

Federal Court



Cour fédérale

Date: 20230519

Docket: IMM-8845-22

Citation: 2023 FC 700

Ottawa, Ontario, May 19, 2023

PRESENT: Mr. Justice Sébastien Grammond

BETWEEN:

ANGELA UCHECHI SUCCESS AZUKA

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] Ms. Azuka seeks judicial review of a decision of the Refugee Appeal Division [RAD] of the Immigration and Refugee Board [IRB] denying her claim for refugee status. I am dismissing her application, because the RAD reasonably found that she would not have a well-founded fear of persecution in her home country of Nigeria on account of her gender.

[2] Before the Refugee Protection Division [RPD] of the IRB, Ms. Azuka asserted a fear of persecution based on political opinion. She only made a tangential reference to gender-based violence. The RPD dismissed her claim.

[3] Before the RAD, Ms. Azuka did not pursue her claim based on political opinion. Rather, she filed new evidence to the effect that she was victim of gender-based violence in Nigeria and that, for this reason, she had a well-founded fear of persecution on account of membership in the particular social group of women. The RAD accepted the new evidence and accepted that Ms. Azuka had been subjected to the following instances of gender-based violence:

. . . she was raped twice, once a child by an older cousin and once as a teenager by her uncle; she was subjected to FGM [female genital mutilation]; she felt pressured by her family to get married; she was emotionally abused by her estranged husband's family; she was physically and emotionally abused by her estranged husband; and a family friend sought sexual favours in exchange for a favourable job reference.

[4] However, even if it accepted the facts as alleged by Ms. Azuka, the RAD noted that she did not claim a fear of persecution at the hands of the same persons who harmed her in the past. The RAD also considered Ms. Azuka's submission that persons who have a similar situation in Nigeria would have a well-founded fear of persecution. On this issue, the RAD found as follows:

I accept fully accept [*sic*] that the country condition evidence referred by the Appellant—as well as that elsewhere in the NDP—shows that there is mistreatment and abuse of women in Nigeria, including the discrimination of older women who are not married, and that they face discrimination in areas such as employment and access to housing. However, even when I consider this information alongside the Appellant's evidence of her experiences, I find that she has not shown that matters in Nigeria are such that women in general or older women who are not married are likely to face a serious possibility of persecution based on their gender, their age, or their marital status, whether separately or cumulatively. I note,

moreover, that the discriminatory treatment that women or older single women may face in Nigeria has not been shown to be “sufficiently serious or systematic enough” to rise to the level of persecution, whether considered on an individual or cumulative basis.

[5] Ms. Azuka argues that the RAD’s findings are unreasonable.

[6] She first takes issue with the fact that the RAD “required [her] to prove that she will be persecuted by the same individuals in the future.” This, however, is a misstatement of the RAD’s reasoning. In reality, the RAD analyzed two different potential sources of a well-founded fear of persecution: continued persecution by the same agents and persecution targeting a group of similarly situated persons. The RAD simply noted that Ms. Azuka did not base her claim on the former possibility, and went on to analyze the latter. In doing so, the RAD did not require Ms. Azuka to prove a personalized risk.

[7] Ms. Azuka then takes issue with the RAD’s statement to the effect that

The question becomes whether the Appellant has shown that the abuse or harassment in Nigeria is sufficiently serious or systematic to substantiate a claim that all people in Nigeria who share the Appellant’s profile are deserving of refugee protection, i.e., a legally separated, female journalist, in her mid-fifties, who has suffered serious gender-based abuse.

[8] I fail to see any error here. These statements are in line with *Salibian v Canada (Minister of Employment and Immigration)*, [1990] 3 FC 250 (CA) at 258, in which Justice Robert Décaré stated that

. . . the applicant can show that the fear he had resulted not from reprehensible acts committed or likely to be committed directly

against him but from reprehensible acts committed or likely to be committed against members of a group to which he belonged.

[9] It stands to reason that when membership in a group subject to persecution is sufficient to ground refugee status, all persons who share the same characteristics or, in other words, all members of the group, will have an objective basis for their fear, which is an essential component of refugee status. I do not understand the RAD's comments quoted above as requiring Ms. Azuka to prove that every women in Nigeria has suffered persecution, nor that they have a subjective fear. Rather, the RAD simply meant that Ms. Azuka had to prove that the mistreatment of the members of the alleged group provides an objective basis for every member of the group to have a well-founded fear of persecution.

[10] This latter issue is indeed the crux of the case. In this regard, Ms. Azuka argues that the RAD's finding quoted above at paragraph [4] is "obviously unreasonable," as it ignores "overwhelming evidence" of the mistreatment of women in Nigeria.

[11] I am not persuaded that the RAD made this error. The RAD acknowledged that it needed to review the national documentation package [NDP] for Nigeria. It provided a one-paragraph summary of the contents of the NDP regarding gender-based violence and discrimination against women, which it accepted fully. In her written submissions, Ms. Azuka did not explain in what respect the RAD's assessment is deficient nor what evidence was overlooked. At the hearing, when pressed about the issue, she simply referred to her written submissions before the RAD, which contain a two-page summary of highlights from the NDP. However, on judicial review, it is not enough to reiterate the submissions made to the decision-maker, without explaining in

what respect the assessment of the evidence is unreasonable. Moreover, the RAD substantially agreed with the facts on which Ms. Azuka was relying.

[12] It seems, therefore, that Ms. Azuka's real complaint is with the RAD's legal conclusion to the effect that these facts do not justify a well-founded fear of persecution or, in other words, that the cumulative discrimination endured by Nigerian women does not rise to the level of persecution. However, she did not make any submissions directly challenging this legal conclusion, nor point to case law reaching a conclusion opposite to the RAD's. Rather, the RAD's reasoning in this case parallels that found in previous decisions: *X (Re)*, 2015 CanLII 108994 at paragraph 26; *X (Re)*, 2019 CanLII 143597 at paragraph 17. For this reason, I am unable to conclude that the RAD's decision was unreasonable.

[13] Ms. Azuka also challenges the portions of the decision where the RAD dismisses her submissions dealing with the manner in which the RPD dealt with certain aspects of the evidence. However, as I noted above, the RPD only addressed the issue of persecution based on political opinion, which was no longer at issue before the RAD. The RAD accepted all the facts Ms. Azuka put forward and essentially analyzed her claim anew. The RPD's findings played little, if any, role in this process. It is thus not necessary to address Ms. Azuka's submissions in this regard.

[14] For these reasons, Ms. Azuka's application for judicial review will be dismissed.

JUDGMENT in file IMM-8845-22

THIS COURT'S JUDGMENT is that

1. The application for judicial review is dismissed.
2. No question is certified.

"Sébastien Grammond"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-8845-22

STYLE OF CAUSE: ANGELA UCHECHI SUCCESS AZUKA v THE
MINISTER OF CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: OTTAWA, ONTARIO

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JUDGMENT AND REASONS: GRAMMOND J.

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