Federal Court Cour fédérale

Date: 20230324

Docket: IMM-376-22

Citation: 2023 FC 408

Ottawa, Ontario, March 24, 2023

PRESENT: The Honourable Mr. Justice Régimbald

BETWEEN:

GRACE OGUGUA ALLANAH
CHUKWUFUMNAYA S ALLANAH
CHUKWUEBUNIEM D ALLANAH
NDIDIAMAKA CARI ALLNAH
CHINEDU ASHER ALLANAH

Applicants

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Introduction

[1] The Applicants, Grace Oguga Allanah [the Principal Applicant or PA] and her two children, Chukwufumnaya Stephanie Allanah [Minor Applicant Stephanie] and Chukwuebuniem

Daniel Allanah [Minor Applicant Daniel], are citizens of Nigeria. The Principal Applicant has two other children who are citizens of the United States of America.

[2] They are seeking judicial review of the decision of the Refugee Appeal Division [RAD] dated December 22, 2021 [Decision], upholding a decision of the Refugee Protection Division [RPD] dated January 27, 2021, that the Applicants are neither Convention refugees nor persons in need of protection as defined in sections 96 and 97 of the *Immigration and Refugee Protection Act*, SC 2011, c 27 [IRPA]. The RAD agreed with the RPD that the Applicants' claim was not credible.

[3] The Applicants submit that the RPD did not take into consideration the Immigration and Refugee Board of Canada, *Guideline issued by the Chairperson pursuant to paragraph 159(1)(h) of the Immigration and Refugee Protection Act: Guideline 4: Gender Considerations in Proceedings Before the Immigration and Refugee Board,* effective November 13, 1996 [Guideline 4] as it should have during the hearing. The Applicants also submit that the RPD did not assess the membership of the claimant under the social group "Women" under s. 96. Finally, they submit that the RAD's credibility assessment was unreasonable because it made findings that are not supported by the evidence.

[4] For the reasons that follow, the application for judicial review is dismissed.

II. Background

[5] The Applicants are citizens of Nigeria. Before leaving the country, they lived in Asaba, Delta State.

[6] On January 17, 2018, the Principal Applicant's spouse Chinedu Sydney Allanah [Chinedu or spouse] received a letter informing him that he had been chosen to join the "Otu-Ihaza" cult, a religious group responsible for some traditional affairs of the land. On February 24, 2018, he attended the inauguration meeting where he was informed that he had been selected to be the custodian of the deity "Onishe" and was given a month to prepare for the role.

[7] On March 30, 2018, Chinedu informed the group of his refusal to accept the position. This lead to intense arguments with the group because the members had already started the preparation for the initiation ceremony that was scheduled for April 2, 2018.

[8] On April 3, 2018, Chinedu left Asaba and went to a friend's house in Abeokuta, Ogun State. On the same day, two members of the Otu-Ihaza group came to the family's house in Asaba asking for the PA's spouse. They specified that if they did not find him, they would take the Minor Applicants Stephanie and Daniel as replacement.

[9] The following day, on April 4, 2018, the Applicants left to reside with a friend of the PA in Ikeja. They stayed at this residence in Ikeja until they left Nigeria for the United States of

America on April 10, 2018. Meanwhile, the spouse left to hide in Abuja, Federal Capital Territory.

[10] The Applicants entered Canada on April 12, 2018 by way of an irregular border crossing and made refugee protection claims.

[11] The Applicants fear the Otu-Ihaza members who believe that the Principal Applicant is responsible for her spouse's initial refusal to accept the role of custodian of Onishe. More specifically, Minor Applicant Stephanie fears circumcision and sexual harassment from these group members, and Minor Applicant Daniel fears getting tribal markings. They both generally fear the Otu-Ihaza group as they are viewed as their father's successors.

[12] After having arrived in Canada, the Principal Applicant remained in contact with her spouse until she was no longer able to communicate with him, as of about January 2020. During her testimony before the RPD, the PA alleged for the first time that she had started fearing her husband since then.

[13] From Canada, she asked her mother to find out information about her husband. In August 2020, her mother informed the PA that her spouse eventually accepted to become the custodian of Onishe in July 2020.

III. The RPD's Decision

[14] On January 27, 2021, the Applicants' claim was rejected on the basis that the PA's allegations of persecution from the Otu-Ihaza were not credible. Regarding the two children who are citizens of the United States of America, the RPD further found that there was no evidence that they would face a serious possibility of persecution or a risk under s. 97 of the IRPA in that country.

[15] After having considered the evidence and the claimants' testimony in its entirety, the panel concluded that the Nigerian-born claimants had failed to establish a serious possibility of persecution, or a risk to their lives, of torture or cruel and unusual treatment in Nigeria, and were therefore neither Convention refugees nor persons in need of protection.

[16] The RPD first found that the Applicants failed to establish on a balance of probabilities that the Otu-Ihaza would target the Principal Applicant because they believed she was instrumental in her husband's initial refusal to become the custodian.

[17] Second, the RPD concluded that the Applicants had not met their burden of proof to establish that the Otu-Ihaza would initiate the children into the cult as their father's successor.

[18] Third, the panel drew a negative credibility finding because the PA omitted to bring to the panel's notice or to include in her amended Basis of Claim [BOC] the fact that she feared her husband, as this is a central element to the claim.

[19] Fourth, the panel also found that the PA's credibility was undermined because of her husband's continuous contact with one of his uncles, who is a member of the Otu-Ihaza, while being in hiding.

[20] Finally, the panel drew an adverse credibility inference from the PA's inconsistent testimony on her husband's adherence to the Otu-Ihaza and to their traditional customs.

IV. The RAD's decision

[21] After conducting an independent review of the record, the RAD found that the RPD was correct in finding that the Applicants are neither Convention refugees nor persons in need of protection under sections 96 and 97 of the IRPA. It dismissed their appeal on December 22, 2021.

[22] The RAD rejected the Applicants' argument regarding the breach of procedural fairness. It found that the RPD properly assessed the evidence that was submitted before it and did not display an apprehension of bias (this issue was conceded at the hearing, and is no longer subject to this judicial review).

[23] In relation to s. 96 of the IRPA, the RAD found that the RPD did not err in failing to assess that claim because the Applicants did not provide sufficient evidence to discharge their burden of proof. For example, the RAD concluded that the PA's basis of claim did not identify any association or membership with any particular social group, as she alleges fear of persecution based on personal vendetta by the Otu-Ihaza for not supporting her spouse in

accepting the role of custodian of Onishe. The RAD found that on a balance of probabilities, the evidence did not indicate that her alleged fear of persecution occurred because she belonged to a particular group or to her situation as a woman.

[24] The RAD also found that the RPD did not err in assessing the Applicants' credibility. It concluded that on a balance of probabilities, the Applicants had failed to provide sufficient credible or trustworthy evidence to establish their claims.

[25] First, the RAD concluded that the RPD did not make any error by drawing a negative credibility inference from the fact that the PA did not express her fear towards her spouse prior to the hearing in her amended BOC, or at the beginning of the hearing, since this element was central to the claim. The RAD also noted that the affidavit presented by the PA's mother does not include reference to the fear alleged from the PA's spouse.

[26] Second, the RAD concluded that it is more likely than not that if the members of the Otu-Ihaza placed responsibility for the initial refusal of Chinedu on the PA, they would have initiated their threats towards her and the Minor Applicants during the period immediately following the refusal rather than now, years later, following acceptance of Chinedu of the role of custodian.

[27] Third, the RAD drew a negative credibility inference from the allegation that Chinedu feared the Otu-Ihaza, yet maintained contact with them through his uncle while allegedly in hiding. The RAD found that on a balance of probabilities, Chinedu's actions are inconsistent with the alleged fear. Indeed, if Chinedu had feared the Otu-Ihaza enough to leave his home and

family, relocating twice, and instructing his spouse to not ask where he was living, he would have ceased communication with the group, including his uncle who is a member, as a result of that fear.

[28] Fourth, the RAD found that the RPD did not err in assessing the succession protocols for the Otu-Ihaza. The RPD properly assessed the evidence to conclude that the Applicants had not established that the Otu-Ihaza would recruit the children prior to obtaining the age grade outlined in the table, that girls can become members, or that the children were viewed as successors and initiated into the group.

[29] The Applicants now argue that the RAD did not properly assess the membership of the PA to the group "Women" under s. 96 of the IRPA, and ought to have put more weight on Guideline 4. They further argue that the RAD made wrongful credibility findings with regards' to their testimony. More specifically, the RAD did not report any significant inconsistency or omission between the Applicants' testimony and their BOC to justify their lack of credibility.

V. Issues and Standard of Review

[30] At the hearing, the Applicants conceded that there were no issues relating to a breach of procedural fairness or reasonable apprehension of bias. There is also no issue relating to the RPD's finding in relation to the two other children who are U.S. citizens.

[31] The Applicants also did not argue, in their memorandum of argument, that the RAD's decision in relation to Minor Applicant Stephanie and Minor Applicant Daniel, was unreasonable.

[32] The issue in this case is therefore only whether the RAD's decision is reasonable in relation to the issues raised below.

[33] On judicial review of a RAD decision based on credibility findings and the assessment of evidence, the standard of review is reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 10, 16-17 [*Vavilov*]; *Canada (Citizenship and Immigration) v Huruglica*, 2016 FCA 93 at para 35). Such a task commands deference from this Court. The Court's focus is on "whether the decision bears the hallmarks of reasonableness — justification, transparency and intelligibility — and whether it is justified in relation to the relevant factual and legal constraints that bear on the decision" (*Vavilov* at para 99).

[34] A reasonable decision is defined as "one that is based on an internally coherent and rational chain of analysis and that is justified in relation to the facts and law that constrain the decision maker" (*Canada MCI v Mason*, 2021 FCA 156, at paras 9, 12, 20, 36-37 (leave to appeal to SCC granted); *Vavilov* at paras 10,15-17, 25, 85-86, 99).

[35] The Court should not overturn a decision on the basis of a "minor misstep." Rather, any deficiencies in a decision must be "sufficiently central or significant to render the decision unreasonable." Reasons should be considered as a whole and within the context of the

institutional setting and the record, including the issues raised by the parties (*Canada MCI v. Mason*, 2021 FCA 156, paras 31-34, 36,40 (leave to appeal to SCC granted); *Vavilov* at paras 85, 91, 96, 97, 100).

[36] As held by the Supreme Court of Canada in *Vavilov*, reasonableness review requires a deferential approach to the decision maker and the reviewing court must read the reasons holistically and contextually (*Vavilov* at para 97). The Court must consider the outcome of the decision and its rationale in order to ensure that the decision as a whole is transparent, intelligible and justified (*Vavilov* at paras 15, 95, 136). Judicial review is not a "line-by-line treasure hunt for error" (*Vavilov* at para 102). The decision maker does not have to respond to each argument nor refer to all the evidence – indeed, the decision maker is presumed to have considered all of the evidence and the arguments on the record (*Vavilov* at paras 127-128).

[37] However, when the decision maker is silent on a critical issue, or when evidence is found in the record that contradicts the decision maker's findings of fact and that evidence is not considered nor assessed, it becomes impossible for the reviewing court to "connect the dots" and reveal a reasonable picture (*Vavilov* at paras 97, 128).

[38] In those cases, the Court "may infer that a decision maker has made an erroneous finding of fact without regard to the evidence from a failure to mention in the reasons evidence that is relevant to the finding and which points to a different conclusion" (*Gill c Canada (Citoyenneté et Immigration)*, 2020 FC 934 at para 40; *Cepeda-Gutierrez v Canada (Minister of Citizenship and Immigration)*, 1998 CanLII 8667 (FC), [1998] FCJ No 1425 at para 15; *Barril v Canada*

(Citizenship and Immigration), 2022 FC 400, at para 17). As stated at para 126 of *Vavilov*: "The reasonableness of a decision may be jeopardized where the decision maker has fundamentally misapprehended or failed to account for the evidence before it."

[39] Overturning a decision because the reasons did not discuss critical contradicting evidence is essentially a conclusion that the decision maker may not have meaningfully grappled with key issues and evidence and may not have been alert and sensitive to the matters before it (*Vavilov* at paras 83, 125-128). The decision consequently does not bear the hallmarks of reasonableness – justification, transparency and intelligibility – because it either does not justify in a transparent and intelligible manner why an important factor was not assessed, or it demonstrates that the decision maker failed to consider relevant evidence.

[40] In this case, I conclude that the RAD properly assessed the relevant evidence. As explained below, the RAD justified its findings in a transparent and intelligible manner and explained why important evidence was excluded or assigned no weight.

VI. Analysis

A. *The RAD did not unreasonably decide that section 96 of IRPA did not apply to the Applicants' claim*

[41] The Applicants argue that the RAD erred when determining that the PA is not a member of any particular group and by not considering Guideline 4. They submit that during the hearing, the PA testified on very specific events where she was victimised because she is a woman, mainly after her husband had joined the cult. The PA's claim for refugee status under s. 96 of the

IRPA is now on the basis that she is alone without any masculine support and cannot hide or find refuge anywhere in Nigeria. The Applicants allege that the PA's fear of persecution on that basis is supported by objective evidence.

[42] However, at paragraph 16 of the decision, the RAD held otherwise:

> […] The Principal Appellant's basis of claim is not identified to have any association to a membership in any particular social group, rather she alleges fear of persecution or harm based on personal vendetta by the Otu-Ihaza for not supporting her spouse in accepting the role of custodian Onishe. I also find the examples of the Principal Appellant's testimony, cited by Counsel, do not indicate her alleged fear of persecution or harm occurred because she belonged to a particular social group nor do I find the examples cited were testimony "about her situation as a woman," on a balance of probabilities. The fact the Principal Appellant is a female does not place her in a particular social group for the purposes of assessing section 96 of the IRPA unless the allegations demonstrate that her membership in that social group resulted in allegations of persecution or harm. The Appellants allege fear of persecution or harm based on the Principle Appellant not supporting the Otu-Ihaza's desire to have her spouse become the custodian of Onishe rather than extending from her membership in a particular social group […]

[43] The Respondent argues that the RAD's conclusion that section 96 of the IRPA does not apply is reasonable. The PA did not allege that she feared persecution or harm because she belonged to a particular social group. Her alleged fears were rather based on the personal vendetta conducted by the Otu-Ihaza. The Respondent further argues that the RAD's findings on the issue of credibility were determinative of the claim for protection, whether considered under section 96 or 97 of IRPA.

[44] As argued by the Applicants, the member must assess any risk or gender-based persecution, even if it is not explicitly raised at the hearing (*Dezameau v Canada (Citizenship and Immigration)*, 2010 FC 559 at para 18; *Canada v Ward*, [1993] 2 SCR 689 at 745-746; *Aleaf v Canada (Citizenship and Immigration)*, 2015 FC 445 at para 37; *Ortiz Ortiz v Canada (Citizenship and Immigration)*, 2022 FC 1066 at para 16). However, in this case, the evidence does not suggest that the fear is gender-based at all. Rather, the evidence suggests that the PA and her family were at risk of persecution from the Otu-Ihaza in response to their opposition to Chinedu's entrance in the cult. On the issue of the PA being a single woman without any masculine support, there was no evidence to substantiate it, besides her allegation that her spouse could no longer protect her.

[45] On the issue of Guideline 4, the Applicants did not provide specific examples, before this Court or before the RAD, as to how the RPD may have erred. Nevertheless, in my view, the obligations discussed in Guideline 4 were followed in this case.

[46] Consequently, the RAD was not unreasonable in determining that the Applicants' fear did not meet the test established under s. 96. The alleged fear was either not credible or was not related to a Convention ground.

B. *The RAD's conclusions on the credibility of the Applicants' allegations is reasonable*

[47] The Applicants submit that the RAD erred in finding that the PA was not credible on her allegations that she will face serious risks of persecution if she returns to Nigeria.

[48] According to the Applicants, clear explanations were given during the hearing and in the memorandum of appeal before the RAD to justify the alleged inconsistencies between the Applicants' BOC and the PA's testimony. In their view, the Applicants did establish on a balance of probabilities that they will face a serious risk of persecution if they return to Nigeria.

[49] The Applicants further submit that the RPD and the RAD were overly microscopic in focussing on specific inconsistencies, as the PA pointed out numerous elements of her testimony that were un-contradicted and made in an honest and spontaneous manner. The Applicants argue that the PA proved her fear of persecution by testifying credibly and by providing specific details; and that her testimony was generally direct, forthcoming and unhesitating.

[50] In the Applicants' view, the discrepancies highlighted by the RPD and confirmed by the RAD are not enough to establish, on a balance of probabilities, that the incidents did not occur and that the Applicants are not in danger if they return to Nigeria. They also contend that these discrepancies are not enough to rebut the presumption that sworn evidence is presumed to be true unless there is a valid reason to doubt its truthfulness (*Maldonado v Canada (Minister of Employment and Immigration)*, (1980) 1979 CanLII 4098 (FCA), 2 F.C. 302 (C.A.)).

[51] The Respondents assert that the RAD's conclusions on credibility are reasonable and that the Applicant's arguments are merely asking the Court to reassess the evidence.

[52] In my view, the RAD's credibility assessment on the inconsistencies raised by the Applicants before this Court was reasonable. The contradictions raised and examined by the RAD are valid reasons affecting the credibility of the Applicants' claim. Let me explain.

(1) Priesthood enforced on unwilling candidates

[53] The Applicants argue that the RAD erred by adopting a restrictive interpretation to the objective documentation and by ignoring portions of the cited passages wherein it is indicated that "it can be difficult and even dangerous" to refuse to take on the inherited role of shrine priest, that it could be a "big problem" if someone refused, and that an individual refusing to join is inviting "divine wrath" on themselves.

[54] The Applicants assert that the RPD and the RAD disregarded objective evidence and made arbitrary and speculative conclusions by disregarding contradicting evidence.

[55] In my view, the RAD properly assessed the Applicants' argument and did not disregard contradicting evidence. The RAD held that the evidence did not support the contention that the Otu-Ihaza would pursue the PA because she was responsible for her spouse's refusal to join. At paragraph 21 of the Decision, the RAD explains that the PA's narrative is that both her and her husband made a joint decision in refusing the role and therefore, it is not credible for the Otu-Ihaza to assume that she was alone behind the refusal. The RAD continued and held that in the circumstances, and after the spouse did accept the role of custodian, it was not likely that the Otu-Ihaza would initiate threats years later.

[56] On the issue of the RAD's failure to consider contradicting evidence, I note that the RAD did not specifically cite the parts of the objective evidence as proposed by the Applicants. However, the alleged contradiction noted in these parts is not sufficiently contradictory to justify the Court's intervention. Doing so would be conducting a "treasure hunt for error", and that is not the proper application of the reasonableness standard.

[57] The RAD's failure to consider the objective evidence suggested by the Applicants, that could demonstrate some evidence of danger, is not material in this case because the danger noted only exists for the person that refuses the role. The objective documentation noted by the Applicants does not demonstrate that danger exists for the entire family of the individual that refuses the role. Therefore, the objective evidence in this case is not contradictory. The RAD's failure to note and weigh the alleged contradictory evidence does not call into question the reasonableness of the decision (*Lawani v Canada (Citizenship and Immigration)*, 2018 FC 924, at para 23; *Aslan v Canada (Citizenship and Immigration)*, 2021 FC 1165 at para 32). Moreover, in this case, the evidence is that Chinedu eventually accepted to become custodian and there is no evidence to establish that the danger continues to target the broader family.

(2) Interest in the PA after all these years

[58] The Applicants submit that the RAD did not consider the explanation the PA gave as to why the Otu-Ihaza would still be interested in persecuting her and the children if they came back to Nigeria. In their view, it clearly transpired from the PA's testimony that the Otu-Ihaza would want to punish her for interfering with her spouse joining the cult, and to submit the children to the traditional rituals as successors. The Applicants argue that the RAD lacked a general

comprehension of the context of the claim and more specifically with regard to the interest of the Otu-Ihaza in the claimant.

[59] On that point, the Respondent submits that it is implausible that the Otu-Ihaza would still be interested in the PA because the spouse eventually accepted to become custodian, which was the objective of the alleged threats. Moreover, the Respondents argue that the Applicants did not submit any evidence that the Otu-Ihaza had continued to persecute or tried to find them, after their departure from the family home. There is no evidence that the Otu-Ihaza has threatened or harassed their family members that are still living in Nigeria in search of the Applicants. Finally, the threat, from the beginning, was always in relation to Chinedu. The Otu-Ihaza threatened the Applicants to take them only, and only if, Chinedu did not return to the home and accept to be custodian of Onishe.

[60] The evidence is that Chinedu indeed accepted to be custodian. While the PA alleged that she fears persecution because she was against the acceptance of that position and that the Otu-Ihaza may still want to punish her for it, there is no credible evidence to support that allegation.

[61] In my view, the RAD properly justified why it found that it was implausible that the Otu-Ihaza would still be interested in the PA. The RAD held that the evidence that the Otu-Ihaza would still be interested in her and her children was not credible. That evidence included that the spouse had now accepted to become custodian, and that the objective evidence demonstrated that the children could not be of interest to the Otu-Ihaza for many years, and perhaps not at all in the case of Stephanie. The RAD's decision on credibility is reasonable in this regard.

(3) The alleged fear of the Principal Applicant's spouse

[62] The PA submits that she did mention fearing her spouse several times during the hearing, and presented evidence stating that he had joined the cult and could not protect her anymore. Moreover, the PA notes that she included in her amended BOC that she felt "betrayed" by her spouse.

[63] However, in my view, the RAD was entitled to find that a feeling of "betrayal" was not equivalent to an expression of "fear". Indeed, a failure to mention all material facts justifying an application for refugee status as soon as possible may be fatal to the applicant's credibility. While the PA mentioned that she feared her spouse at the hearing, it was only after being questioned by the member. As held by Justice Roussel in *Zamor v Canada (Citizenship and Immigration)*, 2021 FC 672 at para 14 (see also *Avrelus v Canada (Citizenship and Immigration)*, 2019 FC 357 at paras 14-15):

> [14] It is well established that all material facts of a story must be included in the BOC Form and that failure to do so can be fatal to the credibility of a claim for refugee protection (*Occilus v Canada (Citizenship and Immigration)*, 2020 FC 374 at para 25). The identity of the agent of persecution is a material fact (*Garcia Hidalgo v Canada (Citizenship and Immigration*), 2006 FC 229 at para 17)

[64] In this case, as noted by the RAD, the PA never clearly articulated a fear from her spouse in her amended BOC, only mentioning that she felt "betrayed". There is also no evidence that the children feared their father. Moreover, the RAD considered the PA's mother's letter, which also does not mention a fear of domestic or other abuse at the hands of the spouse. As a result, the

RAD was not unreasonable in determining that the PA's credibility had not been sufficiently established on the alleged fear of the PA's spouse.

(4) Spouse's hiding

[65] The Applicants submit that there was no inconsistency in the testimony of the PA regarding her spouse's alleged fear and his actions. On one hand, the PA testified on the actions taken by her spouse to hide from the members of the Otu-Ihaza, because of his fear. On the other hand, the PA testified that her spouse kept a close relationship with an uncle, who was a member. The RPD and the RAD held that because the spouse remained in contact with an uncle who is a member of the Otu-Ihaza, this contradicted and undermined the claim of fear.

[66] In my view, the RAD's assessment of that evidence is reasonable. On the evidence presented, including the testimony of the PA, the RAD could reasonably conclude that if the spouse had such fear of the Otu-Ihaza, so much that he had to relocate twice, he would have ceased communicating with his uncle.

(5) Crime diary

[67] The Applicants also contest the RAD's consideration of a crime diary, which was presented into evidence through an affidavit. That crime diary describes the relationship between the affiant and the PA and recounts a discussion they had together on March 17, 2018 "of an issue emanating from her native Land Asaba, Delta State requiring her husband to join a secret cult society." The crime diary then goes on to describe a call the affiant received from the PA on

April 3rd, 2018 “asking for an urgent help to come to her house for hiding with her children from some men who had visited the house in search of her husband and threatened to take her 1st daughter and Son [*sic*] if they came back.”

[68] The crime diary then explains that on the 10th of April, 2018, the affiant drove the Applicants to the airport, but that on her return from the airport, unknown men accosted her and broke her car window. The crime diary then states that the men asked for the whereabouts of the owner of the car (the PA) and beat her until she told them that she had dropped the Applicants at the Airport.

[69] The Applicants submit that the RAD erred by giving an opinion on the content of the crime diary without supporting objective evidence. They argue that the RAD gave a narrow interpretation to the objective evidence on the matter, concluding that the extract of the crime diary had no probative value, hence drawing a negative inference as to the PA’s credibility.

[70] The Respondent argues that the documentary evidence from the Nigeria National Documentation Package showed that in Nigeria, a crime diary is a document drawn in case of theft, not for other types of crime.

[71] In my view, the RAD reasonably explained why it found the crime diary not credible. First, the crime diary was drafted more than one year after the events occurred. Moreover, at paragraphs 35-36 of the Decision, the RAD explained that it drew a negative inference from the content of the crime diary because the crime diary was made for an insurance claim, yet had very

little detail on the actual damage to the vehicle, but read much more as a diary of the Applicants' alleged situation.

[72] The RAD therefore reasonably assessed the credibility on this issue and properly explained why it was putting little wait on the crime diary. The RAD's conclusion on credibility is transparent and intelligible. The RAD was entitled to consider the crime diary and explain, as it did, why it was not convinced that the document was reliable to demonstrate the Applicants' situation and fear of persecution.

VII. Conclusion

[73] For all of these reasons, I would dismiss this application for judicial review.

[74] The parties do not propose a question for certification and I agree that none arises.

JUDGMENT in IMM-376-22

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed.

2. No question is certified.

"Guy Régimbald"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

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