

Federal Court



Cour fédérale

Date: 20240118

Docket: IMM-5444-22

Citation: 2024 FC 78

Montréal, Quebec, January 18, 2024

PRESENT: Mr. Justice Sébastien Grammond

BETWEEN:

VICTORIA OLABISI ANIBABA

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] Ms. Anibaba seeks judicial review of the denial of her refugee claim. She alleges that the decision maker failed to appreciate that she would be at risk in her home country of Nigeria because her in-laws hold her responsible for the death of her husband and because she is a Jehovah's Witness. I am dismissing her application, because the decision is compatible with the evidence that Ms. Anibaba brought forward.

I. Background

[2] Ms. Anibaba, a citizen of Nigeria, sought refugee protection. She alleges that she is Christian, more specifically, a Jehovah's Witness. She married a Muslim man. When the latter died in 2013, his family believed that she was responsible for his death. They threatened her and evicted her from her house. She moved to Lagos, where she stayed in hiding with a friend for three years, before travelling to Canada.

[3] The Refugee Protection Division [RPD] and the Refugee Appeal Division [RAD] of the Immigration and Refugee Board denied her claim. They both found that Ms. Anibaba does not have a well-founded fear of persecution in Nigeria. In particular, the RAD noted that Ms. Anibaba acknowledged that she was not at risk of persecution by her in-laws if she did not attempt to regain possession of the family house. Moreover, the RAD noted that the evidence did not establish that Christians were generally at risk of persecution in Nigeria. It highlighted the fact that attacks by the terrorist group Boko Haram take place mainly in the northern part of the country and not in the state where she used to live and where she was likely to return.

[4] Ms. Anibaba is now seeking judicial review of the RAD's decision.

II. Analysis

[5] I am dismissing Ms. Anibaba's application. While she raised a wide range of issues with the decision, they may be grouped in three categories: (1) errors in the assessment of risk

pertaining to the in-laws; (2) nexus to section 96 grounds; (3) errors in the assessment of risk pertaining to religion. In my view, none of the alleged errors renders the decision unreasonable.

A. *The In-Laws*

[6] Ms. Anibaba's main argument is that the RAD incorrectly analyzed the risk she was alleging and misconstrued her purported admission that she would not be at risk as long as she did not try to regain possession of the house.

[7] In this regard, the RAD's conclusion that there is no risk is compatible with the evidence. It is true that during her testimony before the RPD, Ms. Anibaba expressed the view that their in-laws "will not be at rest" as long as she is alive. However, there is no objective basis for this statement. The in-laws did not do anything to Ms. Anibaba once they evicted her from the house. She has not been in contact with them since that day. While the RAD incorrectly stated that Ms. Anibaba "acknowledged that there is no risk of harm as long as she does not try to regain possession of her former home," this mistake is inconsequential, because there is no objective basis for Ms. Anibaba's subjective fear.

[8] Ms. Anibaba also argues that the RAD's findings are speculative, in the sense that one does not know whether the in-laws have made unsuccessful attempts to find her. Ms. Anibaba, however, has the burden of proving that she is at risk. It is her submission that is speculative, as she invites the Court to draw conclusions from an absence of evidence.

[9] In her testimony before the RPD, Ms. Anibaba stated that she spent three years in hiding at her friend's house in Lagos. She now argues that the RAD's finding that she is not at risk overlooks her evidence in this regard. The fact that she was hiding may show that she had a subjective fear. However, to ground refugee status, this fear also needed to be objectively well founded. The RAD concluded that it was not. As I explained above, this conclusion is reasonably grounded in the evidence.

B. *Nexus*

[10] Ms. Anibaba's submissions regarding nexus to a Convention ground are difficult to follow. Nothing in the decision suggests that the RAD failed to appreciate the grounds alleged by Ms. Anibaba. Rather, the RAD appreciated the full context of her claim, including the fact that she is a widow and a Jehovah's Witness, that she has no family support and she is retired and can no longer work. None of this, however, detracts from the fact that Ms. Anibaba simply did not bring evidence that she was at risk of death, inhumane treatment or persecution.

[11] Nor do I find that the RAD failed to appreciate the difference between sections 96 and 97 of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [the Act]. The RAD's reasons are brief. They assume that the reader is familiar with sections 96 and 97 of the Act. When the claim fails for a complete lack of evidence of future risk, there is no need to discuss the differences between sections 96 and 97.

C. *Religion*

[12] Ms. Anibaba also takes issue with the RAD's treatment of her fear of persecution based on religion. The RAD found as follows:

On the issue of the risk stemming from the Appellant being a Christian, I find that the new evidence admitted on appeal is insufficient to establish that Christians, in general, throughout Nigeria, and the Appellant, in particular, are now at a higher risk of harm because of their religious beliefs. It continues to be the case that attacks against Christians remain localized. The new events refer to three attacks that took place in the states of Kano, Kaduna and Kogi, all of which are in the northern part of Nigeria, where Boko Haram is believed to be present. That is not the case in the area of southern Nigeria where the Appellant previously lived and where she would likely return.

[13] While these findings are succinctly stated, Ms. Anibaba did not show that they are unreasonable.

[14] In her testimony, Ms. Anibaba described only one incident that she understood to be a threat based on her proselytization work as a Jehovah's Witness. This incident, which happened at an unspecified date, is insufficient to ground refugee status.

[15] In its decision, the RAD describes Ms. Anibaba as a Christian, but does not mention explicitly that she is a Jehovah's Witness. Nevertheless, nothing in the evidence tends to show that the mere fact of being a Jehovah's Witness gives rise to a well founded fear of persecution in Nigeria.

[16] Ms. Anibaba takes issue with the RAD's statement that threats related to the terrorist group Boko Haram are circumscribed to the northern part of Nigeria, whereas the evidence reveals that attacks also took place in the southeast. What the RAD found, however, is that Ms. Anibaba would not be at risk in the region where she would return, which is around Lagos. She has not shown that this precise finding is contradicted by the evidence.

[17] Therefore, Ms. Anibaba's submission boils down to the assertion that the mere fact of being Christian in Nigeria gives rise to a well-founded fear of persecution. While I acknowledge that there have been instances of religiously motivated violence in Nigeria, in particular attacks by Boko Haram, Ms. Anibaba has not shown that the RAD's rejection of her submission is unreasonable or irreconcilable with the objective evidence regarding the conditions in Nigeria.

III. Disposition

[18] For these reasons, Ms. Anibaba's application for judicial review will be dismissed.

JUDGMENT in IMM-5444-22

THIS COURT'S JUDGMENT is that

1. The application for judicial review is dismissed.
2. No question is certified.

"Sébastien Grammond"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-5444-22

STYLE OF CAUSE: VICTORIA OLABISI ANIBABA v THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: BY VIDEOCONFERENCE

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