

Federal Court



Cour fédérale

**Date: 20210325**

**Docket: IMM-182-20**

**Citation: 2021 FC 261**

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

**PRESENT: Madam Justice Simpson**

**BETWEEN:**

**RONKE VICTORIA SHODUNKE  
AARON OLAWALE SHODUNKE  
OLADIPUPO SEANDELL SHODUNKE**

**Applicants**

**and**

**THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

**(Delivered orally from the Bench by videoconference  
at Ottawa, Ontario on January 12, 2021)**

[1] This application is for judicial review of a decision of the Refugee Appeal Division [RAD] of the Immigration and Refugee Board of Canada [the Board], dated December 10, 2019, dismissing the Applicants' appeal of the refusal of their refugee claim by the Refugee Protection Division [RPD] of the Board.

I. **Background**

[2] The Applicants are a mother and two minor children, all citizens of Nigeria. The mother is the Principal Applicant. The Principal Applicant is married and her husband continues to live in Nigeria. Her parents and siblings also live there.

[3] Prior to coming to Canada, and before her difficulties began, the Principal Applicant lived with her family in Lagos. There she was planning to open a salon and spa. She has a certificate from a beauty training institute. She has also been self-employed, travelling to Dubai to buy goods to sell in Nigeria. She holds a Bachelor's degree.

[4] The Principal Applicant is a Christian, and her husband is a Muslim. When she married, the Principal Applicant did not convert to Islam. Unfortunately, the husband's family did not accept this arrangement. In particular, the husband's mother [the Mother-in-Law], was vehemently opposed to the Principal Applicant's refusal to convert.

[5] The Mother-in-law eventually moved into the couple's home, without their permission. She subsequently brought a young Muslim woman to live in the household to be a new wife for her son. On March 18, 2018, the Mother-in-law and other relatives physically assaulted the Principal Applicant. She went to the local police who refused to help.

[6] Prompted by this assault, the Principal Applicant and the two minor Applicants left Nigeria for New York. They stayed in a hotel for one night then travelled by to the Canadian border. They arrived in Canada on March 30, 2018 and made a refugee claim.

[7] The RPD rejected the Applicants' claims based on the availability of an internal flight alternative [IFA] in Port Harcourt. As well, the RPD found that the failure to claim in the United States was problematic and it also identified an issue with credibility.

## II. The RAD Decision

[8] Before the RAD the IFA was the determinative issue. The RAD Member concluded that there would be no serious possibility of persecution as there was no clear and convincing evidence that the husband's family had the ability or desire to find the Applicants in Port Harcourt. The Principal Applicant provided no explanation about how, as a practical matter, her Mother-in-Law would be capable of locating her in Port Harcourt.

[9] In the RAD Member's view, the difficulties the Applicants might face in relocating did not rise to the level of unreasonableness. The Principal Applicant's above-average level of education, as well as the fact that Port Harcourt is a predominantly Christian city in a Christian region, supported the potential for reestablishment. The RAD Member further noted that there was nothing to indicate that the Principal Applicant's husband would not make the move as well.

## III. The New Evidence

[10] The Principal Applicant submitted new evidence to the RAD which was not accepted either because its contents were not new information or because it did not bear on the determinative issue – the IFA. I have reviewed the new evidence and find that in respect of all but a police report, the RAD's conclusions were reasonable.

[11] The RAD Member refused to accept the police report, finding that it was not relevant. In the detailed report, the husband complained that his mother had orchestrated an attack on him in Ibadan. It is a town about 140 km from Lagos. The husband had moved there to distance himself from the “new wife” his mother had brought into his home. He was also distancing himself from death threats which his mother had made.

[12] Although it is not clearly stated that the husband was in hiding in Ibadan, the police report creates that impression when it refers to the death threats. Accordingly, this evidence was both new and potentially relevant as it may show the mother’s ability to locate her son outside Lagos. Accordingly, it should have been considered by the RAD Member.

[13] For this reason, this application for judicial review will be allowed

[14] In light of this conclusion, it is not necessary to deal with the other issues.

#### IV. CERTIFICATION

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

**JUDGMENT IN IMM-182-20**

**THIS COURT'S JUDGMENT is that** the judicial review is allowed and the matter is to be reconsidered by another Member of the RAD. The reconsideration is to include a consideration of the police report made by the Applicant's husband dated February 26, 2019.

"Sandra J. Simpson"

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Judge

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

**DOCKET:** IMM-182-20

**STYLE OF CAUSE:** RONKE VICTORIA SHODUNKE, AARON  
OLAWALE SHODUNKE, OLADIPUPO SEANDELL  
SHODUNKE v THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION

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

**DATE OF HEARING:** JANUARY 12, 2021

**JUDGMENT AND REASONS:** SIMPSON J.

**DATED:** MARCH 25, 2021

**APPEARANCES:**

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