Federal Court  Cour fédérale

Date: 20120523

Docket: IMM-7841-11

Citation: 2012 FC 629

Toronto, Ontario, May 23, 2012

PRESENT: The Honourable Madam Justice Heneghan

BETWEEN:

ASHABI REBECCA FATOYINBO

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

[1] Ms. Ashabi Rebecca Fatoyinbo (the "Applicant") seeks judicial review of the decision made by the Immigration and Refugee Board, Refugee Protection Division (the "Board") on October 7, 2011. In that decision, the Board determined the Applicant is neither a convention refugee nor a person in need of protection pursuant to section 96 and subsection 97(1), respectively, of the *Immigration and Refugee Protection Act*, SC 2001, c 27 (the "Act").

[2] The Applicant is a citizen of Nigeria. She sought protection in Canada on the basis that she was being persecuted by her son-in-law who had accused her of being a witch. She also claimed a

fear that the community may persecute her on the grounds that she had been accused of being a witch.

[3] The Board found that the Applicant's claim against her son-in-law was more properly characterized as a vendetta than a basis of persecution giving rise to protection under the Act. It found that an internal flight alternative ("IFA") existed for the Applicant in the city of Lagos and dismissed her claim.

[4] The determination of a viable IFA is a question of mixed law and fact, reviewable on the standard of reasonableness; see the decision in *Agudelo v Canada (Minister of Citizenship and Immigration),* 2009 FC 465 at para 17 and *Canada (Minister of Citizenship and Immigration) v Khosa,* [2009] 1 SCR 339.

[5] The test for a viable IFA was set out in *Rasaratnam v Canada (Minister of Employment and Immigration),* [1992] 1 FC 706 (FCA) at 710-711. It is a two-pronged test, as follows: first, the Board must be satisfied that there is no serious possibility of a claimant being persecuted in the IFA and second, it must be objectively reasonable to expect a claimant to seek safety in a different part of the country before seeking protection in Canada.

[6] In order to show that an IFA is unreasonable, the Applicant must provide evidence to show that conditions in the proposed IFA would jeopardize her life and safety in travelling or relocating to that IFA; see *Thirunavukkarasu v Canada (Minister of Employment and Immigration),* [1994] 1 FC 589 (FCA) at 596-598.

[7] The Applicant argues that the Board's decision with respect to the IFA was unreasonable because it failed to take into account that while she had stayed in the city of Lagos for some three months in 2010, she was in hiding at that time. The Applicant argues that a place where she must stay in hiding is not a viable IFA. Further, she submits that the Board erred in failing to take into account the Immigration and Refugee Board Chairperson's *Guideline 4: Women Refugee Claimants Fearing Gender-Related Persecution*, in determining that Lagos was a viable IFA.

[8] Although there is case law that supports the view that an IFA is not viable if a person has to remain in hiding, for example the decision in *Fosu v Canada (Minister of Employment and Immigration)* (2008), 335 FTR 223 at para 15, each case will turn on its own facts. In the present case, the Board considered that the Applicant had been living in the town of Minna, Niger state. This town is approximately a day's journey from Lagos, according to the evidence of the Applicant. The Board observed that there was no evidence that her son-in-law, that is the alleged agent of persecution, had any business in Lagos or that he had pursued her there once she left Minna. The Board did not suggest that the Applicant should give up all indicia of normal life but it found that the risk of contact with her persecutor, in Lagos, was remote and did not rise to the level of a serious possibility.

[9] In these circumstances, I am satisfied that the Board properly considered and applied the test for an IFA and reasonably concluded that Lagos provided a viable IFA to the Applicant.

[10] The Applicant also argued that the Board's finding as to an IFA was unreasonable because it failed to take into account the psychological report which suggested that the Applicant could not relocate anywhere in Nigeria because she was suffering from post-traumatic stress disorder ("PTSD"). In short, the Applicant submits that the Board misunderstood the "essence" of that report.

[11] I do not find this argument persuasive, since it appears to be a matter of disagreement, by the Applicant, with the manner in which the Board dealt with the report.

[12] Accordingly, this application for judicial review is dismissed. There is no question for certification arising.

JUDGMENT

THIS COURT'S JUDGMENT is that the application for judicial review is dismissed, no question for certification arising.

"E. Heneghan"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

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APPEARANCES:

Richard Odeleye	FOR THE APPLICANT
Julie Waldman	FOR THE RESPONDENT

SOLICITORS OF RECORD:

Babalola Odeleye Toronto, ON	FOR THE APPLICANT
Myles J. Kirvan Deputy Attorney General of Canada	FOR THE RESPONDENT