

DECIDED
16 January 2020

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- [1] XXXX XXXX XXXX (the father, husband and the Principal Appellant), XXXX XXXX XXXX (the wife and the Associate Appellant), XXXX XXXX XXXX (the mother of XXXX, the Principal Appellant's mother-in-law and the Associate Appellant, XXXX), XXXX XXXX XXXX and XXXX XXXX XXXX (the children and the Minor Associate Appellants), are citizens of Nigeria. They have appealed a decision of the Refugee Protection Division (RPD), dated April 5, 2019, rejecting their claims for refugee protection. They base their claims on the following.
- [2] The Appellants fear persecution in Nigeria due to their conversion to Christianity. The Principal Appellant comes from a traditionalist family. In 2012, the Appellants, other than the Associate Appellant, XXXX, moved to Egypt. While in Egypt, the Associate Appellant converted from Islam to Christianity. In XXXX 2015, the Associate Appellant, XXXX, advised the Appellants that her family and community had discovered the Associate Appellant's conversion and was making threats. The Appellants left for the USA in XXXX 2016.
- [3] In XXXX 2016, the Principal Appellant returned to Nigeria to sell property and to bring the mother-in-law back. His father died on XXXX XXXX, 2017. He was then told that members of his father's occult society, the XXXX, wanted his father's heart and liver for ritual purposes. Further, he was to join the XXXX. When he refused, he was threatened. The Principal Appellant sought police assistance, and they tried to mediate a resolution. The attempt to mediate failed. The second time the Principal Appellant sought police assistance, they refused to get involved. After going into hiding, the Principal Appellant was able to bribe officials for his father's body, and he buried him on XXXX XXXX, 2017. After the burial, the Principal Appellant's church was burned down. The Principal Appellant then returned to

the USA on XXXX XXXX, 2017. The Appellants subsequently crossed irregularly into Canada on XXXX XXXX, 2018.

- [4] The RPD held a hearing on November 9, 2018. The Appellants were given until December 14, 2019 to provide written submissions. The RPD issued a decision on April 5, 2019. It found that there was insufficient credible evidence that the Appellants faced persecution in Nigeria. Further, there was an internal flight alternative in Abuja.
- [5] The Minister of Immigration, Refugees and Citizenship Canada (the Minister) intervened at the RPD on the issue of credibility. He provided documentation but did not attend the hearing. He has not participated at the RAD hearing.
- [6] Having reviewed the evidence and the arguments, I find that there is insufficient evidence that the Appellants are Convention refugees and/or persons in need of protection. I do so for the following reasons. NEW EVIDENCE and ORAL HEARING
- [7] The Appellants have provided the following as new evidence:
- (a) an affidavit from the Principal Appellant, dated June 14, 2019;¹
 - (b) a letter from the XXXX XXXX XXXX XXXX XXXX, dated XXXX XXXX, 2019,² stating that there was a meeting and that the Associate Appellant and the Associate Appellant, XXXX, are infidels; they must convert to the Muslim faith or there would be a fatwa issued against them;
 - (c) counsel's submissions at the RPD level;³ and
 - (d) articles regarding Nigeria.⁴
- [8] According to subsection 110(4) of the Immigration and Refugee Protection Act (IRPA or Act), an appellant must establish that the evidence arose after the rejection of their claim or that it was not reasonably available. Alternatively, an appellant must establish that they could not have reasonably been expected to have presented the evidence at the time of the rejection. In terms of evidence that arose after the rejection of the claim, it is the content of the evidence and not the date of the document that is determinative. Rule 3 states that there should be submissions on this as well as the relevance of the evidence.
- [9] I have also considered the "Raza principles" as modified by the Federal Court of Appeal (FCA) in Singh.⁵ It directs the Tribunal to consider the credibility, relevance and the newness of the evidence. In terms of credibility, the RAD should consider credibility in terms of its source and the circumstances that it came into existence. This is different than a credibility assessment for the purpose of adjudicating the appeal, which looks at the credibility of the content of the document.
- [10] I have accepted the information about the letter in the Principal Appellant's affidavit and the RPD's submissions onto the record. The other evidence is not accepted onto the record for the following reasons. Husband's affidavit and letter from XXXX XXXX XXXX XXXX XXXX

- [11] The Appellants have the burden of proof to show how new evidence meets the requirements of subsection 110(4). Any new evidence in the husband's affidavit pertains to the admission of the fatwa letter and had been considered.
- [12] In this appeal, the date of rejection is the date of the decision: April 5, 2019. The date of the letter from the XXXX XXXX XXXX XXXX XXXX is XXXX XXXX, 2019. The letter did not arise after the date of rejection. Further, the Appellants have not explained how it was not reasonably available or why they could not have reasonably been expected to provide it sooner. In his affidavit of June 14, 2019, the Principal Appellant states that he had just received the letter. This explanation is vague; it is not sufficient. He does not explain how he received it, when he learned of it, or why he did not take any steps to notify the RPD that further information could be forthcoming. He does not clarify if he received the documents by e-mail, if they were sent by courier, and there is no envelope included. If he only received it close to June 14, 2019, he does not explain why there was a delay of almost three months between the date of the document and when he obtained the document. He did not disclose any steps taken to find the cause of the delay between the date of the document and when he received the document. Further, the group gave the letter to the neighbour the second time they went to the neighbour's house; there was a previous meeting as well. Yet, there is no explanation why there was not any communication earlier about the group from the neighbour.
- [13] In addition, there is insufficient evidence with regard to the source and circumstances surrounding the letter. The Principal Appellant states that it came from his mother's neighbour. Again, he has not disclosed if he received the documents by e-mail, if they were sent by courier, and there is no envelope included. While the Associate Appellant, XXXX, stated that she had not talked to her husband since 2017, the year she left, it is not stated that she was not living with her husband when she left. It is unclear why a group of people, including her husband, would go to the neighbour's house twice to find the Associate Appellant, XXXX.
- [14] Further, the timing of the fatwa is too fortuitous to be credible. The facts are similar to the Federal Court's decision in Meng in that the timing is suspiciously convenient.⁶ The content is also suspiciously convenient. After the RPD found that there was not sufficient evidence of consequences for the conversions to Christianity, there is a death threat to the Associate Appellant and the Associate Appellant, XXXX. It is coincidental that the Principal Appellant testified that the conversions would go to the XXXX XXXX XXXX XXXX XXXX, and a letter appears.
- [15] Even if the Associate Appellant, XXXX, husband in Nigeria had just received news of the Associate Appellant, XXXX, conversion back to Christianity,⁷ they had known about the Associate Appellant's Christianity since 2015. Again, there is no evidence that the Associate Appellant, XXXX, separated from her husband. Although he was also part of the mob, there is no evidence from him.

- [16] Given the lack of evidence, and submissions, to support the letter's admissibility under subsection 110(4), the unanswered questions regarding the source and the circumstances of the letter, and the fortuitous timing, the letter is not admitted into evidence.
- [17] I have considered the statements in the Principal Appellant's affidavit regarding the letter. However, the same reasoning applies to the evidence in the affidavit that the events occurred, if not more so. Again, the events occurred before the date of rejection, and the Appellants have not explained why they did not even try to provide the information earlier. There is insufficient evidence of barriers to providing the evidence earlier. Further, why there was a delay from the neighbour has not been established. How the Principal Appellant found out about the XXXX XXXX XXXX XXXX XXXX interaction with the neighbours is not clear. Whether it was a phone call or just receiving the letter, there is insufficient evidence to conclude that this information, which arose before the hearing, was not reasonably available before the date of rejection or that the Appellants could not reasonably have been expected to provide it before the date of the rejection of the claims. The Appellants have the burden of proof. I have considered the evidence to determine whether or not it assists the Appellants in the admission of the letter. I find that it does not. It also does not meet the requirements of subsection 110(4) and Raza8 to provide evidence that the events described occurred. Counsel's submissions admissibility
- [18] The Appellants have argued that the RPD erred by not considering their submissions provided after the RPD hearing. They have requested that they be included onto the record. They consist of 29 pages.
- [19] The RPD record is already before the RPD. At the hearing, it is clear that the Appellants were given until December 14, 2018 to provide the submissions.⁹ Considering that the hearing was held on November 9, 2018, it was a generous timeline. According to the fax report notations on the submissions, the Appellants faxed 11 pages at 22:46 pm on December 14, 2018 and eight pages at 22:35 pm on the same date.¹⁰ At most, the RPD received pages 20-29 on December 14, 2018. These pages were about single women and their ability to relocate.
- [20] The Principal Appellant states in his affidavit that they faxed the submissions on the 14th of December, which was a Friday, and that they provided a paper copy of the submissions on the 17th of December to the RPD.
- [21] Essentially, the Appellants only submitted pages 20-29 before the deadline. It was not an error for the RPD to not address it. Further, by attaching the submissions to the Appellant's record, they are attempting to now submit the submissions, which they failed to do on time before the RPD.
- [22] The Federal Court of Appeal has confirmed that the "...role of the RAD is not to provide the opportunity to complete a deficient record submitted before the RPD, but to allow for errors of fact, errors in law or mixed errors of fact and law to be corrected".¹¹

- [23] It was Counsel's responsibility to provide the submissions on time. Laying the fault at the hands of the RPD is to misrepresent the facts. The RPD only had about 10 pages of a 30-page submission. I do not find that the RPD erred in its treatment of the submissions. Further, the Appellants did not provide an explanation to the RPD as to why the submissions were late nor did they ask for an extension of time. These submissions did not arise after the date of rejection. The Appellants have not explained why they were not reasonably available before the date of rejection or why they could not have provided them before the date of rejection. I do not find that there is a full copy of the submissions on record. However, I have considered that the Appellants did provide the submissions before the date of the decision, or rejection. Further, for this particular issue, I find that the Appellants should not be prejudiced because of this situation. For these reasons, I have accepted them onto the record. Articles submitted on appeal already on the record
- [24] The Appellants have submitted the following articles:
- (a) EASO COI Nigeria Actors of protection, dated November 2018. However, this evidence is already on record. According to the "Policy on National Documentation Packages in Refugee Determination Proceedings",¹² the RAD has considered the most recent National Documentation Package (NDP). The most recent NDP is that of November 29, 2019, and the article is present at item 1.11. It is already on record.
 - (b) Response to Information Request NGA105320.E (item 12.5 of the NDP of Nigeria, April 30, 2019) dated November 17, 2015. This is also in the latest NDP at item 12.5, and it is already on the record.
 - (c) The Country Policy and Information Note, Nigeria: Actors of Protection, dated March 2019 (item 1.7 of the NDP, April 30, 2019). Similarly, this item is in the most recent NDP at item 1.22, and it is already on record.
- [25] As all of these articles are already on the record, so they are not accepted onto the record as new evidence. Oral Hearing Requested
- [26] The Appellants have requested an oral hearing.
- [27] Subsection 110(6) of the Act delineates when the RAD is permitted to hold a hearing. It states that the RAD can hold a hearing when there is new evidence that raises a serious credibility issue. Further, the evidence must be central to the decision. In addition, there is a requirement that the evidence would justify a final decision allowing or rejecting the claim.
- [28] Again, the Appellants have the burden of proof to show how the new evidence raises a serious credibility issue, is central, or justifies allowing or rejecting the claim. They have not done so.

- [29] In this appeal, I have accepted the submissions of Counsel onto the record. They do not raise a serious credibility issue and are not determinative or central to this decision. Further, the Principal Appellant's affidavit does not raise a serious credibility issue. The evidence about events that occurred before the date of rejection is either redundant or was not accepted onto the record. The RAD will not hold a hearing for this appeal.

ANALYSIS

- [30] I have conducted an independent assessment of the evidence and arguments.¹³ This review includes listening to the entire recording of the hearing. This recording is on record. Again, in keeping with the "Policy on National Documentation Packages in Refugee Determination Proceedings",¹⁴ the RAD has considered the most recent NDP. Did the RPD demonstrate bias?
- [31] The Appellants argue that the RPD showed bias against them. They state that it erred when it considered its own religious beliefs and cite the recording of the hearing. I agree at times that the RPD's tone is too informal. As an example, the RPD's personal views on religion are not relevant. At one point in the hearing, the RPD asked the Principal Appellant whether it was the case that he did not like his father's beliefs. It asked the Principal Appellant if he "decided to inflict your views on the family; is that the case?"¹⁵ In addition, there is a comment in the RPD's decision that the Appellants were using the system for a quick and convenient route to landed status, as they would not obtain it the usual way; this was unnecessary.¹⁶ These comments are not helpful. On the other hand, I listened to the entire hearing, and I did not find that the RPD was disrespectful or interfered with the Appellants' ability to provide full testimony in any manner. In other words, the hearing was fair. The RPD, at times, asked the same question several times to give the Appellants an opportunity to respond to them. The services of an interpreter were available. The Appellants have not shown how these comments have prejudiced the adjudication of the claims. Further, I have performed an independent assessment and find that the decision is correct. I do so for the following reasons. The Principal Appellant did not want to be a part of traditionalists and arranged a Christian burial for his father
- [32] In this case, the name of the occult society was the XXXX,¹⁷ although the Principal Appellant and the Associate Appellant rarely mentioned their name in the hearing, if at all. Is the Principal Appellant at risk for refusal to join the XXXX?
- [33] I agree with the Appellants that religions can be intertwined; one can have Christian and traditionalists views. I find it plausible that the Principal Appellant went to a Christian school and adopted the Christian religion. He argued that, as first-born son, after his father's death, the XXXX pressured the Principal Appellant to join the traditional ways, and he refused. However, the Principal Appellant was in Nigeria for an extended period of time, even after his father passed away. His father died on XXXX XXXX XXXX, 2017, and he stayed until XXXX XXXX, 2017. The Principal Appellant argues that he moved around, but the evidence was only that he stayed at a hotel, a church, a friend's house. This is scarce

evidence about how he was able to remain in Nigeria when the XXXX were putting considerable pressure on him. The Principal Appellant wrote in his Basis of Claim that he eventually slept in the church after people showed up where he was staying. He states that these people were looking for him; however, it is evident that he stayed in Lagos for that period. Further, he has not provided sufficient credible evidence that he was in hiding during the entire four-month period where he stayed in Lagos after the death of his father. There is not sufficient evidence to show that it is more likely than not that the Principal Appellant was "hiding" during the entire four-month period from the date of his father's demise to the date of his departure.

- [34] The Appellants have the burden of proof to establish this fact and were represented by Counsel. They have had every opportunity to provide sufficient evidence to show how the Principal Appellant could have stayed in Nigeria for months while he was being sought by the XXXX and his family members. They have not done so. That the Principal Appellant stayed for such a long period of time after the death of the father weighs against a finding that he was in hiding and that the agents of persecution were searching for him. Is the Principal Appellant at risk for the Christian burial of the father?
- [35] The Principal Appellant has also argued that he managed to bury his father in a Christian manner. The XXXX were so angry that they burned down the church, and he left.
- [36] I accept that a church from their denomination was burned. There is a letter from their church in Canada stating that it confirmed "a bit of the story from the shepherd of their parish that got burnt down".¹⁸ However, it provided evidence to show that their church was burn down, but it does not stay why it was burnt down even though the Canadian church was in contact with the church in Nigeria. It is not clear which bit was confirmed; however, it is evidence that a church was burnt down. However, the letter does not confirm when it was burnt down, why it was burnt down, and where the church that was burned down was located. It is only the Appellants who state that it was because of the burial. Further, the evidence about these events are vague. In his Basis of Claim, the Principal Appellant writes that the XXXX showed up at the ceremony after his father's death. It is unclear what ceremony is being discussed. The father had not been buried yet. When he was buried, it was in XXXX. There is insufficient evidence to find that there was retaliation with regard to the burial.
- [37] In addition, the evidence regarding the Principal Appellant's family is vague. The Principal Appellant has two brothers and two sisters in Nigeria.¹⁹ He has argued that he has family members who practice the traditional religion. But he also testified that his siblings were afraid to interfere.²⁰ That being said, there is insufficient evidence to find that there was any retaliation against the siblings for the manner in which the father was buried. Are the Appellants at risk of persecution because of their religious beliefs?

- [38] The Associate Appellant converted when she had moved to Egypt after 2012. The Associate Appellant, XXXX, started to go to a Christian church when she came to Canada. After the Associate Appellant converted, people at the mosque asked why she was no longer at the mosque.²¹ Her family was not supportive of her conversion. Her father still belonged to the mosque and did not want to see her. Her mother, the Associate Appellant, XXXX, was stigmatized at the mosque. Her siblings told her to convert or she could be killed.²² The Associate Appellant, XXXX, testified that she had not spoken to her husband since the previous year and that she would be killed because of the conversion.²³ People pointed fingers at her at the mosque.
- [39] The RPD asked several times why the Associate Appellant's family objected to her conversion, and the Principal Appellant did not provide a clear response. He stated that the information will go the XXXX XXXX XXXX XXXX XXXX, but he did not explain why the family would object to the conversion. There is insufficient evidence that the Associate Appellant, XXXX, and the Associate Appellant being Christian will lead to a serious possibility of persecution.
- [40] The Appellants state that their first problem was in XXXX 2015, in Egypt, the Principal Appellant called the Associate Appellant, XXXX (his mother-in-law), and found out that his wife's father had heard of her conversion. When the Appellants were in the US, the problems escalated. They received calls from the Associate Appellant, XXXX, who was crying.²⁴
- [41] There is insufficient evidence that the Appellants, including the Associate Appellant, XXXX, face consequences for the conversions to Christianity. The family was in Egypt for about four years. The Associate Appellant reported little consequences other than questions about her conversion. She testified that her siblings told her that she would have to convert or her life would be in danger. However, this is vague testimony. The Associate Appellant, XXXX, argues that the Muslims were putting pressure on the Associate Appellant, XXXX, to produce her daughter, the Associate Appellant. However, her daughter was in Egypt at that time, and the Associate Appellant, XXXX, was in XXXX. This pressure is not tantamount to the serious harm necessary for persecution. I accept that that there is communication amongst the mosques, but there is insufficient evidence that this information would be communicated. There is a lack of evidence from the Associate Appellant's father to show that he supported consequences for the conversion. According to the Appellants, he found out in 2015, but there is insufficient evidence that he, or the mosque, responded other than stigmatizing the Associate Appellant, XXXX. Stigmatization is not persecution. The Associate Appellant, XXXX, lived in Nigeria for years after they found out about the conversion. The Associate Appellant, XXXX, did not leave Nigeria until XXXX 2017. Objective Evidence and Christianity in Nigeria
- [42] The objective evidence supports a conclusion that Christians live without persecution in Nigeria. Christianity is a major religion in Nigeria. It composes about 49.3% of the population, with Muslims composing about 48.8%.²⁵ The main areas of tension are with the

Muslim Fulani herders and Christian farmers.²⁶ The objective evidence supports a conclusion that the Christian population is strong in the southern states: The Hausa-Fulani and Kanuri ethnic groups are most prevalent in the predominantly Muslim northern states. Significant numbers of Christians, including some Hausa-Fulani and Kanuri, also reside in the north. Christians and Muslims reside in approximately equal numbers in the central region and southwestern states, including Lagos, where the Yoruba ethnic group, whose members include both Muslims and Christians, predominates. In the southeastern states, where the Igbo ethnic group is dominant, Christian groups, including Catholics, Anglicans, and Methodists, constitute the majority. In the Niger Delta region, where the Ogoni and Ijaw ethnic groups predominate, Christians form a substantial majority, and a very small minority of the population is Muslim. Evangelical Christian denominations are growing rapidly in the central and southern regions. Ahmadi Muslims maintain a small presence in several cities, including Lagos and Abuja.²⁷

- [43] Legislatively, freedom of religion is protected in Nigeria. However, there are tensions between the religions. In the north, building permits have been refused for minority religious communities.²⁸ In some universities, there is discrimination against Christians; others discriminate against Muslims. In some states, including the middle belt, the divide between Christians and Muslims is ethnic as well as religious.²⁹ While there is discussion of violence in the report from the Department of State, it is limited to certain states and is not nation-wide. It did not mention Ogun or Lagos. Other evidence supports the ongoing religious violence but states that the north is mostly Muslim and that the south is mostly Christian.³⁰
- [44] The objective evidence supports a conclusion that the religious violence is regionalized. Tensions between Muslims and Christians is less prevalent in the south than in the north. There are accounts of violence between Christians and Muslims, but there is also tolerance. In the south, there is not the same bitter rivalry that there is in the north, and the religions interact together.³¹ They attend each other's places of worship. The objective evidence is that persecution for conversion is unlikely. Does the Associate Appellant, XXXX, have a sur place claim because of her conversion to Christianity?
- [45] Further, I have considered whether the Associate Appellant, XXXX, would have a sur place claim based on her return to the Christian faith since she has been in Canada. However, there is insufficient evidence that there would be an issue with her conversion. Again, the objective documentary evidence does not support a finding that Christians face persecution in the areas that the Appellants are from; namely, Lagos and Ogun. Are the Appellants Persons in Need of Protection in accordance with section 97 of the Act?
- [46] I note that there is also insufficient evidence that the Appellants are persons in need of protection. The burden of proof to establish that one is a person in need of protection is higher than that for a Convention refugee. The standard to establish that one is a Convention refugee in accordance with section 96 of the Act is whether there is more than a mere possibility; the standard to establish that one is a person in need of protection in accordance

with section 97 of the Act is whether, on a balance of probabilities, one is in need of protection. One must show that there is a mere possibility of persecution under section 96. Section 97 stipulates that one must show that there is a danger of torture; alternatively, that there is a risk to one's life or a risk of cruel and unusual treatment or punishment. The level required to establish a sufficient risk is higher under section 97 than it is in section 96. Further, the burden of proof is higher. As there is insufficient evidence to establish that the Appellants face more than a mere possibility of persecution in Nigeria, there is also insufficient evidence that they are persons in need of protection in Nigeria. Does the Minor Associate Appellant, XXXX, have a claim against the US?

- [47] The RPD found that the Appellants had withdrawn the claim for the Minor Associate Appellant born in the US.³² However, having listened to the recording, it is clear that the Appellants were proceeding with it.³³ Further, arguments regarding the Minor Associate Appellant, XXXX, were addressed in the Appellant's submissions to the RPD, which they have requested that I consider. In so doing, they have raised this issue, and I find I have the jurisdiction to address it.
- [48] It is clear that both section 96 and 97 refer to the country of nationality. There is no question that the Minor Associate Appellant, XXXX, has the U.S. as a country of nationality. Even as a minor, the U.S. is the country of reference. For this Minor Associate Appellant to be considered a Convention refugee, there must be a finding that there is a well-founded fear of persecution in the country of nationality for one of the five grounds listed in section 96. Even if there is a level of risk to a minor in a different country, given the wording of section 96, one has to consider whether there is risk in each of the country of reference. I have considered this for this appeal. In order to be found to be a Convention refugee, there must be a finding that the Minor Associate Appellant has a well-founded fear of persecution in the U.S. The language of the Act is clear, and it is mandatory. Similarly, according to section 97, there has to be sufficient evidence that there is a danger, believed on substantial grounds to exist, of torture within the meaning of Article 1 of the Convention against Torture; or a risk to their life or to a risk of cruel and unusual treatment or punishment in each of the countries of nationality. Again, the language of the Act is clear and mandatory. There is not an exception because of age. It directs the decision-maker to consider the Minor Associate Appellant's claim in the U.S.
- [49] The Appellants argue that XXXX fears the treatment from President Trump, and he would be faced with separation from his family if he is not found to be a Convention refugee and/or a person in need of protection. However, there is insufficient evidence that President Trump's policies are tantamount to persecution and/or cruel and unusual treatment or punishment. That the Minor Associate Appellant would be separated from this family were he to remain in the U.S. is a consideration for the best interests of the child.
- [50] In addition, while the test of the "best interests of a child" has not been directly argued, it is, in effect, what the Appellants are asking me to consider. The test is whether finding that the Minor Associate Appellant is a Convention refugee or a person in need of protection, and it

is not whether it is in the best interests of the child. The Federal Court has considered this issue. It found that the clear language in section 96 was not discretionary.³⁴ The same reasoning applies to section 97. The Federal Court did consider the Convention on the Rights of the Child (CRC) but did not find that it was sufficient to find that the best interest of the child is determinative or that it changes the definition. It also considered *De Guzman*,³⁵ which stated that the law should be interpreted in a manner that is consistent with international instruments unless the language expresses legislative intent. Further, its implication is that it is not necessary for the best interest of the child to be considered under every decision in the IRPA; they are addressed in Humanitarian and Compassionate applications. The Court stated that: "the best interests of the child cannot shoehorn a refugee claimant into the section 96 definition if the child's claim would otherwise be rejected, but it can influence the process which leads to that decision".³⁶ I have considered other sources as well. The Guidelines for Child Refugee Claimants (Guidelines)³⁷ speak to procedural requirements, not substantive issues.

- [51] The Appellants have not provided sufficient evidence or argument that the Minor Associate Appellant, XXXX, is a Convention refugee and/or a person in need of protection. Rather, their arguments center around the best interests of the child, which is beyond my jurisdiction. He is a U.S. citizen, and there is insufficient evidence or argument to find that he has a claim against the U.S. Does the Minor Associate Appellant, XXXX, have a claim?
- [52] The claim for XXXX is dependent on the claims of the other Appellants. As their claims are not successful, his claim cannot be successful as well. Summary
- [53] The record in this matter was fraught with difficulties. The RPD's decision was not accurate. There were difficulties with Counsel submissions at the RPD level. The RPD made comments that were unnecessary and subjective. In addition, most of the Appellants lived in Egypt from 2012 to 2016. There is insufficient evidence regarding their status there. The evidence about the years they were there is unclear. The Associate Appellant stated that she was a visitor in Egypt.³⁸ However, the husband wrote that he was a citizen of XXXX, Nigeria until he left in XXXX 2017.³⁹ He also wrote that he worked in XXXX and states that he had an import/export business in Egypt and Nigeria. The evidence is inconsistent. Their residency in Egypt raises an issue of exclusion under article 1(e), as they may well have had the same rights and obligations attached to the possession of nationality of that country.
- [54] In spite of these difficulties, the record was sufficient to adjudicate this appeal. There is insufficient evidence that the Appellants would face persecution for their religious conversions as well as for the Principal Appellant's refusal to join the XXXX and to bury his father according to traditional rites. As there is insufficient evidence for section 96 of the Act, it follows that there is insufficient evidence for section 97 of the Act.

CONCLUSION

[55] The Refugee Appeal Division dismisses the appeal and confirms the decision of the Refugee Protection Division that the Appellants are neither Convention refugees nor persons in need of protection, pursuant to paragraph 111(1)(a) of the Immigration and Refugee Protection Act. (signed) "Patricia Broad" Patricia Broad January 16, 2020 Date 1 Exhibit P-2, Appellants' Record, at pp. 13-20. 2 Exhibit P-2, Appellants' Record, at p. 74. 3 Exhibit P-2, Appellants' Record, at pp. 43-71. 4 Exhibit P-2, Appellants' Record, at pp. 21-42. 5 *M.C.I. v. Singh, Parminder* (F.C.A., no. A-512-14), Nadon, Gauthier, de Montigny, March 29, 2016, 2016 FCA 96. 6 *Meng, Renxian v. M.C.I.* (F.C., no. IMM-1102-14), de Montigny, March 23, 2015, 2015 FC 365. 7 Exhibit P-2, Appellants' Record, at p. 19 affidavit, at paras 40 and 41. 8 *Raza, Syed Masood v. M.C.I.* (F.C.A., no. A-11-07), Linden, Sharlow, Ryer, December 6, 2007, 2007 FCA 385, [2008] 1 F.C.R. 9 Audio Recording of the RPD Hearing, at 02:58:28. 10 Exhibit RPD-1, RPD Record, at p. 309. 11 *M.C.I. v. Singh, Parminder* (F.C.A., no. A-512-14), Nadon, Gauthier, de Montigny, March 29, 2016, 2016 FCA 96, at para 54. 12 <https://irb-cisr.gc.ca/en/legal-policy/policies/Pages/national-documentation-packages.aspx>. 13 *Tekle, Dawit Abraham v. M.C.I.* (F.C., no. IMM-1727-17), Annis, November 15, 2017, 2017 FC 1040. 14 <https://irb-cisr.gc.ca/en/legal-policy/policies/Pages/national-documentation-packages.aspx>. 15 Audio Recording of the RPD Hearing, at 01:04:06. 16 Exhibit RPD-1, RPD Record, RPD's Reasons and Decision, at para 29. 17 Exhibit RPD-1, RPD Record, Basis of Claim narrative, at p. 23. 18 Exhibit RPD-1, RPD Record, at p. 303. 19 Exhibit RPD-1, RPD Record, at p. 18. 20 Audio Recording of the RPD Hearing, after 01:00:35. 21 Audio Recording of the RPD Hearing, at 01:55:19. 22 Audio Recording of the RPD Hearing, at 02:03:00. 23 Audio Recording of the RPD Hearing, beginning at 00:02:06. 24 Audio Recording of the RPD Hearing, at 00:48:21. 25 NDP for Nigeria (November 29, 2019), item 12.1, United States, Department of State, Nigeria: International Religious Freedom Report for 2018, June 21, 2019, at p. 2. 26 NDP for Nigeria (November 29, 2019), item 12.1 (*ibid.*), at p. 2. 27 NDP for Nigeria (November 29, 2019), item 12.1 (*ibid.*), at p. 3. 28 NDP for Nigeria (November 29, 2019), item 12.1 (*ibid.*), at p. 8. 29 NDP for Nigeria (November 29, 2019), item 12.1 (*ibid.*), at p. 9. 30 NDP for Nigeria (November 29, 2019), item 12.4, United States Commission on International Religious Freedom, Nigeria: United States Commission on International Religious Freedom 2019 Annual Report, April 2019. 31 NDP for Nigeria (November 29, 2019), item 12.8, Immigration and Refugee Board of Canada, Response to Information Request NGA104211.E, Treatment of Christians who convert to Islam; treatment of Muslims who convert to Christianity; information on state protection for mistreated religious converts, November 8, 2012, at p. 5. 32 Exhibit RPD-1, RPD Record, RPD's Reasons and Decision, at paragraph 5. 33 Audio Recording of the RPD Hearing, at 00:05:44. 34 *Kim, Jae Wook v. M.C.I.* (F.C., no. IMM-4200-09), Shore, February 12, 2010, 2010 FC 149. 35 *De Guzman, Josephine Soliven v. M.C.I.* (F.C.A., no. A-558-04), Evans, Desjardins, Malone, December 20, 2005, 2005 FCA 436; [2006] 3 F.C.R. 655. 36 *Kim, Jae Wook v. M.C.I.* (F.C., no. IMM-4200-09), Shore, February 12, 2010, 2010 FC 149, at para 76. 37 Guideline 3: Child Refugee Claimants: Procedural and Evidentiary Issues, Guideline Issued by the Chairperson, pursuant to Subsection 65(3) of the Immigration Act, IRB, Ottawa,

September 10, 1996 as continued in effect by the Chairperson on June 28, 2002 in paragraph 159(1)(h) of the Immigration and Refugee Protection Act. <https://irb-cisr.gc.ca/en/legal-policy/policies/Pages/GuideDir04.aspx> 38 Exhibit RPD-1, RPD Record, at p. 164. 39 Exhibit RPD-1, RPD Record, at p. 154.

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