

CANADA / JUDGMENT

TC0-01907

COURT

Refugee Appeal Division

DECIDED

16 December 2020

Research copy typeset by Esheria. Not court-issued or certified. A source URL was not supplied in the case record.

RAD File / Dossier de la SAR : TC0-01907 TC0-01908 Private Proceeding / Huis clos Reasons and decision ? Motifs et décision Persons who are the subject of the appeal XXXX XXXX XXXX XXXXXXXX XXXX XXXX XXXX Personnes en cause Appeal considered / heard at Toronto, ON Appel instruit / entendu à Date of decision December 16, 2020 Date de la décision Panel K. Qureshi Tribunal Counsel for the persons who are the subject of the appeal Denis Onek Olwedo Conseil des personnes en cause Designated representative N/A Représentant(e) désigné(e) Counsel for the Minister N/A Conseil du ministre REASONS FOR DECISION OVERVIEW

- [1] XXXX XXXX XXXX (Principal Appellant or PA) and XXXX XXXX XXXX XXXX (Associate Appellant or AA) are citizens of Nigeria. The Appellants' allegations are as follows.
- [2] The PA alleges that she joined politics in 2012 and supported the People's Democratic Party (PDP). The PA also did some preaching as part of her involvement with her church. She states that during her preaching she would encourage followers not to "sell" their votes to the All Progressives Congress (APC). On XXXX XXXX XXXX 2015, the PA was shot on her way home from church and was taken to the hospital. She was treated and discharged the following day. The PA reduced her political activities as a result. On XXXX XXXX XXXX 2016, the Appellants' property under development was demolished. In XXXX 2017, the PA went to the United Kingdom (UK) for a visit for six months; she did not claim refugee protection. On XXXX XXXX XXXX 2018, the Appellants applied for Canadian visas. Then, on XXXX XXXX XXXX 2018, the Appellants were away at a church convention when their apartment was robbed by unknown people who stole valuables and left a note warning the PA to stop her political activities. The incident was reported to the police but with no outcome. The PA says she also received two threatening phone calls thereafter. As a result of these events, the Appellants left Nigeria on XXXX XXXX XXXX 2019. They arrived in Canada on XXXX XXXX XXXX 2019 and made claims for refugee protection.
- [3] The Appellants' claims were heard by the Refugee Protection Division (RPD) on November 18, 2019. The claims were rejected on January 3, 2020 on the basis of credibility. The Appellants appeal to the Refugee Appeal Division (RAD).

- [4] At the RPD hearing, the claims of the Appellants' two children were also heard and rejected. As these claims were made pursuant to an exception in the Safe Third Country Agreement, they have no right of appeal to the RAD and submissions pertaining to the children will not be considered in this appeal.
- [5] The Appellants do not submit new evidence. DECISION
- [6] I dismiss the appeal. The RPD was correct in finding that the Appellants' claims are not credible and that they are neither Convention refugees nor persons in need of protection.

ANALYSIS

- [7] I have reviewed the RPD decision on a standard of correctness and conducted an independent assessment of all of the evidence.¹ I acknowledge that when a claimant swears that certain facts are true, this creates a presumption that they are true unless there is a valid reason to doubt their veracity.
- [8] The Appellants submit that the RPD erred as follows:
- a. By misstating information in the letters from the Appellants' church;²
 - b. By misstating the PA's testimony regarding the lack of a police report after she was shot;³
 - c. By misstating the PA's testimony regarding her membership in the PDP after she was shot;⁴
 - d. By misstating the PA's testimony regarding other property owners whose properties were also demolished;⁵ and
 - e. By failing to conduct a separate Immigration and Refugee Protection Act (IRPA)⁶ section 97 analysis.⁷ Letters from the Appellants' church undermine that the shooting was carried out by the APC
- [9] The PA alleges she was shot by unknown gunmen on behalf of the APC in XXXX 2015. The RPD decision concluded that the shooting was not related to the APC or the PA's political activities for several reasons.⁸ As one of its reasons, the RPD noted the Appellants provided two letters, letter 1 and letter 2, from their church in Nigeria as corroborative evidence.⁹ However, neither letter referred to the APC. Furthermore, while both letters were written by the same person and on the same day, one letter stated the shooting was caused by a stray bullet, while the second letter stated it was by gunmen. The Appellants submit that the second letter was a "correction" of the first letter and was submitted to the Board inadvertently, but that there is a hospital report which corroborates that the PA was shot by gunmen.¹⁰
- [10] Based on my independent assessment, I do not find that this evidence demonstrates that the PA was specifically targeted on behalf of the APC. First, regarding the hospital letter's reference to "unknown gunmen," this simply indicates the obvious-that the PA was shot by unknown gunmen.¹¹ It does not imply that it was a targeted shooting.

- [11] Secondly, regarding the church letters, I note that, in total, there are five letters from this church all dated XXXX XXXX XXXX 2019. Two of the letters pertain to the shooting, letters 112 and 213 as described above, while the other letters, letter 3,14 letter 415 and letter 5,16 refer to the Appellants' church activities. The letterhead for letters 1, 3, 4 and 5 are exactly the same, they all have a handwritten date at the bottom in the same handwriting, and they are all also signed by the Chapel Administrator as well as the Minister-in-Charge. Contrarily, the corrected letter number 217 has several variations as compared to letters 1, 3, 4 and 5. The letterhead is in bold and a smaller font, there is no handwritten date at the bottom, and the signature and title of the Chapel Administrator are missing. Based on my independent assessment, I do not find that letter 2 is a "correction" of the first letter, but rather that it is not a genuine document. I find that letter 1, which refers to a stray bullet, is the only letter that was sent by the Appellants' church with regards to the shooting. The Federal Court has stated: it may very well be reasonably open to the RAD or another decision maker to question the authenticity of a document based on very small or even microscopic differences between the document and an authentic counterpart. It is in the small or microscopic details where a forgery may well be exposed.¹⁸
- [12] Therefore, while I do not find that the PA was not shot, I find the mention of a "stray bullet" in letter 1 undermines the credibility of the Appellants' suggestion that the PA was targeted by the APC due to her political activities. Lack of a police report undermines that the shooting was carried out by the APC
- [13] The RPD concluded the shooting was not carried out by the APC also on the basis that the Appellants did not report to police that the PA had been shot by someone on behalf of the APC.¹⁹ The RPD did not accept the PA's explanation that she "had to let everything mellow."²⁰ The Appellants submit the RPD erred in that the PA did not testify that she had to let everything mellow, but rather it was her testimony that the doctors had to let everything mellow.²¹ Also, before the PA could answer why the shooting was not reported to police, there was a break in the hearing and, when it resumed, the RPD member asked a different question.²²
- [14] I have reviewed the transcript of the hearing which indicates the RPD asked the PA why there was no police report. The PA responded "I just had to let everything mellow",²³ as is indicated by the RPD decision. I acknowledge however that a transcript obtained by the Appellants says "they", that is the doctors, had to let everything mellow.²⁴ I also acknowledge that when the RPD again asked the PA if the incident was reported to the police, there was an unexpected break during the hearing.
- [15] Based on my independent assessment, irrespective of whether it was the doctors or the PA herself that needed to "mellow," the Appellants' submission that the PA did not get a chance to answer the question or that the RPD misstated her evidence is moot. Specifically, a review of the transcript indicates that the RPD did go back to the issue of the shooting of XXXX 2015 later in the hearing. This time, the AA confirmed that the shooting was not reported to the police.²⁵ When asked "why not," the AA testified it was because the police and government

work hand in hand.²⁶ Based on my independent assessment, I do not accept the AA's explanation. Specifically, at the time of the shooting in XXXX 2015, the APC were not even in power, rather the PDP were. Therefore, the Appellants' explanation that they did not report to police that the PA had been shot on behalf of the APC because the police would not help them as the police are aligned with the government does not make sense as the PDP was in power at the time. Furthermore, after the burglary of XXXX 2018, notwithstanding that the APC were in power, the Appellants nevertheless still reported that incident to the police even though they allege it was carried out by the APC itself.

- [16] Overall, based on my independent assessment, I find the Appellants' failure to report to police that the PA was shot in a targeted shooting on behalf of the APC further undermines the credibility of this allegation, and further suggests that the PA was struck by a stray bullet. RPD misstated PA's testimony regarding her membership in the PDP after she was shot
- [17] Finally, as part of its conclusion that the shooting was not related to the APC, the RPD found that the PA was not a member of the PDP after the XXXX 2015 shooting based, in part, on the PA's testimony that she was not a member of the PDP thereafter.²⁷ The Appellants submit that the RPD misstated the PA's testimony.²⁸ Specifically, the Appellants submit that the PA testified that she slowed down her political activities, not that she stopped being a member of the party. Based on my review of the transcript, I agree that the PA testified she slowed down her activities but did not stop being a member of the PDP.²⁹ Shooting was not carried out by the APC
- [18] Notwithstanding the RPD's misstating of the PA's testimony regarding her membership in the PDP after XXXX 2015, I nevertheless find that the shooting was not carried out on behalf of the APC. Specifically, I find the RPD's error does not outweigh the abundance of evidence to suggest that the PA was injured by a stray bullet, such as the church letter and the failure of the Appellants to report the incident to the police. In addition, I agree with the RPD that the PA's failure to claim refugee protection while she was in the UK for six months in 2017 undermines that she had any fear of the APC after the shooting of 2015³⁰ notwithstanding the seriousness of this allegation. I find that the lack of any connection of the shooting to the APC undermines the credibility of the Appellants' allegations of persecution and credibility overall. Demolition of property is not related to the APC
- [19] The Appellants allege their property under development was demolished on XXXX XXXX XXXX 2016, along with properties owned by other people.³¹ The RPD concluded that the demolition was not on behalf of the APC based, in part, on the PA's testimony that she could not remember if any of the other property owners were also members of the PDP.³² The Appellants allege that the RPD misstated the PA's testimony, and that she had testified that some of the other properties were owned by PDP members.³³
- [20] Having reviewed the transcript of the hearing, I accept the PA testified that some of the property owners belonged to the PDP.³⁴ However, I nevertheless do not find that the demolition was motivated by the PA's political activities. First, it was not only the Appellants'

property that was demolished; the properties of several others were demolished as well. This belies the suggestion that the Appellants were targeted in the demolition. Secondly, based on the PA's testimony, not all of the property owners were PDP members. This belies the suggestion that demolition was targeted towards PDP supporters. Third, the Appellants' narrative indicates that the demolition was for the purposes of constructing a resort on the lagoon.³⁵ This belies the suggestion that there was any sinister motive against the PA for the demolition. Therefore, notwithstanding the RPD's misstatement of the PA's testimony, I nevertheless find the demolition of the Appellants' property in 2016 was not related to the APC or the PA's membership in the PDP. Burglary of XXXX 2018 is an unrelated criminal act

- [21] The Appellants submit their house was robbed in XXXX 2018 on account of the APC who left a note warning the PA to "STOP THE CAMPAIGN OR YOU WILL REGRET IT LATER."³⁶ The RPD raised that this note was not mentioned in the police report. The Appellants explained that the note was not mentioned in the police report because the police kept it so as not to implicate the government.³⁷ The RPD concluded that the burglary of XXXX XXXX, 2018 was not connected to the PA's membership in the PDP and that it was a criminal act.³⁸ The Appellants do not raise specific arguments with respect to this finding but do assert, more generally, that the shooting, demolition and burglary are connected.³⁹ Based on my independent assessment, I find the burglary was not committed on behalf of the APC, and is not related to the PA's alleged membership in the PDP, for the following reasons.
- [22] First, a review of the police report indicates that the burglary has the hallmarks of a plain robbery. For example, the perpetrators stole cameras and technological devices which are valuable devices. Second, the AA testified himself that there are a lot of criminal activities that were happening within their neighbourhood.⁴⁰ Third, while the Appellants point to objective evidence of a crackdown on political dissent, including with respect to Internet content and examples of journalists and high profile persons being detained, the PA does not fit these profiles. Rather, per the Appellants' testimony, after the XXXX 2015 shooting, more than three years before the burglary, the PA reduced her political activities "drastically"⁴¹ and her activities were no more than encouraging fellow worshippers not to "sell their votes" to the APC during her early morning preaching.⁴² Finally, the Appellants submitted they did not report the XXXX 2015 shooting incident to the police because the police are aligned with the government, at a time when the PDP was in power as I previously noted, however they did report this burglary to the police although the government in power was the APC. I find the Appellants' alleged actions are contradictory in this regard and cannot be reconciled.
- [23] Overall, in addition to the shooting and demolition not being related to the APC or the PA's political activities, I find the burglary is also not politically motivated. I find the Appellants' claims and their allegations of persecution are not credible. RPD did not err by failing to conduct a separate section 97 analysis

- [24] The RPD concluded the Appellants' claims did not meet the requirements of either section 96 or section 97 of IRPA.⁴³ The Appellants submit the RPD erred by failing to assess the claims under section 97 of IRPA.⁴⁴
- [25] As the claims were rejected on the basis of credibility which applies to both section 96 and section 97 of IRPA, I do not find the RPD erred as the Appellants suggest. Summary
- [26] Overall, based on my independent assessment, I find the RPD correctly concluded that the Appellants' claims lack credibility. I find the Appellants have not established that there is a serious possibility of persecution on a Convention ground or, on a balance of probabilities, that they would be personally subjected to a danger of torture, to a risk to life or to a risk of cruel and unusual treatment or punishment if they were to return to Nigeria.

CONCLUSION

- [27] I dismiss the appeal and confirm the decision of the RPD that the Appellants are neither Convention refugees nor persons in need of protection, pursuant to paragraph 111(1)(a) of IRPA. (signed) K. Qureshi K. Qureshi December 16, 2020 Date 1 Canada (Citizenship and Immigration) v. Huruglica, 2016 FCA 93, [2016] 4 FCR 157; Rozas del Solar v. Canada (Citizenship and Immigration), 2018 FC 1145, [2019] 2 FCR 597. 2 Exhibit P-2, Appellants' Record, Appellants' Memorandum, at p. 197, paras. 11-15. 3 Exhibit P-2, Appellants' Record, Appellants' Memorandum, at pp. 197-198, at paras. 16-20. 4 Exhibit P-2, Appellants' Record, Appellants' Memorandum, at pp. 198-200, paras. 21-23. 5 Exhibit P-2, Appellants' Record, Appellants' Memorandum, at pp. 200-202, paras. 24-27. 6 Immigration and Refugee Protection Act, S.C. 2001, c. 27, as amended. 7 Exhibit P-2, Appellants' Record, Appellants' Memorandum, at pp. 216-220, paras. 55-60. 8 Exhibit RPD-1, RPD Record, RPD Reasons, at pp. 6-7, paras. 14-22. 9 Exhibit RPD-1, RPD Record, RPD Reasons, at p. 6, paras. 14-15. 10 Exhibit P-2, Appellants' Record, Appellants' Memorandum, at p. 197, paras. 11-15. 11 Exhibit RPD-1, RPD Record, Exhibit 4, at p. 320. 12 Exhibit RPD-1, RPD Record, Exhibit 4, at p. 291. 13 Exhibit RPD-1, RPD Record, Exhibit 4, at p. 292. 14 Exhibit RPD-1, RPD Record, Exhibit 4, at p. 290. 15 Exhibit RPD-1, RPD Record, Exhibit 4, at p. 289. 16 Exhibit RPD-1, RPD Record, Exhibit 4, at p. 288. 17 Exhibit RPD-1, RPD Record, Exhibit 4, at p. 292. 18 Jiang v. Canada (Citizenship and Immigration), 2018 FC 1064, at para. 31. 19 Exhibit RPD-1, RPD Record, RPD Reasons, at pp. 6-7, paras. 16-17. 20 Ibid. 21 Exhibit P-2, Appellants' Record, Appellants' Memorandum, at pp. 197-198, paras. 16-20. 22 Ibid. 23 Transcript of RPD hearing, November 18, 2019, at p. 19, line 40. 24 Exhibit P-2, Appellants' Record, at p. 107. 25 Transcript of RPD hearing, November 18, 2019, at p. 30, lines 8-14. 26 Ibid., at p. 30, lines 16-19. 27 Exhibit RPD-1, RPD Record, RPD Reasons, at p. 7, paras. 18-21. 28 Exhibit P-2, Appellants' Record, Appellants' Memorandum, at pp. 198-200, paras. 21-23. 29 Transcript of RPD hearing, November 18, 2019, at p. 18. 30 Exhibit RPD-1, RPD Record, RPD Reasons, at p. 7, para. 20. 31 Exhibit RPD-1, RPD Record, Exhibit 2.1, narrative, at p. 26, para. 17; Transcript of RPD hearing, November 18, 2019, at p. 22, lines 15-41. 32 Exhibit RPD-1, RPD Record, RPD Reasons, at pp. 7-8, paras. 23-24. 33 Exhibit P-2, Appellants' Record, Appellants'

Memorandum, at pp. 200-202, paras. 24-27. 34 Transcript of RPD hearing, November 18, 2019, at p. 22, line 46. 35 Exhibit RPD-1, RPD Record, Exhibit 2.1, narrative, at p. 26, para. 17. 36 Exhibit RPD-1, RPD Record, Exhibit 2.1, narrative, at pp. 27-28, paras. 21-22. 37 Transcript of RPD hearing, November 18, 2019, at p. 39, lines 15-19. 38 Exhibit RPD-1, RPD Record, RPD Reasons, at p. 9, para. 32. 39 Exhibit P-2, Appellants' Record, Appellants' Memorandum, at pp. 202-205, paras. 28-33. 40 Transcript of RPD hearing, November 18, 2019, at p. 31, lines 24-25. 41 Transcript of RPD hearing, November 18, 2019, at p. 41, line 39 to p. 42, line 12. 42 Transcript of RPD hearing, November 18, 2019, at p. 14, lines 11-23. 43 Exhibit RPD-1, RPD Record, RPD Reasons, at p. 11, para. 38. 44 Exhibit P-2, Appellants' Record, Appellants' Memorandum, at pp. 216-220, paras. 55-60.

RAD File / Dossier de la SAR : TC0-01907 TC0-01908 RAD.25.02 (January, 2020) Disponible en français 2 Immigration and Refugee Board of Canada Refugee Appeal Division Commission de l'immigration et du statut de réfugié du Canada Section d'appel des réfugiés RAD.25.02 (January, 2020) Disponible en français

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

CASE PAGE <https://chat.esheria.ai/case-law/canada/Credibilityassessment-refugee-appeal-division-2020--6a40c3b64cf2c72690fb2fc0>

A source URL was not supplied in the case record. Consult the court's original record before reliance.

Prepared on 25 October 2026 · Esheria