

Federal Court



Cour fédérale

Date: 20230601

Docket: IMM-3094-22

Citation: 2023 FC 759

Toronto, Ontario, June 1, 2023

PRESENT: The Honourable Madam Justice Heneghan

BETWEEN:

OLUWAREMILEKUN DAVID MANTEY

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

REASONS AND JUDGMENT

[1] Mr. Oluwaremilekun David Mantey (the “Applicant”) seeks judicial review of the decision of the Immigration and Refugee Board, Refugee Appeal Division (the “RAD”), dismissing his appeal from a decision of the Immigration and Refugee Board, Refugee Protection Division (the “RPD”). The RAD confirmed the decision of the RPD which found that the Applicant is neither a Convention refugee nor a person in need of protection because an Internal Flight Alternative (“IFA”) is available to him.

[2] The Applicant is a citizen of Nigeria. He claimed to be at risk from family members and a criminal organization in connection with a dispute about land, following the death of his father.

[3] The Applicant lived in Lagos. The RPD found that an IFA is available in Abuja and Port Harcourt. The RAD upheld this finding.

[4] The Applicant now argues that the RPD erred in its negative credibility findings that relate to the basis of his claim. He submits that the negative credibility findings coloured the finding of an IFA. Insofar as the RAD confirmed the availability of an IFA, he argues that the finding is unreasonable.

[5] The Minister of Citizenship and Immigration (the “Respondent”) submits that the RAD committed no reviewable error.

[6] Following the decision of the Supreme Court of Canada in *Canada (Minister of Citizenship and Immigration) v. Vavilov*, [2019] 4 S.C.R. 653, the decision is reviewable on the standard of reasonableness.

[7] In considering reasonableness, the Court is to ask if the decision under review "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"; see *Vavilov, supra* at paragraph 99.

[8] The test for a viable IFA is addressed in *Rasaratnam v. Canada (Minister of Employment and Immigration)*, [1992] 1 F.C. 706 at 710-711 (F.C.A.). The test is two-part and provides as follows:

- First, the Board must be satisfied that there is no serious possibility of a claimant being persecuted in the IFA.
- Second, it must be objectively reasonable to expect a claimant to seek safety in a different part of the country before seeking protection in Canada.

[9] In order to show that an IFA is unreasonable, an applicant must show that conditions in the proposed IFA would jeopardize their life and safety in travelling or relocating to that IFA; see *Thirunavukkarasu v. Canada (Minister of Employment and Immigration)*, [1994] 1 F.C. 589 at 596-598 (F.C.A.).

[10] The Applicant's arguments about the RPD's negative credibility findings do not change the fact that the determinative issue in this application for judicial review is the RAD's finding about the availability of an IFA.

[11] Upon consideration of the decision, the material in the Certified Tribunal Record, and the written and oral submissions of the parties, I am not persuaded that the RAD's decision is unreasonable.

[12] I am satisfied that the RAD reasonably concluded that the Applicant was not exposed to a “serious possibility” of persecution in the proposed IFA cities. The RAD addressed relevant evidence in reaching its conclusion.

[13] Since the Applicant has failed to show an error in the RAD’s treatment of the first part of the IFA test, it is not necessary for me to engage with any arguments about the second part of that test.

[14] In the result, this application for judicial review will be dismissed. There is no question for certification.

JUDGMENT in IMM-3094-22

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

There is no question for certification.

“E. Heneghan”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-3094-22

STYLE OF CAUSE: OLUWAREMILEKUN DAVID MANTEY v. THE
MINISTER OF CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: Toronto, Ontario

DATE OF HEARING: MAY 18, 2023

REASONS AND JUDGMENT: HENEGHAN J.

DATED: JUNE 1, 2023

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