

Federal Court



Cour fédérale

Date: 20221205

Docket: IMM-8818-21

Citation: 2022 FC 1666

[ENGLISH TRANSLATION]

Ottawa, Ontario, December 5, 2022

PRESENT: Associate Chief Justice Gagné

BETWEEN:

**OLUWOLE OLADIPUPO OWOLABI
PRECIOUS IWUM OWOLABI
OLUWATIMILEHIN MICHEAL OWOLABI
OLUMIDE PRAISE OWOLABI**

Applicants

and

**MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] The applicants are a Nigerian family whose claim for refugee protection in Canada was found to be not credible by the Refugee Protection Division [RPD] and the Refugee Appeal Division [RAD].

[2] Although the RAD disagreed with certain findings by the RPD, its overall analysis of the evidence led to the same conclusion: there were sufficient unexplained inconsistencies in the applicants' basis of claim [BOC] to undermine their credibility.

[3] The applicants challenge this decision rendered by RAD on November 5, 2021.

[4] For the reasons that follow, this application for judicial review will be dismissed.

I. Facts

[5] The applicants allege that they were the subject of persecution in their country following the refusal of the father, the principal applicant, to undergo a religious rite contrary to his Christian faith.

[6] The principal applicant is part of the Yoruba ethnic group and his wife is Igbo. They were married in October 2009, in the woman's ancestral village. The village representatives required them to follow the Igbo rituals and shared a form of religious prophecy with them about the woman and her unborn son.

[7] In 2016, the village representatives reminded them of the prophecy and asked the principal applicant to undergo the rituals.

[8] In the original BOC, the applicants indicate that the principal applicant and his children received threats, that they tried to report them to the police but that the officers instead

recommended that they leave the country to save their lives. The principal applicant therefore left for the United States and then arranged for his family to join him.

[9] In their BOC amended approximately 10 days prior to the hearing before the RPD, after consultation with their new counsel, the applicants added several new incidents that allegedly occurred between the time of the threats noted in their initial BOC and the time they left the country. They state that, when they were talking with their new counsel, they realized they should be more specific in their narrative, even though this meant reliving difficult and traumatic times in their lives.

[10] The applicants added to their narrative that, in December 2016, criminals attacked them at their home in Lagos, threatening them with reprisals if the principal applicant refused to undergo the customary rituals. Although the principal applicant did not want to place too much importance on this first attack, his wife convinced him to move to Ibadan.

[11] In January 2017, strangers came to their home in Ibadan and attacked them. The principal applicant was injured but was able to escape. After he left, the individuals apparently tried to kidnap an 8-month-old baby, but the baby died during the assault.

[12] The principal applicant went to a police station in Ibadan two days later to report the attack. The police officers took his statement and suggested that he report any future attacks right away. He realized that he could not expect much help from them, so he left for the United States in June 2017.

[13] After his wife joined him in December 2017, her parents were allegedly summoned to the Village Council and detained for some time under the orders of the Elders.

[14] In January 2018, the wife's brother was allegedly attacked by armed men who were looking for the applicants.

[15] The applicants crossed the Canadian border in March 2018 and claimed refugee protection.

II. Impugned decision

[16] The RAD reviewed the appeal by examining all the evidence, the applicants' record and the transcript of the hearing before the RPD.

[17] The RAD allowed the new evidence submitted by the applicants except for an attestation of birth for Ms. Owolabi that did not meet the relevance criterion. However, since the new evidence allowed was not considered determinative, the RAD did not hold an oral hearing.

[18] The RAD reviewed each of the RPD's findings on the applicants' credibility and drew its own conclusions. The RAD agreed with the RPD's findings on the following:

- The RAD was also of the opinion that it was not credible that the applicants had omitted from their initial BOC form two attacks against them in Lagos and Ibadan, the second of which allegedly caused the death of their 8-month-old baby; the RAD also did not accept the explanation that the applicants had omitted these incidents because, in their culture, people do not talk about the death of a young child. In the RAD's opinion, they could have

omitted this fact and still mentioned the two attacks, especially the first one, which had nothing to do with the death of their baby but which prompted them to leave Lagos.

- The RAD granted no weight to the police report stating that their daughter Elizabeth had died during the second attack. In his testimony, the principal applicant denied he had provided an affidavit to the police when he went to them on January 2017. Instead, he indicated that he had written a statement in the presence of police officers. When faced with the fact that the report indicated he had gone to the police with an affidavit from the Ibadan High Court, the applicant stated that it was instead his brother-in-law who had provided an affidavit to obtain a copy of the report. The RAD therefore noted that there was a contradiction between the principal applicant's testimony and the report.
- In their initial application, the applicants neglected to report their address in Ibadan. Since the applicants left Lagos because of the first attack, the RAD concluded that this omission was significant. The applicants should have amended the history of their addresses in Nigeria at the time they amended their BOC to add the two attacks that had been omitted from their initial BOC.
- At the end of the hearing, the female applicant noted that among the individuals she feared was the Health Commissioner, who was part of a secret cult. The RAD found it not credible that she had been in Canada for three years and had never spoken about this individual for fear of this secret cult and that she had waited until the end of the hearing to bring it up.
- To the RAD, the affidavits of the applicants' family members were not sufficient to enhance the evidence, particularly since they added new aspects to the evidence and did not mention Elizabeth's death.
- Lastly, the RAD concluded that the female applicant and her children's unexplained delay (11 months) in leaving Nigeria also undermines their claim, given the seriousness of the attacks against them.

III. Issue and standard of review

[19] The sole issue in this application for judicial review is whether the RAD erred in its analysis of the credibility of the applicants' claim for refugee protection.

[20] There is no dispute that the standard of reasonableness applies to the Court's analysis of this issue.

IV. Analysis

[21] The applicants' arguments can be summarized as alleging that the RPD and the RAD neglected to consider the cultural context of this claim for refugee protection and the cultural differences between Canada and Nigeria.

[22] With respect, I do not agree.

[23] First, the Court must give significant deference to the findings of the RAD—and the RPD, which preceded it—about the applicants' credibility.

[24] The RAD considered all the explanations provided by the applicants to justify the many omissions in their initial BOC and kept an open mind. For example, with regard to cultural differences, the RAD accepted the applicant's arguments and dismissed the RPD finding with regard to the lack of evidence corroborating the existence of their daughter Élizabeth. The RAD considered all of the applicants' arguments and accepted some of them.

[25] However, the RAD concluded that the taboos the applicants referred to did not explain all the omissions. They did not explain why they had neglected to mention the first attack they allegedly suffered, which allegedly forced them to move to Ibadan. This is a central element in the applicants' refugee protection claim. Although before the Court the applicants again raised

the cultural differences between Canada and Nigeria, they did not explain how this finding was unreasonable.

[26] The RAD noted that the applicants were represented by counsel and that there was no evidence that the services of their former counsel were inadequate.

[27] I feel that the RAD decision falls within a range of reasonable outcomes and is intelligible and rational, such that the Court's intervention is not required.

V. Conclusion

[28] For these reasons, the application for judicial review is dismissed. The parties have proposed no question of general importance for certification and this case does not give rise to any.

JUDGMENT in IMM-8818-21

THIS COURT'S JUDGMENT is as follows:

1. The application for judicial review is dismissed;
2. No question of general importance is certified.

“Jocelyne Gagné”

Associate Chief Justice

Certified true translation
Elizabeth Tan

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-8818-21

STYLE OF CAUSE: OLUWOLE OLADIPUPO OWOLABI, PRECIOUS
IWUM OWOLABI, OLUWATIMILEHIN MICHEAL
OWOLABI, OLUMIDE PRAISE OWOLABI v THE
MINISTER OF CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: HEARD BY VIDEOCONFERENCE

DATE OF HEARING: OCTOBER 6, 2022

JUDGMENT AND REASONS: GAGNÉ A.C.J.

DATED: DECEMBER 5, 2022

APPEARANCES:

Stéphanie Valois FOR THE APPLICANTS

Philippe Proulx FOR THE RESPONDENT

SOLICITORS OF RECORD:

Stéphanie Valois FOR THE APPLICANTS
Montréal, Quebec

Attorney General of Canada FOR THE RESPONDENT
Montréal, Quebec