



**Date: 20120524**

**Docket: IMM-7712-11**

**Citation: 2012 FC 631**

**Toronto, Ontario, May 24, 2012**

**PRESENT: The Honourable Mr. Justice Campbell**

**BETWEEN:**

**VERONICA AREWE ITUA**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**REASONS FOR ORDER AND ORDER**

[1] The present Application concerns a decision of the Refugee Protection Division (RPD) in which the Applicant, a female citizen of Nigeria, was determined not to be a Convention Refugee or a person in need of protection. In particular, the focus is on the Member's findings that the Applicant was not credible.

[2] The Applicant's claim is based on evidence substantiating her subjective and objective fear that upon the birth of her female child she would be re-circumcised and her baby would be circumcised and subjected to traditional scarification markings on her stomach.

[3] In her Personal Information Form (PIF) the Applicant frames her claim in the following way:

I am making a claim for refugee protection in Canada because my parent, my in-laws and my community have threatened to force me and my unborn child to undergo female circumcision and traditional scarification and markings of my baby's stomach. The village elders and my family had informed me that our tradition and custom requires as a pregnant woman, that I be circumcised again before I deliver my baby and that a month after I deliver my baby she would also be circumcised and her stomach would be designed with traditional markings. I told my parents, in-laws and the community that I would not put my baby through the dangers of circumcision and traditional markings that I underwent as a child.

(Certified Tribunal Record, p. 19)

To support her claim the Applicant provided a sworn affidavit from her husband wherein he gives the following personal account:

I, JUDE PETER, Male, Christian, Citizen of Nigeria and residing at No. 50 Mission Road, Benin City, Edo State, Nigeria, do hereby make an oath and state as follows:

[...]

That when my wife Veronica Itua was pregnant with our child, my parents and in-laws threatened my wife would undergo circumcision and that upon the birth of our baby, she would also undergo circumcision and traditional markings on her stomach in accordance with out custom and tradition.

[...]

That since then my wife, Veronica Itua fled Nigeria, my parents, my in-laws and the elders of our community continue to threatened [*sic*] to cause harm to my wife and baby whenever they find them so I have warned my wife, Veronica Itua not to return to Nigeria with our baby because they are not safe here.

(Certified Tribunal Record, p. 181 – 182).

[4] Nevertheless, despite the fact that the Applicant's evidence is supported by her husband's evidence, the RPD found that the Applicant is not credible and does not have a well-founded fear of persecution for the following reasons:

The claimant alleges that her in-laws wanted to have her circumcised again upon the birth of her child. The panel questions that after the claimant has already undergone circumcision and had the traditional markings that her family and in-laws would have her undergo the process again. The claimant provided no evidence as to this particular custom and the panel therefore gives little weight to her allegation. The claimant produced a photograph of markings on her stomach. Although, no face was visible in the photograph, the claimant did offer to show the panel her markings but the panel declined. Although the panel does not challenge the fact that the claimant has markings on her stomach, no evidence was provided as to when these markings were made and therefore gives little weight to the claimant's assertion that they were made at birth and are part of the tradition in her village. If, indeed, the traditional practice in the claimant's village was to mark and circumcise a female child shortly after birth, the panel questions that the claimant would be unaware of this practice as she claimed, having lived there all her time in Nigeria as she testified.

[...]

The panel concludes that the claimant is not credible and does not have a well-founded fear of persecution.

[Emphasis added]

(Decision, para. 7 and 10)

[5] In my opinion, the emphasized finding is particularly disturbing. There is no question that the Applicant has suffered Female Genital Mutilation (see: Medical Report, Certified Tribunal Record, p. 176), has been subject to scarification (see: Certified Tribunal Record, p. 185 – 186), and gave evidence that these degradations occurred when she was a child (see: Certified Tribunal

Record, p. 202). The fact that this evidence was disregarded by the RPD is not only a reviewable error, in my opinion; it is an insult to the Applicant's human dignity.

**ORDER**

**THIS COURT ORDERS that:**

1. The decision presently under review is set aside, and the matter is referred back to a differently constituted panel for redetermination.
2. There is no question to certify.

“Douglas R. Campbell”

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Judge

**FEDERAL COURT**

**SOLICITORS OF RECORD**

**DOCKET:** IMM-7712-11

**STYLE OF CAUSE:** VERONICA AREWE ITUA v THE MINISTER OF  
CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** TORONTO, ONTARIO

**DATE OF HEARING:** MAY 23, 2012

**REASONS FOR ORDER  
AND ORDER BY:** CAMPBELL J.

**DATED:** MAY 24, 2012

**APPEARANCES:**

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Christopher Ezrin FOR THE RESPONDENT

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