

Federal Court



Cour fédérale

Date: 20221114

Docket: IMM-9279-21

Citation: 2022 FC 1546

Toronto, Ontario, November 14, 2022

PRESENT: The Honourable Mr. Justice Diner

BETWEEN:

**TOKUNBO ADESOYE AGUNREGE
SOFIAT MOJISOLA TOKUNBO-
AGUNREGE
FAREEDAH AYOMIKUN TOKUNBO
MUTMAINAH OPEYEMI TOKUNBO
FAWZIYAH BOLUWATIFE TOKUNBO
AL-AMEEN OLUWATOBILOBA
TOKUNBO
RAHEEM KOLADE ABDULRAHEEM**

Applicants

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] The Applicants seek judicial review, pursuant to s. 72 of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA], of a decision by the Refugee Appeal Division [RAD]

dated November 19, 2021 dismissing their appeal from the Refugee Protection Division [RPD]. For the reasons that follow, I will dismiss this Application for judicial review.

I. Background

[2] The Applicants, a couple and their five minor children, are citizens of Lagos, Nigeria. They claim that for reasons unknown to them, they became the targets of a violent group of ritualists known in Nigeria as the Badoo cult. The Applicants claim that the Badoo have attempted to break into their home in Nigeria on three separate occasions; that they have attempted to kidnap the minor Applicants at school; and that they made threatening phone calls to the Applicants after they reported the break-ins with the police. The RPD rejected the Applicants' claim for refugee protection, finding that the Applicants failed to establish the identity of the attackers, and that their allegation that the attackers were the Badoo cult was speculative.

[3] The Applicants appealed to the RAD, which concluded that the Applicants failed to demonstrate a forward-looking risk, and rebut the proposed Internal Flight Alternatives [IFA] to Benin City, Abuja, and/or Port Harcourt. That RAD Decision is the subject of this application.

II. Issues and Analysis

[4] The Applicants argue that the RAD breached their right to procedural fairness when it rejected their request for an oral hearing, and that the standard of review for questions of procedural fairness is correctness. In its reasons, the RAD explained that the request for an oral

hearing was rejected on the basis that the accepted new evidence (i) did not raise a serious issue with respect to the credibility of the Applicants, and (ii) was not determinative to either allow or reject the Applicants' claims given the presence of a number of other issues. I disagree. The RAD acted within its discretion pursuant to subsection 110(6) of the IRPA, and thus did not breach the Applicants' right to procedural fairness by rejecting their request for an oral hearing.

[5] The Applicants further contend that the RAD decision was unreasonable in finding that the Applicants failed to (i) demonstrate a forward-looking risk, and (ii) rebut the proposed IFA to Benin City, Abuja, and/or Port Harcourt. The reasonableness standard of review applies to these issues, such that the RAD Decision must be transparent, intelligible, and justified in relation to the relevant factual and legal constraints (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 99).

[6] First, the Applicants challenge the reasonableness of the RAD's discounting of country condition articles they submitted to corroborate their claim that the Badoo cult still exists and that its members continue to carry out ritual murder and targeted killings in cities across Nigeria. The Applicants contend that contrary to the authorities' claims, the police have not been able to stop or contain the Badoo's violent activities.

[7] However, the RAD reasonably found that the articles submitted by the Applicants are no longer relevant in light of information about the Badoo found in the updated National Documentation Package, which reported hundreds of arrests of suspected Badoo cult members throughout Nigeria. In addition, the Lagos Police Commissioner had also declared that the crime

rate had gone down significantly in the city. The RAD also noted that the recent ritualistic murders were never attributed to the Badoo cult.

[8] The Applicants also failed to address the RAD's concerns about the forward-looking risk to them from the Badoo cult, despite the RAD specifically asking them, in a letter, to provide submissions on this matter. The articles submitted to the RAD in response to this letter constitute general evidence of ritualist-style murders in Nigeria, which is not relevant to the Applicants' claim given that it is specifically based on the risk of harm from particular Badoo attackers.

[9] The Applicants' evidence merely shows that they could be at risk of harm from general ritualistic violence in Nigeria – as much as the rest of the general population in Nigeria – and not that they are specifically at risk of particular harm from the Badoo cult. The RAD's conclusion that the Applicants failed to establish an individualized risk of harm from the Badoo cult is reasonable (*Prophète v Canada (Citizenship and Immigration)*, 2009 FCA 31 at para 7).

[10] Ultimately, the determinative issue is the RAD's finding of an IFA to Benin City, Abuja, and/or Port Harcourt, which the Applicants failed to rebut. The RAD reasonably held that the Applicants failed to demonstrate, on a balance of probabilities, that either (i) there is a serious possibility that they would be persecuted in the proposed IFA; or (ii) the conditions in the proposed IFA are such that it would be unreasonable for them to seek refuge there (*Idowu v Canada (Citizenship and Immigration)*, 2022 FC 1052 at para 6).

[11] On the first prong of the IFA test, the Applicants failed to demonstrate a forward-looking risk since there has been no evidence of the Badoo cult members having continued interest in them. With respect to the Applicants' argument that they could be found anywhere in Nigeria through social media, their SIM card, cell phone data or National Identity Card, the RAD reasonably found that the Applicants did not submit any evidence to suggest that Badoo cult members could access this information to find them.

[12] The RAD also noted that the Applicants themselves conceded that apart from the arrests of many members, the leader of the Badoo cult is wanted by the police, concluding that contrary to the Applicants' claims, it would be unlikely that the Badoo would have any ties or influence with the police that would allow them to access information about the Applicants' location.

[13] On the second prong of the IFA test, the Applicants' argument that they would have difficulties finding employment and accommodations, is not persuasive. The RAD reasonably found that the Applicants' advanced education, their good employment history in Nigeria, and their work experience while in Canada would help them find employment and housing in the proposed IFA. Mere hardship for applicants resettling in a proposed IFA does not make the IFA unreasonable. In this case, the Applicants have not raised any other conditions or circumstances that would make it unreasonable for them to seek refuge in the proposed IFA.

III. Conclusion

[14] The RAD decision to dismiss the Applicants' appeal was reasonable. I will dismiss this Application for judicial review. No question of general importance arises.

JUDGMENT in IMM-9279-21

THIS COURT'S JUDGMENT is that:

1. The application is dismissed.
2. No questions for certification were argued and I agree none arise.
3. There is no award as to costs.

"Alan S. Diner"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-9279-21

STYLE OF CAUSE: TOKUNBO ADESOYE AGUNREGE, SOFIAT
MOJISOLA TOKUNBO-AGUNREGE, FAREEDAH
AYOMIKUN TOKUNBO, MUTMAINAH OPEYEMI
TOKUNBO, FAWZIYAH BOLUWATIFE TOKUNBO,
AL-AMEEN OLUWATOBILOBA TOKUNBO,
RAHEEM KOLADE ABDULRAHEEM v THE
MINISTER OF CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: HELD VIA VIDEOCONFERENCE

DATE OF HEARING: NOVEMBER 8, 2022

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

DATED: NOVEMBER 14, 2022

APPEARANCES:

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