

Federal Court



Cour fédérale

**Date: 20210325**

**Docket: IMM-5948-19**

**Citation: 2021 FC 262**

**Ottawa, Ontario, March 25, 2021**

**PRESENT: Madam Justice Simpson**

**BETWEEN:**

**STELLA EJI INYINBOR  
OSEGBEMERE CHIARA INYINBOR  
(MINOR)**

**Applicants**

**and**

**THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

**(Delivered orally from the Bench by videoconference  
at Ottawa, Ontario on January 13, 2021)**

**I. Proceeding**

[1] This application is for judicial review of a decision of the Refugee Appeal Division [RAD] of the Immigration and Refugee Board [the Board], dated September 4, 2019, in which

the appeal was dismissed on the basis that the Applicants have a viable internal flight alternative [IFA] in Port Harcourt, Nigeria.

[2] The Applicants are a mother [the Principal Applicant] and her minor daughter [the Daughter] who are Nigerian citizens. The Principal Applicant is a lawyer. The Principal Applicant's husband [the Husband] still lives in Nigeria. He works for his family business which deals in oil and real estate.

[3] The Applicants lived in Benin City, Nigeria, before relocating to Abuja and Lagos as the events leading to their departure from Nigeria unfolded.

[4] This case concerns the Principal Applicant's multi-year struggle to prevent her Husband's family from forcing her Daughter to undergo female genital mutilation [FGM]. The Applicants fled from the family and relocated within Nigeria as described above. Eventually they fled to the US. After two years there, they came to Canada and made a refugee claim.

[5] A hearing was conducted before the Refugee Protection Division [the RPD] of the Board and the decision denied the claims for lack of credibility. The RPD found that the Applicants' failure to claim asylum during their two years in the United States showed a lack of subjective fear, and that neither the Husband nor his family had a continuing interest in performing FGM on the Daughter.

[6] As a result of the acceptance of new documentary evidence and testimony received at a related oral hearing, the RAD Member concluded, contrary to the RPD, that the Husband's family did have a continuing interest in having FGM performed on the Daughter.

[7] The RAD Member concluded that an IFA in Port Harcourt was the determinative issue. On the issue of risk, the RAD Member found that the Husband's family, while motivated, did not have the influence suggested and would not be able to locate the Applicants in Port Harcourt.

[8] On the issue of the reasonableness of Port Harcourt, the RAD Member determined that relocation was reasonable, even though the Principal Applicant would not be able to register to practice law because such registration, which is mandatory, makes lawyers' addresses and other contact information available to the public.

[9] The RAD inferred that other work would be open to the Applicant in the legal field or the court system and that no other potential difficulties made the IFA unreasonable.

[10] The Applicant submits that it was unreasonable of the RAD to infer that she could work in the legal field, as there was no evidence that other legal positions, such as paralegals or clerks, exist in Nigeria. However, as the Respondent pointed out, and I accept, it was the Applicant's onus to show that she had no reasonable employment prospects if she could not practice law.

[11] In my view, it is unfortunate but not unreasonable that this Applicant will not be able to practice law in the IFA location. However, the real issue is whether she will be able to find work

to support herself and her Daughter and, in my view, the RAD reasonably concluded that she would be in a position to do so.

[12] For these reasons, the application for judicial review will be dismissed.

[13] No question was posed for certification for appeal.

**JUDGMENT IN IMM-5948-19**

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

“Sandra J. Simpson”

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Judge

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

**DOCKET:** IMM-5948-19

**STYLE OF CAUSE:** STELLA EJI INYINBOR and OSEGBEMERE CHIARA  
INYINBOR (MINOR) v THE MINISTER OF  
CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** HEARD BY VIDEOCONFERENCE BETWEEN  
OTTAWA, ONTARIO (COURT) AND TORONTO,  
ONTARIO (PARTIES)

**DATE OF HEARING:** JANUARY 13, 2021

**JUDGMENT AND REASONS:** SIMPSON J.

**DATED:** MARCH 25, 2021

**APPEARANCES:**

Rasaq Jimoh Ayanlola FOR THE APPLICANT

Stephen Jarvis FOR THE RESPONDENT

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