

Federal Court



Cour fédérale

Date: 20220610

Docket: IMM-4340-21

Citation: 2022 FC 867

BETWEEN:

DAVID AYODEJI ALABI

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

REASONS FOR JUDGMENT

PHELAN J.

I. Introduction

[1] This is the judicial review of a decision by the Refugee Appeal Division [RAD] dismissing the Applicant's claim on the basis that he had a viable internal flight alternative [IFA] in Abuja, Nigeria.

[2] For the reasons given, the Court is concerned that the RAD and the Refugee Protection Division [RPD] before had not thoroughly assessed the nature of the risk/profile presented by

this Pentecostal preacher who has challenged the power of local gangs. The IFA finding must stem from a proper assessment of an applicant's risk profile.

II. Background

[3] The Applicant is a Pentecostal Christian pastor and led the Rivergate Ministries in Lagos. His claim for protection is based on his fear of various cult groups in Nigeria including the Black Axe Confraternity, One Million Boys, Awawa Boys and O'odua People's Congress [the gangs]. He experienced incidents of persecution from these gangs due to his involvement with Rivergate Ministry where he promoted anti-cultist campaigns and opposed these gangs and the violations of women's rights.

[4] The Applicant put in evidence of a timeline showing that from 2006-2009 he lived in Abuja having been attacked by a gang in Lagos. During that period he and his family experienced a threat from a gang. He fled back to Lagos where he remained from 2009-2011.

[5] In 2011, the gang One Million Boys harassed the Applicant and associate pastors, and then they attacked the Rivergate Ministries in Lagos. The Applicant returned to Abuja.

[6] Between 2011 and 2013, the Applicant was again threatened by a gang and went back to Lagos.

[7] In 2017, the Black Axe started a large recruitment drive, and the Rivergate Ministries became more active in opposition resulting in threats to the Applicant.

[8] In 2018, while the Applicant was in the U.S.A., and where he remained until coming to Canada, his congregation in Lagos was attacked by the Black Axe who also inquired as to the Applicant's whereabouts. Additional attacks occurred against one or more Rivergate pastors. In 2019, the apartment of the Applicant's former wife was broken into and a note left indicating that those responsible would be back for the rest of the family. The Applicant believes the Awawa Boys committed the attack.

[9] The Applicant came to Canada in 2019.

[10] The RPD refused the Applicant's claim citing credibility and embellishment concerns but ultimately focused its decision on the availability of an IFA. The RPD found that the Applicant had successfully relocated to Abuja twice. It found that there was a lack of interest from these gangs in the Applicant.

[11] The RAD rejected the Applicant's efforts to introduce "new" evidence and upheld the RPD's consideration of gang violence.

III. Analysis

[12] There is no issue that the standard of review is reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65).

[13] In the usual course, this Court would not interfere with the RAD's conclusions. However, the Court is not satisfied that the RAD thoroughly assessed the Applicant's risk profile.

[14] The RAD did not directly take on the evidence in the National Documentary Package [NDP] which shows that there is violence against people opposed to cults as this Applicant was accepted by the RAD to be. The Black Axe was one of the gangs specifically identified in the NDP.

[15] Given the material in the NDP, it was unreasonable to suggest that there was sparse evidence as to cult/gang activities.

[16] The RAD placed unreasonable reliance on times when the Applicant was not subject to attack. There appeared to be a failure to appreciate that the Applicant was either outside Lagos or was in hiding.

[17] The RAD dismissed an argument that the gangs had a continuing interest in the Applicant and failed to adequately consider that a year after the Applicant had left Nigeria, a gang was still looking for him.

[18] Given the documentary evidence and its acceptance of at least part of the Applicant's story, the RAD did not do a thorough analysis of the Applicant's risk profile if he returned to Abuja where he had been threatened and where he claims that he would continue his ministry against gangs/cults. There is no suggestion that his motivation in this regard and his view of his ministry obligation is not genuine.

IV. Conclusion

[19] Therefore, I have concluded that this judicial review should be granted, the RAD decision quashed and the matter referred back to a differently constituted panel.

[20] There is no question for certification.

"Michael L. Phelan"

Judge

Ottawa, Ontario
June 10, 2022

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-4340-21

STYLE OF CAUSE: DAVID AYODEJI ALABI v THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: HELD BY VIDEOCONFERENCE

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REASONS FOR JUDGMENT: PHELAN J.

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