation provided by Mr. Ruiz that this was how the message was sent to him was not considered to be reasonable. The RPD concluded that this third WhatsApp message had been fabricated by the Applicants, or by another party at their direction, to bolster their allegations. The RPD gave the WhatsApp messages no weight to corroborate the Applicant’s allegations and considered their personal credibility severely damaged by this attempt to mislead the tribunal with a fraudulent document.

B. *The Applicants' psychotherapist's reports do not support their core allegations*

[13] Secondly, the RPD found that the Applicants' psychotherapist's reports do not support their core allegations given they merely recounted what the Applicants self-reported. Further, according to the RPD, one report was found to engage in "flatly inappropriate advocacy". The psychotherapist reports were found to only credibly establish the Applicants saw the therapists for a period of time and self-reported their circumstances.

[14] Furthermore, the RPD noted Mr. Ruiz told the psychologist he was harassed by numerous messages, calls, and threatening photos despite this allegation not being in his original or amended narrative. Mr. Ruiz explained this omission, stating he had deleted all such evidence from his phone and he had not included this allegation in his narrative. Mr. Ruiz also testified that he did not calculate how many times he contacted his business partner's mother before saying he had done so at least 25 times during the period in which he feared that she would harm him and his family. The RPD did not accept these explanations to be reasonable and found Mr. Ruiz testified in an evasive manner. This led the RPD to conclude he did not admit the full extent of his frequent communications with the alleged agent of persecution when volunteering these allegations to the psychologist. These factors diminished his personal credibility as a witness.

[15] Regarding the second report for Mr. Ruiz, the RPD noted the psychotherapist appears to accept as fact the allegation Mr. Ruiz suffered traumatic experiences in his country of origin.

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C. *The Applicants have not established the car accident was caused by their agents of harm*

[16] The Applicants were found not to have credibly established the vehicle accident they were involved in was directed by the mother of his business partner as an attempt on their lives. The RPD found Mr. Ruiz's responses to questions about this incident were disingenuous and obfuscatory.

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[17] Mr. Ruiz sought information about the driver of the other vehicle via his sister's access to government records because of her position as a municipal employee. The RPD found Mr. Ruiz's personal credibility was diminished by his avoidance of direct questions about the legality of his actions. This avoidance indicated he was strenuously averse to truthfully admitting obvious impropriety on his part, no matter how minor.

D. *Applicants' credibility*

[18] The RPD further concluded that his 34-page long narrative contained several comments that gave concern for his reliability and credibility as a witness, due to their intemperate and bombastic nature, along with the florid tone of the allegations, all of which the RPD outlines at length.

E. *No credible basis*

[19] Pursuant to subsection 107(2) of the *IRPA*, the RPD concluded there was no credible or trustworthy evidence on which it could have made a favourable decision pertaining to a serious

possibility of persecution, or a likelihood of harm on a balance of probabilities, or a danger of torture, in a forward-looking assessment.

IV. Issues and Standard of Review

[20] The parties agree that the issues are whether the Decision is reasonable and was made in a procedurally fair manner.

[21] The merits of the Decision are to be reviewed on the standard of reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 16-17, 23-25, 85, 99, 101-104, 115-126 [*Vavilov*]).A reasonable decision is "based on an internally coherent and rational chain of analysis" and is "justified in relation to the facts and law that constrain the decision maker" (*Vavilov* at paras 85-86; *Canada Post Corp v Canadian Union of Postal Workers*, 2019 SCC 67 at paras 2, 31). A decision will be reasonable if, when read as a whole and taking into account the administrative setting, it bears the hallmarks of justification, transparency, and intelligibility (*Vavilov* at paras 91-95, 99-100). Reasonableness is the standard of review for the merits of the RPD's decision, including the specific credibility findings (*Abdelgadir v Canada (Citizenship and Immigration)*, 2020 FC 721 at para 8).

[22] On the issue of procedural fairness, the standard is correctness or akin to correctness (*Canadian Association of Refugee Lawyers v Canada (Immigration, Refugees and Citizenship),* 2020 FCA 196 at para 35; *Canada (Minister of Citizenship and Immigration) v Khosa,* 2009 SCC 12 at para 43, citing *Dunsmuir v New Brunswick*, 2008 SCC 9), for which "the ultimate question remains whether the applicant knew the case to meet and had a full and fair chance to

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respond" (*Canadian Pacific Railway Company v Canada (Attorney General)*, 2018 FCA 69 at para 56).

V. Relevant Dispositions

[23] Section 96 of *IRPA* defines a Convention refugee:

Convention refugee	Définition de réfugié
96 A Convention refugee is a person who, by reason of a well-founded fear of persecution for reasons of race, religion, nationality, membership in a particular social group or political opinion,	96 A qualité de réfugié au sens de la Convention — le réfugié — la personne qui, craignant avec raison d'être persécutée du fait de sa race, de sa religion, de sa nationalité, de son appartenance à un groupe social ou de ses opinions politiques :
(a) is outside each of their countries of nationality and is unable or, by reason of that fear, unwilling to avail themself of the protection of each of those countries; or	a) soit se trouve hors de tout pays dont elle a la nationalité et ne peut ou, du fait de cette crainte, ne veut se réclamer de la protection de chacun de ces pays;
(b) not having a country of nationality, is outside the country of their former habitual residence and is unable or, by reason of that fear, unwilling to return to that country.	b) soit, si elle n'a pas de nationalité et se trouve hors du pays dans lequel elle avait sa résidence habituelle, ne peut ni, du fait de cette crainte, ne veut y retourner.

[24] Section 97(1) of *IRPA* defines a person in need of protection:

Person in need of protection	**Personne à protéger**
97 (1) A person in need of protection is a person in Canada whose removal to their country or countries of nationality or, if they do not have a country of nationality, their country of former habitual residence, would subject them	97 (1) A qualité de personne à protéger la personne qui se trouve au Canada et serait personnellement, par son renvoi vers tout pays dont elle a la nationalité ou, si elle n'a pas de nationalité, dans lequel elle avait

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personally	sa résidence habituelle, exposée :
(a) to a danger, believed on substantial grounds to exist, of torture within the meaning of Article 1 of the Convention Against Torture; or	a) soit au risque, s'il y a des motifs sérieux de le croire, d'être soumise à la torture au sens de l'article premier de la Convention contre la torture;
(b) to a risk to their life or to a risk of cruel and unusual treatment or punishment if	b) soit à une menace à sa vie ou au risque de traitements ou peines cruels et inusités dans le cas suivant :
(i) the person is unable or, because of that risk, unwilling to avail themself of the protection of that country,	(i) elle ne peut ou, de ce fait, ne veut se réclamer de la protection de ce pays,
(ii) the risk would be faced by the person in every part of that country and is not faced generally by other individuals in or from that country,	(ii) elle y est exposée en tout lieu de ce pays alors que d'autres personnes originaires de ce pays ou qui s'y trouvent ne le sont généralement pas,
(iii) the risk is not inherent or incidental to lawful sanctions, unless imposed in disregard of accepted international standards, and	(iii) la menace ou le risque ne résulte pas de sanctions légitimes — sauf celles infligées au mépris des normes internationales — et inhérents à celles-ci ou occasionnés par elles,
(iv) the risk is not caused by the inability of that country to provide adequate health or medical care.	(iv) la menace ou le risque ne résulte pas de l'incapacité du pays de fournir des soins médicaux ou de santé adéquats.

[25] Section 107(2) of *IRPA* requires the RPD to provide reasons for a finding of no credible basis for the claim:

No credible basis	Preuve
(2) If the Refugee Protection Division is of the opinion, in rejecting a claim, that there was no credible or trustworthy evidence	(2) Si elle estime, en cas de rejet, qu'il n'a été présenté aucun élément de preuve crédible ou digne de foi sur

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on which it could have made a favourable decision, it shall state in its reasons for the decision that there is no credible basis for the claim.	lequel elle aurait pu fonder une décision favorable, la section doit faire état dans sa décision de l'absence de minimum de fondement de la demande.

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VI. Analysis

A. *The RPD Decision Is Unreasonable*

(1) *The RPD's Negative Credibility Finding*

[26] The Applicants argue the RPD erred in its assessment of Mr. Ruiz's credibility by misinterpreting his behaviour and narrative style It is evident that significant missteps were made, leading to the unfair dismissal of their claim. The Applicants believe the RPD wrongly interpreted his emotional and narrative expressions, and the dismissal of his emotional intensity as exaggerated reflects a narrow and culturally insensitive approach.

[27] The Applicants further submit the RPD did not consider Mr. Ruiz's cultural and psychological circumstances and its impact on his behaviour and narrative style. According to them, Mr. Ruiz's expression of distress, marked by what the panel labelled as florid or exaggerated language, is consistent with cultural norms where heightened emotions are typical when dealing with serious events.

[28] They claim, had the RPD taken a culturally and psychologically sensitive approach, it would have seen Mr. Ruiz's disposition as evidence of a more authentic fear of persecution.

[29] The Respondent argues it was reasonable for the RPD to conclude Mr. Ruiz was not a credible witness. Disagreement with the RPD's assessment of his testimony and narrative style do not raise a reviewable error. The Respondent further argues the RPD is best positioned to assess Mr. Ruiz's credibility and drew a negative finding not only from his behaviours and demeanour, but also from the inconsistencies, omissions, and his evasive answers to direct questions.

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[30] I do not subscribe to several of the arguments put forward by the Applicants. However, I find the RPD conducted an unreasonable analysis of Mr. Ruiz's credibility by focusing on the language and manner in which he presented himself.

[31] I find considerable weight was attached to Mr. Ruiz's manner of expression, his narrative style and his demeanour which the RPD considered to be emotionally intense and to which it attributed to his being insincere or exaggerated.

[32] On multiple occasions throughout the Decision, the RPD made specific reference to Mr. Ruiz's style. For example, the RPD referred to "the florid tone of his allegations", finding Mr. Ruiz's allegations to be of a "bombastic nature". The RPD drew a negative inference from the fact that he wrote he accepted what the mother of his business partner asked him with "impotence and full of concern", he referred to pleading with her in a "broken and very sad voice", he described himself as "at an abysmal disadvantage" and was "awash with confusion", he felt "overwhelmed and defeated" and "totally silenced, disconcerted, oppressed, [and] frightened". Many other expressions used by Mr. Ruiz are referred to in the Decision and,

according to the RPD, caused him to be considered a non-credible or unreliable witness generally.

[33] Each person reacts in their own way when recounting their experiences. There should not be an expectation refugee claimants behave or express themselves in a certain way when testifying about their experiences.

(2) *The RPD disregarded the psychological reports*

[34] The Applicants make the argument the RPD failed to properly consider Mr. Ruiz's psychological state. They believe the RPD disregarded the psychological reports provided by Mr. Ruiz's psychotherapist. These reports outline the psychological effects of persecution experienced by Mr. Ruiz, including persecutory ideas and symptoms commonly associated with trauma. They allege Mr. Ruiz's inconsistencies may have or could have been the result of the persecution and psychological distress he experienced. The reports were crucial in explaining the trauma he experienced and its impact on his narrative.

[35] The Respondent submits the RPD did assess the psychological reports and noted the issues each presented. While one was found by the RPD to engage in inappropriate advocacy, two others attempted to usurp the RPD's role as the decision-maker in the proceeding.

[36] I agree with the Respondent "a psychological report cannot be considered a "cure-all" for deficiencies in of the manner in which an applicant presents a refugee claim" (*Toma v Canada (Citizenship and Immigration)*, 2020 FC 359 at para 20) and the RPD can assign weight to

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documentary evidence based on underlying elements not found to be credible (*Lawani v Canada (Citizenship and Immigration)*, 2018 FC 924 at para 24). In the case at bar, the RPD concluded these reports only established that the Applicants visited and reported their circumstances to psychotherapists and it was reasonable to do so.

[37] However, considering so much weight was assigned to how Mr. Ruiz expressed himself, the psychological reports indicating Mr. Ruiz shows signs of emotional distress and anxiety should have been further analyzed in that regard. The reports were relevant to the RPD's conclusions regarding Mr. Ruiz's lack of credibility which was the key element in this case. The RPD should have used the psychological reports to assess his credibility and explain how Mr. Ruiz's diagnosis influenced the assessment of the Mr. Ruiz's testimony.

[38] In my opinion, the RPD did not engage with the psychological reports regarding Mr. Ruiz's mental health and its impact on the way he expressed himself. In other words, the psychological reports should have alerted the RPD to Mr. Ruiz's mental health conditions and the impact these conditions might have upon his testimony and credibility. (*Warsame v Canada (Immigration, Refugees and Citizenship)*, 2019 FC 118 at para 32; *Nwakanme v Canada (Citizenship and Immigration)*, 2020 FC 738 at para 37).

[39] I find the RPD's failure to appreciate Mr. Ruiz's mental health contextually was, in these circumstances, unreasonable.

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VII. Conclusion

[40] I find the Decision of the RPD was unreasonable. I will therefore grant the judicial review.

[41] The parties did not propose a certified question and I agree that none arises.

[42] Neither party requests their costs and none will be awarded.

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JUDGMENT in IMM-15156-24

THIS COURT'S JUDGMENT is that:

1. The Application for judicial review is allowed.

2. The matter is sent back to a different RPD member for a new determination.

3. No question is certified.

4. No costs will be ordered.

"L. Saint-Fleur"
Judge

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FEDERAL COURT

SOLICITORS OF RECORD

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