

Federal Court



Cour fédérale

**Date: 20240806**

**Docket: IMM-4269-23**

**Citation: 2024 FC 1230**

**Toronto, Ontario, August 6, 2024**

**PRESENT: Madam Justice Go**

**BETWEEN:**

**EDIMA AKPAETI HANSON  
UFONABASI RACHEL EDIMA-HANSON**

**Applicants**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

I. Overview

[1] Mr. Edima Akpaeti HANSON [Principle Applicant or “PA”] and his wife Ufonabasi Rachel EDIMA-HANSON [Associate Applicant or “AA”] [together, the Applicants] are seeking judicial review of the decision of the Refugee Appeal Division [RAD] dismissing the

Applicants' appeal and confirming the determination of the Refugee Protection Division [RPD] that they are neither Convention refugees nor persons in need of protection [Decision].

[2] The hearing of this judicial review application was held on March 6, 2024 before a judge who has since retired from the Court. By Order of the Chief Justice dated June 24, 2024, the application was reassigned to a different judge. The parties agreed that the application would be determined based on the written record and audio recording of the hearing.

[3] The Applicants are citizens of Nigeria who claim that they fear persecution from the PA's extended family due to the PA's refusal to assume the role of king for their traditional house. The Applicants also allege that the AA would have to undergo Female Genital Mutilation [FGM] as part of the traditional rituals for the PA's kingship enthronement.

[4] The RAD confirmed the RPD's finding that the Applicants had not credibly established their claims. I find the Decision reasonable and I dismiss the application.

## II. Issues and Standard of Review

[5] The central issue before me is whether the Decision was reasonable, per the standard of review set out in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65.

[6] The Applicants argue that the RAD erred in making the following findings:

- a. The omission in the Basis of Claim [BOC] about the direct threat the PA allegedly received during an incident in March 2017 undermined the PA's credibility;

- b. The PA's psychologist report did not explain the PA's omissions about the March 2017 incident;
- c. The PA omitted calls that led him to leave Nigeria in March 2018 in his BOC; the omission was significant and the Applicants' mental health conditions did not reasonably explain the omission;
- d. The objective evidence did not support the Applicants' claim; and
- e. The new evidence submitted on appeal to the RAD did not overcome the credibility concerns and did not change the outcome of their claims.

### III. Analysis

- A. *Did the RAD err by finding that the omission about the March 2017 direct threat undermined the PA's credibility?*

[7] The PA made several omissions in his BOC narrative and amended narrative, one of which was the alleged threat he received on March 11, 2017 during a visit by members of his extended family. In his BOC, the PA alleged that he was informed during the visit that his wife would have to undergo FGM and that his wife was called a "barren, unproductive woman, and a witch." During the RPD hearing, the PA testified that he could not return to Nigeria because he would be a dead man and that he had been threatened and targeted by his family on March 11, 2017.

[8] Both the RPD and RAD found that the Applicants had made a significant omission in failing to mention that the PA's family directly targeted him on March 11, 2017.

[9] The Applicants submit that the RAD erred for two reasons. First, the Applicants stated in their narrative that they had been “accosted” by their family members. The use of the word “accosted” means a bold or aggressive approach. While the PA did not explicitly state that he was “directly threatened,” it was implied and later developed in the PA’s testimony. Second, the Applicants argue that the RAD unreasonably imposed a Western lens on its interpretation of the facts, and failed to consider the Applicants’ cultural background. The Applicants point to the AA being called a witch and argue that the accusation of witchcraft in Nigeria can result in persecution, social rejection, violence and discrimination, citing the National Documentation Package [NDP] on Nigeria, Item 5.1.

[10] I reject the Applicants’ arguments. As the Respondent submits and I agree, this Court has confirmed that failure to include important facts and details in BOC can affect a claimant’s credibility: *Ogaulu v Canada (Citizenship and Immigration)*, 2019 FC 547 at para 18. By arguing how the RAD should have interpreted what was implied but never stated in their BOC, the Applicants are essentially asking the Court to reweigh the evidence.

B. *Did the RAD err by finding that the PA’s psychologist report did not explain the PA’s omissions in his BOC?*

[11] The Applicants submit several documents with respect to their psychological conditions. In the case of the PA, he submitted a report dated December 1, 2020 by psychologist Dr. Stephenson indicating a diagnosis of Post Traumatic Stress Disorder [PTSD]. The Applicants assert that the psychologist report reflects the fact that the PA told the psychologist he had been

threatened, and therefore the omission of the direct threat in March 2017 was insignificant. In finding that there was no threat towards the PA, the RAD erred.

[12] I disagree.

[13] I note that the passage quoted by the Applicant from the psychologist report did not in fact refer to any direct threat during the March 2017 incident.

[14] More to the point, the RAD considered the Applicants' argument in the Decision and found that the psychologist report was not consistent with what was in the BOC narratives. The RAD also found that neither of the Applicants identified any threats made against the PA in the psychologist report. Having reviewed the psychologist report, I find the RAD did not make any reviewable error. The Applicant further argues that the RAD stated that nowhere in the psychologist report does it suggest that the PA has difficulty recalling events, when this was factually incorrect. The Applicants point to a section of the psychologist report that sets out the symptom criteria for diagnosing PTSD. Among a list of symptom criteria, out of four categories of criteria, is the "inability to recall key features of the traumatic event (usually dissociative amnesia; not due to head injury, alcohol or drugs)." This, the Applicant argues, is contradictory to the RAD's finding.

[15] While I note the psychologist report suggests that the PA qualifies for the PTSD diagnosis based on several criteria, it provides no specific assessment of the PA's ability to recall events. More importantly, the RAD considered this argument and noted the PA's explanation

that he “could not have 100 percent comprehension at any given time” and it might have been an oversight on his part. The RAD acknowledged that trauma could impact a person’s ability to recall traumatic events. However, the RAD went on to find that the omission “is significant as it goes directly to the [Applicants’ allegations]” due to the PA’s refusal to accept the kingship. The RAD concluded the PTSD diagnosis did not explain the omission.

[16] As the allegation of direct threat went to the heart of the Applicants’ claim, an allegation that the Applicants failed to mention in their BOC and amended BOC, I find the RAD’s finding reasonable.

C. *Did the RAD err in finding the omission of the phone calls was significant, and the Applicants’ mental health did not reasonably explain the omission?*

[17] Before the RPD, the PA testified that he decided to leave Nigeria because he began to receive phone calls at the beginning of March 2018 from prospective clients seeking his consultation services. The PA explained that he normally received clients from referrals and that those prospective clients would not tell him who had referred them to the PA, leading him to fear for safety. The Applicants omitted these phone calls in their BOC narratives. The RPD found the PA’s explanation for the omission insufficient. The RAD confirmed that finding.

[18] The Applicants submit that the RAD erred by finding that the calls themselves would not demonstrate the PA’s inability to recall key traumatic events, on the basis that nothing in the calls led the RAD to conclude these were traumatic events that would trigger the PA not to

remember them. The Applicants argue the RAD lacked the expertise to determine what would trigger the PA's PTSD.

[19] I reject this argument for two reasons. First, I find the Applicants take the RAD's findings out of context. The RAD provided several reasons for concluding that the omission of the phone calls undermined the PA's credibility:

- The Applicants' amended narrative also did not mention the calls in March 2018;
- The Applicants' explanation for why he left Nigeria related more to the fact that he did not want to remarry as required by his extended family, and because he wanted to "reduce the taunting, mistreatment and threat to his family members" yet there is no evidence that the PA was ever directly threatened or faced persecution because of his refusal;
- The PA never stated any of these clients threatened him or mentioned the kingship in the calls; the PA was speculating the reasoning behind those calls since these clients wanted to meet him in person; and
- The omission of calls leading the PA to feel he needed to leave Nigeria for his safety was significant.

[20] After setting out these reasons, the RAD then went on to consider whether the PA's mental health explained his omission of the March 2018 calls from his BOC narratives. In finding that it did not, I find the RAD was not acting outside of its expertise and attempting to decide how the PA's PTSD would be triggered by certain traumatic events. Rather, the RAD relied on the PA's own testimony to draw its conclusion. In addition to noting there was no direct threats to the PA made during these calls, the RAD also noted that the PA answered the questions appropriately and did not appear to present any problems in concentration when he answered them. The RAD's findings were grounded on the PA's own testimony, and as such it was open to the RAD to make such findings.

D. *Did the RAD err by finding that the objective evidence did not support the Applicants' claim?*

[21] Before the RAD, the Applicants submit that the RPD failed to consider evidence at item 13.7 of the NDP which suggests that refusal of a chieftaincy title could still result in, among other things, threats, discrimination, and danger from family and loss of life.

[22] The RAD confirmed the RPD's assessment that the objective evidence did not support the Applicants' claim that their life would be in danger due to the PA's refusal to accept the kingship. The RAD stated that it preferred the objective evidence relied on by the RPD.

[23] Before this court, the Applicants submit that rather than performing a balanced assessment of the objective evidence, the RAD focused solely on the evidence that did not support the Applicants' allegations, while dismissing equally probative and objective third-party evidence before it. The Applicants also submit that the RAD failed to provide an explanation for preferring the evidence noted by the RPD.

[24] I reject these submissions. As the Respondent submits, it was open to the RAD to prefer the preponderance of documentary evidence that indicated the unlikelihood of the PA's assertion that he could be killed and his wife forced to undergo FGM. The Court in *Oyewoley v Canada (Citizenship and Immigration)*, 2021 FC 21 dealt with a similar argument and noted as follows:

[14] ...The RAD's assessment took into account the principal Applicant's evidence, as well as the country conditions documents containing mixed information on the consequences of refusing a traditional chieftaincy. All but one of eight sources suggest that the



consequences of refusal are minor and do not include death or physical harm. These factual conclusions are supported by evidence.

[25] The same rationale applies here.

[26] With respect to the Applicants' claim that the AA would likely be forced to undergo FGM if she were to return to Nigeria, I agree with the Respondent that the Applicants point to no such evidence. Instead, the Applicants assert that there can be secrecy surrounding ritual practices and that evidence of FGM exists in Nigeria.

[27] Moreover, the RAD also considered several other factors that support the RPD's finding that the Applicants have not credibly established their claim based on the alleged FGM:

- The AA has not been forced in the past to undergo FGM despite seeing the agents of persecution;
- The AA's mental health does not overcome the lack of overall evidence for their allegation that the AA would face FGM; and
- The lack of corroborating evidence to support she would face FGM in her circumstances.

[28] Adding to that list of factors, was the RAD's finding that the objective evidence did not support their allegation based on the AA's profile, a married woman in her 40s who has been unable to bear children and suffers from mental health conditions.

[29] The Applicants carry the onus for establishing their claims based on evidence. In light of all the evidence, and the lack thereof, I find the RAD reasonably concluded that the Applicants failed to credibly establish their allegation with respect to the FGM.

E. *Did the RAD err in its assessment of the new evidence?*

[30] The Applicants filed four different packages of disclosure on appeal to the RAD. The Applicants take issue with the RAD's treatment of some of the new evidence.

[31] First, the Applicants submit the RAD was not looking at the evidence in its totality. The Applicants argue that the new evidence demonstrated that the agents of persecution have gone to extreme lengths to locate the Applicants because they consider the PA's refusal as causing calamities and blacking good fortune. In particular, the new evidence confirmed that:

- The agents of persecution threatened the PA's cousin by phone, stating that if the Applicants weren't found, they would come after his life;
- The agents of persecution have put the PA's name and photograph in a national newspaper;
- The PA's absence from Nigeria and failure to assume the kingship title has caused calamities for his agents of persecution;
- The AA was accosted by armed individuals in search of the PA at her father's funeral; and
- Years after the Applicants' departure from Nigeria, the agents of persecution continued to look for them and intimidated at least one individual in search for the Applicants.

[32] The Applicants further submit that the RAD made no mention of the threat to the PA's cousin by the anonymous call trying to locate the PA.

[33] Once again, I find the Applicants are seeking the Court to reassess their evidence and do not point to any reviewable error. The RAD went through all the pieces of new evidence submitted by the Applicants and conducted a thorough analysis of each. The RAD provided

reasons to explain why the new evidence did not change the outcome of the RPD decision.

Ultimately, the RAD concluded that even with the new evidence, the PA did not demonstrate any direct threats to him, and did not provide any evidence to support that the PA's extended family can locate the Applicants anywhere in Nigeria. I agree with the Respondent that the RAD considered the totality of the new evidence in the context of the Applicants' claim and came to a reasonable decision.

#### IV. Conclusion

[34] The application for judicial review is dismissed.

[35] There is no question for certification.

**JUDGMENT in IMM-4269-23**

**THIS COURT'S JUDGMENT is that:**

1. The application for judicial review is dismissed.
2. There is no question for certification.

"Avvy Yao-Yao Go"

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Judge

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** IMM-4269-23

**STYLE OF CAUSE:** EDIMA AKPAETI HANSON, UFONABASI RACHEL  
EDIMA-HANSON v THE MINISTER OF  
CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** HELD VIA ZOOM

**DATE OF HEARING:** MARCH 6, 2024

**JUDGMENT AND REASONS:** GO J.

**DATED:** AUGUST 6, 2024

**APPEARANCES:**

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