

Federal Court



Cour fédérale

Date: 20170925

Docket: IMM-551-17

Citation: 2017 FC 855

Toronto, Ontario, September 25, 2017

PRESENT: The Honourable Mr. Justice Campbell

BETWEEN:

**BLESSING FEBOKE
PREYE FEBOKE
DAVID DOUBRA FEBOKE
(A.K.A DAVID FEBOKE)
PEREZIDE FEBOKE
CHRISTABEL EBIE FEBOKE
(A.K.A CHRISTABEL FEBOKE)
FAITH TAMARAKURHO FEBOKE**

Applicants

and

**THE MINISTER OF IMMIGRATION,
REFUGEES AND CITIZENSHIP CANADA**

Respondent

JUDGMENT AND REASONS

[1] The Applicants are a family composed of a mother (Principal Claimant), father, and their four children, all citizens of Nigeria, who claim refugee protection arising from the Principal Claimant's experience in Nigeria. The Refugee Protection Division (RPD) rejected the claim in

its decision of January 23, 2017 on a finding that the claim is “manifestly unfounded” (Decision, para. 40).

[2] A precis of the substance of the claim provided in the sworn evidence of the Principal Applicant is stated by the RPD as follows:

ALLEGATIONS

The claimants' allegations are set out in the narrative attached to the Principal Claimant's Basis of Claim ("BOC") form, amended on November 7, 2016 and December 19, 2016. The claimants allege that they are citizens of Nigeria residing in the municipality of Warri located in Delta state. The Principal Claimant alleges that she is a caterer by occupation. The Principal Claimant alleges that in July 2016 she was serving food at a party when she overheard a conversation by some party attendants who were planning to blow up oil pipelines. The claimants allege that these individuals belonged to the Niger Delta Avengers, a militant group in their state. The Principal Claimant alleges that upon overhearing their plans she decided to speak out to the group members about the damage their actions would do to Nigeria. The Principal Claimant felt the need to do this because the group was primarily composed of youth, being 18 or 19 year old men. She alleges that at the conclusion of the party she was warned to never speak of what she heard to anyone and was given extra money.

The claimants allege that the proposed attacks overheard by the Principal Claimant actually took place. They allege that after the police arrested some of the perpetrators, some Avengers became suspicious that the Principal Claimant reported their overheard conversation. The claimants allege that they then approached the police for protection and reported what they heard at the party and the recent threats against them. They allege Nigerian police have been corrupted by the Avengers and may have actually assisted the Avengers to locate the family's whereabouts in southern Nigeria. The claimants allege that the Avengers are continuing to look for them in order to exact revenge.

(Decision, paras. 3 and 4) [Footnotes omitted]

[3] A critical observation of the decision under review is that, with respect to the quoted statement of the substance of the claim, the RPD does not express a single word of analysis. The decision is devoted to reaching strongly contested findings of general negative credibility on evidentiary features ancillary to the substance of the claim: use of and production of the Applicants' Nigerian passports; BOC error; BOC amendment; BOC deficiency; and perceived supporting witness affidavit irregularities. With respect to this approach, the RPD makes the following statement:

Based on the above credibility findings I find the claimants to be generally not credible. I find that the adverse credibility findings which go to the core of their claim extend throughout their evidence. The claimants seriously damaged their credibility by submitting fraudulent documentation. I do not believe what the claimants say in support of their claim generally.

(Decision, para. 26) [Emphasis added]

[4] In response to this statement I make two findings: the ancillary issues do not go to the "core of the claim" which is the substance of the claim quoted above; and, to properly discharge the obligation to consider the Principal Applicant's sworn testimony of the substance of the claim, the RPD was required to evaluate the Principal Applicant's evidence and to make findings of fact on that evidence. In my opinion, the RPD's failure to meet this requirement constitutes a reviewable error in fact-finding.

[5] As a result, I find the decision is unreasonable.

JUDGMENT

THIS COURT'S JUDGMENT is that the decision under review is set aside and the matter is referred back for redetermination before a differently constituted panel.

There is no question to certify.

"Douglas R. Campbell"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-551-17

STYLE OF CAUSE: BLESSING FEBOKE, PREYE FEBOKE, DAVID DOUBRA FEBOKE, (A.K.A DAVID FEBOKE), PEREZIDE FEBOKE, CHRISTABEL EBIE FEBOKE, (A.K.A CHRISTABEL FEBOKE), FAITH TAMARAKURHO FEBOKE v THE MINISTER OF IMMIGRATION, REFUGEES AND CITIZENSHIP CANADA

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: SEPTEMBER 21, 2017

JUDGMENT AND REASONS: CAMPBELL J.

DATED: SEPTEMBER 25, 2017

APPEARANCES:

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