

Federal Court



Cour fédérale

Date: 20110817

Docket: IMM-6848-10

Citation: 2011 FC 1002

Montréal, Quebec, August 17, 2011

PRESENT: The Honourable Mr. Justice Beaudry

BETWEEN:

SARA OKAFOR

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

[1] This is an application for judicial review pursuant to section 72 of the *Immigration and Refugee Protection Act*, SC 2001, c 27 (the Act) of a negative decision of the Immigration and Refugee Board (the Board) rendered on October 26, 2010.

[2] For the reasons that follow, the application shall be allowed.

[3] The Board accepts that the applicant has satisfactorily established her identity, her fears and the reasons underlying these fears (see para.10 of the decision). The reason for dismissing the applicant's claim is the possibility of an internal flight alternative (IFA) in Abuja.

[4] The applicant is a 24-year-old citizen of Nigeria. After returning from Lagos to their village in Ebonyi State in 2002, the applicant's family was confronted by the village elders regarding the excision of female genital mutilation (FGM) of their four daughters, including the applicant. After the first daughter bled to death from the excision, the applicant's mother helped the applicant and her two younger sisters escape to Lagos. The three girls survived in the streets and eventually ended up living under a bridge, performing jobs such as dishwashing and hairdressing.

[5] In October 2005, the applicant met "Auntie" (the Agent) who offered to help her to travel to work as a hairdresser in exchange for the remittance of the applicant's revenues. After the first year, the applicant would be freed of her debt.

[6] After reaching an agreement with the Agent, the applicant traveled to Turkey with her Agent and was left in the care of a man who kept her inside an apartment with other Africans, never letting her out. After roughly six months, she was taken to a boat along with other Africans and they rode out towards Greece. Unfortunately, the boat sunk and there were only four survivors: two African men, the boat driver and the applicant. The survivors were eventually rescued by another boat and they made their way to an agent in Athens, who requested that the applicant start working as a prostitute. Upon her refusal, she was kept in a basement dwelling for five months, during which

time she was repeatedly raped by various men and fed only once per day. She eventually accepted the agent's demand and started working as a prostitute.

[7] In October 2006, the applicant fled to London with the help of a person named Paul, to whom she was introduced by another prostitute and who made all of the travel arrangements, including getting her a French passport. Although she had heard that her eldest sister was living in London, the applicant could not locate her and was therefore unable to pay Paul for the cost of the trip.

[8] He took her back to Greece and the applicant returned to a furious agent, having nowhere else to turn. She was sent to Rodos, Greece, where she was kept by bodyguards and forced to continue working as a prostitute. She eventually became pregnant and underwent an abortion at the agent's demand. The applicant escaped a second time sometime in May 2007. She met a man named Christian, who became her boyfriend and with whom she lived until March 2008, but the agent's men beat Christian and demanded that he return her. Christian disappeared.

[9] The applicant left Christian's house and hung out in the port area until she befriended a Ukrainian woman named Nadia who took her in and introduced her to a friend who made arrangements for the applicant to escape to Canada. The applicant arrived in Canada on May 24, 2008, approximately 7 months pregnant, and sought refugee protection.

[10] The issue to be determined in this application is the reasonableness of the IFA.

[11] Both parties submit that the appropriate standard of review is reasonableness (*Dunsmuir v New Brunswick*, 2008 SCC 9, [2008] 1 SCR 190 at paras 51, 62). The Court agrees.

[12] The applicant fears that her Agent would find her if she is returned. She also fears that the village elders would locate her for FGM. There is no assistance in Nigeria for her because her family has disowned her. She has very little education and cannot read or write.

[13] The Court finds that the words of Mosley J. in *Cartagena v Canada (Minister of Citizenship and Immigration)*, 2008 FC 289 at para.11 apply to the case at bar:

[11] ... Psychological evidence is central to the question of whether the IFA is reasonable and cannot be disregarded: *Singh v. Canada (Minister of Citizenship and Immigration)*, 97 F.T.R. 139, [1995] F.C.J. No. 1044. The panel failed to thoroughly assess the reasonableness of the locations suggested as viable IFAs in the context of Mr. Cartagena's situation and vulnerable mind-set.

[14] The applicant suffers from physical and emotional stress (see the doctor's report, page 456 of the Tribunal Record). She is a single mother, with no formal education, and is illiterate. She has no family support. The analysis by the Board in concluding that there was a possible IFA for the applicant in Abuja is unreasonable because it does not take into account the applicant's personal particular situation.

[15] In the assessment of the second prong of the test, an IFA must be reasonable for the particular claimant in the context of the particular country (*Cartagena*, para 9, where *Thirunavukkarasu v Canada (Minister of Employment and Immigration)*, [1994] 1 FC 589 is cited).

[16] The parties did not submit questions for certification and none arise.

JUDGMENT

THIS COURT ORDERS that the application for judicial review be allowed and the matter sent back for redetermination by a newly constituted Board. No question is certified.

“Michel Beaudry”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-6848-10

STYLE OF CAUSE: SARA OKAFOR and MCI

PLACE OF HEARING: Montréal, Quebec

DATE OF HEARING: August 17, 2011

**REASONS FOR JUDGMENT
AND JUDGMENT:** BEAUDRY J.

DATED: August 17, 2011

APPEARANCES:

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