

CANADA / JUDGMENT

MB9-24277

COURT

Refugee Appeal Division

DECIDED

10 March 2020

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RAD File / Dossier de la SAR : MB9-24277 MB9-24278 / MB9-24279 / MB9-24280 Private Proceeding / Huis clos Reasons and decision ? Motifs et décision Persons who are the subject of the appeal XXXX XXXX XXXX XXXXXXXXXXX XXXX XXXX XXXXXXXXXXX XXXX XXXX XXXX XXXXXXXXXXX XXXX XXXX XXXX Personnes en cause Appeal considered / heard at Toronto, ON Appel instruit / entendu à Date of decision March 10, 2020 Date de la décision Panel Christopher Marcinkiewicz Tribunal Counsel for the persons who are the subject of the appeal Serge Khoury Conseil de la|des personne|s 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] The Principal Appellant, XXXX XXXX XXXX, and his three minor children, XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXXandXXXX XXXX XXXX XXXX appeal a decision of the Refugee Protection Division (RPD) dated September 26, 2019, rejecting their claims for refugee protection. The Principal Appellant was and continues to be the designated representative for the Minor Appellants. The Appellants ask that the RAD substitute a finding that they are Convention refugees or persons in need of protection, or in the alternative, the Appellants request that the matter be referred back to the RPD for redetermination.¹

DETERMINATION

- [2] I confirm the decision of the RPD that the appellants are neither Convention refugees nor persons in need of protection. As a result, their appeal is dismissed. The RPD found that the Appellants have an internal flight alternative (IFA) in Abuja or Port Harcourt. In other words, the RPD found that they can relocate safely to these cities and that it is not unreasonable to require them to do so. I agree that the Appellants have an IFA in Port Harcourt and this issue is determinative of this appeal.

BACKGROUND

- [3] The Appellants fear returning to Nigeria as they believe they will be harmed by the family of the Principal Appellant's late wife and the Minor Appellant's mother, as well as members of the Ogboni Secret Society (OSS) and "Muslim fanatics" generally. Specifically, they allege that the father of their late wife and mother is an Imam and along with other members of the

Muslim community is seeking revenge on them for their mother's conversion to Christianity. Further, they allege that the same agents of persecution will subject XXXX XXXX XXXX XXXX, the Minor female Appellant, to female genital mutilation (FGM). They allege that other members of their family have already been killed by the agents of persecution. ROLE OF RAD

- [4] As per Huruglica,² for questions of fact, mixed fact and law, and law, I am to apply the correctness standard. However, in circumstances where the RAD determines that the RPD had a meaningful advantage in assessing the credibility of oral testimony, I may defer to the RPD findings. In this case, I find that the RPD did not benefit from a meaningful advantage in assessing the appellants' evidence. As a result, I have considered the RPD findings on the correctness standard. NEW EVIDENCE
- [5] Attached to the Appellants' Memorandum is a letter from XXXX XXXX XXXX XXXX XXXX dated XXXX XXXX, 2019. Originally, there were no submissions or explanations of the new evidence provided by the Appellants. However, the RAD notified the Appellants requesting an explanation as to how the evidence meets the criteria of subsection 110(4) of the IRPA, namely that it arose after the RPD decision or that it was either not reasonably available or the Appellants could not have been reasonably expected to present the evidence at time of the RPD decision.³ RAD Rule 3(3)(g) requires Appellants to provide submissions regarding how the documentary evidence they wish to rely on for the purposes of an appeal meets the requirements of subsection 110(4) of IRPA.
- [6] The Appellants provided a brief reply, stating that the letter is intended to corroborate the testimony of XXXX XXXX XXXX in respect to the female appellant having been moved to the school in XXXX in 2014.⁴ The letter itself provides additional details, including that XXXX XXXX XXXX instructed that his daughter be moved to the XXXX XXXX in XXXX for "safety purposes after a failed attempt to forcefully take her out of her day school in XXXX XXXX".⁵
- [7] Having reviewed the new evidence, I find that this evidence and the content of the letter refer to incidents long before the RPD determination. Specifically, while the letter is dated in XXXX 2019, it actually refers to events occurring in 2014 and lasting, at best, up until XXXX 2017 when the Appellants left Nigeria and the minor Appellant no longer attended the school in question. As considered in Raza,⁶ this is not truly "new" evidence as it aims to prove events from 2014 and long before the RPD determination in September 2019. The Appellants failed to provide an explanation as to why this evidence could not have been obtained earlier. I further find this evidence was easily available to the Appellants as it refers to and provides the minor female Appellant's history at the school she attended and the reasons for her move to another location or campus in XXXX. Given that the reason for the move was safety after an attempted kidnapping, this is evidence that in my view would be reasonable to expect the Appellants to have obtained prior to the RPD decision.
- [8] As a result, for the above stated reasons, I find this does not constitute new evidence as envisioned by subsection 110(4) of IRPA. PROCEEDING WITHOUT AN ORAL HEARING

- [9] The Appellants have not established that the new evidence they have presented should be admitted. As a result, given the refusal of the new evidence, I am of the view that an oral hearing is not required pursuant to 110(6) of IRPA. Specifically, the information contained in the new evidence is not central to the claim nor would it justify allowing or rejecting the claim if it was accepted. It must be noted that the RPD did not find that XXXX XXXX XXXX daughter did not move schools in 2014, but rather questioned the timing and reason for the move based on issues it identified with XXXX XXXX XXXX evidence that were not determinative of the claim.⁷ In my view, this is an attempt to try and patch up the concerns identified with post-hearing evidence.

ANALYSIS

- [10] The determinative issue for the RPD was the availability of an Internal Flight Alternative (IFA) for the appellants the cities of Port Harcourt and Benin City. While the RPD noted some credibility concerns, for the purposes of this appeal, I will only address findings that are related to the IFA analysis and issues outside of it were not determinative and not considered.
- [11] The RPD found the Appellants have not met their burden to establish that they face a serious possibility of persecution or a risk to life in the proposed IFAs, or that it would be objectively unreasonable or unduly harsh to relocate to the areas in question.⁸ For the purposes of my independent assessment, I have considered Port Harcourt as the IFA. Reliance on the Jurisprudential Guide (JG)
- [12] The Appellants argue that the RPD incorrectly applied and relied on the JG on Nigeria as the JG focuses on single women and generally non-state actors. It is argued the facts of the Appellants' case are not similar to that of the JG and the RPD ought to have considered the personal circumstances of the Appellants, including specifically XXXX XXXX XXXX who is a father, as well as the incidents that have already occurred, notably the death of the mother and attempted kidnapping of the female Appellant from school.⁹
- [13] After independently reviewing the evidence and decision, in my view the RPD thoroughly and correctly analyzed and assessed the particular circumstances of the Appellants. This is precisely the analysis required and endorsed in *C.A.R.L. v. Canada*.¹⁰ Further, the RPD explicitly states in its decision the facts that are similar to the JG, such as the fear of FGM, and those that are different, including fearing persecution due to the Appellant's mother and wife converting to Christianity and that the JG concerns single women, clearly turning its mind to the particular circumstances of the Appellants in the present case.¹¹
- [14] In regard to considering what has already occurred to the Appellants' family, this was assessed by the RPD under the first prong of IFA analysis. IFA - First prong Analysis No Improper or Inadequate Questioning Regarding IFAs

- [15] The Appellants acknowledge that the RPD properly raised IFA as an issue at the beginning of the hearing. However, they take issue with when and for how long the issue was examined by the RPD, noting that it came late in the hearing and only lasted several minutes, resulting in a denial for the Appellants to present proper evidence and arguments.¹²
- [16] I see no error with the RPD's approach to considering the IFA issue. While the Appellants are correct in that the issue was explored several hours into the hearing, I am unaware of any authority that requires the RPD to address it at a particular time or portion of the hearing. The RPD examined various aspects of the Appellants' claim in a logical manner, including the potential existence of an IFA. I also note that Counsel for the Appellants was given an opportunity to ask questions, including regarding the IFA. If Counsel felt the RPD did not adequately explore the subject, it was open to them to delve deeper. Finally, if the Appellants or their Counsel was of the view that they were not adequately prepared to address the subject of IFA, it was open to them to seek an adjournment to obtain evidence or prepare their arguments. They chose to do neither. In my view, there was nothing unfair or improper in how the RPD handled this issue. Credibility Applies to First Prong IFA Analysis
- [17] The Appellants argue that the RPD erred in considering credibility in the context of the first prong of IFA analysis.¹³ They point to paragraph 30 of the RPD decision in which the RPD accepted an explanation relating to an apparent contradiction about whether there was an attempted kidnapping on only the female Appellant or on all the minor Appellants. The RPD accepted XXXX XXXX XXXX explanation on this point, but it becomes evident the RPD did not accept the Appellants' entire account regarding the alleged events as it went on to make several critical negative credibility findings.
- [18] I do not agree with the Appellants that the RPD erred by considering and making credibility findings in the context of first prong IFA analysis. Paragraph 170(h) of IRPA explicitly states that decisions are to be made based on evidence adduced that is credible or trustworthy.¹⁴ Case law informs us that when making factual findings we are to assess evidence on a balance of probabilities standard, and that "one cannot be satisfied that the evidence is credible or trustworthy, unless satisfied that it is probably so, not just possibly so".¹⁵ In other words, there is an evidentiary standard and burden for Appellants to meet and for decision makers to consider when making credibility and factual findings that can permeate the entirety of a claim. With respect, to accept otherwise would undermine the integrity of the refugee determination system if decision makers were powerless in carrying out their main duty of fact-finding. Now, it is of course open to the Appellants to challenge specific credibility findings. Credibility Related to Motivation and Ability of Agents of Persecution
- [19] The Appellants take issue with some of the credibility findings made by the RPD under the first prong IFA analysis relating to the means and motivation of the agents to find the Appellants. This included findings related to the female Appellant's stay at the XXXX XXXX, places XXXX XXXX XXXX stayed in hiding, sacrifices left at the Appellants' home, and the death of his brother and uncle. It is argued that XXXX XXXX XXXX did not embellish his testimony, provided clear evidence and provided adequate explanations to the

contradictions raised.¹⁶

- [20] The RPD found that the Appellants did not establish, on balance of probabilities, that they will be discovered in the proposed IFA's by the agents of persecution. In particular, due to a number of adverse credibility findings, the RPD was not satisfied that the agents of persecution "have the will, the means and the ability to find and harm [the Appellants] in either Benin City or Port Harcourt".¹⁷ I agree with the RPD's findings for the following reasons. Address History Inconsistent with Hiding
- [21] The Appellants argue that the RPD erred in its analysis regarding where, when and with whom XXXX XXXX XXXX stayed after he felt fear for his safety in XXXX 2014 and onward. It is argued his testimony was clear and he stayed for a short time with his friend, but that his main residence was in Lagos. While he moved temporarily from one place to another for safety, he did not find it was necessary to list these addresses on the Schedule A immigration form he completed.¹⁸
- [22] The RPD found XXXX XXXX XXXX failed to reasonably explain why he omitted from his testimony that he had stayed with a friend while in hiding, something he mentioned in his BOC. XXXX XXXX XXXX explained that he had forgotten as he was constantly moving but that his movements were not predictable and he knew how to hide well. Further, the RPD noted that XXXX XXXX XXXX did not disclose any other addresses on his declaration beyond his residential address in Lagos, to which he explained he did not know he had to provide addresses where he hid. Overall, the RPD found this evidence was inconsistent and does not support his position that he was in hiding.
- [23] Having independently reviewed the evidence, I agree with the RPD. If indeed XXXX XXXX XXXX did hide with his friend after initially becoming afraid for his safety, it would be reasonable to expect that he would testify to this occurring as such a significant life event, requiring one to hide with a friend for your own safety, would not be easily forgotten. Additionally, it would be expected that he would list this address when asked to disclose all the residential addresses for the past 10 years. As pointed out by the RPD, question 12 requires "all" addresses to be listed and this is significant as XXXX XXXX XXXX claimed to be in hiding for about 2 years. The inconsistencies lead me to believe, on a balance of probabilities, that XXXX XXXX XXXX was not hiding. Sacrifices
- [24] The RPD considered the Appellants' BOC which indicates the first sacrifice occurred in XXXX 2014 when the occult fraternity brought a sacrifice to his residence. However, there is no mention in his BOC of a second sacrifice by the occult fraternity in 2016. XXXX XXXX XXXX explained that he did not remember dates well. The RPD found this contradiction to be significant as it was of the view that it would be reasonable for XXXX XXXX XXXX to remember if the sacrifice by the occult fraternity was a couple months after his wife's passing or a couple years and found this impugned his credibility with respect to being located and threatened.

- [25] The Appellants argue that the RPD erred in its assessment of the incidents involving sacrifices being left at the Appellants' residence. Specifically, they argue that XXXX XXXX XXXX declared at the beginning of the hearing there were two incidents and testified to this effect, with the first occurring in XXXX 2014 before his wife's death and the second in 2016. It is argued there were no contradictions in his evidence.¹⁹
- [26] I agree with the RPD finding that XXXX XXXX XXXX was inconsistent in his evidence on the sacrifices. As pointed out by the RPD, he does not mention a sacrifice in XXXX 2014 in his BOC narrative. This is significant as it occurred prior to his wife's murder and frightened them to the extent they left Lagos for Ikorodu for two months. When questioned about why he did not mention this in his BOC, XXXX XXXX XXXX did not answer the question directly and only stated that he put the second incident from XXXX 2014 after his wife was deceased.²⁰ Further, I agree that the incident he testified to occurring in 2016 he describes in his BOC as having occurred in 2014. I do not accept that one would be off by two years in their recollection of such a significant and likely scary incident. Finally, it must be pointed out that when XXXX XXXX XXXX evidence is taken as a whole, it would indicate that there were actually three sacrifices in total: XXXX 2014, XXXX 2014, and XXXX 2016. This inherent inconsistency, along with the reasons above, lead me to conclude these events likely did not occur and undermine his credibility regarding being located by the alleged agents of persecution. As a result, it leads me to find that it is unlikely that the agents of persecution would locate the Appellants in the future. Evidence of Brother and Uncle Being Killed by Agents of Harm
- [27] The RPD found XXXX XXXX XXXX provided insufficient evidence to establish, on a balance of probabilities, that his brother and uncle were killed by the agents of persecution. The RPD considered XXXX XXXX XXXX testimony explaining his mother told him his brother had a confrontation with the agents of persecution about a mosque being built on land belonging to his late wife and three weeks later he was killed. Also, XXXX XXXX XXXX explained that his mother heard from a friend of his brother who was present at the murder about what happened, and this led them to believe the agents of persecution were responsible. However, the RPD noted this conversation is not mentioned in the mother's affidavit nor is there an affidavit from the friend who allegedly witnessed the murder. There is also no police report or death certificate.
- [28] In respect to his uncle's death, the RPD considered XXXX XXXX XXXX explanation for why he believed his uncle was killed for helping the Appellants to escape Nigeria and found it to be speculative, noting XXXX XXXX XXXX does not know the details of the killing and was presuming why his uncle was killed. Finally, the RPD pointed to the mother's affidavit which states the assailants had not been identified.²¹
- [29] The Appellants argue that the RPD erred in its treatment of XXXX XXXX XXXX evidence regarding the killings of his brother and uncle. They argue that XXXX XXXX XXXX was unable to obtain a death certificate for his brother's death as his mother was unable to complete the formalities but that she did provide details in her affidavit about what

happened. Further, it is argued that the RPD ignored the evidence of XXXX XXXX XXXX regarding why he believed the agents of persecution are responsible for both of those killings.²²

- [30] Having independently reviewed the record, findings and decision, I find the RPD did not err as alleged. When asked why his mother did not mention details of how she found out her son was killed from the friend, the Appellant did not provide an explanation, only reiterated that he mentioned the incident in his BOC narrative.²³ I agree that it would be reasonable to expect that XXXX XXXX XXXX mother would have mentioned in her affidavit the details of how she found out how her son was killed and by who. Similarly, in my view, it would be reasonable to expect that the friend who witnessed the actual murder would provide an affidavit to that effect. The lack of these details raises questions into the Appellants' account of what transpired and who killed XXXX XXXX XXXX brother, at best amounting to his own assumptions. Further, his uncle's murder, as per XXXX XXXX XXXX own mother, was carried out by unknown people, again calling into question XXXX XXXX XXXX assertion that it was in fact the agents of harm and Muslim "fanatics".
- [31] Finally, in my view, it is unreasonable for the Appellant to not have provided a single piece of objective documentary evidence supporting the death and murder of his brother, uncle, and wife for that matter. He explained that no death certificates were obtained by him as it would be a traumatic experience trying to obtain a death certificate and that his mother did not obtain one after his brother's death.²⁴ The Appellant has testified to 3 murders in his family in a span of 5 years yet has been unable to provide a single document from government officials or persons with some legal or medical authority confirming that these individuals were indeed murdered. I find that it would be reasonable for the Appellant or his family members still residing in Nigeria to obtain some objective proof of the deaths, as emotionally difficult as that process may be, as that would be a basic step for the families of these individuals, including the Appellant after losing his wife, to close off the deceased personal affairs, if for nothing else. For all these reasons, I find, as did the RPD, that the Appellants have not established, on a balance of probabilities, that XXXX XXXX XXXX brother and uncle were in fact killed by the agents of persecution. XXXX School Location Known Yet No Actions by Agents
- [32] The RPD points to the evidence that the agents of persecution knew where the female Appellant was for school yet after the initial attempted kidnapping made no further attempts for approximately 1.5 years to harm her. This, in the RPD's view, speaks to a lack of motivation by the agents of persecution to actually harm her given they knew her location.
- [33] The Appellants interpret this finding as the RPD stating that as long as the female Appellant is in a well protected school, she is safe from harm. They argue that she can not be expected to live in seclusion or confinement in a school for the rest of her life.

- [34] After my independent analysis, I do not find this is what the RPD concluded. I find the Appellants are attempting to impugn meaning to the finding that is simply not there. The RPD considered this evidence and found that it is indicative of the agents of harm not being motivated to actually harm the Appellants and her in particular, not that she should hide in a school. I agree with the RPD. In essence, the minor Appellant's whereabouts were known and if indeed the agents were determined to harm her, they knew where to find her yet did nothing of the sort. The finding goes to motivation of the agents, not to suggest she should stay in hiding.
- [35] In summary, the cumulative effect of the inconsistencies and the evidence that is lacking, as a whole, lead me to find that the agents of persecution are not motivated to find the Appellant. As a result, in my view, the agents of persecution would not be motivated to find and harm the Appellants in Port Harcourt, a city of several million inhabitants and some six hundred kilometers away. IFA - 2nd Prong Analysis
- [36] The RPD considered numerous issues raised by the Appellants, including the significant populations and multilingual and multiethnic composition of Port Harcourt and Benin City. The RPD considered the personal circumstances of the Appellants in light of the objective documentary evidence and the JG on Nigeria.²⁵
- [37] The Appellants argue that XXXX XXXX XXXX testified to feeling unsafe in the proposed IFAs and feels pressure and constant fear. Additionally, it is argued that he does not speak the local dialect and would be unable to find housing or work and therefore unable to financially support his children. The Appellants also argue that the RPD did not consider the children's situation in terms of changing schools if relocated and the Appellants can not be expected to stay in hiding.²⁶
- [38] I have conducted my own independent analysis of the evidence and decision and find that the RPD was correct in their findings. I note that the RPD considered all relevant aspects of relocating to the proposed IFAs in a thoughtful and thorough manner, weighing the evidence and reaching their own conclusion with the particular circumstances of the Appellants in mind. I also find it would not be unduly harsh or unreasonable for the Appellants to relocate to Port Harcourt.
- [39] English is the official language of Nigeria.²⁷ Yoruba, which the Appellants list as their native language, is one of the other major languages utilized in Nigeria.²⁸ The Appellants have not satisfied me that they would face language barriers in Port Harcourt given their language abilities in the official English language as well as another prominent language in Nigeria. There is no evidence that XXXX XXXX XXXX or his children would be unable to communicate in either of the two languages should they relocate to Port Harcourt, or that they would have any challenges with attending a new school. I note that the minor appellants have already moved previously, the female Appellant to the XXXX XXXX and the boys with XXXX XXXX XXXX sister in Ibidan, as well as, moving to the USA and Canada. While never easy, this would not be a new process to them.

- [40] I agree with the RPD that XXXX XXXX XXXX is a highly educated individual who has significant work experience in Nigeria. He holds a Masters degree and has worked the better part of a decade and half since 2000, including while he pursued his education.²⁹ Having a post secondary education and above average education are factors that would assist in finding employment. However, I am mindful that the objective evidence indicates that in larger cities, as throughout Nigeria, there may be high unemployment but people can find work in industries that are in demand in cities like Port Harcourt irrespective of where they originate from in Nigeria.³⁰
- [41] The Appellants also argue that they will face barriers, including finding accommodations. While I accept there may be some challenges in finding accommodations in a major city like Port Harcourt, I do not accept that people would refuse to rent to the Appellants when they find out that "Muslim fanatics" are after them. Firstly, that is not a detail the Appellants need to disclose to prospective landlords. Secondly, the Appellants identify as Christian and the documentary evidence indicates that approximately half of the population in Nigeria are Christians and the other half are Muslims, therefore they could establish themselves within the Christian community and seek their assistance in finding shelter.³¹ Thirdly, it must be noted that the Appellants are originally from Lagos, a heavily populated city with over 13 million inhabitants where they were able to find accommodations. In my view, if they were able to find accommodations in a city like Lagos, they could also do so in a city with over 2 million inhabitants like Port Harcourt.³² Finally, the Appellants have successfully relocated internationally, from Lagos to Riverside, California, and then again to Providence, Rhode Island, and finally to Canada, showing an ability to re-establish themselves in foreign cities and countries. Port Harcourt has an international airport,³³ making travel there trouble-free, especially for those who have travelled internationally like the Appellants.
- [42] As a result, after conducting my own independent analysis, I find the Appellants have not met the very high threshold required to establish that relocation to Port Harcourt would be unreasonable or unduly harsh, in light of their personal circumstances. No Real or Perceived Bias or Improper Examination by RPD
- [43] The Appellants take issue with the manner in which the RPD conducted its examination of XXXX XXXX XXXX, arguing the RPD was aggressive, had a preconceived idea on how to decide the case, and found minimalistic contradictions in the evidence.³⁴
- [44] Having carefully listened to the audio recording from the proceeding, I find the RPD did no such thing as alleged by the Appellants. To the contrary, the RPD gave clear instructions to XXXX XXXX XXXX about answering questions and asking for a break should he need one, asked questions in a calm and straightforward manner, and asked for clarifications and explanations as the need arose. There was nothing improper in how the RPD conducted the hearing.

- [45] Now, an allegation of bias is a serious one and raises issues of natural justice and fairness. The test for bias requires a consideration of what an informed person, viewing the situation realistically and practically and having thought the matter through, would conclude about the decision makers ability to, more likely than not, decide fairly.³⁵ The courts have been clear that the "threshold for bias, whether real or perceived, is high. The grounds for finding a reasonable apprehension of bias must be substantial, rather than coming from the viewpoint of a 'very sensitive or scrupulous conscience'".³⁶
- [46] I have independently reviewed the entirety of the proceedings and find the Appellants have not met the high threshold required in establishing, on a balance of probabilities, that the RPD engaged in a real or perceived bias. To the contrary, it is clear that the RPD was knowledgeable about the allegations and evidence presented and asked relevant questions throughout the proceeding in a respectful manner. Further, the RPD considered XXXX XXXX XXXX testimony, including any explanations regarding the evidence, weighed the evidence, and reached their decision based on the evidence. In my view, an informed person viewing the case realistically and practically, having thought the matter through, would conclude that the RPD was able to and did decide the case fairly. As a result, there was no real or perceived bias. Minor Female Claimant and FGM
- [47] The Appellants argue that the RPD did not ask any questions of the minor female Appellant nor XXXX XXXX XXXX regarding FGM and that RPD did not consider her in the decision. It is argued she fears gender related persecution for the threats of FGM being carried out on her and that no IFA exists for her as FGM is "near universal".³⁷
- [48] It must be pointed out that in fact the RPD and Counsel for the Appellants questioned XXXX XXXX XXXX about the threat of FGM against the minor female claimant.³⁸ Perhaps more importantly, the decision of the RPD as a whole also applies to the minor female Appellant as ultimately the RPD found that the agents of persecution would not have the means and motivation to locate all of the Appellants in Port Harcourt of Benin City. This includes, and extends to, XXXX XXXX XXXX belief that he will be killed due to his late wife's conversion and proselytization of Christianity and the minor female claimants fear of being kidnapped and circumcised by the agents of persecution. As a result, I find that the RPD did not err as alleged.

CONCLUSION

- [49] 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 section 111(1)(a) of the Immigration and Refugee Protection Act (IRPA). (signed) "Christopher Marcinkiewicz" Christopher Marcinkiewicz March 10, 2020 Date 1 Exhibit P-2, Appellants Record, Appellants Memorandum, p. 1(d) ; also p. 17. 2 Canada (Minister of Citizenship and Immigration) v. Huruglica, 2016 FCA 93. 3 Exhibit RAD-1, Member's Direction, dated November 27, 2019, p. 1. 4 Exhibit P-3, Response to Member's Direction, received December 11, 2019, p. 2. 5 Exhibit P-2, Appellants Record, Appellants Memorandum, p. 18. 6 Raza v. Canada (Minister

of Citizenship and Immigration and Minister of Public Safety and Emergency Preparedness), 2007 FCA 385, para. 16. 7 Exhibit RPD-1, RPD Record, RPD Decision, p.6, para. 30-31. 8 Exhibit RPD-1, RPD Record, RPD Decision, p. 15, paras. 65-67. 9 Exhibit P-2, Appellants Record, Appellants Memorandum, p. 5-6, paras. 40-44. 10 Canadian Association of Refugee Lawyers v. Canada (Citizenship and Immigration), 2019 FC 1126. 11 Exhibit RPD-1, RPD Record, RPD Decision, p. 4-5, paras. 23-25. 12 Exhibit P-2, Appellants Record, Appellants' Memorandum, p. 7, para. 55. 13 Exhibit P-2, Appellants Record, Appellants' Memorandum, p. 7, para. 56. 14 IRPA Paragraph 170(h); 15 Orelie v. Canada (Minister of Employment and Immigration), 1992, 1 F. C. 592, at 605. 16 Exhibit P-2, Appellants Record, Appellants' Memorandum, p. 8, paras. 54, 58-60. 17 Exhibit RPD-1, RPD Record, RPD Decision, p. 10, par. 46. 18 Exhibit P-2, Appellants Record, Appellants' Memorandum, p. 8-9, paras. 59, 63. 19 Exhibit P-2, Appellants Record, Appellants' Memorandum, p. 8, paras. 60-62. 20 RPD Hearing, Recording at [56:00-58:00] 21 Exhibit RPD-1, RPD Record, RPD Decision, p. 8-9, paras. 39-42. 22 Exhibit P-2, Appellants Record, Appellants' Memorandum, p. 9, paras. 64-65. 23 RPD Hearing, Recording at [2:09:00-2:12:00] 24 RPD Hearing, Recording at [1:48:00-1:51:00; 2:06:00-2:09:00] 25 Exhibit RPD-1, RPD Record, RPD Decision, p. 11-15. 26 Exhibit P-2, Appellants Record, Appellants' Memorandum, p. 12-14. 27 Exhibit RPD-1, RPD Record, Exhibit 3, National Documentation Package (NDP) for Nigeria (April 30, 2019), item 1.6. 28 Exhibit RPD-1, RPD Record, Exhibit 3, National Documentation Package (NDP) for Nigeria (April 30, 2019), item 1.6. 29 Exhibit RPD-1, RPD Record, Exhibit 1, p. 127. 30 Exhibit RPD-1, RPD Record, Exhibit 3, National Documentation Package (NDP) for Nigeria (April 30, 2019), item 13.1. 31 Exhibit RPD-1, RPD Record, Exhibit 3, NDP for Nigeria (30 April 2019), item 1.6 32 Ibid. 33 Exhibit RPD-1, RPD Record, Exhibit 3, National Documentation Package (NDP) for Nigeria (April 30, 2019), item 1.7, sections. 6.3.1. 34 Exhibit P-2, Appellants Record, Appellants' Memorandum, p. 7-8, paras. 56-58. 35 Committee for Justice and Liberty v. National Energy Board, [1978] 1 SCR 369. 36 Wewaykum Indian Band v. Canada, 2003 SCC 45, para. 76, cited in Cox v. Canada (Citizenship and Immigration), 2019 FC 1414, at para. 42. 37 Exhibit P-2, Appellants Record, Appellants' Memorandum, p. 15, 16, para. 104. 38 RPD Hearing, Audio Recording at [30:00, 2:40:00]

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Prepared on 26 October 2026 · Esheria