

Federal Court



Cour fédérale

**Date: 20230524**

**Docket: IMM-2631-22**

**Citation: 2023 FC 729**

**Ottawa, Ontario, May 24, 2023**

**PRESENT: Madam Justice Sadrehashemi**

**BETWEEN:**

**MONDAY CHRISTIAN MEKWUYE**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND IMMIGRATION CANADA**

**Respondent**

**JUDGMENT AND REASONS**

I. Overview

[1] The Applicant, Monday Christian Mekwuye (“Mr. Mekwuye”), sought refugee protection in Canada because he feared persecution by the Reformed Ogboni Fraternity (“ROF”), an organization he characterized as a secret society. The Refugee Protection Division [RPD] refused Mr. Mekwuye’s claim, finding that he did not credibly establish his allegations of persecution for refusing to join the ROF. Mr. Mekwuye appealed to the Refugee Appeal Division [RAD]. The RAD dismissed Mr. Mekwuye’s appeal, finding material inconsistencies and omissions in Mr.

Mekwuye's testimony and documentary evidence, and further finding that the objective evidence did not accord with Mr. Mekwuye's evidence that the ROF was a secret organization or cult.

[2] On judicial review, Mr. Mekwuye argues that the RAD erred in limiting its evaluation to the ROF as the agent of persecution, without also considering the Ogboni Confraternity or the Ogboni Society. Further, Mr. Mekwuye argues that the RAD's evaluation of his testimony and certain documentary evidence was unreasonable.

[3] I find no basis to interfere with the RAD's determination. On the first point, Mr. Mekwuye did not challenge the RPD's characterization of the agent of persecution in his appeal to the RAD. Moreover, following the RPD's request for clarification, it was Mr. Mekwuye's own counsel who insisted at the RPD that the only relevant agent of persecution was the ROF. With respect to the RAD's other determinations on credibility and Mr. Mekwuye's corroborative evidence, Mr. Mekwuye has not properly characterized the RAD's reasons on these issues. The RAD's evaluation is transparent, intelligible, and justified based on the evidence and submissions it received.

[4] Based on the reasons below, I dismiss the application for judicial review.

## II. Background

[5] Mr. Mekwuye's refugee claim is based on his fear of persecution by the ROF, a group he characterized as a powerful secret society. Mr. Mekwuye is a citizen of Nigeria. He lived in Agbor, Delta State. Mr. Mekwuye's father belonged to the Ogboni Fraternity and died on

November 30, 2017. After Mr. Mekwuye's father's death, the ROF chose Mr. Mekwuye to replace his father in the organization. Under the impression that the ROF is merely a social organization, Mr. Mekwuye attended a first meeting on August 19, 2018. On arrival, he learned that the meeting was convened to initiate two new members and the initiation process involved a blood sacrifice. Mr. Mekwuye was surprised and frightened by what he saw and decided not to join the ROF as it is contrary to his Christian faith.

[6] For the next several months, Mr. Mekwuye faced repeated requests from ROF members to attend his own initiation on February 5, 2019, which he refused to do. On February 10, 2019, a group of men kidnapped Mr. Mekwuye for four days until he managed to escape. On February 15, 2019, Mr. Mekwuye reported his kidnapping to the police and he identified one of the ROF members a few days later. The police took no further steps and a police officer told Mr. Mekwuye to "forget about this case."

[7] Mr. Mekwuye fled to Asaba, Delta State with the help of his uncle. He heard from his mother that ROF members continued to look for him, including by approaching his uncle to ask about his whereabouts. In May 2019, Mr. Mekwuye learned that his uncle died after ROF members visited him and after he refused to disclose Mr. Mekwuye's whereabouts. Mr. Mekwuye fled to Abuja and then to Canada by way of the United States. He arrived in Canada on August 10, 2019, and sought refugee protection.

[8] The RPD heard Mr. Mekwuye's claim for refugee protection on April 13 and August 3, 2021. On August 10, 2021, the RPD dismissed Mr. Mekwuye's refugee claim. The RPD

accepted, as Mr. Mekwuye's counsel submitted, that the ROF is the alleged agent of persecution. However, the RPD found material aspects of Mr. Mekwuye's evidence not credible because of speculation, inconsistencies, and omissions not reasonably explained. The RPD also found that the objective evidence did not support Mr. Mekwuye's allegations of persecution for refusing to join the ROF.

[9] Mr. Mekwuye appealed the RPD's decision to the RAD. He submitted no new evidence on appeal. Though the RAD did not accept all of the RPD's negative credibility inferences, it dismissed Mr. Mekwuye's appeal on March 10, 2022.

### III. Issues and Standard of Review

[10] The determinative issues on judicial review relate to the merits of the RAD decision. The parties submit and I agree that I should review this aspect of the RAD's decision on a reasonableness standard. The Supreme Court of Canada in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*] described a reasonable decision as "one that is based on an internally coherent and rational chain of analysis and that is justified in relation to the facts and law that constrain the decision maker" (*Vavilov* at para 85). Administrative decision-makers must ensure that their exercise of public power is "justified, intelligible and transparent, not in the abstract, but to the individuals subject to it" (*Vavilov* at para 95).

#### IV. Analysis

##### A. *Agent of persecution*

[11] Mr. Mekwuye argues that the RAD erred by not considering the agent of persecution to be the Ogboni Confraternity or the Ogboni Society, and instead only considering the ROF. This argument is surprising because of the arguments made before the RPD and the RAD.

[12] It is clear from the RPD's reasons and the transcript of the hearing that it was Mr. Mekwuye's counsel, the same counsel who represented him at the RAD and in written materials before this Court, who insisted that the correct agent of persecution in this claim was the ROF.

[13] During the RPD hearing, Mr. Mekwuye initially referred to the agents of persecution as "the Ogboni people." The RPD Member asked Mr. Mekwuye to clarify whom he feared, asking: "And (inaudible) because I have read all the material that you had submitted so all of the affidavits that you have submitted all say The Reformed Ogboni Fraternity so that's the group we are talking about, The Reformed Ogboni Fraternity, is that correct?" Mr. Mekwuye responded, "Yes. That's the same." Later, the RPD Member noted that the police report Mr. Mekwuye submitted names the Ogboni Confraternity and not the ROF. Mr. Mekwuye stated that he did not know "if there is a difference between Ogboni or Reformed Ogboni Fraternity" but that the people troubling him "are the Ogboni Fraternity."

[14] Mr. Mekwuye's counsel made extensive submissions on this point at the end of the RPD hearing, acknowledging the distinctions in the National Documentation Package between the Ogboni Fraternity and the ROF and arguing that the differences are so minor that most people in

Nigeria refer to the two interchangeably. Counsel further submitted that the ROF is the correct agent of persecution, as it exists all over Nigeria, whereas the Ogboni Confraternity only operates in Yorubaland.

[15] On appeal, Mr. Mekwuye did not challenge the RPD's characterization of the claim as being in relation to the ROF as the agent of persecution.

[16] In these circumstances, there is no basis to find that the RAD was unreasonable in considering the ROF as the agent of persecution.

B. *Evaluation of corroborative evidence*

[17] Mr. Mekwuye argues the RAD's determinations in relation to his supporting affidavits, the police report, and his uncle's death certificate are unreasonable. I do not agree. With respect to each, the RAD set out well-supported, clear reasons consistent with the applicable legal and factual constraints.

[18] The RAD gave the affidavits provided by Mr. Mekwuye little weight because it found them to be sparse, lacking in specificity, and therefore insufficient to establish or support Mr. Mekwuye's allegations regarding the ROF. Mr. Mekwuye does not point to any error in the RAD's analysis in reaching this conclusion, but instead simply asks the Court to substitute its view. This is not the Court's role on judicial review.

[19] The RAD found Mr. Mekwuye's uncle's death certificate insufficient to establish Mr. Mekwuye's allegation that his uncle's death was related to ROF because the certificate listed the cause of death as "unknown." Mr. Mekwuye argues that this was unreasonable because the RAD was unreasonably expecting a death certificate to provide too much detail. The RAD did not disbelieve that Mr. Mekwuye's uncle had died, which is established by the death certificate. The RAD's finding was that the death certificate did not corroborate the Applicant's allegation that the ROF caused the death. This is a reasonable finding.

[20] Mr. Mekwuye also argues that the RAD's evaluation of the police report was unreasonable because of its focus on the omissions in the report. Mr. Mekwuye argues that the RAD's assessment presumed Nigerian police and Canadian police operate in the same way, by recording all the details provided to them. In this case, the RAD noted numerous material omissions in the police report, including allegations about the initiation meeting, sacrifice rituals, and Mekwuye's kidnapping, mistreatment, and escape from his captors. Mr. Mekwuye testified before the RPD that he reported all those details to the police. The RAD concluded: "Given the overall level of detail included in the report, I find that the absence of any reference to the initiation meeting, the rituals including human parts observed by the Appellant, or the Appellant's kidnapping, torture and dramatic escape, significant and material discrepancies from his Basis of Claim (BOC), and his testimony." The RAD clearly explained how it reached its conclusion. Based on the evidence, including the number and nature of the discrepancies, I do not find the RAD's evaluation of the police report to be unreasonable.

[21] Finally, I note that Mr. Mekwuye did not challenge all of the RAD's negative credibility inferences on judicial review, including two significant findings: i) that there were discrepancies between his refugee claim narrative and oral testimony; and ii) that there is no objective foundation to the allegation that the ROF operates as a secret society and instead the documentary evidence suggests that it has open membership.

V. Conclusion

[22] The RAD's decision is thorough and well supported. It is a reasonable decision. There is no basis for the Court to interfere with RAD's decision. Neither party raised a question for certification and I agree that none arises.

**THIS COURT'S JUDGMENT is that:**

1. The application for judicial review is dismissed.
2. No serious question of general importance is certified.

"Lobat Sadrehashemi"

---

Judge



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

**DOCKET:** IMM-2631-22

**STYLE OF CAUSE:** MONDAY CHRISTIAN MEKWUYE v THE  
MINISTER OF CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** HELD BY VIDEOCONFERENCE

**DATE OF HEARING:** MAY 15, 2023

**JUDGMENT AND REASONS:** SADREHASHEMI J.

**DATED:** MAY 24, 2023

**APPEARANCES:**

Matthew Tubie FOR THE APPLICANT

Jake Boughs FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

Matthew Nicholas LLP Lawyers FOR THE APPLICANT  
Barristers and Solicitors  
Toronto, Ontario

Attorney General of Canada FOR THE RESPONDENT  
Department of Justice Canada  
Toronto, Ontario