

Federal Court



Cour fédérale

**Date: 20190111**

**Docket: IMM-1815-18**

**Citation: 2019 FC 29**

**Ottawa, Ontario, January 11, 2019**

**PRESENT: The Honourable Madam Justice Simpson**

**BETWEEN:**

**NWANBUNDO NGAJU**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

I. Proceeding

[1] This is an application for judicial review of a decision of the Refugee Protection Division [RPD] of the Immigration and Refugee Board, in which the RPD found that the Applicant is neither a Convention Refugee nor a person in need of protection. This application is brought pursuant to subsection 72(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [the IRPA].

[2] The Applicant is a citizen of Nigeria who was born on May 12, 1970. She filed a claim for refugee protection based on her allegations of abuse by her husband in Nigeria. Her claim was heard before the RPD on March 14, 2018. On March 27, 2018, the RPD denied the claim [the Decision]. As this was a legacy claim, the Applicant did not have access to the Refugee Appeal Division.

*1. BACKGROUND*

[3] In her Personal Information Form [PIF], the Applicant described herself as a homemaker and petty trader. She has an elementary school education. She lived in Asaba and had two children who have remained in Nigeria. They were born in 1999 and 2003.

[4] The Applicant claimed that about two years before she came to Canada, her husband began to earn a significant income from government contracts. She claimed that he began to drink heavily. She alleged that on November 18, 2011, he beat her after a night of drinking. The Applicant further alleged that in December 2011, she was hospitalized as a result of an attack by her husband. She says that she made a report to the police, but they did nothing to assist her.

[5] The Applicant also alleged that on February 12, 2012, her husband beat her and threatened her with a knife [the Assault]. She ran to a neighbour's house, where she spent the night. The next day she went to her mother's house, but her husband sent his associates there. She then went to her mother's friend's house in Asaba. She stayed there for about three months.

[6] Thereafter, the Applicant travelled from Asaba to Benin City where she stayed with a childhood friend, Beatrice Ezekwere [Beatrice]. Two days later, one of Beatrice's neighbours told her that some men had come to ask them whether Beatrice had a visitor. The next day, the same men returned with a brief handwritten letter to Beatrice dated May 22, 2012. It threatened her and was signed by the Applicant's husband [the Husband's Threatening Letter].

[7] The Applicant left Benin City on May 25, 2012 and travelled to Abuja where she stayed with other friends. She alleges that her husband and three men came to her friends' house on June 2, 2012. Her friends saw them and warned the Applicant. She says that her friends found her a smuggler who arranged her exit from Nigeria on July 8, 2012.

[8] In an addendum to her PIF, the Applicant stated that her children are now living with her mother. She claimed that her husband has threatened her mother and her friends for having assisted her with her escape. The Applicant also stated that her husband continues to threaten her with death.

## 2. *THE DOCUMENTARY EVIDENCE - INCONSISTENCIES & OMISSIONS*

[9] With her PIF, the Applicant submitted a number of documents, including: a police report dated August 20, 2012 [the Police Report], the Husband's Threatening Letter, described above, a Medical Report dated March 5, 2012 [the Medical Report], an affidavit from her friend Beatrice [the Beatrice Affidavit], and an affidavit from her mother Nkechi Onwuemene [the Mother's

Affidavit]. I will deal with them in turn and indicate the principal reasons why they caused the RPD to question the Applicant's credibility.

i. *The Police Report*

[10] It is dated August 8, 2012 and states that on December 14, 2011, the Applicant came to the station and complained that her life was being threatened by her husband, who continually abused her. The Police Report states that "She brought a text message she received from one Mike (surname unknown) informing her of their plans and warning her that she will be killed, if refused them from coming into the house." The Report concludes by stating "Complainant was advised to abide by the instructions from the Husband and case referred civil..."

[11] The RPD gave the Police Report no weight. It noted that the Applicant testified and stated in the narrative to her PIF that the police had called her husband to the police station and that he had been present. However his presence is not mentioned in the Police Report. Further, and more importantly, the RPD noted that the Police Report included information regarding a text message which threatened the Applicant with death. However, it was not mentioned her in PIF narrative. In my view it was reasonable of the RPD to conclude that the omission of a death threat from the PIF negatively impacted her credibility.

ii. *The Medical Report*

[12] The Medical Report is dated March 5, 2012. It states that the Applicant “had several episodes of gender-based violence while some of the scuffles led to physical harm and moderate trauma.” It further states that one day after the Assault and as a result of the Assault “she had a spontaneous abortion (miscarriage) on February 13, 2012, which resulted from the trauma, and was treated while on admission for 7 days.” These significant events were not mentioned in the Applicant’s PIF. In my view, it was reasonable of the RPD to base a negative credibility finding on these omissions.

iii. *The Beatrice Affidavit*

[13] The Beatrice Affidavit states that the Applicant stayed with her in Benin City for five days beginning on May 20, 2012. Beatrice states that after two days, the Applicant’s husband came to her house with thugs looking for the Applicant. She states that the Applicant left her home on May 25, 2012 to go to Abuja. She states that the Applicant’s husband “is so rich and highly connected and he acts without regard to the law.” She further states that until November 15, 2017, the Applicant’s husband continued to come to her house with associates and continued to threaten to kill the Applicant.

[14] The RPD noted that the information in the Beatrice Affidavit was substantially different from both the Applicant’s testimony and her PIF narrative. The Beatrice Affidavit says that the Applicant’s husband and his men came to Beatrice’s house once. Beatrice makes no reference to

a second visit or to a visit to her neighbours. However, in her PIF the Applicant describes two visits on two different days by the “same men”. She does not refer to her husband. The first visit was to a neighbour’s house and it is unclear whether the second visit on the following day was to the neighbour or to Beatrice’s home. The second visit was the one during which the PIF states that the Husband’s Threatening Letter was left for Beatrice. Yet Beatrice’s Affidavit does not mention the Husband’s Threatening Letter. This is a very significant omission because the threat to Beatrice in this letter allegedly caused her to ask the Applicant to leave her home immediately.

[15] The Applicant’s testimony on this topic was also inconsistent with her PIF. She said in oral evidence that her husband came and spoke to Beatrice’s neighbours and left the Husband’s Threatening Letter with the neighbours all in one visit. In contrast her PIF describes two visits over 2 days and does not mention her husband.

[16] To summarize, the evidence regarding events at Beatrice’s home in Benin City was inconsistent about the number of visits, the number of days covered by the visits, where the visitors went, whether the Applicant’s husband was present and whether he left a letter which threatened Beatrice. In these circumstances, I have concluded that it was reasonable of the RPD to give Beatrice’s Affidavit no weight and to question the Applicant’s credibility.

iv. *The Mother’s Affidavit*

[17] The mother’s affidavit dated February 8, 2018, states that the Applicant’s husband “is still coming to our house threatening to kill my daughter any time he sees her.” The RPD found

that this statement was vague and provided no details about these alleged visits over a five year period. The affidavit was therefore given little weight. In my view this was a reasonable conclusion given the overall credibility concerns and the bald nature of the evidence in the Affidavit.

3. *THE RPD'S CONCLUSION*

[18] The RPD concluded that the Applicant may have been abused by her husband, but that there was insufficient credible evidence to support her allegation that her husband pursued her after she left their home in February 2012 or that he continued to pursue her after her arrival in Canada. The RPD also found that if the Applicant is being pursued by her husband, she has an internal flight alternative [IFA] in Lagos.

4. *LAGOS – THE IFA*

[19] Ultimately, in my view, the RPD's Decision turned on the availability of a viable IFA. Even if the Applicant was abused and had been pursued and even if her husband remains interested in killing her, the RPD concluded that she has an IFA in Lagos.

[20] The RPD noted that Lagos is approximately 450 km from Asaba and has a population of approximately 25 million people. The panel relied on country condition documents concerning internal relocation in Nigeria for its conclusion that "In general, it will not be unduly harsh for a woman to internally relocate to escape localized threats from members of their family."

[21] The RPD noted that the Applicant did not provide any evidence about her husband's wealth and influence. The RPD found that this was an important topic because it affected his ability to find her in Lagos. The RPD concluded that on the available evidence, there was no serious possibility that her husband could pursue her in Lagos. In my view, this conclusion was reasonable because the evidence about the Applicant's husband in the Beatrice Affidavit was vague and not credible (see para 13 *supra*).

[22] The RPD also found that it would not be unreasonable for the Applicant to seek refuge in Lagos. It concluded that while residences in the centre of the city might be beyond the Applicant's means, housing on the outskirts of Lagos was far less expensive. The RPD found that the Applicant has 13 years of experience as a trader and concluded that she would likely find work in the informal economy. It also speculated that she would have parental support. This was not unreasonable given her mother's help after the Assault and her preparation of a supporting affidavit.

[23] The RPD noted that the Federal Court of Appeal in *Ranganathan v Canada (Minister of Citizenship and Immigration)*, [2001] 2 F.C. 164 (C.A.) set a very high threshold for unreasonableness "requiring not less than the existence of conditions which would jeopardize the life or safety of the claimant." The RPD found there was no "actual and concrete" evidence of such conditions.

[24] The Applicant argues that the RPD failed to conduct a full assessment of the reasonableness of her relocation to Lagos as a single woman. The Applicant relies on the RPD's



country condition evidence to submit that the RPD's decision was unreasonable because it failed to consider the following factors: the difficulties that women living without male support face finding work and housing in Nigeria; that Nigeria is in the midst of a recession; and that individuals face discrimination if they live in an area where their ethnic group is not considered indigenous. However, when asked during the hearing whether she could settle in Lagos, the Applicant testified that her only concern was securing employment. She did not raise any other concerns about settlement.

[25] The Respondent submits that the Applicant's Counsel did not make any of these arguments during his closing submissions to the RPD. A review of the transcript indicates that the Respondent is correct. No arguments about the factors the Applicant now says the RPD should have considered were made in the RPD hearing. In my view, it is not the role of the RPD, of its own motion, to undertake a review of its country condition file to determine the reasonableness of an IFA.

## II. Conclusions

[26] The Applicant's submissions do not squarely address the RPD's conclusions about the inconsistencies and omissions described above in connection with the Police Report, the Medical Report and the Beatrice Affidavit. These were the material findings and they were reasonable.

[27] The Respondent acknowledges that the RPD did make an error of fact. The RPD said that the Applicant mentioned her Husband's Threatening Letter in her oral testimony but that it was

not referred to in her PIF. This is incorrect. It was referred to in the PIF. However, this error was not material given the other numerous and significant problems with the Applicant's evidence.

[28] In my view, based on the evidence, the RPD's conclusion that Lagos is a safe and acceptable IFA is reasonable.

### III. Certification

[29] Neither counsel posed a question for certification for appeal.

**JUDGMENT IN IMM-1815-18**

**THIS COURT'S JUDGMENT** is that this application for judicial review is hereby dismissed and the style of cause is amended to show the Minister of Citizenship and Immigration as the Respondent.

"Sandra J. Simpson"

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Judge

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

**DOCKET:** IMM-1815-18

**STYLE OF CAUSE:** NWANBUNDO NGAJU v THE MINISTER OF  
CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** TORONTO, ONTARIO

**DATE OF HEARING:** DECEMBER 12, 2018

**JUDGMENT AND REASONS:** SIMPSON J.

**DATED:** JANUARY 11, 2019

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