

CANADA / JUDGMENT

TB9-14013

COURT

Refugee Appeal Division

DECIDED

4 October 2020

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RAD File / Dossier de la SAR : TB9-14013 TB9-14014 / TB9-14015 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 October 4, 2020 Date de la
décision Panel L. Krajcovic Tribunal Counsel for the persons who are the subject of the appeal
Esther U. Okeke 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 (Principal Appellant), XXXX XXXX XXXX (Associate Appellant) and XXXX
XXXX XXXX (Minor Appellant) are citizens of Nigeria. They appeal a decision of the Refugee
Protection Division (RPD), dated May 7, 2019, rejecting their claims for refugee protection.
- [2] The Appellants' allegations are as follows. The Appellants allege that chieftains and
community members of the Principal Appellant's father's tribe want to impose tribal
markings on the Minor Appellant and that the Principal and Associate Appellants would face
spiritual and physical attacks due to their sudden disappearance. After finding out that they
were expecting a male child, the Associate Appellant left Nigeria for the United States on
XXXX XXXX XXXX 2017, followed by the Principal Appellant on XXXX XXXX XXXX 2017. The
Minor Appellant was born in the United States on XXXX XXXX, 2017.
- [3] The Appellants arrived in Canada on XXXX XXXX, 2017. They signed their Basis of Claim
(BOC) forms on January 12, 2018. Their refugee claim hearing was held on April 8, 2019.
Their claims were rejected on May 7, 2019. The RPD rejected the claims on the basis of
credibility, failure to claim in the United States, state protection and internal flight
alternative (IFA).
- [4] The determinative issue on appeal is IFA. At the hearing, the RPD Member canvassed Port
Harcourt and Abuja as potential IFA locations and found that the Appellants have a viable
IFA in Port Harcourt. The Refugee Appeal Division (RAD) gave notice to the Appellants that
the most updated version of the National Documentation Package (NDP) for Nigeria dated
November 29, 2019¹ would be considered in this appeal, particularly item 13.1. The
Appellants were also invited to make submissions regarding an IFA in Abuja. Submissions
were received on March 2, 2020.²

- [5] The Appellants request to submit new evidence on appeal. They do not request an oral hearing. DECISION
- [6] I dismiss the appeal. The RPD was correct in finding that the Appellants are neither Convention refugees nor persons in need of protection. ROLE OF THE RAD
- [7] The RAD applies a standard of correctness for questions of fact, mixed fact and law, and law. I may defer to the RPD in assessing findings involving the credibility of oral testimony if I find that it had a meaningful advantage in the circumstances.³ In this case, I find that the RPD did not have a meaningful advantage. NEW EVIDENCE
- [8] According to the law,⁴ I can only accept evidence that:
- i. arose after the RPD decision; or ii. was not reasonably available at the time of the decision; or iii. that you could not reasonably have been expected in the circumstances to bring to the RPD before the decision.
- [9] If the evidence meets one or more of these requirements, I must decide if the evidence is new, credible and relevant before I can accept it.⁵ Documents submitted with the Appeal Record
- [10] The Appellants propose the following as new evidence:
- a. Letter from the Principal Appellant's employer, dated June 12, 2019;⁶
 - b. Affidavit from the Principal Appellant's colleague, dated June 17, 2019;⁷
 - c. Article, Refugees entering from US and Safe Third Country: FAQ, February 2017;⁸
 - d. Article, Harvard releases report on effect of Trump's executive orders on asylum seekers, February 8, 2017;⁹
 - e. Article, Why Trump Can't Understand Immigration From 'Shithole Countries', January 11, 2018;¹⁰
 - f. Article, Trump Moves to End DACA and Call on Congress to Act, The New York Times, September 5, 2017;¹¹
 - g. Article, Trump Uses Vulgar Language to Refer to African Countries Sources Say, January 11, 2018;¹²
 - h. Article, The Trump administration just made its first move in a clamp down on US visas for Nigerians, May 14, 2019.¹³ Items (a) and (b) are accepted as new evidence
- [11] Items (a) and (b) are a letter from the Principal Appellant's employer, dated June 12, 2019, and an affidavit from the Principal Appellant's colleague, dated June 17, 2019.
- [12] The Appellants submit that they did not understand before the hearing that evidence of the attacks in Abuja and Port Harcourt would be of great importance in the IFA assessment. I accept that the Appellants could not reasonably have been expected to provide items (a) and

(b) before the decision was rendered as both these documents were obtained from overseas. Abuja and Port Harcourt were raised as potential IFAs at the hearing and there was less than a month between the hearing date and the date the decision was rendered. It follows that items (a) and (b) are new. I accept that items (a) and (b) are credible and relevant to the assessment of Abuja as a viable IFA. Therefore, items (a) and (b) are admitted into evidence. Items (c) - (g) are not accepted as new evidence

- [13] Items (c) to (g) are articles regarding President Trump and United States' immigration policies. Items (c) to (g) all pre-date the RPD decision.
- [14] I find that items (c) to (g) were reasonably available at the time of the decision and that the Appellants could reasonably have been expected to provide them to the RPD before the decision was rendered. I reject the Appellants' explanation that they did not know they had to provide such evidence. I find that they should have been aware that failure to claim in the United States may be an issue in their claim. The Appellants spent approximately six months in the United States. They were represented by counsel at the time that they signed their BOC forms and at the RPD hearing. Even if I were to accept that the Appellants were unaware before the hearing that failure to claim in the United States may be an issue in their claim, they were made aware of this issue at the hearing when they were asked questions regarding why they did not make asylum claims in the United States. The Appellants could have provided post-hearing evidence regarding their reasons for failing to claim, pursuant to subsection 43(1) of the RPD Rules.¹⁴ The Appellants failed to do so and failed to provide reasons for not doing so. Therefore, items (c) to (g) are inadmissible. I note that, even if I were to accept that the Appellants could not reasonably have been expected to provide these documents to the RPD before the decision was rendered, items (c) to (g) would be inadmissible as they are not relevant to the determinative issue of whether the Appellants have a viable IFA in Nigeria. Item (h) is not accepted as new evidence
- [15] Item (h) is an article regarding President Trump imposing visa requirements on Nigerians. It is dated May 14, 2019. Although item (h) arose after the decision was rendered, it is not relevant to the determinative issue, namely, whether the Appellants have a viable IFA in Nigeria. Therefore, item (h) is not admitted into evidence. Documents submitted in response to Member's Directions
- [16] On March 2, 2020, the Appellants provided the following documents in response to the Member's Directions:
- i. Affidavit from the Principal Appellant, dated March 2, 2020;¹⁵
 - j. Affidavit from the Principal Appellant's former driver, dated March 2, 2020;¹⁶
 - k. Human Rights Watch, World Report 2000: Nigeria, dated February 28, 2020;¹⁷
 - l. Ecol.net, Nigeria Security Situation, dated March 2, 2020.¹⁸ Item (i) is partially accepted as new evidence

- [17] Item (i) is an affidavit of the Principal Appellant. The affidavit states that Abuja is not safe for the Principal Appellant because of his career as a XXXX XXXX with a telecommunications company and due to the influence of his father.
- [18] As item (i) was provided in response to a request for submissions on an IFA in Abuja, I accept that the Appellants could not reasonably have been expected to have brought it to the RPD before the decision was rendered. I also accept that the affidavit is new, credible and relevant to the IFA issue.
- [19] However, I note that the affidavit provides an additional reason as to why Abuja is not a safe IFA to those provided at the RPD hearing. The affidavit states that while the Principal Appellant was working and residing in Abuja, he knew people who had connections to his father's community in Ilesha. At the hearing, when the RPD Member asked the Principal Appellant about how the agents of persecution could find him in Abuja, he did not refer to knowing people in Abuja who had connections to his father's community in Ilesha. This information regarding these connections arose prior to the RPD decision and should have been before the RPD. The Appellants have not made submissions regarding why this information was not reasonably available at the time of the decision or that they could not reasonably have been expected in the circumstances to bring it to the RPD before the decision.
- [20] The RAD is not an opportunity for the Principal Appellant to repair his deficient testimony at the RPD. Rather, it allows for the correction of errors of fact, errors in law, or mixed errors of fact and law.¹⁹ As a result, this portion of the affidavit does not meet subsection 110(4) of the Immigration and Refugee Protection Act (IRPA) and is inadmissible. The remainder of the affidavit is admitted into evidence. Item (j) is accepted as new evidence
- [21] Item (j) is an affidavit of the Principal Appellant's former driver. The affidavit refers to the risks to field engineers in and around Abuja, including risks on the highway that field engineers have to travel on to get to work, which has worsened recently.
- [22] As item (j) was provided in response to the request for submissions on an IFA in Abuja, I accept that the Appellants could not reasonably have been expected to have brought it to the RPD before the decision was rendered. I also accept that the affidavit is new, credible and relevant to the IFA issue. Therefore, item (j) is admitted into evidence. Items (k) and (l) are accepted as new evidence
- [23] Items (k) and (l) are reports regarding militants and the security situation in Nigeria. These reports arose after the RPD decision was rendered. I accept that they are new, credible and relevant to the IFA issue. Therefore, items (k) and (l) are admitted into evidence. REQUEST TO SUBMIT ADDITIONAL DOCUMENTS
- [24] The Appellants seek to submit additional documents that were not provided with the Appeal Record. Rule 29 of the RAD Rules allows appellants to make an application to provide a document not previously provided with the Appeal Record. Sub-Rule 29(3) states that such

an application must include an explanation of how the document meets the requirements of subsection 110(4) of the IRPA and how that evidence relates to the appellant.²⁰ Sub-Rule 29(4) states that, in determining the application, the RAD must consider any relevant factors, including the relevance and probative value of the document, any new evidence the document brings to the appeal and whether the Appellants could have, with reasonable effort, provided the document with the Appeal Record. If the application under Rule 29 is allowed, to be admissible, the document must also meet the requirements of subsection 110(4) of the IRPA and the Singh/Raza factors.

[25] The Appellants request to submit the following documents into evidence:

- m. USA Today article, New Donald Trump Immigration Policy Could Ban Thousands of African Immigrants from the United States, dated February 25, 2020;²¹ and
- n. Webpage printout, United States Department of State, Nigeria Travel Advisory, dated October 29, 2019.²² Item (m) is not admitted into evidence

[26] Item (m) is an article regarding the impact of Trump immigration policies on African immigrants. The Appellants state that item (m) indicates that the travel ban will prevent thousands of people from moving to the United States and will have the most impact on Nigeria. The Appellants state that this presents additional support for the fact that the Appellants cannot consider the United States to be an external flight alternative.

[27] I find item (m) not relevant or probative to the determinative issue in this appeal. The Appellants do not explain how item (m) is relevant to the determinative issue on appeal, namely, whether there is a viable IFA for the Appellants in Nigeria. As the article is not relevant to the determinative issue, it would not affect the outcome of the appeal.

[28] I find that the information contained in item (m) is new in that there is no similar information already in the record and it is dated after the filing of the Appeal Record. As a result, I accept that this article could not have been provided with the Appeal Record. However, I find that the article not being relevant to the determinative issue outweighs these other factors. After weighing all the relevant factors, I find that the article is not allowable under Rule 29. As a result of this finding, it is not necessary for me to consider whether the article satisfies the requirements of subsection 110(4) of the IRPA or the Singh/Raza factors. Item (n) is admitted into evidence

[29] Item (n) is a travel advisory regarding the security situation in Nigeria. The Appellants submit that item (n) is relevant to the risk to the Principal Appellant resulting from his employment as a XXXX XXXX. The Appellants submit that the Travel Advisory demonstrates how dangerous the areas are that are being recommended as an IFA to the Principal Appellant as a field worker who is required to travel across states.

- [30] I find that the Travel Advisory is relevant to the determinative issue in this appeal as it relates to the security situation in the area around Abuja. I find that the information contained in the Travel Advisory is new in that it relates to events that occurred after the filing of the Appeal Record. As a result, I accept that the Travel Advisory could not have reasonably been provided with the Appeal Record. After weighing all the relevant factors, I find that the Travel Advisory is allowable pursuant to sub-Rule 29(4).
- [31] I also find that the Travel Advisory meets the requirements of subsection 110(4) of the IRPA as it arose after the RPD decision.
- [32] Finally, I find that the Travel Advisory meets the Singh/Raza criteria. As outlined above, the Travel Advisory is new and relevant. Further, the Travel Advisory is credible as it originates from a reliable source.
- [33] As a result of the foregoing, I find that the Travel Advisory is admissible and I admit it into evidence. ORAL HEARING
- [34] The Appellants do not request an oral hearing. However, the RAD should generally be required to convene a hearing where the conditions set out in 110(6) of the IRPA are present.²³ In addition, although the decision to hold a hearing is discretionary, it is a reviewable error to fail to conduct a proper analysis of whether the subsection 110(6) criteria were met, and if so, whether it should exercise that discretion to convene an oral hearing.²⁴
- [35] The RAD may hold a hearing if, in its opinion, there is documentary evidence referred to in subsection 110(3) that raises a serious issue with respect to the credibility of the person who is the subject of the appeal, is central to the decision with respect to the refugee protection claim, and, if accepted, would justify allowing or rejecting the refugee protection claim.²⁵ As the admissible new evidence does not raise a serious issue with respect to the Appellants' credibility and would not justify allowing or rejecting the refugee protection claim, there can be no oral hearing pursuant to subsection 110(6) of the IRPA.

ANALYSIS

The claim of the Minor Appellant No section 96 or 97(1) risk to the Minor Appellant

- [36] In assessing the appeal of the Minor Appellant, I have considered the Chairperson's Guideline on Child Refugee Claimants.²⁶ The Minor Appellant is a citizen of the United States. At the hearing, counsel indicated that the Minor Appellant was not making a claim against the United States.²⁷ The RPD found that there was insufficient evidence before it that would enable it to determine that the Minor Appellant would be persecuted for any Convention ground or that, on a balance of probabilities, he would be subjected personally, to a risk pursuant to subsection 97(1). As this finding was not contested on appeal, I see no reason to interfere with it. It is correct and based on information in the record. The claims of the Principal and Associate Appellants Legal test for IFA

- [37] The test to be applied in determining whether there is an IFA is two-pronged:
- a. The Board must be satisfied, on a balance of probabilities, that there is no serious possibility of the claimant being persecuted in the part of the country to which it finds an IFA exists and/or the claimant would not be personally subject to a risk to life or risk of cruel and unusual treatment or punishment or danger, believed on substantial grounds to exist, of torture in the IFA.
 - b. Moreover, conditions in the part of the country considered to be an IFA must be such that it would not be unreasonable, in all the circumstances, including those particular to the claimant, for the claimant to seek refuge there.²⁸
- [38] Both prongs of the test must be satisfied to find that an appellant has an IFA. Once the issue of an IFA has been raised and a potential IFA has been identified, the burden of proof rests with the Appellants to demonstrate that they do not have an IFA. No serious possibility of the Appellants being persecuted in Abuja Risk from Principal Appellant's father, chieftains and community members
- [39] The Appellants bear the burden of establishing that there is a serious possibility of persecution or risk to their lives in the IFA location. After reviewing the record, I find that the Appellants have not established, on a balance of probabilities, that their agents of persecution have the motivation or means to locate them outside Ilesha.
- [40] The Principal Appellant's father is one of the chieftains in Ilesha. At the hearing, the Principal Appellant testified that members of his community are particularly interested in his case because his father was one of the promoters of tribal markings. The Principal Appellant states that the community wants to ensure that the same treatment is meted to his father's own grandchild and, if not, they will target the Principal and Associate Appellants for running away with their child to avoid tradition.²⁹
- [41] I note that at the hearing, when the RPD Member asked the Principal Appellant if his family supported the facial markings, he replied "not exactly."³⁰ The Principal Appellant then testified that he believed that his father did not want to make this decision for the Principal Appellant and that his father is indifferent to the Minor Appellant having the facial markings. However, he testified that it was not up to his father to decide as it is "within the chieftaincy of the community."³¹ The Principal Appellant states that, as his father has overseen others undergo tribal markings, it is a "let down for those men not having his son be a part of it."³²
- [42] At the hearing, the RPD Member asked the Associate Appellant if there have been any threats made against the Appellants since they left the country: Counsel: But in terms of threat or danger to your life, have there been any developments since you have left the country? Associate Appellant: I would say yes because they already know we have a male child and then they are after our son that one day, we are going to come back to the country and they are going to find us. Since my father-in-law has been a partaker of this act, so far,

so why would his son runaway. He must also take part of this thing. So they are on the lookout. I would say that. Counsel: Okay. So how do you know that? Associate Appellant: I know that because my father-in-law like he just said that he made a call through to the father and the father said they were even expecting us to come home for Christmas. Just like a usual holiday where we come home to see him and other family members. (inaudible) Counsel: But were there any threats made to your life, that is the question. Associate Appellant: Yes, for the fact that we fled the country without their knowledge because they know particularly we left because we are having a male child. Counsel: And how do you know that? Associate Appellant: We know because they are on the look out for us. Counsel: But how do you know that? Associate Appellant: Through my husband. Counsel: So, he told you? Associate Appellant: Yes. Like I just said that now. They were expecting us to come home during the last Christmas. Counsel: But that they were expecting you. Associate Appellant: Yes, to come. Counsel: But were there any threats made at that time, that is my question. I am just trying to get more specific. Principal Appellant: He may not be totally clear but we understand the threat and we know the threat is there.³³

- [43] Based on the Appellants' testimony at the hearing, I find that they have provided insufficient evidence to demonstrate that, on a balance of probabilities, the Principal Appellant's father, chieftains or members of the community are motivated to locate the Appellants outside Ilesha. The Principal Appellant testified that he believes his father did not want to make the decision regarding tribal markings on the Minor Appellant for him and that he was indifferent to it. The Appellants were asked multiple times whether any threats were made against them. The Appellants testified that they were expected to come home at Christmas but did not indicate that any direct threats have been made against them. They further testified that community members are on the lookout for them. While this may be the case, it fails to establish, on a balance of probabilities, that community members are motivated to look for the Appellants in Abuja, which is a considerable distance from Ilesha.
- [44] After reviewing the record, I find that the Appellants have not established, on a balance of probabilities, that their agents of persecution have the means to locate them in Abuja.
- [45] At the hearing, the Appellants were asked how they could be located in Abuja. The Associate Appellant testified that they could be traced through the Principal Appellant's father.³⁴ The Principal Appellant testified that they could be located through work, friends and the internet.³⁵
- [46] I have reviewed the documentary evidence as part of my independent assessment. The population of Nigeria is over 200 million people and geographically covers more than 900,000 square kilometres.³⁶ Abuja is the fourth largest city in Nigeria and is the capital. The population of Abuja is more than 2.9 million people.³⁷ Abuja is a great distance from Ilesha.
- [47] I reject the Appellants' submission that they could be traced through the Principal Appellant's father. As noted above, the Principal Appellant's father is indifferent to the tribal markings on the Minor Appellant and the Principal Appellant believes that his father does

not want to make the decision for him regarding tribal markings. The Principal Appellant's father is a chieftain, as are some of the community members who wish to see tribal markings on the Minor Appellant. The Appellants have not demonstrated how being chieftains would allow them to locate the Appellants in Abuja. The Appellants have not provided sufficient evidence as to the influence of the Principal Appellant's father, other chieftains or members of the community, nor demonstrated how such influence would provide the means to find the Appellants in Abuja, a city of almost three million people located a significant distance from Ilesha.

- [48] I find the Appellants' testimony that they would be located by their agents of persecution through their work, friends or the internet to be speculative. The Appellants provided no reliable or credible evidence regarding how the chieftains or community members could find them through these means.
- [49] For the foregoing reasons, I find that the Appellants have not established on a balance of probabilities that their agents of persecution have the motivation or means to locate them in Abuja. Risk from militant groups
- [50] The Principal Appellant submits that Abuja is not safe for him because of his career as a XXXX XXXX with a telecommunications company.³⁸ The Principal Appellant states that he was personally targeted in Abuja by a militant group believed to be Boko Haram due to his work as a XXXX XXXX. His work involved XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX by Boko Haram.³⁹ The Principal Appellant states that militants target XXXX XXXX because they believe that they are working for the government in order to install technologies to track their movements and hideouts.⁴⁰ The Principal Appellant also states that Abuja is not safe for him because the highway that he had to travel on to get to his field work is dangerous.⁴¹ He states it is not possible to avoid this highway unless he resigns from his job.⁴²
- [51] The Principal Appellant has provided an affidavit from one of his colleagues who resigned and relocated to England due to the danger he was facing in Port Harcourt and Abuja as a XXXX XXXX.⁴³ The Principal Appellant also provides a letter from his former employer and driver referring to the risks that he faced in Port Harcourt and Abuja.⁴⁴ The Principal Appellant has also provided documents regarding the security situation in the areas that he traveled to as a XXXX XXXX.⁴⁵
- [52] The Principal Appellant's refugee claim forms indicate that he worked as a XXXX XXXX from 2010 until 2017.⁴⁶ The Principal Appellant has been outside of Nigeria for almost three years. He is no longer working as a XXXX XXXX in Nigeria. As stated by the Principal Appellant, the risk from militants resulted from his work as a XXXX XXXX. If the Principal Appellant returns to Nigeria and relocates to Abuja, he can avoid this risk by not returning to his former position as a XXXX XXXX and finding employment that does not expose him to such risk. The Principal Appellant has a degree in XXXX and has been working as an XXXX XXXX in Canada since XXXX 2019.⁴⁷ Risk of crime in Abuja

- [53] At the RPD hearing, the Appellants testified that Abuja was not safe due to criminality, including bombings and kidnappings. However, these criminal activities are experienced by all who live in Abuja. As such, I find this to be a generalized risk of crime faced by all inhabitants of Abuja. Relocation to Abuja is reasonable in all the circumstances
- [54] At the hearing, the RPD Member asked the Principal and Associate Appellants why they could not relocate to Abuja. The Principal Appellant testified that, if Abuja was safe, they would be able to live there, that they could get employment, housing and there were schools for children to attend.⁴⁸ The Associate Appellant testified that they have no family and do not know anyone in Abuja and that, although English is spoken there, she would not be able to secure a job because she does not speak Hausa.⁴⁹ In their appeal memorandum, the Appellants submit that in assessing an IFA, one must consider how religious, economic and cultural factors affect women in the IFA.⁵⁰ I note that the Appellants' submissions regarding the viability of an IFA in Abuja focus on the safety, rather than the reasonableness, of Abuja as an IFA.
- [55] As part of my independent assessment, I have reviewed item 13.1 of the updated NDP.⁵¹ The Response to Information Request (RIR) refers to the role of indigeneship in obtaining employment, housing and social services for non-indigenes relocating to Abuja, in addition to other cities. After reviewing this document and considering the Appellants' circumstances, I find, on a balance of probabilities, that relocating to Abuja is objectively reasonable. Indigeneship and language
- [56] The RIR refers to Abuja having a diverse population and being an example of a place where non-indigenous people are demographically dominant. Contrary to the Associate Appellant's claims regarding a preference for the Hausa language in Abuja, the RIR refers to a diversity of languages spoken in large cities such as Abuja and there being no language barrier unless one is not English speaking. The Principal and Associate Appellants speak English fluently, as evidenced by their testifying in English at the hearing and their BOC forms which indicate that they speak English and Yoruba.⁵² This mitigates in favour of Abuja as an IFA. Employment and accommodation
- [57] The RIR refers to finding accommodation as being a major obstacle in Abuja if one is not financially strong. It identifies financial problems as the greatest obstacles non-natives face when they move to large cities, rent being "notoriously expensive" in Abuja, and states that non-natives face huge costs of living. The RIR states that "the ability to find gainful employment, which is facilitated by a good level of 'education, experience or expertise,' is a key factor in finding housing [citation omitted]."⁵³

- [58] While I acknowledge that there will be financial difficulties in relocating, I find that these are mitigated by the Appellants' education and employment history. The Principal Appellant has 17 years of education,⁵⁴ which is significantly higher than the average Nigerian education of 9 years for males.⁵⁵ The Principal Appellant has a degree in XXXX and worked as a XXXX XXXX for eight years.⁵⁶ As stated above, he is currently employed in Canada as an XXXX XXXX.
- [59] The Associate Appellant has 19 years of education,⁵⁷ which is significantly higher than the average Nigerian education of 8 years for females.⁵⁸ The Associate Appellant has a degree in XXXX and a masters degree in XXXX XXXX.⁵⁹ The Associate Appellant testified that she worked in a XXXX from 2013 until 2017.⁶⁰
- [60] I find that the education and work experience of the Principal and Associate Appellants increase their chances of obtaining employment in Abuja, which will assist them in finding housing and mitigate the high cost of housing in Abuja. Access to Public Services
- [61] The RIR states that Abuja does not implement the practice of requiring individuals to establish their state of origin or indigeneity before they can access public services, civil service jobs or university posts. It also states that Abuja is said to be an exception in that discrimination against non-indigenes in education does not occur. These factors mitigate in favour of Abuja as an IFA. Religion
- [62] The Appellants testified that they are Christians.⁶¹ This is confirmed by their BOC forms.⁶² The documentary evidence indicates that Christians and Muslims reside in approximately equal numbers in Nigeria, including in the central part of the country.⁶³ I find that the Appellants would likely be able to freely practice their religion in Abuja, which mitigates in favour of Abuja as an IFA.
- [63] The Appellants bear the onus of establishing on a balance of probabilities that the IFA is objectively unreasonable. The Federal Court of Appeal has set a very high threshold for what makes an IFA unreasonable, namely conditions that would jeopardize the life and safety of a claimant.⁶⁴ I find that the Appellants have not established, on a balance of probabilities, that it is unreasonable in all of the circumstances for them to relocate to Abuja.
- [64] As a result of the foregoing, I find that the Principal and Associate Appellants have a viable IFA in Abuja.

CONCLUSION

- [65] I find that the Appellants do not face a serious possibility of persecution in Nigeria pursuant to section 96 of the IRPA. I also find, on a balance of probabilities, that the Appellants would not be personally subjected to a danger of torture or face a risk to life or risk of cruel and unusual treatment or punishment in Nigeria pursuant to section 97 of the IRPA.

[66] 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) L. Krajcovic L. Krajcovic October 4, 2020 Date 1 Exhibit RAD-1, Member's Directions, February 21, 2020. 2 Exhibit P-3, Response to Member's Directions, dated 2 March 2020. 3 Canada (Citizenship and Immigration) v. Huruglica, 2016 FCA 93 (CanLII), [2016] 4 FCR 157, paras. 70 and 103. 4 Subsection 110(4), Immigration and Refugee Protection Act (IRPA), S.C. 2001, c. 27, as amended. 5 Canada (Citizenship and Immigration v. Singh, 2016 FCA 96; Canada (Citizenship and Immigration) v. Raza, 2007 FC 385. 6 Exhibit P-2, Appellants' Record, p. 36. 7 Exhibit P-2, Appellants' Record, p. 37. 8 Exhibit P-2, Appellants' Record, p. 40. 9 Exhibit P-2, Appellants' Record, p. 44. 10 Exhibit P-2, Appellants' Record, p. 48 11 This article referred to in the Appellants' Memorandum at page 71, paragraph 21, at item IV was not included with the submission of the Appellants' Record. The RAD contacted Counsel on June 17, 2020 requesting a copy of the article be provided (See Exhibit RAD-2, Member's Directions, dated June 17, 2020). A copy was received on July 7, 2020 (See Exhibit P-4, Rule 29 Application and Response to Member's Directions, dated 7 July 2020, pp. 1-8). 12 Exhibit P-2, Appellants' Record, p. 52. 13 Exhibit P-2, Appellants' Record, p. 56. 14 Rule 43(1), Immigration and Refugee Board, Refugee Protection Division Rules, SOR/2012-256. 15 Exhibit P-3, Response to Member's Directions, dated 2 March 2020, p. 3. 16 Exhibit P-3, Response to Member's Directions, dated 2 March 2020, Exhibit A, p. 6. 17 Exhibit P-3, Response to Member's Directions, dated 2 March 2020, Exhibit B, p. 9. 18 Exhibit P-3, Response to Member's Directions, dated 2 March 2020, Exhibit C, p. 13. 19 Singh, Parminder v. M.C.I. (F.C.A., no. A-512-14), Nadon, Gauthier, de Montigny, March 29, 2016, 2016 FCA 96, para. 54. 20 Rule 29(3), Immigration and Refugee Board, Refugee Appeal Division Rules, SOR/2012-257. 21 Exhibit P-4, Rule 29 Application and Response to Member's Directions, dated 7 July 2020, p. 9. 22 Exhibit P-4, Rule 29 Application and Response to Member's Directions, dated 7 July 2020, p. 14. 23 Zhuo v. Canada (Citizenship and Immigration), 2015 FC 911, at para. 11. 24 Tchangoue v. Canada (Citizenship and Immigration), 2016 FC 334, at para. 18. 25 Subsection 110(6), IRPA, S.C. 2001, c.27, as amended. 26 Immigration and Refugee Board of Canada, Chairperson Guideline 3: Child Refugee Claimants: Procedural and Evidentiary Issues, Guidelines issued by the Chairperson pursuant to Section 65(3) of the Immigration Act, Effective date: September 30, 1996. 27 RPD Hearing Recording, at approx. 12:38. 28 Rasaratnam v. Canada (Minister of Employment and Immigration), [1992] 1 F.C. 706 (C.A.), p. 710; Thirunavukkarasu v. Canada (Minister of Employment and Immigration), [1994] 1 F.C. 589 (C.A.); (1993), 22 Imm. L.R. (2d) 241 (F.C.A.). 29 Exhibit P-2, Appellants' Record, p. 76, para. 48. 30 RPD Hearing Recording, at approx. 19:40. 31 RPD Hearing Recording, at approx. 21:46. 32 RPD Hearing Recording, at approx. 20:00. 33 RPD Hearing Recording, at approx. 1:19:02. 34 RPD Hearing Recording, at approx. 56:02. 35 RPD Hearing Recording, at approx. 1:17:40. 36 Exhibit RPD-1, RPD Record, Exhibit 5, National Documentation Package (NDP) for Nigeria (21 December 2018), Item 1.6, United States. Central Intelligence Agency, 19 November 2018, pp. 1 and 3. 37 Exhibit RPD-1, RPD Record, Exhibit 35, National Documentation Package (NDP) for Nigeria (21 December 2018), Item 1.6, p. 4. 38 Exhibit P-3, Response to Member's Directions, dated 2 March 2020, p. 3. 39 Exhibit P-2, Appellants'

Record, pp. 67-68 40 Exhibit P-2, Appellants' Record, pp. 67-68 and p. 77, para. 53 41 Exhibit P-3, Response to Member's Directions, dated 2 March 2020, p. 2. 42 Exhibit P-3, Response to Member's Directions, dated 2 March 2020, p. 3. 43 Exhibit P-2, Appellants' Record, p. 77, para 56. See affidavit at Exhibit P-2, Appellants' Record, p. 37 44 Exhibit P-2, Appellants' Record, p. 36 and Exhibit P-3, Response to Member's Directions, dated 2 March 2020, p. 6. 45 Exhibit P-4, Rule 29 Application and Response to Member's Directions, dated 7 July 2020, p. 15. 46 Exhibit RPD-1, RPD Record, Exhibit 1, p. 62. 47 Exhibit RPD-1, RPD Record, Exhibit 10, p. 184. 48 RPD Hearing Recording, at approx. 1:00:40. 49 RPD Hearing Recording, at approx. 54:40. 50 Exhibit P-2, Appellants' Record, p. 89, paras 98-99. 51 Exhibit RAD-1, Member's Directions, February 21, 2020, NDP for Nigeria (29 November 2019), Item 13.1, Response to Information Request (RIR) NGA106361.E, Immigration and Refugee Board of Canada, 30 October 2019. 52 Exhibit RPD-1, RPD Record, Exhibit 2, p. 13 and Exhibit 3, p. 27. 53 Exhibit RAD-1, Member's Directions, February 21, 2020, NDP for Nigeria (29 November 2019), Item 13.1, RIR NGA106361.E, pp. 13-14. 54 Exhibit RPD-1, RPD Record, Exhibit 1, p. 62. 55 Exhibit RPD-1, RPD Record, Exhibit 5, NDP for Nigeria (21 December 2018), Item 1.6, at p. 6. 56 RPD Hearing Recording, at approx. 14:30. 57 Exhibit RPD-1, RPD Record, Exhibit 1, p. 74. 58 Exhibit RPD-1, RPD Record, Exhibit 5, NDP for Nigeria (21 December 2018), Item 1.6, at p. 6. 59 RPD Hearing Recording, at approx. 49:49. 60 RPD Hearing Recording, at approx. 50:25. 61 RPD Hearing Recording, at approx. 50:49. 62 Exhibit RPD-1, RPD Record, Exhibit 2, p. 13, Exhibit 3, p. 27 and Exhibit 4, p. 37. 63 Exhibit RPD-1, RPD Record, Exhibit 5, NDP for Nigeria (21 December 2018), Item 12.1, United States. Department of State, 29 May 2018, pp. 2-3. 64 Ranganathan v. Canada (Minister of Citizenship and Immigration), [2001] 2 FC 164, 2000 CanLII 16789 (FCA), at paras 14-15, as referenced in Olalere v. Canada (Citizenship and Immigration), 2017 FC 385, at para 43.

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