

CANADA / JUDGMENT

MB9-22873

COURT

Refugee Appeal Division

DECIDED

13 November 2020

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RAD File / Dossier de la SAR : MB9-22873 MB9-22874 Private Proceeding / Huis clos Reasons and decision ? Motifs et décision Persons who are the subject of the appeal XXXX XXXX XXXX XXXXXXXX XXXX XXXX Personnes en cause Appeal considered / heard at Toronto, ON Appel instruit / entendu à Date of decision November 13, 2020 Date de la décision Panel C. Lindberg Tribunal Counsel for the persons who are the subject of the appeal Laurence Cohen 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) is a citizen of Nigeria, as is her son, XXXX XXXX XXXX (Minor Appellant). They allege a fear of persecution by the Principal Appellant's husband, who is the father of the Minor Appellant, and his family. The Principal Appellant states that she fears she will be physically abused and her son will be forced to undergo tribal marking.
- [2] The Appellants' claims were heard by the Refugee Protection Division (RPD) on May 31, 2019. By decision dated August 19, 2019, the RPD dismissed their claims, finding that the Appellants had viable internal flight alternatives (IFAs).
- [3] Following perfection of the appeal, the Appellants were notified that the Refugee Appeal Division (RAD) would be considering credibility, failure to claim refugee protection in the United States (US), and IFA, and they were given the opportunity to make submissions.
- DECISION
- [4] The determinative issue in these appeals is credibility. I dismiss the appeals and confirm the decision of the RPD that neither the Principal Appellant nor the Minor Appellant is a Convention refugee or a person in need of protection.

BACKGROUND

Basis of the claim

- [5] The Principal Appellant alleges that, a few months after her marriage in XXXX 2013, her husband began abusing her and, on May 14, 2014, he attacked her with a knife, causing an injury that required treatment at the hospital. She states that the incident was reported to the police. The Principal Appellant alleges that, after this incident, she left her husband and

moved to her family's home where she lived until leaving Nigeria, and that her husband and his family came to her family's home and shop to threaten her with death and to insist that her son be given tribal markings. On XXXX XXXX, 2015, the Appellants left Nigeria and travelled to the US. On XXXX XXXX XXXX 2018, the Appellants came into Canada by crossing the border irregularly and making claims for refugee protection. The Principal Appellant alleges that her husband has made threats against her and her son since they left Nigeria.¹ Decision of the Refugee Protection Division

[6] The RPD accepted the credibility of the allegations for purposes of the IFA analysis and found that the Appellants had viable IFAs in Benin, Port Harcourt, and Abuja.² The RPD's decision was based on the following findings:

- a. There was insufficient evidence that the Principal Appellant's husband or his family could locate her, so the Appellants would not face a serious possibility of persecution in the IFA locations, nor was it more likely than not that they would face a risk of torture or a risk to life or of cruel and unusual treatment or punishment.
- b. The IFA locations were reasonable and not unduly harsh, in light of the Appellants' circumstances, including the Principal Appellant's education and employment history, indigeneity, and language abilities. Appellants' arguments

[7] The Appellants argue³ that the RPD erred in the following ways:

- a. The RPD made findings of fact that were speculative and was overly argumentative in its analysis.
- b. In concluding that the Appellants had an IFA, the RPD conducted an overly microscopic analysis of the testimony.
- c. The RPD erred in finding that the Principal Appellant's husband did not have the means to locate her in the IFA and did not apply Chairperson's Guideline 4: Women Refugee Claimants Fearing Gender-Related Persecution.⁴
- d. The RPD erred in failing to conduct a separate IFA analysis in respect of the Minor Appellant.
- e. The RPD erred in finding that an IFA was reasonable in the Appellants' circumstances.
- f. The RPD failed to consider documentation on domestic abuse in Nigeria and its relevance to the IFA analysis.

[8] After the perfection of the appeal, I notified counsel that I would be considering credibility, failure to claim protection in the US, and IFA in Abuja. I indicated that I would consider specific credibility issues, enumerated in the notice, arising out of the Principal Appellant's testimony at the RPD hearing.⁵ In response, the Appellants argue that the RAD should be restricted to reviewing the RPD's findings on IFA and should not assess credibility.⁶ The Appellants also argue that the Principal Appellant's testimony on issues raised by the RAD

was credible.

- [9] In my analysis, I address the arguments made by the Appellants that are relevant to the determinative issue of credibility, and to the role of the RAD. I do not address the arguments pertaining only to whether there is a viable IFA. NEW EVIDENCE
- [10] The Appellants seek to rely on new evidence in this appeal.⁷ The new evidence is a psychotherapist's report⁸ from XXXX XXXX, dated October 25, 2019, submitted with the Appellants' Record. To admit this evidence, I must first find that it: * arose after the RPD decision, * was not reasonably available at the time of the decision, or * the Appellants could not reasonably have been expected to provide it at the time of the decision.
- [11] If the evidence meets at least one of these requirements,⁹ I must then decide if it is new, credible, and relevant¹⁰ before I can admit it. The psychotherapist's report is not admissible
- [12] The Appellants argue that:
- i. the evidence arose after the hearing because it was in relation to the Principal Appellant's ongoing psychotherapy sessions, and
 - ii. the evidence was not available at the time of the hearing because she had not substantially completed her sessions.¹¹
- [13] Although the psychotherapist's report is dated after the RPD's decision, the information in the report speaks to the Principal Appellant's emotional distress and symptoms related to the experiences in Nigeria that she alleges and her fear of returning. Therefore, I find the contents of the report do not post-date the rejection of the claim.
- [14] At the RPD hearing, the Appellants submitted a letter, dated March 4, 2019, from an intake worker at the XXXX XXXX XXXX XXXX stating that he saw the Principal Appellant, who was reporting symptoms of distress, and recommended medical assessment and counselling.¹² This letter confirms that more than five months before the RPD's decision, the Principal Appellant had been advised to seek medical help and counselling. There is no evidence to indicate when the Principal Appellant was referred to the psychotherapist, when she began to attend psychotherapy sessions, when the psychotherapist's report was requested, or why the report could not have been prepared before the RPD decided the claim. The Appellants have made no argument as to why the report could not have been submitted in the two-and-a-half-month interval between the date of the hearing and the decision. I find no basis for concluding that the report was not reasonably available before the claim was rejected.
- [15] I find no basis for concluding that the Principal Appellant could not reasonably have been expected to provide the report before the rejection of the claim. She was represented by counsel who would have been aware of the relevance of such evidence. Evidence of symptoms related to trauma may be admissible and relevant regardless of whether treatment has been completed or whether any treatment is being provided.

- [16] The document does not satisfy any of the requirements of subsection 110(4) of the Immigration and Refugee Protection Act (IRPA)¹³ and is therefore inadmissible. No oral hearing
- [17] The Appellants have not requested an oral hearing and, as no new evidence has been admitted, I do not have jurisdiction to hold an oral hearing.¹⁴ ROLE OF THE REFUGEE APPEAL DIVISION
- [18] My role is to look at all the evidence and independently determine whether the RPD made the correct decision.¹⁵

ANALYSIS

- [19] The determinative issue in this appeal is credibility. The issue of failure to claim protection in the US is linked to the issue of credibility. The RAD gave notice of these issues and the Appellants' main argument in response was that the RAD should restrict itself to considering IFA as that was the determinative issue for the RPD. I am not persuaded by this argument and I begin my analysis by explaining why. I then address credibility, as the determinative issue, and explain my reasons for concluding that the Appellants have failed, on a balance of probabilities, to credibly establish their allegations.
- [20] In concluding that the Appellants had a viable IFA, the RPD followed the reasoning in Jurisprudential Guide TB7-1985¹⁶ which addressed IFA in major cities in south and central Nigeria for claimants fleeing non-state actors. The Guide was subsequently revoked because of changes to information in the National Documentation Package (NDP) for Nigeria, including changes affecting the ability of single women to relocate to the proposed IFAs. Because of the updates to the NDP, if I accepted the Appellants' allegations as credible, I would find the RPD's conclusion incorrect, in light of the Appellants' personal circumstances. The issues in this appeal are properly with the RAD to determine
- [21] The Appellants argue that the RPD accepted the credibility of the Appellants, that the RAD's role should be restricted to a review of the findings made by the RPD in relation to IFA, and that it would be unfair for the RAD to make adverse credibility findings when the RPD member was in the best position to assess credibility.¹⁷ I do not find any of these arguments persuasive.
- [22] I do not agree that the RPD accepted the credibility of the Appellants. The RPD identified credibility as an issue at the outset of the hearing, invited submissions on it at the conclusion of the hearing, but made no findings, instead, accepting the Appellants' allegations for the purposes of the IFA analysis.¹⁸ Given that IFA is a determinative issue, the RPD saw no need to make credibility findings and did not do so. The issue of credibility was left undetermined.

- [23] I do not agree that the RAD is restricted to considering the RPD's findings in relation to IFA. The Federal Court has said that the RAD has the right to raise new issues, subject to the procedural fairness requirement that parties be given notice and an opportunity to make submissions.¹⁹ On August 27, 2020, the RAD advised counsel for the Appellants that the panel would be considering credibility, failure to claim protection in the US, and IFA in Abuja.²⁰ The RAD also specified credibility issues arising out of the Principal Appellant's testimony at the RPD hearing. Counsel was invited to make submissions by September 28, 2020. On that day, counsel requested a one-week extension of time. The RAD allowed the extension to October 5, 2020. Submissions dated October 5, 2020 were received on October 6, 2020. Therefore, the issues identified in the notice of August 27, 2020 are properly before the RAD and, in conducting my independent assessment, I have considered the submissions made in response to the notice.
- [24] I do not agree that fairness precludes the RAD from making adverse credibility findings. The caselaw establishes that the RAD is required to independently assess the RPD's decision, applying a standard of correctness. On issues of credibility, the RAD may defer to the RPD where the RPD had a meaningful advantage in making a credibility finding on oral evidence.²¹ The Appellants submit that the RPD member was "presumably in the best position to assess credibility"²² but have not identified any meaningful advantage and I find none on the record. The RPD questioned the Principal Appellant and she was given opportunities to explain inconsistencies in her evidence. The credibility issues identified in the RAD's notice to counsel are based on the evidentiary record, which provides a sufficient basis for credibility findings. As the RPD did not make credibility findings in this case, I am conducting my own independent assessment, in accordance with the role of the RAD. The RAD has considered Chairperson's Guideline 4: Women Refugee Claimants Fearing Gender-Related Persecution
- [25] In assessing the evidence, I have considered Chairperson's Guideline 4: Women Refugee Claimants Fearing Gender-Related Persecution,²³ particularly, that the context of the alleged events differs culturally from the Canadian context and that the Principal Appellant's experiences and her ability to testify about them are shaped by her social and cultural context. I considered these factors in making findings of implausibility and in assessing the credibility of the testimony. I found that the issues of credibility and implausibility were not explained by these factors. I considered whether the failure to claim protection in the US could be attributable to factors particular to the Principal Appellant's alleged fear of gender-related persecution and found that it was not.
- [26] In reviewing the conduct of the hearing and how it might have affected her testimony, I noted that the RPD member told her that he recognized that the hearing room is a stressful situation, they would be talking about stressful things, and she should take her time when answering and do whatever she needed to do to feel comfortable.²⁴ He told her to ask for questions to be repeated, if necessary.²⁵ He explained that the purpose of the questions was to help him understand her story, reiterated that he appreciated that it was stressful and

assured her that he would ask follow-up questions if needed.²⁶ Before asking her about the issues she faced in her marriage, he assured her that he understood it can be difficult to talk about, that she should take as long as she needed to answer, and that, if she needed a break, they would take one.²⁷ The member adjourned twice for short breaks during the hearing. I have listened to the audio recording and I find that the member was courteous, respectful, and patient in his conduct of the hearing. All of these considerations informed my assessment of the evidence and my findings on credibility, including my findings on plausibility and subjective fear. The Principal Appellant has not established, on a balance of probabilities, that her husband attacked her with a knife as alleged

- [27] The RAD identified credibility, generally, as an issue and, specifically, the issues of inconsistencies in the Principal Appellant's evidence relating to the alleged knife attack by her husband on May 14, 2014, and the plausibility of her evidence regarding her hospital stay, including the date of the hospital report and her testimony that she spent five days in hospital but left on the day of admission to go to the police station. The Appellants argue that the RPD took no issue with the allegation of the knife attack. I do not accept the argument that the RPD found the allegation credible. The RPD did not make a credibility finding regarding the knife attack. The Appellants argue that the Principal Appellant suffered serious injuries that only are consistent with the knife attack she alleges and they rely on her testimony that she left the hospital after being treated to complain to the police because they had released her husband although he had savagely attacked her. I have considered her testimony and, for the reasons that follow, I find that, while the Principal Appellant's injuries may be consistent with having been caused by a knife, she has not, on a balance of probabilities, established that they were inflicted as alleged, by her husband, on May 14, 2014.
- [28] The Appellants submitted a hospital report²⁸ dated May 16, 2014 stating that the Principal Appellant came to the emergency ward on XXXX XXXX, 2014 with laceration on the left side of her face and body pain and that there was "history of transient loss of consciousness with subsequent full recovery laceration". The report does not indicate that she was admitted to the hospital. The RPD member asked the Principal Appellant why she obtained a hospital report on the 16th given her testimony that she entered the hospital on the XXXX XXXXnd spent five days there. Initially, she replied that the report was written on May XXXX when she was taken to the hospital.²⁹ The RPD member repeated the question, asking the Principal Appellant to explain why the report would be dated on May 16th and she said that she did not understand.³⁰ I find that the issuance of a hospital report on May 16, 2014 reporting "full recovery laceration" is not consistent with the Principal Appellant's allegation that on XXXX XXXX, 2014 she was admitted for five days and I find that she has not reasonably explained the inconsistency. I find that the inconsistency undermines the credibility of her allegation that she was hospitalized for five days because of injuries sustained in a knife attack by her husband.

- [29] The police report³¹ states that the Principal Appellant went to the police station on May 14, 2014 to report that she had been beaten and brutalized by her husband and states that an entry was made for record purposes but she was advised to report the matter "to the head of their family for necessary action". The police report makes no mention of a knife attack or any injuries observed by the police, despite the Principal Appellant's testimony that she went to the police station on the day her husband stabbed her in the face with a knife. The Principal Appellant testified that after the 14th she returned to the police station to ask why her husband had been discharged the day after his arrest and was told that it was a family issue and should be settled with the head of the family.³² The police report indicates that this was communicated to her on May 14, 2014. Moreover, the police report does not refer to the husband being arrested. The police report establishes, at best, that she went to the police station on May 14, 2014 and made an allegation against her husband, stating that he had beaten her. I find that the inconsistencies between her testimony and the police report undermine the credibility of the Principal Appellant's allegation that her husband attacked her with a knife on that day.
- [30] The Principal Appellant testified, initially, that following the alleged attack she called her sister who then took her to the hospital,³³ the incident was reported to the police, her husband was arrested while she was in the hospital, and her husband was released the day after his arrest.³⁴ She also testified that she spent five days in the hospital.³⁵ When the RPD member asked her to go through the order of events, she testified that her sister got her husband arrested "[t]he next day" because the Principal Appellant was in the hospital and could not go out.³⁶ She stated that her sister went to the police station, the police demanded to see the Principal Appellant, she left the hospital to go to the police station, and then returned to the hospital.³⁷ She also testified that on arrival at the hospital, she was taken immediately to the emergency room and stayed in the hospital for five days because she was told she could not go home, due to the stitches on her face.³⁸ The member asked her to explain why she was allowed to leave to go to the police station if her injuries were serious enough that she was required to stay five days in the hospital. She replied that it was because the police demanded to see her at the station.³⁹ When questioned by her counsel, she repeated this explanation. Her testimony evolved during further questioning by counsel. Counsel asked her why the hospital allowed her to leave and she said it was because the police requested to see her. In response to two more questions from counsel, she repeated that the police requested to see her. When counsel asked her specifically if the police had contacted the hospital, she said "[y]es".⁴⁰ When counsel asked her if she was in a good enough condition to move and leave the hospital despite her injuries, she said "[y]es".⁴¹ When counsel asked her if going to the police station could have waited, she said "[n]o".⁴² When counsel asked her why it could not have waited, she said she did not know.⁴³ I give little weight to her testimony that the police contacted the hospital, given that she made this statement in response to a leading question from her counsel, after having failed to state this earlier despite the series of questions from counsel and questioning by the RPD member about why the hospital allowed her to leave. I find that her evolving testimony and

the inconsistencies in her evidence undermine her credibility and I do not find her testimony about the sequence of events plausible. I do not find it plausible that, on the day she was stabbed in the face with a knife and went to the hospital emergency department, she would be admitted for five days because of serious injuries, including transient loss of consciousness, yet be able and authorized to leave temporarily to visit the police station.

- [31] In finding the Principal Appellant's evidence implausible, I am mindful that a refugee claimant's sworn evidence is presumed to be true unless there are reasons to doubt its truthfulness⁴⁴ and that implausibility findings should only be made in the clearest of cases.⁴⁵ For the reasons given above, I have found that the Principal Appellant's credibility is undermined by inconsistencies between her testimony and the two reports that she alleges corroborate her allegation about the knife attack. Viewed in the context of these credibility concerns, I find her allegation that she left the hospital to go to the police station lacks plausibility.
- [32] I find, for the above reasons, that the Principal Appellant has not established, on a balance of probabilities, her allegation that on May 14, 2014 her husband attacked her with a knife. The evidence does not, on a balance of probabilities, establish that the husband's reason for consenting to the Minor Appellant's departure from Nigeria was as alleged
- [33] The RPD questioned the Principal Appellant but did not make findings about the plausibility of the allegation that the Minor Appellant's father gave written consent for him to accompany the Principal Appellant to the US because she agreed to put the tribal marking on her son. The RAD identified this as an issue. The Appellants submitted that the Principal Appellant testified that her husband agreed, reluctantly, to sign the consent because she said she would put the tribal mark on her son. For the reasons that follow, I am not persuaded that her testimony establishes this allegation, on a balance of probabilities.
- [34] The Appellants left Nigeria on XXXX XXXX XXXX 2015, travelling to the US, entering the country with a student visa issued to the Principal Appellant in Nigeria. She testified that she had decided in 2015 that she would have to leave Nigeria in order to be safe and she decided to go to the US.⁴⁶ In previous testimony, she stated that, earlier on in her marriage, her husband had wanted her to go to the US to get a Master's degree in business administration. She testified that he was going to pay for her studies and the plan was that she would leave shortly after giving birth to their child and the child would go to the US with her.⁴⁷ When the Appellants came to Canada on XXXX XXXX, 2018, the Principal Appellant's documents included a letter of authorization, signed by her husband, dated June 2, 2015, addressed to the US Embassy in Abuja, in which he consented to have his son accompany her to the US.⁴⁸ The Principal Appellant was asked why, if her husband and his family were threatening her and threatening to take her son away from her, he gave his consent. She testified that he signed the letter because she agreed to put the tribal mark on her son's face. Asked why he would have believed her, she said that she made him believe her. Asked what she did or said to make him believe her, she testified that she told him she would place the tribal mark and she made him trust her.⁴⁹

- [35] The Principal Appellant has alleged that, for over one year prior to the date that her husband signed the letter of consent, he and his family continued to insist that her son be given a tribal mark, during which time she lived apart from her husband and refused to agree to the tribal marking despite threats from her husband and his family. I find it implausible that, in those circumstances, the Principal Appellant's husband would consent to have her leave Nigeria with her son to go to the US where they would be beyond reach, only because the Principal Appellant said that she would place the mark on her son. There is no suggestion that the letter of consent is not genuine or that it was not signed by the Principal Appellant's husband. I find that the Principal Appellant has not, on a balance of probabilities, established her allegation that he signed the letter because she agreed to place a tribal marking on her son. I also find that this undermines the credibility of her allegation that he is determined to place a tribal marking on her son.
- [36] The Principal Appellant introduced evidence that in March 2017 her husband got married to another woman.⁵⁰ She testified that he hid his marriage from her family.⁵¹ The Appellants argue that the second marriage does not mitigate his anger towards her, rather the opposite is true, and her return to Nigeria would inflame his anger.⁵² I am not persuaded by this argument and find that it is equally likely that his remarriage suggests that he has moved on and would not be motivated to harm the Principal Appellant. In the absence of evidence as to the effect of this remarriage on his motivation, I draw no inference from it. The Principal Appellant's failure to claim protection in the US undermines the credibility of her fear
- [37] The RPD questioned the Principal Appellant but did not make findings about her failure to claim refugee protection in the US. The RAD notified the Appellants that this issue would be considered. The Appellants made no submissions on this issue. I find that the Principal Appellant's failure to claim protection in the US undermines the credibility of her allegation that she is afraid to return to Nigeria.
- [38] The Principal Appellant testified that in 2015 she decided to leave Nigeria because she did not feel safe. She wanted to go and stay in the US where she thought she would be safe and believed she could get help.⁵³ The Appellants entered the US on XXXX XXXX, 2015. The Principal Appellant's evidence was that after spending the first three weeks in New York, they travelled to Houston, Texas, where she found work. They came to Canada on XXXX XXXX XXXX 2018, crossing the border irregularly and making refugee claims.⁵⁴
- [39] The Principal Appellant was asked what steps she took before going to the US to find out how she could stay there safely. She testified that she did not figure anything out before leaving Nigeria.⁵⁵ She testified that, although she entered the US with a student visa valid for two years, she did not go to the school. It was allegedly six months after entering the US when she learned that she no longer had valid immigration status because she had not gone to the school. Asked why she did not try to find a way to stay in the US, she testified that she was afraid she would be sent back to Nigeria because she had overstayed and she could not take steps to regularize her status because she had no one there who could tell her what to do.⁵⁶ She alleges that, having seen information on the Internet about refugees crossing the

border into Canada, she decided to do the same.⁵⁷

- [40] Failure to seek refugee protection in another country or delay is a relevant factor that can be considered in assessing a claimant's statements and actions.⁵⁸ The Principal Appellant spent over two and a half years living in Houston and working at jobs that she obtained with the help of "a good Samaritan".⁵⁹ She did not give a reason for her fear that the US would send her back to Nigeria. She did not explain why she did not ask the "good Samaritan" about what steps she might be able to take to remain in the US. I find her explanation for not taking any steps to seek protection in the US, including not seeking advice about whether she was at risk of removal and what options she might have, inadequate, and I find that it undermines the credibility of her allegation that she fears returning to Nigeria for the reasons she has given. On a balance of probabilities, the allegations are not established
- [41] The determinative issue is credibility. I find after reviewing the record in its entirety that the Appellants have not established the allegations on which they rely in claiming that they face a serious possibility of persecution by the Principal Appellant's husband, father of the Minor Appellant, or his family.

CONCLUSION

- [42] I dismiss the appeals and, pursuant to paragraph 111(1)(a) of IRPA, confirm the decision of the RPD that the Appellants are neither Convention refugees nor persons in need of protection. (signed) C. Lindberg C. Lindberg November 13, 2020 Date 1 Exhibit RPD-1, RPD Record, Exhibit 5, at pp. 22-23. 2 Exhibit RPD-1, RPD Record, RPD Reasons, at pp. 6-11. 3 Exhibit P-2, Appellants' Record, at pp. 9-14. 4 Chairperson's Guideline 4: Women Refugee Claimants Fearing Gender-Related Persecution: Update, Guideline issued by the Chairperson pursuant to section 65(3) of the Immigration Act, Effective date: November 13, 1996, as continued in effect by the Chairperson on June 28, 2002 under the authority found in paragraph 159(1)(h) of the Immigration and Refugee Protection Act. 5 Exhibit RAD-1, Member directions, August 27, 2020. 6 Exhibit P-3, Response to member directions, dated October 5, 2020. 7 Exhibit P-2, Appellants' Record, at p. 8. 8 Exhibit P-2, Appellants' Record, at pp. 26-27. 9 Immigration and Refugee Protection Act (IRPA), S.C. 2001, c. 27, as amended, subsection 110(4). 10 Canada (Citizenship and Immigration) v. Singh, 2016 FCA 96; Raza v. Canada (Citizenship and Immigration), 2007 FCA 385. 11 Exhibit P-2, Appellants' Record, at p. 23, paras 15-16. 12 Exhibit RPD-1, RPD Record, Exhibit 4, at p. 163. 13 Immigration and Refugee Protection Act (IRPA), S.C. 2001, c. 27, as amended. 14 IRPA, subsections 110(3) and 110(6). 15 Canada (Citizenship and Immigration) v. Huruglica, 2016 FCA 93; Rozas del Solar v. Canada (Citizenship and Immigration), 2018 FC 1145. 16 Jurisprudential Guide - Decision TB7-19851, Guide identified by the Chairperson pursuant to paragraph 159(1)(h) of the Immigration and Refugee Protection Act, Effective date July 6, 2018, Revoked April 6, 2020. 17 Exhibit P-3, Response to member directions, dated October 5, 2020. 18 Exhibit RPD-1, RPD Record, RPD Reasons, at p. 7, para 7. 19 Ching v. Canada (Citizenship and Immigration), 2015 FC 725, at paras 71-76. 20 Exhibit RAD-1, Member directions, August 27, 2020. 21

Canada (Citizenship and Immigration) v. Huruglica, 2016 FCA 93; Rozas del Solar v. Canada (Citizenship and Immigration), 2018 FC 1145. 22 Exhibit P-3, Response to member directions, dated October 5, 2020. 23 Chairperson's Guideline 4: Women Refugee Claimants Fearing Gender-Related Persecution: Update, Guideline issued by the Chairperson pursuant to section 65(3) of the Immigration Act, Effective date: November 13, 1996, as continued in effect by the Chairperson on June 28, 2002 under the authority found in paragraph 159(1)(h) of the Immigration and Refugee Protection Act. 24 Transcript of May 31, 2019 RPD Hearing, at p. 11. 25 Transcript of May 31, 2019 RPD Hearing, at p. 18. 26 Transcript of May 31, 2019 RPD Hearing, at p. 21. 27 Transcript of May 31, 2019 RPD Hearing, at p. 23. 28 Exhibit RPD-1, RPD Record, Exhibit 4, at p. 162. 29 Transcript of May 31, 2019 RPD Hearing, at p. 37. 30 Transcript of May 31, 2019 RPD Hearing, at p. 38. 31 Exhibit RPD-1, RPD Record, Exhibit 1, at p. 139. 32 Transcript of May 31, 2019 RPD Hearing, at p. 38. 33 Transcript of May 31, 2019 RPD Hearing, at pp. 24-25. 34 Transcript of May 31, 2019 RPD Hearing, at p. 26. 35 Transcript of May 31, 2019 RPD Hearing, at p. 27. 36 Transcript of May 31, 2019 RPD Hearing, at p. 34. 37 Transcript of May 31, 2019 RPD Hearing, at p. 35. 38 Transcript of May 31, 2019 RPD Hearing, at p. 35. 39 Transcript of May 31, 2019 RPD Hearing, at p. 36. 40 Transcript of May 31, 2019 RPD Hearing, at pp. 61-62. 41 Transcript of May 31, 2019 RPD Hearing, at p. 62. 42 Transcript of May 31, 2019 RPD Hearing, at p. 62. 43 Transcript of May 31, 2019 RPD Hearing, at pp. 62-63. 44 Maldonado v. Canada (Minister of Employment and Immigration), [1980] 2 F.C. 302 (C.A.), at p. 305. 45 Valtchev v. Canada (Minister of Citizenship and Immigration), 2001 FCT 776. 46 Transcript of May 31, 2019 RPD Hearing, at pp. 45-48. 47 Transcript of May 31, 2019 RPD Hearing, at pp. 28-30. 48 Exhibit RPD-1, RPD Record, Exhibit 1, at p. 138. 49 Transcript of May 31, 2019 RPD Hearing, at pp. 49-52. 50 Exhibit RPD-1, RPD Record, Exhibit 5, at p. 23 and Exhibit 4, at pp. 157-161. 51 Transcript of May 31, 2019 RPD Hearing, at p. 67. 52 Exhibit P-3, Response to member directions, dated October 5, 2020. 53 Transcript of May 31, 2019 RPD Hearing, at pp. 45-47. 54 Exhibit RPD-1, RPD Record, Exhibit 5, at p. 23. 55 Transcript of May 31, 2019 RPD Hearing, at pp. 45-47. 56 Transcript of May 31, 2019 RPD Hearing, at pp. 48, 64-66. 57 Exhibit RPD-1, RPD Record, Exhibit 5, at p. 23. 58 Huerta v. Canada (Minister of Employment and Immigration) (1993), 157 N.R. 225 (F.C.A.), at p. 227. 59 Exhibit RPD-1, RPD Record, Exhibit 5, at p. 23.

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