

CANADA / JUDGMENT

Alabi v. Canada (Citizenship and Immigration)

2025 FC 593

COURT

Federal Court

DECIDED

1 April 2025

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IMM-6968-24

Decision Content

Date: 20250401

Docket: IMM-6968-24

Citation: 2025 FC 593

Ottawa, Ontario, April 1, 2025

PRESENT: The Honourable Madam Justice Strickland

BETWEEN:

OLAIDE SAKIRAT ALABI

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

- [1] The Applicant, Olaide Sakirat Alabi, is a citizen of Nigeria. She claims that a group of Fulani herdsmen invaded the farm she owned and operated and attacked her staff. The Joint Security Network promptly responded and the men fled. The Applicant reported the incident to the nearest police station. She claims that, because she had reported them to the police, the Fulani herdsmen subsequently returned on several occasions and attacked her farm and workers more violently, shooting at people and sexually assaulting women. This culminated with an attack, which occurred on June 5, 2022, where several employees were wounded and the invaders destroyed equipment and property. This event caused the Applicant to flee Nigeria using an existing visa that she had for Canada. She later filed a refugee claim.
- [2] The RPD determined that the Applicant is not a Convention refugee nor a person in need of protection pursuant to ss 96 and 97 of the Immigration and Refugee Protection Act, SC 2001, c 27 [IRPA]. The definitive issue was the RPD's finding that the Applicant has a viable internal flight alternative [IFA] in Abuja, where she could safely and reasonably relocate.
- [3] The Applicant appealed to the Refugee Appeal Division [RAD], which upheld the RPD's determination. The RAD's decision is the subject of this judicial review.

Decision Under Review [4] The RAD found that the existence of an IFA was also determinative on appeal.

- [5] The RAD agreed with the Applicant that the RPD incorrectly stated that Benin City was a city in the North or Central region of Nigeria when, in fact, it is located in the south. It also agreed that, contrary to the RPD's finding, the National Documentation Package [NDP] showed that many of the conflicts involving Fulani herdsmen have occurred in North Central or Middle Belt of Nigeria, a region which includes Abuja. However, the RAD found that this did not change the outcome of the decision because there existed insufficient evidence to establish that the Fulani have the means to locate the Applicant in Abuja.
- [6] Upon examining the country conditions documents, the RAD determined that the preponderance of the evidence is that Fulani militants are comprised of numerous distinct groups that operate independently in various locations and that it is unclear whether they communicate or coordinate. The RAD found that there was insufficient information to conclude that the Fulani militants operate together as one large national entity who would band together to target the Applicant nationwide, or to establish that the group of Fulani militants that targeted the Applicant in Osun state have connections and influence countrywide, such that others would be compelled to seek and find the Applicant, on their behalf, in other jurisdictions including the IFA. And, that while the evidence suggests that

the Fulani herdsmen often act out of vengeance, there was no evidence establishing that they previously tracked individuals to different states.

- [7] The RPD also found that the Applicant does not need to remain in hiding if she were to reside in the proposed IFA of Abuja. Further, that it was unlikely that her siblings would face future pressure from these agents to reveal the Applicant's whereabouts. Therefore, she need not conceal her location from her family.
- [8] Ultimately, on the first prong of the IFA test, the RAD found there is no evidence that the Applicant's agents of persecution are looking for the Applicant, nor that they would have the means and ability to locate her in Abuja.
- [9] As to the second prong, the RAD found that the RPD correctly determined that it would be reasonable for the Applicant to relocate to the proposed IFA. It addressed her arguments that she would encounter significant discrimination, be unable to find employment and that Abuja has a high crime rate. For the reasons it set out, the RAD determined that these concerns did not render Abuja unreasonable or unduly harsh as an IFA.
- [10] Lastly, the RAD disagreed with the Applicant's argument that the RPD had erred because a separate s 97(1) analysis was required. The RAD held that this is because an IFA is determinative of both ss 96 and 97(1) of the IRPA and the cases cited by the Applicant were distinguishable because her claim had not been rejected on the basis of credibility and there was no residual profile to consider.

Issue and Standard of Review [11] In my view, the sole issue arising in this matter is whether the RAD decision was reasonable.

- [12] The Applicant submits that the standard of review is reasonableness with respect to the RAD's assessment of the totality of the evidence, but that issues of interpretation and application of the law and issues of procedural fairness are to be evaluated on a correctness standard. The Respondent submits that the applicable standard of review is reasonableness.
- [13] I agree with the Respondent that the applicable standard of review in this matter is reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 99 [Vavilov]).
- [14] I disagree with the Applicant's submission that, with respect to the issue of the RAD's interpretation and application of the law (presumably with respect to the issue of the IFA), the standard of review is correctness. Reasonableness is the presumptive standard of review regarding the merits of an administrative decision. While there are some circumstances warranting a departure from this presumption, none arise in this case (Vavilov, at paras 17, 25). Further, the case law makes clear that IFA determinations are reviewed against a standard of reasonableness (see e.g. *Singh v Canada (Citizenship and Immigration)*, 2025 FC 459 at para 7; *Guerra Vega v Canada (Citizenship and Immigration)*, 2025 FC 427 at para 15; *Cespedes Aguirre v Canada (Immigration, Refugees and Citizenship)*, 2025 FC 241 at para 5).

[15] The Applicant also asserts that the RAD erred in failing to conduct a s 97(1) analysis, thereby breaching her right to procedural fairness. In my view, whether the RAD erred in deciding not to conduct a separate s 97(1) analysis goes to the merits of the decision and will, accordingly, be assessed on the reasonableness standard. And, as I have found below that that RAD did not err in this regard, there could be no breach of procedural fairness in any event.

Analysis [16] I have previously described the principles pertaining to IFA determinations in *Ullah v Canada (Citizenship and Immigration)*, 2022 FC 1777:

[20] An IFA has been described as “a fact situation in which a person may be in danger of persecution in one part of a country but not in another” (*Thirunavukkarasu v Canada (Minister of Employment & Immigration)*, 1993 CanLII 3011 (FCA) at para 2 [1994] 1 FC 589 (CA) [Thirunavukkarasu] at 592). Because an IFA in another part of the same country is determinative of refugee status, the onus is on an applicant to prove, on a balance of probabilities, that there is a serious possibility of persecution throughout the country, including the proposed IFA (*Thirunavukkarasu*, paras 5 and 9; *Photskhverashvili v Canada (Citizenship and Immigration)*, 2019 FC 415 [Photskhverashvili] at para 28).

[21] The two-pronged test for establishing a viable IFA is well established. The decision-maker must be satisfied on a balance of probabilities, that:

1. there is no serious possibility of the claimant being persecuted in the proposed IFA; and
2. conditions in the proposed IFA are such that it would not be unreasonable, in all the circumstances, including the circumstances particular to the claimant, for the claimant to seek refuge there.

(*Thirunavukkarasu* at paras 5, 9; *Rasaratnam v Canada (Minister of Citizenship and Immigration)*, 1991 CanLII 13517 (FCA), [1992] 1 FC 706 (CA) at 711; *Souleyman v Canada (Citizenship and Immigration)*, 2020 FC 708 at para 17-18); *Photskhverashvili* at para 29).

[22] The onus is on the claimant to demonstrate that [sic] at least one of the prongs has not been established. That is, the burden is on the claimant to establish that the IFA is not viable, either because there is a serious risk of persecution there or because it would be unreasonable for them to seek refuge there (*Thirunavukkarasu* at 590; *Ranganathan v Canada (Minister of Citizenship and Immigration)*, 2000 CanLII 16789 (FCA) [Ranganathan] at paras 13-15, [2001] 2 FC 164). The Applicants must provide actual and concrete evidence of the existence of conditions that would jeopardize their lives and safety in relocating to the IFA (*Ranganathan*, at para 15; *Photskhverashvili* at para 31). Failure to meet that onus means the IFA is determinative of the claim for refugee protection.

[17] Regarding the first prong of the test, this Court has found that the applicant bears the onus of demonstrating that the proposed IFA is unreasonable because they fear a possibility of persecution throughout their entire country. Further, to discharge their burden, applicants must demonstrate that they will remain at risk in the proposed IFA from the same individual

or agents of persecution that originally put them at risk. The risk assessment considers whether the agents of persecution have the “means” and “motivation” to cause harm to the claimant in the IFA (see *Singh v Canada (Citizenship and Immigration)*, 2024 FC 1080 at para 17 [Singh]).

[18] The RAD employed the correct IFA test. However, the Applicant asserts that the RAD erred in various ways. I will address these in turn.

First Prong [19] First, the Applicant submits that the RAD agreed with the Applicant when it found that the RPD erred in finding that the Fulani herdsmen do not operate in Abuja and that the RPD erred when it incorrectly stated that Benin City was a city in the North Central region of the country when it is located in the South. According to the Applicant, since the RAD “upheld” her arguments, it should have granted the appeal. The failure to do so was a fundamental error. She submits that the RAD deliberately ignored that Fulani herdsmen operate in Abuja “because it favours the Applicant”, thereby arriving at an unreasonable decision. This argument was emphasized at the hearing as being determinative.

[20] There is no merit to this submission. The RAD acknowledged that the RPD had erred and, as the Respondent submits, having done so, it was entitled to conduct its own analysis – which it did. The authority for the RAD to proceed in this manner was determined by the Federal Court of Appeal in *Huruglica v Canada (Citizenship and Immigration)*, 2016 FCA 93 at para 78 and is set out in s 11(2)(b) of the IRPA. The Applicant offers no jurisprudence that finds otherwise. Further, the finding that Fulani herdsmen are present in Abuja does not automatically mean that it is not a viable IFA. Rather, the RAD was required to determine whether the Applicant faces more than a mere possibility of persecution by her same agents of persecution in the proposed IFA. Moreover, for the reasons it set out, the RAD determined that this finding did not change the outcome of the decision. Specifically, because the Applicant’s problems were localized to the Osun state and the Fulani do not have the means to locate her elsewhere.

[21] Second, the Applicant argues that the RAD erred in finding that she failed to establish with sufficient evidence that the armed Fulani herdsmen have the means to locate her in Abuja. She submits that it was unreasonable to expect her to inquire into the armed Fulani herdsmen’s identity in the middle of a deadly attack against her. Further, that the RAD disregarded her testimony given under oath about how she was able to discern that her attackers were the Fulani herdsmen, which testimony has not been rebutted, and is therefore credible.

[22] I agree with the Respondent that the RAD noted that the Applicant’s evidence was that she did not know with certainty that her agents of persecution were the Fulani herdsmen as they did not identify themselves. She assumed their identity because this was public news, they caused destruction to the farmlands and their language was different. The RAD noted that the objective documentary evidence indicates that criminals and others are often misidentified as Fulani. However, I find that nothing turns on this. This is because the RAD

continued by stating that even if the agents of persecution are Fulani, there was insufficient evidence to establish that those persons had the means to locate the Applicant in the IFA.

- [23] Further, the Applicant's credibility was not at issue. As the RAD noted, while the Applicant asserted that the Fulani herders countrywide have a network and this is a way she would be located, she provided no information about the basis on which this conclusion was drawn, and offered no objective documentation to establish her position. The RAD stated: "Just because she believes that they communicate or coordinate attacks, this does not automatically make it so. The Maldonado presumption is simply that a sworn witness is telling the truth. It is not a presumption that everything the witness believes to be true, but has no direct knowledge of, is actually true". Nothing in the RAD's reasons suggest that the Applicant's credibility was a factor in its IFA analysis and there is no merit to the Applicant's assertion that the RAD applied a wrong standard of evaluation "by disregarding her testimony... in the absence of superior evidence".
- [24] Further, the RAD's reasoning with respect to the Fulani's means to locate the Applicant in the IFA on this point was justified, transparent and intelligible. The RAD set out the objective evidence describing the background, size and composition of the Fulani. It also states that it had reviewed the country documents as a whole and listed specific findings from various reports, that being: (i) Fulani groups are highly decentralized with clans and sub-clans; (ii) Fulani militias operated in a largely decentralized manner under local commanders' autonomous control; and (iii) criminal gangs are neither cohesive nor under centralized command, and they also act autonomously, sometimes in rivalry with one another. The RAD found that the preponderance of the evidence suggested that the Fulani militants (and the criminal gangs that include Fulani herdsman) are comprised of numerous distinct groups that operate independently in various locales.
- [25] So, although the RAD determined that Fulani herdsman are present in Abuja, and assuming, as it did, that the Applicant's agents of persecution were the Fulani herdsman, the RAD concluded that she did not face a serious possibility of persecution. This was because the evidence established that Fulani militants are comprised of distinct groups that operate independently, and there was insufficient information to conclude that the Fulani militants "operate together as one large national entity who would band together to target her nationwide". Put differently, the RAD was of the view that the Fulani herdsman lacked the means to locate and harm the Applicant beyond Osun state, where she was initially attacked, and thus, Abuja was a reasonable IFA.
- [26] Third, the Applicant also argues that the RAD erred by not resolving the issue of the "modus operandi of the armed Fulani herdsman (given that it found their method of operation unclear)". This argument, too, is without merit. The RAD clearly explained that, although the evidence indicates that it is unclear whether numerous distinct Fulani militant groups communicate or coordinate, it found that there was: insufficient information to conclude that the Fulani militants operate together as one large national entity who would band together to target the Applicant nationwide; insufficient information to establish that the

group of Fulani militants that targeted the Applicant in Osun state have connections and influence countrywide such that others would be compelled to seek and find the Applicant on their behalf in Abuja; and, no evidence establishing that the Fulani militants have previously tracked individuals to different states. It is to be recalled that the onus was on the Applicant to adduce sufficient evidence or facts to discharge their burden of proof and demonstrate, on a balance of probabilities, that the agents of persecution have the means and motivation to locate her in the proposed IFA (Singh, at para 17). It was open to the RAD to arrive at the conclusion they did in the absence of further evidence.

- [27] Fourth, the Applicant submits that the RAD erred by dwelling and relying on irrelevant information unrelated to the matter and that “the reference resorted to” by the RAD was microscopic and peripheral to the central issue of the threat to the Applicant’s life. Later in the submissions, the Applicant asserts that it is glaringly obvious, given the uncontradicted testimony in her Basis of Claim [BOC] narrative, that the Fulani wanted nothing from her siblings, because they did not have any business on the land, which explains why the Fulani did not harm them. And, if her location is known by her family in Nigeria, in the face of armed threats, they would “most definitely give in and reveal her whereabouts”. She submits that the reason her agents of persecution did not harm her siblings supports her claim that they want her because she is a woman in control of the farm’s operation.
- [28] I do not agree that the RAD’s assessment of the Applicant’s siblings’ interactions with her agents of persecution was irrelevant to the IFA analysis. Rather, it was in response to the Applicant’s argument before the RAD that she would have to remain in hiding in the IFA. In the course of addressing that assertion, the RAD noted that the farm is no longer operating and the agents of persecution have taken over the land that they wanted. The RAD then considered the Applicant’s evidence about subsequent approaches to her siblings, noting that her evidence on this point was somewhat unclear. However, her BOC narrative indicates that all of her siblings reside in Osun state, where the Applicant’s farm is located, and the RAD found that there was insufficient evidence to suggest that a sibling had been visited more than once. No violence was used in that encounter, and there was no evidence to suggest that visits to the elder sibling are ongoing or have escalated over the nearly two years since the Applicant left the farm. Thus, the RAD found that it was unlikely that this sibling, on a forward-looking basis, would face pressure from the agents of persecution to reveal the Applicant’s whereabouts and that she would not need to conceal her location from her family members.
- [29] Finally, the Applicant submits that the objective NDP evidence about Nigeria supports the existence of integrated nationwide bank verification numbers, ATMs, and drivers’ licenses and that in a corrupt public sector like Nigeria, these sources could be used to trace and track down persons similarly situated to the Applicant. She submits that the RAD erred by “disregarding this evidence before it”. However, she fails to identify what objective evidence was purportedly overlooked.

- [30] The RAD found that while there may be integrated nationwide bank verification numbers, ATMs, and drivers' licenses, there was no evidence that Fulani herdsmen are authorized to access these systems, or any other databases associated with any other service providers. Nor was there evidence that Fulani herdsman have used these systems in the past to track persons to other locations. The RAD found that it was speculative to suggest that they could use corruption to gain access to these sources to track and trace the Applicant and placed no weight on such speculation. Consequently, it found that there is not a serious possibility that she would be located in this manner. The Applicant identifies no error in this analysis.
- [31] As to the Applicant's various submissions, such as that the RAD "prejudged the applicant's claim, otherwise it would have reached a different conclusion if it had considered her claim individually", these, essentially, assert bias. However, the Applicant does not make any argument to support bias by the RAD and there is absolutely nothing in the reasons that supports such an allegation. This is entirely without merit.
- [32] In sum, the Applicant has not identified a reviewable error in the RAD's analysis of the first prong of the IFA test.

Second Prong [33] The Applicant argues that Abuja is not a reasonable destination for her to live. She asserts that she will undoubtedly encounter discrimination in Abuja as she is Yoruba by ethnicity and would be a non-indigene settler. The RAD was aware of the rivalry in Nigeria between indigenes and non-indigenes settlers, yet found the IFA was viable. This was, in the Applicant's view, an error. The Applicant refers to an item in the NDP, which supports what she describes as the predicament of non-indigene settlers in big Nigerian cities. She submits that the prevailing adverse conditions such as the high crime rate, unemployment, corruption, influence peddling, and others, was "sufficiently assessed by the panel and vehemently disregarded". She submits that the RAD's conclusion was unreasonable, incorrect, unsubstantiated and "carries a colouration of red herring to deny the appellant's claim." Finally, the Applicant argues that the RAD erred in finding that a separate s 97(1) analysis was not required.

- [34] Conversely, the Respondent submits that the Applicant advances essentially the same arguments that were before the RAD. The RAD found that the Applicant had not shown that the conditions in Abuja exceeded the high threshold required to find it unreasonable. And, concerning a separate s 97 analysis, the Respondent argues that this was specifically considered and rejected by the RAD. This finding aligns with the jurisprudence on the issue.
- [35] I agree with the Respondent that the Applicant appears to largely make the same arguments about the unreasonableness of the proposed IFA as she made before the RAD. For example, that she would be discriminated against as a non-indigene settler for being Yoruba by ethnicity and would thereby be denied employment and other opportunities. However, this was addressed by the RAD in its decision. The RAD determined that Abuja is the fourth largest city in Nigeria and that the objective country documents indicate that most Nigerian towns and all large cities have large migrant communities from other parts of the country and Abuja, in particular, is said to be hugely diverse. And, while English is the official

language, Yoruba is among the languages spoken there, suggesting that a significant segment of the population is Yoruba and, approximately half of the city's residents are Muslim. For those reasons, the RAD found that the Applicant's ethnicity and her religion are not a barrier to relocation.

[36] I find no error in the RAD's assessment of the reasonableness of Abuja as an IFA.

[37] Finally, as to the Applicant's assertion that the RAD erred in failing to conduct a s 97(1) analysis, I do not agree. In its decision, the RAD clearly explained that a separate assessment under s 97 was not required as it had already established the existence of a viable IFA, which was determinative in these circumstances. This is line with this Court's jurisprudence (see, for example, *Guadarrama Vazquez v Canada (Citizenship and Immigration)*, 2024 FC 462 at para 24).

Conclusion [38] For all of the reasons above, I find that the Applicant has not identified a reviewable error and that the RAD's decision is reasonable.

JUDGMENT IN IMM-6968-24

THIS COURT'S JUDGMENT is that

The application for judicial review is dismissed;

There shall be no order as to costs; and

No question for certification was proposed and none arises.

"Cecily Y. Strickland"

Judge

FEDERAL COURT

SOLICITORS OF RECORD

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STRICKLAND J.

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april 1, 2025

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