

CANADA / JUDGMENT

VB9-08119

COURT

Refugee Appeal Division

DECIDED

11 August 2020

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RAD File / Dossier de la SAR : VB9-08119 VB9-08120 VB9-08121 Private Proceeding / Huis clos
Reasons and decision ? Motifs et décision Persons who are the subject of the appeal XXXX XXXX
XXXX XXXXXXXXXX XXXX XXXX XXXXXXXXXX XXXX XXXX Personnes en cause Appeal considered /
heard at Toronto, ON Appel instruit / entendu à Date of decision August 11, 2020 Date de la
décision Panel Christopher G. Harrison Tribunal Counsel for the persons who are the subject of
the appeal Idorenyin E. Amana Barrister and Solicitor Conseil des personnes en cause
Designated representative XXXX XXXX XXXX Représentant(e) désigné(e) Counsel for the Minister
N/A Conseil du ministre REASONS FOR DECISION OVERVIEW

- [1] XXXX XXXX XXXX (the "Principal Appellant"), XXXX XXXX XXXX (the "Associate Appellant") and XXXX XXXX XXXX (the "Minor Appellant") are citizens of Nigeria. The Principal Appellant, the Associate Appellant and the Minor Appellant (collectively, the "Appellants") have appealed a decision of the Refugee Protection Division (the "RPD"), dated September 26, 2019, rejecting their claims for refugee protection. The Appellants ask that the Refugee Appeal Division (the "RAD") set aside the decision of the RPD and substitute its own decision that the Appellants are Convention refugees or persons in need of protection, pursuant to the Immigration and Refugee Protection Act¹ (the "IRPA").
- [2] The Principal Appellant has been appointed designated representative of the Minor Appellant. While the Appellants have tendered no new evidence, they have requested that an oral hearing be conducted by the RAD, pursuant to subsection 110(6) of the IRPA.

DETERMINATION

- [3] The IRPA is clear that, subject to certain provisions, the RAD must proceed on the basis of the record of the proceedings of the RPD.² Where new evidence is presented that raises a serious issue with respect to the credibility of the Appellants, is central to the decision and that, if accepted, would be determinative of the appeal, the RAD may hold an oral hearing.³ In the absence of new evidence, the RAD has no jurisdiction to hold an oral hearing, and the Appellants' request for an oral hearing is denied.

- [4] The appeal is dismissed. Pursuant to paragraph 111(1)(a) of the IRPA, the RAD confirms the decision of the RPD that the Appellants are neither Convention refugees nor persons in need of protection.

BACKGROUND

- [5] The Principal Appellant claims to be descended from a clan that insists that female genital mutilation ("FGM") is associated with their tradition and cultural identity. According to the Principal Appellant and the Associate Appellant, their refusal to surrender their daughter, the Minor Appellant, for the purpose of FGM has placed them at risk of persecution, even death, at the hands of the Principal Appellant's extended family.
- [6] The Appellants left Nigeria on XXXX XXXX XXXX 2017 and travelled to the United States of America (the "USA") where they stayed with a member of the Associate Appellant's family for approximately XXXX months. They allege that they did not make a refugee claim in the USA due to reports of anti-immigrant/anti-refugee sentiment in that country. On XXXX XXXX XXXX 2018, they travelled to Canada where they presented themselves at a border crossing and claimed refugee protection.
- [7] The RPD found that the Appellants were neither Convention refugees nor persons in need of protection, pursuant to section 96 and subsection 97(1) of the IRPA, as there was a viable internal flight alternative ("IFA") in both Kano and Benin City available to them.
- [8] The Appellants appealed on a number of grounds including:
- (i) that the RPD Member erred in fact and law in concluding that a certain affidavit was not credible; (ii) that the RPD erred in rejecting the Appellants' explanations regarding their inability to secure police reports and medical reports in support of their claim; and (iii) that the RPD erred in its assessment of the IFA locations.
- [9] For reasons which follow, the RAD agrees with the RPD that IFA is the determinative issue in this appeal, and the RAD is not persuaded by the Appellants' argument that the RPD erred in its finding of an IFA. After a review of the complete record including the transcript of the RPD hearing, the evidence presented and considering the submissions of Counsel, the RAD finds that there was evidence before the RPD to support the finding of the existence of a viable IFA. However, following its independent assessment of this matter, the RAD finds that the RPD erred in concluding that Kano was a viable IFA location but that the RPD was correct in concluding that the Appellants had a viable IFA in Benin City. ROLE OF THE REFUGEE APPEAL DIVISION
- [10] The RAD reviews decisions of the RPD on a standard of correctness after having conducted an independent analysis of the evidence.⁴ The exception to this rule is where the RPD enjoyed a meaningful advantage in the assessment and weighing of oral evidence heard which may, in certain cases, allow for the RAD to defer to the RPD's findings. The RAD is of the view that the RPD had no meaningful advantage, as the RAD has considered all of the

evidence before the RPD, including a transcript of the oral testimony of the Principal and Associate Appellants as well as the documentary evidence submitted in support of the claim.

ANALYSIS OF MERITS OF APPEAL IFAs generally

- [11] It is well-settled law that, once the issue of an IFA is raised, the burden of proof rests with the appellant to show that there is not a valid IFA available.⁵ In assessing an IFA, the RPD was required to apply the two-pronged test set out in the case law.⁶ The Rasaratnam test is as follows:
- (i) The RPD (and the RAD) must be satisfied, on a balance of probabilities, that there is no serious possibility of the Appellants being persecuted in the part of the country to which it finds an IFA exists and that they would not be personally subject to a risk to life or a risk of cruel and unusual treatment or punishment or a danger, believed on substantial grounds to exist, of torture in the IFA; (ii) In addition, the conditions in the part of the country considered to be an IFA must be such that it would not be unreasonable, in all of the circumstances, including those particular to the claim, for the Appellants to seek refuge there.
- [12] Both prongs of the test must be satisfied in order to find that the Appellants have an IFA. The burden of proof rests with the Appellants to show that they do not have an IFA. An IFA must be both a realistic and attainable option and an appellant cannot be required to face undue hardship or physical danger in travelling to, or staying at, the proposed IFA. Benin City is viable IFA location First prong Rasaratnam test satisfied
- [13] The first prong of the Rasaratnam test involves an examination as to whether an appellant faces a serious possibility of persecution in the IFA (in this case, Benin City) or may be subject to cruel and unusual treatment or punishment, torture or death. The Appellants claim that the IFA is not a viable option, as the Principal Appellant's extended family are powerful, well-connected and capable of locating them anywhere in the country. Uncle's affidavit not credible
- [14] In support of that notion, the Appellants submitted the affidavit of "NAA" whom the Appellants claim is a clan member and an uncle of the Principal Appellant, thus one of the agents of persecution.⁷ In his affidavit, NAA alleges, among other things, that FGM is an integral part of the clan tradition and cultural identity and that the ritual must at all costs be carried out; failure to conform to the tradition can result in punishment and persecution, including death.⁸ The affiant goes on to state that the clan has "endless connections" and the means to pursue the "divergent."⁹
- [15] In examining the Principal Appellant regarding this affidavit at the hearing, the RPD questioned why the uncle - a part of the clan involved in the alleged persecutory conduct - would provide the Appellants with an affidavit setting out what amounted to criminal activity.¹⁰ In the RPD's decision, the Member indicated that "[t]he principal claimant had no response to offer the Board."¹¹

- [16] The Appellants argue that the Principal Appellant did, in fact, respond and, further, that the affidavit was not prepared in the first person such as to self-implicate the writer. They argue that the RPD's finding that there was no response is in error and not supported by the evidence. The RAD is not persuaded by this argument but does acknowledge that the phrase "[t]he principal claimant had no response to offer the Board" is factually incorrect; however, the RAD also notes that the Principal Appellant provided a generalized response to a very specific question. As a result, the RAD is of the view that, while the Principal Appellant may have provided a response, he failed to provide an adequate or appropriate response.
- [17] In reviewing this exchange, the RAD is mindful of the many difficulties an appellant may face in establishing their claim, including age, background, education, language and cultural factors, not to mention the stress of the hearing itself. The RAD notes that the Principal Appellant testified in English without the use of an interpreter. He presented himself in a composed manner and is well-educated, having attended university with a background in auditing and accounting. There was no evidence that he suffered any cognitive or other issues that might affect his ability to testify. As such, the RAD finds that any testimonial failing cannot be attributed to hearing room factors. It is noted that the Principal Appellant responded in a spontaneous manner and did not indicate that he did not understand the question or ask for it to be repeated, as occurred elsewhere on the transcript.¹²
- [18] Secondly, the RAD notes that, while the Principal Appellant may have provided a response to the question, the response provided essentially failed to answer the question.¹³ In this regard, the RPD's question attempted to reconcile the inconsistency between the Appellants' allegations of the lengths that the clan had already gone to in order to cause them to submit the Minor Appellant for FGM against the fact that one of the agents of persecution was now providing an affidavit that would aid in avoiding the very clan tradition that was so objectionable as to risk persecution, even death. This affidavit, in the RAD's view, is a cornerstone in the Appellants' attempt to establish the threat of FGM which is the foundational underpinning of their appeal. The Principal Appellant responded by saying, "It is a thing of the family. [I]t is what the family does. [I]t is the calling of the tradition. [T]hat is just what they do they do not hide in doing because like [I] said it is a general thing for the family, it is a belief."¹⁴ After further discussion, the Principal Appellant acknowledged that he did not know why his uncle would have provided such an affidavit, and the RAD finds that the Principal Appellant's testimony left this inconsistency unresolved.¹⁵
- [19] In its review and analysis of this affidavit, the RAD notes that, firstly, the affiant uses phrases such as "our tradition and cultural identity," "our ethnic, culture and our prevailing social norm" and "our illustrious sons and daughters."¹⁶ Use of such language is a clear indication that the uncle identifies with and considers himself a part of that community and adopts the notion of pursuit and punishment up to and including death, as a sanction for those who fail to comply. As such, the RAD finds that, regardless of whether drafted in the first person or not, this affidavit is intended to set out, in some detail, the dire consequences which befall

non-adherents who fail to comply with the FGM ritual and that the Principal Appellant's uncle considered himself a part of that group.

[20] The RAD is troubled by this scenario and is informed by the following factors:

(i) The Appellants claim to have moved within Nigeria on a number of occasions purportedly to avoid the persecutory conduct and threat of FGM; (ii) They allege to have been attacked on more than one occasion, threatened, as well as an attempted kidnapping of the Minor Appellant, all of which are attributed to the agents of persecution; (iii) The uncle, a member of the persecutory clan, a representative of an agent of persecution that claims it has the motivation, membership and resources to pursue the Appellants¹⁷ and to persecute them, even put them to death for failing to comply with the tribal custom; and (iv) The uncle then allegedly provides an affidavit that would allow the Appellants to escape the persecutory net that the Appellants allege is being drawn around them. The inconsistency between the affidavit, the purpose for which it is presented and the Appellants' claim of fear of persecution is apparent causing the RAD to draw an adverse inference from such unresolved inconsistency.

[21] The RAD agrees with the RPD's finding that NAA's affidavit is not credible. As evidentiary weight is a function of credibility and probative value, where evidence is not credible, it can be accorded little weight.¹⁸ The RAD finds that NAA's affidavit is not credible and that it fails to corroborate the Appellants' allegations that IFA is not a realistic and attainable option. Parents can refuse FGM

[22] The documentary evidence set out in the National Documentary Package ("NDP") is further cause for concern. At the RPD hearing, Counsel made certain submissions based upon NDP information.¹⁹ At that time, Counsel argued that refusal to submit to FGM could result in "consequences" including loss of community support, ostracism, stigmatization and blackmail.²⁰ The RAD finds this argument less than compelling, and, with respect to Counsel, those consequences fall significantly short of the level of persecution alleged by the Appellants and, indeed, fall short of persecutory conduct in general.

[23] In reviewing the Immigration and Refugee Board's (IRB's) Response to Information Request ("RIR") in its entirety, the RAD notes that one of the sources consulted indicated that in Lagos state (where the Associate Appellant and Minor Appellant were living), parents should have the ability and freedom to refuse a child's participation in any ritual and that parents within Lagos should be able to refuse demands or pressure to circumcise their children, if they so desire.²¹ A Professor of religion stated that parental consent is important for any ritual on a child in Lagos.²² A Professor of African history opined that parents in Lagos can refuse FGM, Lagos being more urban and westernized. That source also indicated that "[i]n a conservative family a refusal could lead to withdrawal of family/communal support".²³ Again, while such consequences may be unpleasant, they fall far short of the allegations made by the Appellants that they stand in peril of being put to death by the agents of persecution for failure to comply with the FGM ritual.

- [24] The RAD also takes note that FGM has been criminalized by Nigerian lawmakers. The Violence Against Persons (Prohibition) Act ("VAPP") came into force on 2015. According to the RIR, the legislation has not been universally adopted by all states but Edo State (the state in which Benin City is located) banned FGM in 1999 under the "Female Circumcision and Genital Mutilation (Prohibition) Law.²⁴ While there is evidence that FGM continues to be practiced in Nigeria, the preponderance of evidence suggests that parents are able to refuse FGM on behalf of their child, and the RAD finds that, contrary to the Appellants' allegations, Nigerian parents are able to refuse FGM on behalf of their children. Attacks on the Appellants not credible
- [25] The Appellants claim to have been attacked by members of the clan on two separate occasions. The Principal Appellant alleges that, on XXXX XXXX XXXX 2017, he was attacked by two of his brothers while walking home from work in Calabar. Similarly, the Appellants claim that, on an earlier occasion in XXXX of 2016, the Associate Appellant was accosted by family members who assaulted her and attempted to kidnap the Minor Appellant. The Associate Appellant was allegedly injured in the attack. Both matters were reported to police, but in neither case were police or medical reports obtained.
- [26] With respect to the alleged attack upon the Principal Appellant, two co-workers ("AJ" and "AS") have provided affidavits which claim to support this allegation.²⁵ In reviewing these affidavits, it is quite clear and the RAD finds that the affiants have no direct knowledge as to who might have committed the assault, and the report that it was the Principal Appellant's family is second-hand information, which is not reliable in that it could only have derived from the Principal Appellant and, accordingly, can be given little weight. The Principal Appellant claims to have required hospitalization as a result of this attack, which was reported to police who failed to follow up on his complaint. When questioned by the RAD Member about a police report, the Principal Appellant advised that he was unable to get a copy of the report from police and that the only way one could be obtained was by appearing in person.²⁶ Affidavits were submitted in support of this contention.²⁷ Similarly, the Principal Appellant claims that he is unable to obtain hospital reports or medical records that might support this claim, and no photographs of the injuries were tendered.
- [27] As to the allegations that the Associate Appellant was assaulted and that an attempted kidnapping of the Minor Appellant occurred, again, the Appellants allege that the matter was reported to police. According to the Appellants, the police investigated and actually arrested several members of the Principal Appellant's extended family, but they supposedly released them due to lack of evidence. Once again, no police report was submitted in support of this allegation.
- [28] The Appellants submitted two affidavits in support of their allegations that they had attempted to send agents to the police stations to obtain the police reports relating to these two incidents.²⁸ According to the agents, they were either ignored²⁹ or instructed to leave, as the only person who could obtain the police reports were the parties who made the report and that it had to be done in person.³⁰ The affidavits only address alleged efforts with

respect to efforts to obtain police reports and are silent on medical/hospital records. Apart from testimony, there was no evidence of attempts to obtain medical or hospital records.

- [29] The RPD did not accept that police or medical institutions would require a person to attend in person to release records. The Appellants argue that the Member erred in this regard and that she was confused, self contradictory and misconstrued the evidence. Insofar as police reports are concerned, the RAD is not persuaded by this argument and notes that, in an older version of the NDP, it features a RIR which, in part, deals with procedures for an individual to obtain a copy of a police report within the country as well as from abroad.³¹ The RAD does note, however, that the RIR does not address the issue of medical records.
- [30] The RIR indicates that, according to a police public relations officer, police investigation reports, police reports and reports of complaint can be issued if requested by the complainant or by another person on their behalf and that application for such documents can be made by the party either in person or by authorizing a third party to obtain a copy of the documents.³² A junior law associate advised that, with respect to obtaining a police report from abroad, such reports cannot be obtained in absentia but that an affidavit from the person who has direct knowledge of the content of the affidavit can be provided. As a result, it seems clear to the RAD and the RAD so finds that the Appellants could have obtained police reports in support of the allegations had they chosen to do so. The failure to provide documents that were within the Appellants' ability to obtain and which would have been directly corroborative of the claim is found by the RAD to be a material omission affecting credibility.
- [31] The RAD also notes that the Appellants have indicated that their flight from Nigeria was planned and deliberate, undertaken following discussions with and advice from the Associate Appellant's sister, a resident of the USA.³³ The attack upon the Principal Appellant is alleged to have taken place on XXXX XXXX XXXX 2017, and it was on XXXX XXXX XXXX 2017 that the Appellants learned that the Principal Appellant and the Minor Appellant could no longer stay with a friend as a result of the friend's perception of danger.³⁴ The Appellants left Nigeria on XXXX XXXX XXXX 2017, leaving them with one month with which to obtain necessary documentation to support their claim.
- [32] The Appellants' situation, if credible, was not such that they need to immediately flee the agents of persecution making the gathering of necessary information difficult or impossible. They had the time, ability and opportunity to obtain both medical and police records prior to their departure for the USA. Based upon the NDP documentation, following departure from Nigeria, the Appellants still had the ability to secure the police reports, which might have corroborated their claim, and they still failed to do so. Accordingly, the RAD draws an adverse inference against the Appellants in respect of their failure to provide such documentary evidence, when it was within their ability to do so. Claims regarding family members not persuasive

- [33] The Appellants claim that several members of the Principal Appellant's extended family are in a position to track the Appellants wherever they might go in Nigeria. They allege that two family members are employed by the Central Bank of Nigeria, thereby giving them the ability to track the Appellants via a bank verification number ("BVN") which is a Nigerian requirement in order to obtain a bank account. The BVN has certain biometric characteristics, and the Principal Appellant testified that one cannot operate any bank account without having a BVN. Similarly, the Appellants claim that there are similar requirements to obtain a phone in Nigeria, which require the capture and registration of certain biometric and other personal information. While support for the notion that biometric information is required to obtain both a phone and to open a bank account have some support in the NDP,³⁵ the NDP also indicates that tight controls exist over the release of mobile telephone subscriber information.³⁶
- [34] The Appellants claim that other members of the clan include a retired former high-ranking police officer and a politician, and they make similar allegations that these individuals have the capability to track them in Nigeria. The affidavit of NAA attempted to make this point but was not credible and given little weight. The Appellants have submitted no corroborating evidence of these claims. The law is well-established that, where an appellant swears to the truth of certain allegations, a rebuttable presumption that those allegations are true is created.³⁷ The Appellants argue this principle in their Memorandum of Argument.³⁸ The Appellants also argue that the Appellants ought to be given the benefit of the doubt considering the testimony was sworn.³⁹
- [35] However, in this appeal, there have been a number of adverse credibility findings, as well as the Principal Appellant's testimony and submission of affidavits which clearly were at odds with objective documentary evidence in the NDP. The Appellants' failure to provide police and medical reports casts an accumulation of credibility concerns over the evidence, and their argument that their sworn testimony be given the benefit of the doubt is without merit. The United Nations High Commissioner for Refugees ("UNHCR") states that, while it is frequently necessary to give a refugee applicant the benefit of the doubt, it should only be given when all available evidence has been obtained and checked and when the examiner is satisfied as to the applicant's general credibility.⁴⁰ This passage has been cited by Canadian courts, most notably in the refugee context in *Chan*.⁴¹ As understood by the RAD, refugee claimants may be granted the benefit of the doubt as a recognition of the evidentiary challenges associated with the refugee determination process, but only in a context where there are no concerns as to the claimant's general credibility. In this matter, there have been a number of credibility concerns identified, and, as such, the RAD finds that it cannot afford the Appellants the benefit of the doubt, nor does the Maldonado presumption of truthfulness apply. As such, the RAD finds that the Appellants have not established, on a balance of probabilities, that extended family members have the ability to locate them via banking or telephone records or biometric information.

- [36] Lastly, it is noted that the Associate Appellant testified that Benin City was an area of Nigeria where outsiders are used for rituals. The RPD found this assertion to be speculative. Counsel has submitted certain items from the NDP in support of this allegation and which the RAD has reviewed. With respect to Counsel, the RAD fails to be convinced by this argument and notes that the essence of the article is that ritual murder is not exclusive to Benin City but is a countrywide issue.⁴² Indeed, in having fully reviewed this RIR, the RAD is struck by the fact that of a number of Nigerian states where the practice is prevalent, Edo State - where Benin City is located - is noticeably absent. There has been no persuasive evidence adduced indicating that Benin City is an area of concern regarding such ritual killings, and the RAD finds that, with respect to the proposed IFA of Benin City, the first prong of the Rasaratnam test is satisfied, as the RAD concludes that, on a balance of probabilities, there is no serious possibility of the Appellants being subjected to persecution there or that they are at risk to life or risk of cruel and unusual treatment or punishment. Second prong - Rasaratnam satisfied - Benin City
- [37] The second prong of the test involves an analysis of the reasonableness of the proposed IFA location considering such issues as employment, transportation, access to health care, hospitals and education. The Federal Court of Appeal has set a very high threshold for this test indicating that it requires "nothing less than the existence of conditions which would jeopardize the life and safety of a claimant in travelling or temporarily relocating to a safe area."⁴³ The court went on to state that this is in sharp contrast with undue hardship resulting from loss of employment, loss of status, reduction in quality of life, loss of aspirations, loss of beloved ones and frustrations of one's wishes and expectations.⁴⁴
- [38] At the RPD hearing, the Associate Appellant testified regarding concerns for her daughter's education, for access to healthcare facilities and due to preferred treatment of Nigerian citizens indigenous to the area making it difficult to secure employment. Apart from expressing these concerns and Counsel's submissions in respect thereof, there was no evidence tendered which would support the allegations as to why the IFA locations are not viable.
- [39] Benin City is a major urban centre located in southern Nigeria. As of 2018, it had a population in excess of 1.6 million people.⁴⁵ It appears to be a hub on a system of highways linking a number of major cities, including Lagos which is the site of a major international airport.⁴⁶ As such, it would appear that adequate transportation and travel to Benin City exist.
- [40] The RAD notes that English is the official language of Nigeria.⁴⁷ The Principal Appellant and the Associate Appellant are fluent in English and conducted their RPD hearing in that language. According to the Basis of Claim (BOC) forms, they are also fluent in Yoruba, another major Nigerian language.⁴⁸

- [41] The Principal Appellant is university educated with a background in XXXX and XXXX. Based on his documentation and testimony, he appears to have been able to secure steady employment in management-type positions as an XXXX XXXX. The Associate Appellant claims to have had employment in the XXXXand XXXX XXXX. As such, they are well equipped to seek employment opportunities in Benin City.
- [42] As noted, the burden of proof is upon the Appellants to establish that the proposed IFA is not viable. They have not submitted actual and concrete evidence that Benin City is not a viable IFA location and, accordingly, have failed to discharge that obligation. As such, the RAD finds that Benin City is a viable IFA location. IFA in Kano inappropriate due to proximity to Boko Haram activity
- [43] As well as Benin City, the RPD raised the possibility of an IFA in Kano. Kano is a city which could be described geographically as being in the north-central area of Nigeria.⁴⁹ When reviewing the possible IFAs with the Principal Appellant and the Associate Appellant at the hearing, the Associate Appellant indicated that the area was a "core place for Boko Haram," a well-known terrorist organization operating primarily in the northeast area of Nigeria but also in the neighbouring countries of Chad, Niger and Cameroon.⁵⁰
- [44] The RAD notes that Boko Haram is a Muslim terrorist organization and that it has undertaken campaigns of forced conversion and kidnapping. At the RPD hearing, the Associate Appellant testified that, for a variety of reasons, Kano was not a viable IFA. The RAD was not persuaded by most of those reasons but cannot discount the concern about proximity to Boko Haram activity. While the NDP documentation indicates that their terrorist activity is primarily concentrated in Nigeria's northeast, the Associate Appellant is a Christian, and, as indicated, Boko Haram atrocities have been well publicized and feature prominently in the NDP material, perhaps most notably for the kidnapping of almost 330 Christian girls from a school. Again, that incident took place in Chibok which is in the northeastern part of Nigeria, and it would appear from certain NDP material that incidents in the Kano area have been extremely limited.⁵¹ Regardless, the RAD is mindful of the fact that terrorist activity may not necessarily be confined to a geographic area and cannot be certain of the Appellants' safety in Kano. As such, the RAD finds that the RPD erred in its analysis in concluding that Kano was a viable IFA for the Appellants.

CONCLUSION

- [45] The RAD dismisses the appeal and confirms 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 the IRPA. (signed) Christopher G. Harrison Christopher G. Harrison August 11, 2020
 Date 1 S.C. 2001, c. 27. 2 Subsection 110(3) of the IRPA. 3 Subsection 110(6) of the IRPA. 4 M.C.I. v. Huruglica, Bujar (F.C.A., no. A-470-14), Gauthier, Webb, Near, March 29, 2016, 2016 FCA 93; [2016] 4 FCR 157, at para 103. 5 Thirunavukkarasu, Sathiyathan v. M.E.I. (F.C.A., no. A-81-92), Heald, Linden, Holland, November 10, 1993; 1993 CanLII 3011 (FCA); [1994] FC 589. 6 Rasaratnam, Sivaganthan v. M.E.I. (F.C.A., no. A-232-91), Mahoney, Stone, Linden,

December 5, 1991; [1992] 1 F.C. 706 (C.A.) at 710. 7 Exhibit RPD-1, RPD Record, at p. 114, Exhibit C-5. 8 Ibid., paras 1-4. 9 Ibid., paras 6-7. 10 Exhibit P-2, Appellants' Record, Transcript, at p. 26 [01:16:46]. 11 Exhibit RPD-1, RPD Record, RPD's Reasons and Decision, at p. 5, line 3. 12 Exhibit P-2, Appellants' Record, Transcript, at p. 25 [01:15:58]. 13 Exhibit P-2, Appellants' Record, Transcript, at p. 26 [from 01:16:46 to 01:17:58]. 14 Exhibit P-2, Appellants' Record, Transcript, at p. 26 [01:17:58]. 15 Audio Recording of the RPD Hearing [01:19:03]. 16 Exhibit RPD-1, RPD Record, at p. 114, NAA affidavit, paras 1, 6 and 8. 17 Exhibit RPD-1, RPD Record, at p. 114, NAA affidavit, paras 2-7 and 9. 18 Magonza, Magreth Benard v. M.C.I. (F.C., no. IMM-1506-18), Grammond, January 7, 2019, 2019 FC 14. 19 NDP for Nigeria (November 29, 2019), item 5.28, IRB, RIR NGA105628.E, "Prevalence of female genital mutilation (FGM) including ethnic groups in which FGM is prevalent, particularly in Lagos State and within the Edo ethnic group; consequences for refusal; availability of state protection; the ability of a family ...", September 13, 2016; Exhibit P-2, Appellants' Record, Transcript [01:55:26]. 20 Ibid., NDP for Nigeria (November 29, 2019), item 5.28, RIR NGA105628.E. 21 Ibid., NDP for Nigeria (November 29, 2019), item 5.28, RIR NGA105628.E, at p. 10. 22 Ibid., NDP for Nigeria (November 29, 2019), item 5.28, RIR NGA105628.E. 23 Ibid., NDP for Nigeria (November 29, 2019), item 5.28, RIR NGA105628.E, at p. 11. 24 Ibid., NDP for Nigeria (November 29, 2019), item 5.28, RIR NGA105628.E, at p. 6. 25 Exhibit RPD-1, RPD Record, at pp. 116-117, Exhibits C-6(a) and C-6(b). 26 Exhibit P-2, Appellants' Record, Transcript, at p. 24 [01:10:02]. 27 Exhibit RPD-1, RPD Record, at pp. 118-119, Affidavits of "RI" and "OA", Exhibits C-7(a) and C-7(b), respectively. 28 Exhibit RPD-1, RPD Record, Affidavit of "R.I.", at p. 118, C-7(a); Affidavit of "O.A.", at p. 119, C-7(b). 29 Exhibit RPD-1, RPD Record, Affidavit of "R.I.", at p. 118, C-7(a). 30 Exhibit RPD-1, RPD Record, Affidavit of "O.A.", at p. 119, C-7(b). 31 NDP for Nigeria (August 20, 2019), item 10.3, IRB, RIR NGA106208, "Update to NGA105999 of 6 November 2017 on documents issued by police during criminal investigations or in response to a complaint, including police reports; procedures for an individual to obtain a copy of a police report within the country as well as from abroad; appearance of police reports, including whether there are uniform characteristics or variance across the country", November 5, 2018. 32 Ibid., NDP for Nigeria (August 20, 2019), item 10.3, IRB, RIR NGA106208, at p. 6. 33 Exhibit RPD-1, RPD Record, BOC Narrative, at p. 37. 34 Exhibit RPD-1, RPD Record, at p. 139. 35 NDP for Nigeria (November 29, 2019), item 1.14, IRB, RIR NGA106245.E, "Requirements and procedures to obtain a Subscriber Identity Module (SIM) card and to open a bank account; extent to which SIM card and banking information is available to third parties, including authorities and elected politicians...", February 18, 2019. 36 Ibid., NDP for Nigeria (November 29, 2019), item 1.14, IRB, RIR NGA106245.E, at 3.1.1. 37 Maldonado, Pedro Enrique Juarez v. M.E.I. (F.C.A., no. A-450-79), Heald, Ryan, MacKay, November 19, 1979; [1980] 2 F.C. 302 (C.A.); [1979] F.C.J. No. 248 (FCA). 38 Exhibit P-2, Appellants' Record, at p. 42, para 12. 39 Ibid. 40 United Nations, Office of the United Nations High Commissioner for Refugees, Handbook on Procedures and Criteria for Determining Refugee Status, Geneva: 1979. 41 Chan, Kwong Hung v. M.E.I., [1995] 3 S.C.R. 593, La Forest, L'Heureux-Dubé, Sopinka, Gonthier (dissenting), Cory, Iacobucci and Major, October 19, 1995; 1995 CanLII 71 (SCC). 42 NDP for Nigeria (November 29, 2019), item 7.13, IRB, RIR NGA104218.E,

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