

DECIDED
7 February 2020

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- [1] XXXX XXXX XXXX and XXXX XXXX XXXX are married, and are the parents of their minor children, XXXX XXXX XXXX XXXX and XXXX XXXX XXXX (collectively the Appellants). XXXX, XXXX, and XXXX are citizens of Nigeria. XXXX is a citizen of the United States of America (USA).
- [2] The Appellants allege that they fear the Female Genital Mutilation (FGM) of XXXX, and reprisals for refusing to allow FGM on XXXX. They also fear persecution due to their conversion to Christianity. The alleged agents of persecution are XXXX family, friends of the family, and those who follow XXXX family's beliefs.
- [3] The Refugee Protection Division (RPD) dismissed the Appellants' claims because it found that the Appellants had an Internal Flight Alternative (IFA) - a location where they could be safe within Nigeria - in Kano, Nigeria; and with respect to XXXX, there were no allegations of persecution, risks or threats if he were to return to the USA, his country of citizenship. The Appellants argue that Kano, Nigeria is not a viable IFA because it is a location that is both unsafe and unreasonable for them to relocate to. The Appellants have not made any arguments on this appeal with respect to the RPD's determination that XXXX, a citizen of the USA, is not a Convention¹ refugee or person in need of protection.

- [4] As will be explained below, I have found that the Appellants have an IFA in Kano. This is determinative of the appeals, and accordingly, it follows that I must dismiss the Appellants' appeals. In addition, I have independently been unable to find any basis to overturn the RPD's determination that XXXX is not a Convention refugee or person in need of protection with respect to the USA, his country of citizenship, and his appeal is therefore dismissed.
- DECISION
- [5] I dismiss the appeals. The RPD was correct in finding that the Appellants are neither Convention refugees nor persons in need of protection.

ANALYSIS

- [6] My role is to look at all the evidence and decide if the RPD made the correct decision.²
- [7] The RPD applied the Chairperson's Jurisprudential Guide (JG) dealing with IFAs in Nigeria for claimants fleeing non-state actors.³ The RPD determined that the Appellants had a viable IFA in Kano. The RPD found that the Appellants had failed to establish the ability and/or motivation of their agents of persecution to look for them throughout Nigeria and find them in the city of Kano. In addition, the RPD decided that it would not be unreasonable for the Appellants to move to Kano, considering such factors as language, education, employment and religion.
- [8] The Appellants argue that the RPD Member relied exclusively on the JG, and did not sufficiently consider the documents in the National Documentation Package (NDP) for Nigeria, which they submit support that it would be unsafe and unreasonable for the Appellants to move to Kano.
- [9] In my independent assessment, I find that Kano is a viable IFA for the Appellants. My reasons are as follows. Kano is a viable IFA for the Appellants
- [10] The existence of an IFA is fatal to any refugee claim. If a claimant can find safety from persecution by fleeing within their country, then they are not entitled to Canada's surrogate protection. This is because a claimant must be a refugee from a country, not from a particular region of a country.
- [11] The test to be applied in determining whether there is an IFA is two-pronged:⁴ First, there must be no serious possibility of the Appellants being persecuted in the part of the country identified as an IFA, or that, on a balance of probabilities, they would not be subjected personally to a danger of torture or a risk to their life or to a risk of cruel and unusual treatment or punishment in the part of the country identified as the IFA. Secondly, the conditions in that part of the country must be such that it would not be unreasonable in all the circumstances, including those particular to the Appellants, for them to seek refuge there. The threshold to show that the IFA is unreasonable requires nothing less than the existence of conditions which would jeopardize the life and safety of the Appellants and that actual and concrete evidence of such conditions is required.⁵

- [12] Both prongs must be satisfied to find that the Appellants have an IFA, and once the issue of IFA has been raised and the potential IFAs have been identified, the burden of proof rests with the Appellants to show that they do not have an IFA.
- [13] In considering the viability of the IFA, I have listened to the audio from the RPD hearing, the documents tendered at the RPD hearing, and I have reviewed the submissions and the documents referred to by the Appellants for this appeal. I have also considered the Chairperson Guidelines 4: Women Refugee Claimants Fearing Gender-Related Persecution (Gender Guidelines)⁶ specifically as it relates to IFA. The Gender Guidelines states in part: In determining the reasonableness of an IFA, the decision-makers should take into account factors including religious, economic, and cultural factors, and consider whether and how these factors affect women in the IFA.
- [14] With respect to the first prong, the Appellants refer to numerous documents in the NDP. The Appellants submit that the documents show that there are safety issues in the north, where Kano is located, arising from ethnicity, religion, indigeneship, extremist attacks, Boko Haram, a radical jihadist insurgent group, and discrimination. The Appellants also refer to documents that indicate that there is a divide between Nigeria's south and north, based on historical, environmental, economic, cultural, linguistic, religious and political differences between the two parts. The Appellants submit that as Christians, they would be living in Kano as a minority, and that Muslims and Christians alike report discrimination when living in areas as a minority. The Appellants also suggest that as Yorubas, they would stick out in Kano as ethnic minorities, and would face restrictions, such as running for elected positions at the state level. The Appellants submit that documentation in the NDP supports that it would be difficult to find decent employment given their ethnicity.
- [15] I find the information cited by the Appellants is of a general nature, and not specific to the Appellants. While there are circumstances that might be different in the north versus the south (e.g., Christians are a minority in the north versus the south), I do not accept that this means that the Appellants face a threat that is specific to the Appellants. In other words, there is a lack of evidence that the Appellants would be specifically targeted. While Kano perhaps might not be as ideal for the Appellants in comparison to locations within the south, there is a lack of evidence to support that any differences in circumstances in Kano rise to the level that there is a serious possibility of persecution and, on a balance of probabilities, a risk to life or risk of cruel and unusual treatment or punishment or torture, for the Appellants in Kano.
- [16] With respect to the agents of persecution in this case (family, close friends of the family, and others who are involved in the rituals and worship), I am not satisfied that there is a serious possibility of persecution and, on a balance of probabilities, a risk to life or risk of cruel and unusual treatment or punishment or torture in Kano. The Appellants indicated that the threats of FGM started in XXXX XXXX, 2010, when XXXX turned seven months old, and in XXXX 2012 when the Appellants converted to Christianity.⁷ These threats began in XXXX, and the Appellants had family relatively close by in other cities in the south.⁸ On the other

hand, the Appellants could not confirm that there was family in Kano, the proposed IFA in the north.⁹ According to the Appellants, however, the reason they would be found in Kano is that they have a well-known name.¹⁰ I find that this is insufficient specific information for me to conclude that the agents of persecution have the motivation and means to locate and pursue the Appellants in Kano.

- [17] With respect to the second prong of the IFA test, as noted in the RPD decision, the adult Appellants speak English and Yoruba, they have a better than average education and employment history, and they are Christian. Although they have this background, the Appellants submit that their circumstances would be very different in Kano, which is located in the north where there is a different environment for Christians and ethnic minorities, and that they would face hardship in finding decent jobs, which translates to a lack of money for food or housing. I have reviewed all of the Appellants' submissions. However, while the Appellants might face more issues in the north versus those they faced in the south, and may face additional issues with respect to relocation (e.g., the need to find new and decent jobs and housing, etc.), I have found that there is a lack of evidence to support a finding that these issues rise to the very high level of being unreasonable, which means jeopardizing the life and safety of the Appellants. In other words, while the Appellants will likely have a more difficult time in Kano than they did in XXXX for various reasons, there is a lack of actual and concrete evidence that such conditions would jeopardize their life and safety in Kano. Furthermore, I note that in the narrative to XXXX Basis of Claim form, it was noted that XXXX had made a suggestion at one point that they move to the northern part of Nigeria (again, Kano is located in the north).¹¹ I acknowledge that the narrative indicates that XXXX disputed that such a move would be appropriate, and the Appellants at the RPD hearing and on this appeal, dispute that such a move is appropriate. However, I find that if the north were so unreasonable, XXXX, a person born and living in Nigeria, would never have suggested it as an option for her and her family. XXXX claim
- [18] XXXX is the minor child, and he is a citizen of the USA. It was confirmed at the RPD hearing that there were no allegations being made against the USA by XXXX.¹² The Appellants have not made any arguments on this appeal with respect to the RPD's determination that XXXX is not a Convention refugee or person in need of protection, and I independently did not find any basis to disturb the RPD's determination regarding XXXX. Since no evidence was adduced with respect to any fear XXXX has of return to the USA, his country of citizenship, his claim for refugee protection is rejected. Accordingly, XXXX appeal is dismissed.

CONCLUSION

- [19] I dismiss the appeal and confirm the decision of the RPD that the Appellants are neither Convention refugees nor persons in need of protection. (signed) "Derek Vermette" Derek Vermette February 7, 2020 Date 1 1951 Convention Relating to the Status of Refugees: Office of the United Nations High Commissioner for Refugees, "Handbook on Procedures and Criteria for Determining Refugee Status", under the 1951 Convention. 2Canada (Citizenship

and Immigration) v. Huruglica, 2016 FCA 93; Rozas del Solar v. Canada (Citizenship and Immigration), 2018 FC 1145. 3 X (Re), 2018 CanLII 52123 (CA IRB). 4 Rasaratnam v. Canada (Minister of Employment and Immigration), [1992] 1 FC 706 (FCA). 5 Ranganathan v. Canada (Minister of Citizenship and Immigration), [2001] 2 FC 164 at para 15 (C.A.). 6 Immigration and Refugee Board of Canada, Guidelines Issued by the Chairperson Pursuant to Section 65(3) of the Immigration Act: Guideline 4 - Women Refugee Claimants Fearing Gender-Related Persecution, Effective date: 13 November 1996. 7 CD Audio, RPD Hearing, 18:24:27 to 18:28:05. 8 CD Audio, RPD Hearing, 17:33:30 to 17:35:50 and 19:42:50 to 19:47:00. 9 CD Audio, RPD Hearing, 19:41:19 to 19:42:45. 10 CD Audio, RPD Hearing, 19:49:28 to 19:50:40. 11 Exhibit RPD-1, RPD Record, Narrative to XXXX's Basis of Claim form, para 20. 12 CD Audio, RPD Hearing, 19:10:20 to 19:11:47.

RAD File / Dossier de la SAR : MB9-13091 MB9-13092 / MB9-13093 / MB9-13094 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

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Prepared on 25 October 2026 · Esheria