

Federal Court



Cour fédérale

Date: 20200430

Docket: IMM-735-19

Citation: 2020 FC 566

Ottawa, Ontario, April 30, 2020

PRESENT: Mr. Justice McHaffie

BETWEEN:

**SHAQEERAT OMOLABAKE KARIM
OLABOSIPO FAROUQ KARIM
OLATIDEBE FATHIA KARIM
TENIOLA FARIDAT KARIM**

Applicants

and

**THE MINISTER OF
CITIZENSHIP AND IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Overview

[1] Shaqeerat Omolabake Karim and her three children seek refugee protection from her husband's family, asserted to be a royal family in Lagos Island, Nigeria. Ms. Karim claims that her brother-in-law, the Chief of the royal family, threatened to force her youngest daughter to

undergo female genital mutilation (FGM), and threatened Ms. Karim's life for refusing to permit this. The Karims filed letters from the Chief that expressed these threats, and Ms. Karim gave evidence of attacks and verbal threats she received from the family.

[2] The Refugee Protection Division (RPD) found the Karims' claim not credible, primarily because Ms. Karim had not satisfactorily established the existence of the royal family or the Chief, and the letters from the Chief were found to be suspect and unverifiable. The Refugee Appeal Division (RAD) concurred, refusing to admit as new evidence a news article tendered to prove the Chief's existence, and finding Ms. Karim not credible and the letters fraudulent on a number of grounds. The Karims assert that the RAD's decision was unfair and unreasonable.

[3] I conclude that the RAD's decision was procedurally fair. Although it may have been unfair for the RPD not to raise its concerns about the authenticity of the Chief's letters so the Karims could respond, any such unfairness was remedied by the Karims' ability to file submissions and evidence on their appeal to the RAD.

[4] However, I conclude that the RAD's decision was unreasonable. Despite the deference due to the RAD's credibility findings, I find that a number of those findings were unreasonable as they were unsupported by the evidence and based on unsound reasoning. These errors were sufficient to render the decision as a whole unreasonable.

[5] The application for judicial review is therefore allowed and the matter remitted to the RAD for redetermination.

II. Issues and Standard of Review

[6] The Karims raise the following three issues:

- A. Was it unfair for the RAD to make credibility findings with respect to the royal family and the Chief's letters evidencing the threats of FGM without allowing for evidence and submissions on the issue?
- B. Was the RAD's conclusion that the letters from the royal family were not genuine unreasonable?
- C. Do the Karims have a viable internal flight alternative (IFA) within Nigeria?

[7] The first of these issues is a question of procedural fairness. This is to be reviewed on a "fairness" standard akin to correctness, in which the Court determines whether the procedure was fair in all the circumstances: *Canada (Citizenship and Immigration) v Khosa*, 2009 SCC 12 at para 43; *Canadian Pacific Railway Company v Canada (Attorney General)*, 2018 FCA 69 at para 54.

[8] The second issue pertains to the substantive credibility findings of the RAD. Such findings are entitled to deference and the parties agree that they are reviewable on the reasonableness standard: *Wang v Canada (Citizenship and Immigration)*, 2011 FC 969 at paras 22–23. While *Vavilov* was decided after this case was argued, that case simply confirms that the reasonableness standard applies: *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 16–17, 23–25. In such reasonableness review, it is not the Court's role to

substitute its own conclusions on credibility for those of the RAD. Rather, the Court's "quest is limited to finding irrationality or arbitrariness of the sort that implicates our rule of law jurisdiction," which may include "the presence of illogic or irrationality in the fact-finding process, or the making of factual findings without any acceptable basis whatsoever":

Kanhasamy v Canada (Citizenship and Immigration), 2014 FCA 113 at para 99, rev'd on other grounds 2015 SCC 61. In other words, the Court must assess whether the RAD's findings are reasonable in the sense of being justified, transparent and intelligible: *Wang* at para 23; *Vavilov* at para 15.

[9] Finally, I do not believe that it is necessary to address the third issue regarding the potential for an IFA in Port Harcourt. While the RPD raised this issue at the hearing, neither the RPD nor the RAD disposed of the Karims' refugee claim based on the existence of an IFA. They each referred to the Karims' allegation that they would be found and persecuted throughout Nigeria, but this was in the context of assessing the Karims' claim of persecution and not the existence of an IFA. As there was no finding regarding an IFA by either the RPD or the RAD, it would be inappropriate for this Court to draw any conclusions on the issue, or to dispose of the matter on this basis. I therefore do not consider this to be an issue on this application and will not address it further.

III. Analysis

A. *The RAD's Decision was Procedurally Fair*

[10] Ms. Karim asserted that her husband's brother was the Chief of a royal family in Lagos and the primary agent of persecution, willing to use force to ensure that their daughter underwent FGM. She filed four letters from the Chief to her husband that purport to require the daughter to attend an FGM ceremony, and to make threats when Ms. Karim refused to do so. The RPD made adverse credibility inferences about both the letters and the refugee claim, citing (i) the lack of corroborative evidence about the existence of the royal family and its Chief; and (ii) a change in the Chief's letterhead in the letters filed. The Karims argue that it was procedurally unfair for the RPD to decide that the Chief's letters were not credible without asking questions about them at the hearing and giving Ms. Karim the chance to respond with evidence and submissions. They argue that the RAD's treatment of the issue failed to address the issue, but rather compounded the unfairness.

[11] I cannot agree that the process leading to the RAD's decision was unfair. There was an opportunity for the Karims to address the concerns about the existence of the royal family and the authenticity of the letters. Any fairness concerns there may have been before the RPD were thus remedied through the RAD hearing. I note that the decision being reviewed in this Court is the RAD's decision, although the hearing before the RPD is relevant to that decision and to the fairness issue.

[12] With respect to the existence of the royal family, and Mr. Karim's membership in it, the RPD raised questions about this at the original hearing and flagged its concern about the absence of evidence. At the first date of the hearing, the RPD asked the following questions:

PRESIDING MEMBER: You wrote that you were threatened by this family.

FEMALE CLAIMANT: Yes please.

PRESIDING MEMBER: Do you have any other information about this family?

FEMALE CLAIMANT: None.

PRESIDING MEMBER: If they are a royal family, I will expect to see some sort of news articles, websites, something about them. Is there anything?

FEMALE CLAIMANT: No.

[13] Shortly after this exchange, the hearing was adjourned because the RPD was having difficulty hearing the interpreter, who attended by telephone. At the outset of the continuance of the hearing nine days later, the Karims filed a fifth letter from the Chief to respond to the RPD's concern about the lack of evidence. Although the letters are all undated, the fifth letter refers to events in 2012, years earlier than the four threatening letters, which appear to date from the 2016-2017 time frame. The fifth letter pertains to unrelated family matters, but it refers to Mr. Karim as a "Prince" in the family.

[14] It is clear that the Karims were aware that Mr. Karim's membership in a royal family was in question, as it was raised at the RPD hearing and they responded by filing further evidence on the issue. The Karims thus had the opportunity to file with the RPD whatever evidence they wished on that question and to make submissions on the issue.

[15] Before the RAD, the Karims sought to file additional evidence of the existence of the royal family, and the Chief in particular, in the form of a news article regarding a wedding that referred to the Chief by name and title. The potential for filing new evidence before the RAD is found in subsection 110(4) of the *Immigration and Refugee Protection Act*, SC 2001, c 27

[*IRPA*]:

Evidence that may be presented

(4) On appeal, the person who is the subject of the appeal may present only evidence that arose after the rejection of their claim or that was not reasonably available, or that the person could not reasonably have been expected in the circumstances to have presented, at the time of the rejection.

[Emphasis added.]

Éléments de preuve admissibles

(4) Dans le cadre de l'appel, la personne en cause ne peut présenter que des éléments de preuve survenus depuis le rejet de sa demande ou qui n'étaient alors pas normalement accessibles ou, s'ils l'étaient, qu'elle n'aurait pas normalement présentés, dans les circonstances, au moment du rejet.

[Je souligne.]

[16] The RAD rejected the new evidence, finding that it was available prior to the rejection of the Karims' claim and that they could have been expected to have presented it, since it dealt with an issue central to the claim. The Karims do not challenge the subsection 110(4) determination directly, but argue that it was unfair and contradictory for the RAD to reject the document but still conclude that the lack of insufficient evidence of the family's existence undermined the credibility of the letters and the claim.

[17] I disagree that there was any unfairness on this issue. The process for refugee claims in the *IRPA* calls on applicants to file all relevant evidence before the RPD. The RAD may refuse to

accept new evidence on the basis that it could have been filed before the RPD and still properly rely on the lack of evidence in the record. As noted above, the issue regarding the family's existence was raised by the RPD, clearly enough that the Karims filed additional evidence to address the issue. It was not unfair for either the RPD or the RAD to make its decision based on this evidence. The Karims also had the opportunity to, and did, file written submissions on this issue before the RAD.

[18] The RPD also gave the Chief's letters little weight based on observations regarding a difference in letterhead between the four recent letters related to the daughter's FGM, and the earlier letter from 2012. The RPD noted that the letters were "unverifiable and could have been written by anyone," a conclusion I take to be essentially a finding that they were fabricated. The concerns about the letterhead were not raised or put to Ms. Karim for response. Decisions of this Court suggest that this may amount to a breach of procedural fairness, even though the concerns arose from evidence tendered by the Karims: *Rukmangathan v Canada (Minister of Citizenship and Immigration)*, 2004 FC 284 at paras 22–23; *Rezvani v Canada (Citizenship and Immigration)*, 2015 FC 951 at para 20; *Kozłowski v Canada (Citizenship and Immigration)*, 2014 FC 506 at para 10.

[19] To the extent that there was a fairness issue arising from the RPD's conclusion about the authenticity of the letters, I find it was remedied through the hearing before the RAD. The Karims had the opportunity to make submissions before the RAD to explain any concerns about the appearance of the letters, and could have sought to file any relevant evidence that they had on this issue.

[20] Justice Walker addressed a similar situation recently in *Nurridinova v Canada (Citizenship and Immigration)*, 2019 FC 1093. There, as here, the applicants argued that the RPD acted unfairly by making credibility findings based on concerns that were not raised at the hearing, and that it was in turn unfair for the RAD not to send the matter back to the RPD to allow them to present further evidence. Justice Walker noted that subsection 110(4) of the *IRPA* allows the RAD to consider new evidence if the RPD reached a conclusion on an unanticipated issue, such that the “fairness of the system is maintained”: *Nurridinova* at paras 38–41; *IRPA*, s 110(4). Section 111 of the *IRPA* then requires the RAD to decide the matter, and to refer it back to the RPD only where it cannot make a decision without hearing evidence presented to the RPD, in keeping with the intent that the RAD bring finality to the refugee claims determination process: *Nurridinova* at paras 34–38, citing *Canada (Citizenship and Immigration) v Huruglica*, 2016 FCA 93 at paras 58, 69; *IRPA*, s 111. The applicants in *Nurridinova* did not seek to submit evidence before the RAD to address the issues raised unfairly by the RPD. Justice Walker therefore concluded that the RAD was not called on to determine whether the evidence should be admitted, nor was it required to hold an oral hearing: *Nurridinova* at paras 41–43; *IRPA*, ss 110(4), (6).

[21] I take from *Nurridinova* and *Huruglica* a recognition that the question of fairness must be assessed in the context of the refugee determination process as a whole, which includes both the RPD hearing and the availability of an appeal to the RAD. This is consistent with the long-standing principle that an internal administrative appeal may cure unfairness that arises earlier in an administrative process: *King v University of Saskatchewan*, [1969] SCR 678 at pp 688-689. The RAD appeal process allows for any unfairness in the RPD’s decision-making to be

remedied, including through the filing of new evidence and submissions, without having to necessarily remit the matter to the RPD.

[22] Although the Karims alleged before the RAD that it was unfair for the RPD to raise credibility concerns about the Chief's letters based on the change in letterhead, they did not attempt to file any new evidence to address this issue. If the Karims were unfairly taken by surprise by this issue before the RPD, and there was evidence that could speak to it, either in the form of further evidence from Ms. Karim or other documents, they could and should have filed such evidence before the RAD pursuant to subsection 110(4). The Karims' protest that the RAD is limited in what they will accept pursuant to subsection 110(4) is unpersuasive. Their very argument is that they could not reasonably have anticipated that they would need to file evidence on the issue with the RPD. By definition, such evidence would fall within the scope of subsection 110(4): see *Nurridinova* at paras 39–41. Similarly, the argument that the Karims did not have the opportunity to make submissions to explain the change in letterhead fails as they were able to, and did, make such submissions before the RAD.

[23] A further issue arises because the RAD identified a number of new concerns about the contents of the letters in addition to the concern about the change in letterhead raised by the RPD. These included the absence of dates, the Chief's multiple titles, and the presence of numerous spelling, punctuation and grammatical errors. None of these specific issues about the letters were raised by the RPD and the Karims therefore made no submissions on them before the RAD; nor did the RAD convene a hearing or otherwise put questions to the Karims raising these concerns to allow them to respond.

[24] As the Minister recognizes, the RAD may not raise “new” issues on appeal that have not been addressed by the RPD without giving the applicant an opportunity to respond to them: *Lin v Canada (Citizenship and Immigration)*, 2017 FC 1175 at paras 18–22; *Sary v Canada (Citizenship and Immigration)*, 2016 FC 178 at para 30. However, this Court has also held that the RAD may fairly rely on new grounds that relate to credibility findings that were made by the RPD, including as to a document whose authenticity is already at issue, without convening an oral hearing: *Lin* at para 22; *Sary* at paras 29–32; *Jiang v Canada (Citizenship and Immigration)*, 2018 FC 1064 at paras 15–17. In the present case, the authenticity of the letters was clearly in issue before the RAD, and the Karims had the opportunity to make submissions and could have sought to file new evidence establishing their authenticity. While it may have been preferable for the RAD to obtain the Karims’ submissions on these issues, I conclude that it was not unfair for the RAD to rely on these additional concerns arising from the face of the letters. This is not to say that those concerns were reasonable—as discussed below, I conclude that a number of them were not—but that, from a procedural perspective, it was not unfair for the RAD to rely on these concerns without prior notice to the Karims.

[25] I therefore conclude that the RAD did not breach the duty of procedural fairness.

B. *The RAD’s Decision was Unreasonable*

[26] The RAD made a number of adverse credibility findings regarding Ms. Karim’s testimony and the Karims’ claim of persecution. These included (1) a finding that Ms. Karim’s testimony regarding the royal family was vague; (2) the findings regarding the authenticity of the Chief’s letters referenced above; and (3) reliance on country condition evidence that indicated

that Nigerian parents could refuse to have FGM performed on their daughters. The Karims argue that these findings were unreasonable.

[27] In assessing these arguments, I agree with the Minister that the RAD may make reasonable credibility findings based on matters such as omissions, inconsistencies, rationality and common sense: *Lin v Canada (Citizenship and Immigration)*, 2008 FC 1052 at paras 13–19. Nonetheless, with respect to credibility findings that go to truthfulness, this Court has stated that “concrete reasons supported by cogent evidence” should exist before concluding that a person is not telling the truth: *Vodics v Canada (Minister of Citizenship and Immigration)*, 2005 FC 783 at paras 10–11. Keeping these principles in mind, I find that the identified credibility findings of the RAD contain “illogic or irrationality” and/or were made without an acceptable basis in the evidence, and are thus unreasonable: *Kanhasamy (FCA)* at para 99.

(1) Findings regarding the vagueness of Ms. Karim’s testimony

[28] The RAD found that the RPD had valid reasons to question Ms. Karim’s credibility and therefore to require documentary evidence to corroborate her allegations. Although this was not a finding relied on by the RPD, the RAD concluded that Ms. Karim had given “vague testimony regarding her husband’s membership in a royal family.” The RAD cited the following excerpt from the transcript as demonstrating this:

PRESIDING MEMBER: You stated that his family is a royal family

FEMALE CLAIMANT: Yes.

PRESIDING MEMBER: Can you tell me a bit about that?

FEMALE CLAIMANT: He is (inaudible) Kareem royal family from Lagos Island, Lagos, Nigeria.

PRESIDING MEMBER: So what does that mean?

FEMALE CLAIMANT: Like he is the prince.

PRESIDING MEMBER: Who is a prince?

FEMALE CLAIMANT: My husband is a prince.

PRESIDING MEMBER: So, if he is a prince, I will assume there is some money available. Why is he not here?

FEMALE CLAIMANT: No, he is just a local prince in the Nigerian context, not prince in a palace or something.

[29] I note that in the foregoing excerpt, I have reproduced the passage as it appears in the transcript of the proceeding produced in the applicants' record, rather than as it appears in the RAD decision. The differences between the two are immaterial.

[30] Having quoted this passage, the RAD stated that if Mr. Karim were a member of a royal family, one would expect Ms. Karim to have extensive knowledge of this; to have been "informed of the history of the royal family, and her and her husband's obligations as royalty"; and to have "researched this royal family and be familiar with its history and the hereditary rights of her husband." Even accepting such assumptions to be true, there is nothing in either the transcript passage cited or elsewhere in the evidence that suggests that Ms. Karim does not know this information. Ms. Karim was not asked about the history of the royal family, the obligations of royalty, or her husband's hereditary rights, none of which are directly relevant to the Karims' refugee claim. It is unreasonable to conclude from the foregoing passage that Ms. Karim did not

know this information, or to make any conclusions about her credibility as a result of an asserted “vagueness” on such issues.

[31] The Minister argues that the onus is on an applicant to establish their case, and that Ms. Karim had the opportunity to provide all relevant evidence to establish their claim, including regarding the existence of the alleged royal family. While this may be so, it does not mean that a credibility finding may be made on the basis of an imputed lack of knowledge that is simply not demonstrated by the evidence. Even on a generous reading of the question “Can you tell me a bit about that?” as an invitation to expound on the nature of the royal family, there is no basis to assume that the RPD was either asking for or expecting to receive detailed information about the history of the royal family, their royal obligations, or their hereditary rights. As the Karims appropriately point out, “[a] witness’ failure to answer a question that has not been asked is not a rational ground for disbelieving his answers to those that were asked”: *Aden v Canada (Minister of Employment and Immigration)*, [1993] FCJ No 416 (CA) at para 2.

[32] I find the RAD’s conclusion based on Ms. Karim’s alleged vagueness regarding her testimony on the royal family to be unreasonable. As discussed below, this finding also contributed to the RAD’s conclusions regarding the authenticity of the Chief’s letters.

(2) Findings regarding the authenticity of the Chief’s letters

[33] The letters from the Chief of the royal family, Mr. Karim’s brother, were important evidence that spoke to both the family’s expectation that the daughter would undergo FGM, with or without consent, and the threats that they issued when consent was not given. The RAD found

that the Chief's letters were fraudulent based on the differences in the letterhead between the 2012 letter and the remaining four letters; the absence of dates on the letters; the author being identified as having four titles; spelling and grammatical errors in the letters; the prevalence of fraudulent documents from Nigeria; and "Ms. Karim's lack of credibility regarding her allegations, including her and her husband's alleged affiliation with a royal family in Nigeria."

[34] With respect to the letterhead, the RAD acknowledged the Karims' argument that the five-year gap between the 2012 letter and those from the 2016-2017 time frame explained the difference in letterhead. It nonetheless simply reiterated that the difference in letterhead was a basis to conclude the letters were not genuine, without stating whether or why it disagreed with the explanation, or why one would assume that letterhead, royal or otherwise, would remain unchanged throughout such a period.

[35] With respect to the titles of the author, the RAD noted that the letters use the titles "His Highness," "Chief," "The Ashogbon of Lagos," and "The Head of Abagbon White Cap Chief." The RAD does not indicate why it believes that the Chief of a Nigerian royal family would not be referred to in this manner, particularly in the context of the country condition evidence regarding Nigerian royal families, or why the use or number of these titles undermines the credibility of the letters. Indeed, even without turning to this context, I note that it would certainly be odd to conclude that "Elizabeth the Second, by the Grace of God of the United Kingdom and Her other Realms and Territories Queen, Head of the Commonwealth, Defender of the Faith" was any less credible because of her multiple titles. While deference is due to the

RAD's expertise with respect to such issues, the RAD gave no reasonable foundation to support its conclusion, no "concrete reasons supported by cogent evidence": *Vodics* at para 11.

[36] The RAD's reliance on the "prevalence of fraudulent documents from Nigeria" and the existence of "numerous reports of fraudulent Nigerian documents used internationally" was also unreasonable. I agree with the Karims that the observations of Justice Ahmed at paragraph 29 of his decision in *Oranye v Canada (Citizenship and Immigration)*, 2018 FC 390 are applicable:

... The finding about the authenticity of a document cannot depend or even be influenced by mere suspicion from the reputation of a given country. Each document must be analyzed individually and its authenticity decided on its own merits. If there is evidence of fraud, it speaks for itself and the decision-maker should accord it no probative value. The alternative – that is, relying on the prevalence of fraud in a given country to impugn the authenticity of a document – amounts to finding guilt by association.

[37] With respect to the lack of dates and the existence of spelling and grammatical errors, I accept that these may be, in appropriate circumstances, relevant features for consideration of the authenticity of documents. However, I question whether these alone would justify a determination that the documents were fraudulent. In any case, the RAD's conclusion that the letters were fraudulent relied on a combination of these factors and the unreasonable factors addressed above, in addition to the unreasonable finding regarding Ms. Karim's testimony. In these circumstances, I find that the RAD's conclusion that the letters were fraudulent cannot stand.

(3) Country condition evidence and other findings

[38] The Minister argues that the foregoing credibility findings formed only part of the RAD's overall credibility conclusions, and that its rejection of the Karims' appeal could be justified based on its other findings. These included its reference to documentary country condition evidence indicating that "parents can refuse to have FGM performed on their daughters." In particular, the RAD cited reports from Women's Rights Watch Nigeria that parents could refuse to have FGM performed on their daughters, and from a representative for the Centre for Women Studies and Intervention that parents are free to refuse it. The RAD concluded that the contention that FGM would be forced on the Karims' daughter was not supported by the objective evidence and that this "further undermines the credibility of the Appellants' allegations."

[39] I find that the RAD's reference to this country condition evidence cannot overcome the unreasonableness in respect of its analysis of the Chief's letters. The specific threats of harm directed at the Karims might well co-exist with the general statements found in the country condition evidence referenced by the RAD. Those statements are not so unqualified that they could alone undermine the credibility of the threats, if the letters were otherwise found to be authentic. Indeed, the passage immediately following that referenced by the RAD cites a source in Nigeria as stating that "where the mother opposes FGM for her daughter but the family support it, they will perform FGM in the mother's absence or 'intimidate her into allowing [it to be performed on her daughter]'." Although Mr. Karim refused his family's demands, the description of potential imposition of FGM in the mother's absence and the risk of intimidation are at least consistent with Ms. Karim's stated fears.

[40] It is relevant to note that the RAD's findings with respect to credibility based on the transcript and the letters also led it to reject other evidence that corroborated the claim, including a letter from Ms. Karim's neighbour that confirmed seeing "traditional White Caps Chiefs" in the Karims' house on the days that she testified they had attacked and threatened her. The RAD dismissed this other evidence with the statement that "corroboration does not make an incredible story credible," citing *Gomez v Canada (Minister of Citizenship and Immigration)*, 2005 FC 859 at paragraph 5. The unreasonable credibility findings thus had impacts on other aspects of the claim that might otherwise have been accepted, thereby affecting the reasonableness of the decision as a whole. I say this without needing to address whether the cited proposition from *Gomez* is consistent with the proposition set out at paragraph 20 of *Chen v Canada (Citizenship and Immigration)*, 2013 FC 311 that "[i]t is impermissible to reach a conclusion on the claim based on certain evidence and dismiss the remaining evidence as inconsistent with that conclusion."

[41] While the RAD did make other findings, including findings that are not directly challenged on this application for judicial review, I find that the unreasonableness of the credibility findings discussed above was sufficiently material to the RAD's decision that they render the decision as a whole unreasonable.

IV. Conclusion

[42] The application for judicial review is therefore allowed and the matter is remitted to the RAD for redetermination by a differently constituted panel.

[43] Neither party submitted a question for certification. At the hearing of the matter, the interplay between procedural fairness and subsection 110(4) was the subject of discussion and submissions, arising largely from *Nurridinova*, a case the Minister raised for the first time at the hearing since it was decided after the parties filed their written submissions. The Minister requested the opportunity to make submissions on a certified question if this issue was ultimately determinative of the matter. As can be seen from the discussion above, this issue is not determinative. I am therefore of the view that no further submissions on a certified question are necessary, and that no question for certification arises in the matter.

[44] On consent, an order shall issue extending until September 10, 2019 the time permitted by paragraph 4 of the Order of Justice Grammond dated June 12, 2019 for the filing of the Minister's Notice of Non-Settlement and accepting the Notice of Non-Settlement for filing effective that day.

[45] Finally, in the interests of consistency and in accordance with subsection 4(1) of the *IRPA* and subsection 5(2) of the *Federal Courts Citizenship, Immigration and Refugee Protection Rules*, SOR/93-22, the style of cause is amended to name the respondent as the Minister of Citizenship and Immigration.

JUDGMENT IN IMM-735-19

THIS COURT'S JUDGMENT is that

1. The application for judicial review is allowed. The Karims' appeal of the rejection of their claim for refugee protection is remitted to the Refugee Appeal Division for redetermination by a differently constituted panel.
2. The time permitted by paragraph 4 of the Order of Justice Grammond dated June 12, 2019 for the filing of the Minister's Notice of Non-Settlement is extended to September 10, 2019, and the Notice of Non-Settlement is accepted for filing effective that day.
3. The style of cause is amended to name the respondent as the Minister of Citizenship and Immigration.

“Nicholas McHaffie”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-735-19

STYLE OF CAUSE: SHAQEERAT OMOLABAKE KARIM ET AL v THE
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PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: SEPTEMBER 10, 2019

JUDGMENT AND REASONS: MCHAFFIE J.

DATED: APRIL 30, 2020

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