Federal Court  Cour fédérale

Date: 20201222

Docket: IMM-6559-19

Citation: 2020 FC 1179

[ENGLISH TRANSLATION]

Ottawa, Ontario, December 22, 2020

PRESENT: The Honorable Mr. Justice Shore

BETWEEN:

NELSON OGE AKUNWA
NWABEKE NKECHI AKUNWA
PRINCESS NELLY CHIDIMMA AKUNWA
GREAT CHIDERA NELSON AKUNWA

Applicants

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

[1] This is an application for judicial review of a decision dated October 9, 2019, of the Refugee Appeal Division [RAD] confirming the rejection of the applicants' claim for refugee protection on the basis of an internal flight alternative [IFA].

[2] The principal applicant, his wife and their minor children are citizens of Nigeria and are claiming refugee protection due to threats of female genital mutilation by villagers in the Delta region. The applicants left Nigeria in August 2017 and arrived in Canada the following month via the United States. They have a minor child who is a Canadian citizen and who is not part of the applicants' refugee protection claim.

[3] The Refugee Protection Division [RPD] rejected the applicants' claim for refugee protection on the grounds that they lacked credibility and that, in the alternative, they failed to show that the IFA available to them in either Benin City, Ibadan, or Port Harcourt, Nigeria was unreasonable. The RAD confirmed that decision, focusing on the existence of an IFA.

[4] The concept of an IFA is inherent to the concept of a refugee; it is determinative and is sufficient as a basis on which to reject the applicants' refugee claim. In order to determine the existence of an IFA, the RAD must be satisfied that the applicants do not face a serious risk of persecution in the proposed IFA and that the conditions are such that it would not be objectively unreasonable, in all the circumstances, for the applicants to seek refuge there (*Thirunavukkarasu v Canada* (*Minister of Employment and Immigration)*, [1994] 1 FC 589 at 593, 597 (FCA)).

[5] The test for establishing an IFA is disjunctive, and the onus is on the claimant to prove, on a balance of probabilities, that he or she faces a serious risk of persecution throughout the country. This standard 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 focuses on the reasonableness of the RAD's findings in the second prong of the analysis of the existence of an IFA in Nigeria. A reasonable decision must be based on an internally coherent and rational reasoning and be justified in light of legal and factual constraints (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*]).

[7] The applicants argue that it is clear from the errors identified by the RAD in the RPD's decision that it was unreasonable to conclude that there was an IFA. One of the errors relates to the work experience of the principal applicant's wife as a sales associate rather than a manager. The second relates to the generalization of the applicants' fears about religious tensions in the IFA.

[8] The applicants further submit that the IFA is unreasonable for their relocation in light of safety risks to foreign nationals and expatriates—including risks by association to the Canadian child—and discrimination on the basis of non-indigene status. It is all the more unreasonable, according to the applicants, in Benin City and Ibadan, given the presence of human trafficking. In the case of Port Harcourt, the applicants argue that as a result of difficulties related to the labour market and the cost of living, which affect education and access to housing, it would also be unreasonable for them to seek refuge there.

[9] Similarly, the RAD noted that the country's conditions as they relate to discrimination against non-indigenes and the safety risks faced by targeted groups do not make the PRI unreasonable. In particular, with respect to the first issue, the RAD noted that discrimination against non-indigenes was not a barrier to the applicants' ability to find employment in light of their particular circumstances—education level, work experience, and language ability. Moreover, discrimination against non-indigenes is less prevalent in large cities and in some sectors of the economy.

[10] With respect to safety risks, the RAD found that the applicants had not established that these were frequent enough to make the IFA unreasonable, particularly since the evidence suggests that the applicants are not part of the targeted groups, which include political figures, the wealthy, and foreigners. While the children, including the Canadian child, were not explicitly mentioned at this stage, the RAD was aware of this fact.

[11] The RAD thus concluded that the IFA was reasonable and that the applicants did not meet the high burden required for the circumstances to be such that it was unreasonable.

[12] The applicants failed to further explain on judicial review how their particular circumstances make the IFA unreasonable and therefore do not meet the threshold required by the case law. A reading of the RAD record also finds the applicants' arguments to be lacking, as the dangers and adverse circumstances in Port Harcourt, Benin City and Ibadan do not appear to have been raised. Moreover, the general regional and country conditions of an IFA do not in

themselves render an IFA unreasonable (*Arabambi v Canada (Citizenship and Immigration),* 2020 FC 98 at paras 38, 40–42).

[13] Moreover, the RAD is presumed to have considered all of the evidence before it, unless the contrary is shown. It is not required to refer to every piece of evidence, as appears to be claimed by the applicants (*Amadi v Canada (Citizenship and Immigration),* 2019 FC 1166 at paras 50, 52). Ultimately, the Court is being asked to engage in an exercise of re-weighing the evidence, which it cannot do (*Vavilov,* above, at para 83).

[14] In this case, the RAD's decision was based on reasonable grounds.

[15] For the reasons set out above, the application for judicial review is dismissed.

JUDGMENT in IMM-6559-19

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-6559-19
STYLE OF CAUSE:	NELSON OGE AKUNWA ET AL. v THE MINISTER OF CITIZENSHIP AND IMMIGRATION
PLACE OF HEARING:	MATTER HEARD BY VIDEOCONFERENCE IN MONTRÉAL, QUEBEC
DATE OF HEARING:	DECEMBER 16, 2020
JUDGMENT AND REASONS:	SHORE J.
DATED:	DECEMBER 22, 2020

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