Federal Court  Cour fédérale

Date: 20201221

Docket: IMM-7744-19

Citation: 2020 FC 1172

[ENGLISH TRANSLATION]

Ottawa, Ontario, December 21, 2020

PRESENT: The Honourable Mr. Justice Shore

BETWEEN:

OLANREWAJU RAHMAN JONES
MUSHIRAT BIODUN JONES
RAHEEMAH OLAMIDE JONES
ABDULROQEEB OLOLADE JONES

Applicants

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

[1] This is an application for judicial review of a decision rendered on December 5, 2019, by the Refugee Appeal Division [RAD], confirming that the applicants' refugee protections claims were rejected on the ground that an internal flight alternative [IFA] was available to them.

[2] The principal applicant, his wife and their minor children are citizens of Nigeria and are claiming refugee protection for harassment and threats of female genital mutilation by heads of the family. The applicants left Nigeria in September 2017 and arrived in Canada in January 2018, transiting through the United States. They have a minor child who is a Canadian citizen and who is not part of the applicants' refugee claim.

[3] The Refugee Protection Division rejected the applicants' refugee protection claims on the ground that they lacked credibility and that they did not show that the IFA in Abeokuta or Abuja, Nigeria, was unreasonable. The RAD confirmed that decision, focusing on the availability of an IFA.

[4] The idea of an IFA is inherent in the definition of "refugee"; a refugee claimant must be a refugee from a country, not from a region of a country. To determine whether an IFA exists, the RAD must be satisfied that there is no serious possibility of the claimants being persecuted in the proposed IFA and that, in all of the circumstances, conditions are such that it would not be unreasonable for the claimants to seek refuge there (*Thirunavukkarasu v Canada (Minister of Employment and Immigration)*, [1994] 1 FC 589 at pages 593, 597 (FCA)).

[5] The test for establishing an IFA is disjunctive, and the onus is on refugee claimants to prove on a balance of probabilities that there is a serious possibility of persecution in their entire country. This threshold is even higher in the second prong of the analysis, which requires "nothing less than the existence of conditions which would jeopardize the life and safety of a

claimant in travelling or temporarily relocating to a safe area" (*Ranganathan v Canada (Minister of Citizenship and Immigration)*, [2001] 2 FC 164 at para 15).

[6] This judicial review concerns the reasonableness of the RAD's conclusions with respect to the second prong of the IFA analysis. A reasonable decision requires internally coherent, rational analysis justified in light of the factual and legal constraints (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65).

[7] As a preliminary comment, let us note that, although the applicants did not submit an affidavit sworn by one of them as required by rule 10(2)(d) of the *Federal Courts Rules*, SOR/98-106, which could be sufficient to dismiss the application for leave, the Certified Tribunal Record is sufficient to offset this failure in this case (*Singh v Canada (Public Safety and Emergency Preparedness)*, 2018 FC 455 at paras 18–19; *Conka v Canada (Citizenship and Immigration)*, 2018 FC 532 at paras 12–15).

[8] The applicants submit that the IFAs identified in Abeokuta and Abuja, Nigeria, are unreasonable for their relocation given the risks to the safety of foreign nationals and expatriates. It is even more unreasonable given the best interests of the child. The applicants also argue that parts of the IFA are unreasonable because of discrimination based on non-indigene status, difficulties with housing, and deficient healthcare services.

[9] The general conditions in an IFA location or in the country do not make an IFA unreasonable (see *Adebayo v Canada (Immigration, Refugees and Citizenship)*, 2019 FC 330 at paras 44–45, 50; *Olusola v Canada (Citizenship and Immigration)*, 2020 FC 799 at paras 32–36).

[10] After analyzing the record as a whole, the RAD found that the country conditions do not make the IFA unreasonable. It noted in particular that non-indigene discrimination is not a barrier in urban centres, like those of the proposed IFAs, and that the applicants' particular situation—social status, education and work experience—shows that they can find work and housing and that they can access healthcare services. The RAD also focused on their language skills, their ethnicity and the opportunity to practise their religion.

[11] The applicants did not explain further in judicial review in what way their particular circumstances make the IFA unreasonable and therefore do not meet the very high threshold required by the case law. Their submissions are also lacking upon review of the RAD's record, where risks to the safety of foreign nationals do not appear to have been raised. Regarding this, the respondent notes that this Court should not consider factors that were not raised before the RAD (*Pierre-Louis v Canada (Minister of Employment and Immigration)*, [1993] FCJ No 420 at para 3 (FCA)). Although the respondent adds that none of the arguments was raised beforehand, this does not match up with the Certified Tribunal Record, where it can be seen that only the first prong of the IFA analysis was not disputed.

[12] With respect to the best interests of the child, which were not determinative at the time, they must be taken into account based on the context (*Kim v Canada (Citizenship and*

Immigration), 2010 FC 149 at para 9 [*Kim*]). They will also be considered at subsequent stages (*Kim*, above, at para 76). In this case, it is apparent that the minor children were considered by the RAD, specifically, the children's lack of language barriers and their lack of difficulty accessing education, which could have made an IFA unreasonable. In addition, the RAD considered *Chairperson Guideline 3: Child Refugee Claimants* and found that the family unit, the presence of claimant parents, their education and their work experience were positive factors in the analysis.

[13] The RAD took all of the evidence into account. The RAD is not required to mention every piece of evidence, be it regarding the country conditions or the minor applicants' individual interests and the interests of the child who is a Canadian citizen, as the applicants seem to claim (see *Amadi v Canada (Citizenship and Immigration)*, 2019 FC 1166 at paras 41, 50, 52). Ultimately, the Court is being asked to reweigh the evidence, which it cannot do on judicial review.

[14] For the above reasons, the application for judicial review is dismissed.

JUDGMENT in IMM-7744-19

THIS COURT'S JUDGMENT is that the application for judicial review is dismissed.

There is no question of general importance to be certified.

"Michel M.J. Shore"
Judge

Certified true translation
Michael Palles, Reviser

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-7744-19
STYLE OF CAUSE:	OLANREWAJU RAHMAN JONES ET AL v THE MINISTER OF CITIZENSHIP AND IMMIGRATION
PLACE OF HEARING:	MATTER HEARD BY VIDEOCONFERENCE AT MONTRÉAL, QUEBEC
DATE OF HEARING:	DECEMBER 14, 2020
JUDGMENT AND REASONS:	SHORE J.
DATED:	DECEMBER 21, 2020

APPEARANCES:

Marie Pierre Blais Ménard	FOR THE APPLICANTS
Anne-Renée Touchette	FOR THE RESPONDENT

SOLICITORS OF RECORD:

Hasa Attorneys Montréal, Quebec	FOR THE APPLICANTS
Attorney General of Canada Montréal, Quebec	FOR THE RESPONDENT