

CANADA / JUDGMENT

TB1-15958

COURT

Refugee Protection Division

DECIDED

24 May 2012

Research copy typeset by Esheria. Not court-issued or certified. A source URL was not supplied in the case record.

RPD File No. / N° de dossier de la SPR : TB1-15958 TB1-15961 Private Proceeding / Huis clos
Reasons and Decision ? Motifs et décision Claimant(s) XXXX XXXX XXXX XXXX XXXX
Demandeur(e)s d'asile Date(s) of Hearing May 8, 2012 Date(s) de l'audience Place of Hearing
Toronto, Ontario Lieu de l'audience Date of Decision May 24, 2012 Date de la décision Panel L.
Mason Tribunal Counsel for the Claimant(s) Kingsley I. Jesuorobo Conseil(s) du / de la / des
demandeur(e)s d'asile Tribunal Officer Agent(e) de tribunal Designated Representative(s)
Représentant(e)s désigné(e)s Counsel for the Minister Conseil du ministre

- [1] XXXX XXXX, (hereinafter called the claimant) and his sister, XXXX XXXX (hereinafter called the female claimant) claim refugee protection pursuant to sections 96 and 97(1) of the Immigration and Refugee Protection Act (IRPA)¹ based upon their membership in a particular social group, namely, family. Allegations
- [2] The claimant alleges the following.
- [3] The claimant was born on XXXX XXXX, 19XXXX. He has never married. He arrived in Canada on XXXX XXXX, 20XXXX using a student visa.
- [4] The claimant's father owns a XXXX XXXX company. His father was unaware that some of his employees were holding Movement for the Actualization of the Sovereign State of Biafra (MASSOB) meetings in his warehouse. As a consequence of these meetings, the Nigerian authorities are accusing the claimant's father of being a member of MASSOB. The Nigerian authorities are pursuing the claimant's family. The authorities have been unable to locate the father. However, the Nigerian authorities detained and tortured the claimant's mother and one brother. The mother and one brother have been released. Now all immediate family members have gone into hiding.
- [5] The claimant and the female claimant made sur place claims for refugee protection on XXXX XXXX, 2011.

DETERMINATION

- [6] I find that the claimant, XXXX XXXX, is not a Convention refugee pursuant to s. 96 of the IRPA, nor is he a person in need of protection, pursuant to s. 97 of IRPA.

ANALYSIS

- [7] The issues in this hearing were: * Credibility * Internal Flight Alternative Identity
- [8] I find on a balance of probabilities that the claimant is who he says he is and that he is a citizen of Nigeria. He provided Canadian authorities at the Port of Entry (POE) with his Nigerian passport.²
- [9] I find on a balance of probabilities that the female claimant is who she says she is and that she is a citizen of Nigeria. She provided Canadian authorities at the Port of Entry (POE) with her Nigerian passport.³ Credibility
- [10] In assessing the credibility of the evidence presented by the claimant, I am mindful of the decision of the Federal Court of Appeal in Maldonado⁴ wherein the Court stated, in part, that "when a claimant swears to the truth of certain allegations, this creates a presumption that those allegations are true unless there be reason to doubt their truthfulness." I also considered the principle established by the Federal Court of Appeal in Dan-Ash,⁵ that such presumption of truthfulness may be rebutted by the existence of contradictions in the evidence presented by the claimant and that it is a valid basis for a finding of a lack of credibility. My credibility concerns are outlined below.
- [11] The claimant testified that he entered Canada on a student visa. He provided a copy of his immigration status in Canada that indicates that he must leave Canada on XXXX XXXX, 2011, when his visa was no longer valid. I asked the claimant if it was a coincidence that shortly after his visa expired he received a telephone call in mid-XXXX 2011 that led him to make a claim for refugee protection. The claimant testified that he was unable to renew his visa because it was necessary to first pay his university tuition. He explained in his oral testimony that in XXXX 2011 he had not received the necessary funds from his father because his father could not be located. While this scenario may be possible I find, on a balance of probabilities, that it is not probable. I am guided by the words of Justice Yves de Montigny J.⁶ wherein he stated: Even more troubling was the fact that the PSB [Public Bureau Security] discovered the applicant's underground church two days before his visitor visa to Canada expired, or that the PSB looked for him at his home the same day his visa expired. Yet, the applicant's only explanation was "that was what happened". This was clearly not a very compelling explanation, and the Board could reasonably conclude, on a balance of probabilities, that this coincidence was implausible.⁷
- [12] I find there are contradictions when I compare information provided in the claimant's PIF narrative⁸ with his oral testimony. For example, I find that the claimant embellished his claim when he testified that once his mother and brother were released from detention they were required to report to the police station each week. He testified that each time they reported they were held for a day, maltreated and required to pay a bribe to be released. I asked the claimant why this information was not in his narrative. The claimant testified that he was not thinking straight when he completed his PIF and that he omitted some details. When counsel later asked the claimant what his state of mind had been when he completed

his PIF, the claimant testified that he had been in shock. I do not find the claimant's explanation satisfactory. He provided no medical evidence to explain any possible problem with his memory. He has XXXX years of formal education⁹ and English is his first language. I appreciate the difficulties claimants may have completing the PIF, including emotional difficulties. However, in the claimant's case he completed his PIF almost two months after he received news from Nigeria that caused him to make a refugee claim; he testified that he first learned of the problems for his family in mid-XXXX 2011 and he completed the PIF on November 9, 2011¹⁰. The claimant also had the assistance of counsel when he completed his PIF. I find that the omission from the PIF of the alleged treatment of his family members by the authorities diminishes his credibility. I am guided by the jurisprudence. In the Basseghi decision, the Federal Court held: It is not incorrect to say that answers given in a PIF should be brief but it is incorrect to say that the answers should not be complete with all of the relevant details. It is not enough (for a claimant) to say that what he said in oral testimony was an elaboration. All relevant and important facts should be included in one's PIF. The oral evidence should go on to explain the information contained in the PIF.¹¹

- [13] I determine on a balance of probabilities that the claimant's mother and brother were not required to report to the police station as he alleged.
- [14] The claimant testified that his mother and brother were detained by the Nigerian police and beaten while in detention. He testified that as a result of their beatings they each hospitalized. In his PIF narrative he states that his family members "are all running for their lives (in hiding) and have not returned back home" to XXXX.¹² During the hearing the claimant testified that his family members have been in hiding since shortly after he received the telephone call from his mother in XXXX 2011. He testified that they are now hiding in XXXX state. The claimant provided an affidavit from his brother and an affidavit from his mother each signed and dated XXXX XXXX XXXX 2012.¹³ I pointed out to the claimant that the two affidavits were issued in XXXX and asked how this was possible given that they were in hiding a distance of over 300 kilometres from XXXX. The claimant testified that his mother and brother were assisted by the family lawyer. I find it unreasonable that his mother and brother would return to XXXX to obtain affidavits given that the claimant alleges they were apprehended at their home in XXXX, detained and beaten by the XXXX police and fled from XXXX for fear of further harm from the authorities. I, therefore, give these two documents little evidentiary weight. Such documents cast doubt on the information found in the affidavits and on the claimant's credibility.
- [15] Regardless of my credibility concerns, I find that the claim turns on a viable internal flight alternative. Internal Flight Alternative
- [16] I find that an IFA exists for the claimant and the female claimant in Lagos, Abuja or Ilorin, Nigeria, as this issue was raised at the outset of the hearing.

- [17] In order to determine whether a viable IFA exists, I must consider a two-pronged test. The basis for this two-pronged test is the cases of *Rasaratnam*¹⁴ and *Thirunavukkarasu*.¹⁵ * The Board must be satisfied, on a balance of probabilities, that there is no serious possibility of the claimant being persecuted in the part of the country to which it finds an IFA exists.¹⁶ * Conditions in that part of the country considered to be an IFA must be such that it would not be unreasonable, in all circumstances, including those particular to the claimant, for him or her to seek refuge there.¹⁷
- [18] I am aware that the female claimant is a young woman and I must be sensitive to the situation of women in assessing whether it is reasonable for a claimant to relocate. In the recent case of *Syvryn*,¹⁸ the Federal Court of Canada stated that decision-makers must consider the ability of women, because of their gender, to travel safely to the IFA and to stay there without facing undue hardship and decision-makers must take into account religious, economic and cultural factors. I believe that my reasons will illustrate that I have been sensitive to the female claimant's particular situation.
- [19] The claimant has testified that he fears torture or persecution at the hands of the Nigerian police. In coming to this decision, with respect to the first prong, I have considered a number of factors. The Home Office UK Border Agency report¹⁹ states that the constitution provides for the right to travel within Nigeria. The claimant testified that the police have pursuing his father because they suspect he is a member of MASSOB. He testified that the police apprehended his mother and brother from their home and beat them while they were detained. The claimant testified that his uncle was last seen at his family's home where he was arrested and later found dead. The claimant and the female claimant were outside Nigeria when the Nigerian police first began to look for his father in 2011. The claimant has lived outside Nigeria for over four years and the female claimant has been away from Nigeria for two and a half years. The claimant provided no persuasive evidence that the Nigerian police are pursuing him or the female claimant or that the police are threatening to persecute them. The claimant does not have a high profile in Nigeria nor does the female claimant. According to the independent documentary evidence and evidence provided by the claimant, MASSOB is a separatist organization espousing Igbo unity and the separation the Igbo-majority states, particularly Anambra state.²⁰ The claimant and the female are of Isoko ethnicity²¹ and the claimant testified that his father is not a MASSOB member. According to the independent documentary evidence, the legal practitioner and legal adviser to MASSOB, XXXX XXXX, stated that the Nigerian authorities are generally not proactive, and almost never acts on intelligence given to them by informants, etc.²² Therefore, I believe, on a balance of probabilities, that the claimant and the female claimant would be of little or no interest to the Nigerian authorities given that they have been out of the country for a considerable period of time and the authorities apprehended family members at their known family address, that they are not MASSOB members and that they are not of Igbo ethnicity as MASSOB members are. Lagos is a city of over twenty five million. Abuja and Iloran are large urban centres. I note the obvious fact that the Nigerian authorities do not have to be advised of the return of the claimant or the female claimant to

the country and would, therefore, have no knowledge of their whereabouts in one of the three cities recommended as IFAs. If the claimant and the female do not wish to inform others of their presence in Lagos, Abuja or Ilorin there is no reason to believe that their location would be found out. Lagos, Abuja and Ilorin are located at a substantial distance from XXXX where the claimant's family members were apprehended by the police.

- [20] If the authorities have indeed been searching for the claimant and female claimant, they have not found them and I reasonably assume the authorities have stopped searching. The claimant provided no persuasive evidence that he or the female claimant would be a matter of continued or nation-wide interest. I considered the documentary evidence regarding the Nigerian police.²³ The Nigerian Police Force (NPF) is a federal organization, as Counsel submitted, that has divided the country into twelve zones. As of 2006, there were approximately 392 000 NPF staff with a quarter of the staff performing personal protection and guard duties. In the last decade, the NPF has expanded its ranks and nearly forty percent of staff was recruited in that time. However, because of a lack of training facilities a large number of the new police personnel are unqualified and undertrained. In general, Nigerian police officers are poorly trained and incompetent. The NPF has limited capacity for intelligence and criminal investigations. Police stations lack the resources to investigate more complicated cases and many stations do not keep adequate documentation of their work. Without sufficient funding the NPF is struggling to fulfill its duties. Also, because of the lack of funding, intelligence and information gathering is virtually broken. Most police stations are badly maintained and poorly equipped. The police work without basic equipment such as stationery for recording statements from suspects, gasoline for police vehicles, batteries for mobile phone units, bulletproof vests, handcuffs and similar day-to-day needs. In many cases the police ask the public to pay for expenses incurred during an investigation. I am not persuaded that the police are competent and well enough equipped, let alone interested, to search for the claimant and the female, throughout the country.
- [21] Thus, the claimant failed to provide a reasonable explanation as to why he believes he or the female claimant would be discovered and/or harmed in Lagos, Abuja or Ilorin.
- [22] As a result of the foregoing analysis, I find that, on a balance of probabilities, the claimant and the female claimant could live in Lagos, Abuja or Ilorin without serious possibility of persecution.
- [23] With respect to the second prong, I am not persuaded that it would be unreasonable for the claimant or the female claimant to live in Lagos, Abuja or Ilorin.
- [24] The claimant provided no persuasive evidence that he or the female claimant would not be familiar with cultural issues and norms in Lagos, Abuja or Ilorin. I note that the claimant and the female claimant already travelled approximately half way across the world to Canada settled in Toronto. This is a reasonable indication of their mobility capacity and ability to assimilate in different places. Therefore, I am satisfied that it would be reasonable for the claimant and the female claimant to adapt to new surroundings in Nigeria. Lagos,

Abuja and Ilorin are accessible.²⁴

- [25] The claimant and the female claimant are both single. The claimant has XXXX XXXX XXXX years of formal education including four years of post-secondary education in Canada.²⁵ He has experience working as a XXXX XXXX and XXXX XXXX in Canada.²⁶ The female claimant has XXXX years of formal education including two years of post-secondary education in Canada.²⁷ She has experience working as a XXXX XXXX and XXXX XXXX in Canada.²⁸ According to the independent documentary evidence, fewer than one million students, out of a population of over 150 000 000, were attending university in Nigeria in 2005.²⁹ I conclude that the claimant and the female claimant have the advantage of much more education than the average Nigerian. I believe that for the claimant and the female claimant their educational achievements and work skills are transferable to employment in Lagos, Abuja or Ilorin. The first language for the claimant and the female claimant is English, which is the official language of Nigeria. Based on their family history, education, employment history and language skills, there is no persuasive evidence to suggest that the claimant or the female claimant would be at a greater disadvantage of finding employment than any other Nigerian in Lagos, Abuja or Ilorin.
- [26] The claimant testified that he is in contact with family members in Nigeria. He testified that the family lawyer provided the various documents for the hearing. The claimant provided no persuasive evidence that his family or the family lawyer in Nigeria could not continue to provide support to him and the female claimant. The documentary evidence³⁰ states that, although most Nigerians depend upon their family, relying on immediate and extended family is not the only option. Many Nigerians try to establish other support networks that may complement or in some cases replace the extended family. Examples of such support networks are religious congregations, religious organizations, age grades/sets, political organizations, charities, secret societies and guilds. Many such organizations are expected to aid their members in ways that would be fairly unusual in a western context. The claimant, as did the female claimant, stated that he is a Christian of Anglican denomination.³¹ The documentary evidence states that the southern states of Nigeria, in which Lagos and Ilorin are located, are predominantly Christian; Christians and Muslims are approximately equal in number in Abuja.³² It is open to the claimant and the female claimant to join a Christian community or any other organization if they so wish. For these reasons, I am satisfied that the claimant and the female have sources of assistance whether it is moral support or spiritual, which could be available to him in Nigeria. I assume that the claimant and the female claimant would provide support for one another as they have in their claim for refugee protection. I, therefore, do not believe that the female claimant would find herself a single, young woman living on her own in Nigeria.
- [27] As previously stated, the claimant and female claimant belong to the Isoko ethnic group.³³ The documentary evidence states that all ethnic groups are represented in all large Nigerian cities and, therefore, ethnic affiliation is generally not a major issue in connection with internal relocation in Nigeria. I, therefore, believe that the claimant and female claimant

could find people of their own ethnic group in Lagos, Abuja and Ilorin. I have stated that the claimant and female claimant speak English. Thus, I conclude that they would not be hindered by ethnic or language considerations in any of the IFA locales.

- [28] In considering all of the circumstances, including those particular to the claimant and the female claimant, I find that it would not be unreasonable for them to seek refuge in Lagos, Abuja or Ilorin. There was no persuasive evidence to suggest that they would have to hide should they live in any one of these three cities, nor is there any persuasive evidence to suggest that their safety would be, in any way, jeopardized. I find that Lagos, Abuja and Ilorin are reasonable locations, in all circumstances, for the claimant and the female claimant to seek refuge.
- [29] I find that there is an IFA for the claimant and the female in Lagos, Abuja or Ilorin, Nigeria. Therefore, I conclude that the claimant is not a Convention refugee. Section 97 (1)
- [30] The claimant advanced no persuasive evidence to suggest he would face any danger, that is more likely than not, of torture within the meaning of Article 1 of the Convention against Torture.
- [31] Given the finding above, that the claimant has an IFA in Nigeria, I find that his removal would not subject him personally to a risk to his life, or of cruel and unusual treatment or punishment if he returned to Nigeria.

CONCLUSION

- [32] I, therefore, determine that the claimant is neither a Convention refugee, pursuant to section 96 of IRPA, nor is he a person in need of protection, pursuant to section 97(1) of IRPA. The Refugee Protection Division rejects the claimant's claim.
- [33] Given that the female claimant's claim is dependent upon the claimant's claim I determine that the female claimant is neither a Convention refugee, pursuant to section 96 of IRPA, nor is she a person in need of protection, pursuant to section 97(1) of IRPA. The Refugee Protection Division rejects the female claimant's claim. (signed) "L. Mason" L. Mason May 28, 2012 Date REFUGEE PROTECTION DIVISION / PARTICULAR SOCIAL GROUP / FAMILY / ENTREPRENEUR / VICTIM OF TORTURE / STUDENT / VISA / CONTRADICITONS / EVIDENCE / INTERNAL FLIGHT ALTERNATIVE / MALE / FEMALE / NEGATIVE / NIGERIA 1 Immigration and Refugee Protection Act, S.C. 2001, c.27, sections 96, 97(1)(a) and 97(1)(b). 2 Exhibit R/A - 2 3 Exhibit R/A - 2 4 Maldonado v. Canada (Minister of Employment and Immigration), [1980] 2 F.C. 302 (C.A.). 5 Dan-Ash v. Canada (M.E.I.) [1998], 93 N.R. 33 (F.C.A.). 6 Chen v. Canada (Citizenship and Immigration) 2009 FC 677 Date: January 9, 2009. 7 Ibid. 8 Exhibit C - 1, question 31. 9 Ibid., question 6. 10 Ibid. page 13. 11 Basseghi, Kourosh v. M.C.I. (F.C.T.D., no. IMM-2227-94), Teitelbaum, December 6, 1994. 12 Exhibit C - 1, question 31. 13 Exhibit C - 7 pages 2 and 3. 14 Rasaratnam v. M.E.I., [1992] 1 F.C.706 (C.A.) at 710. 15 Thirunavukkarasu v. M.E.I., [1994] 1 F.C.589 (C.A.). 16 Rasaratnam v. M.E.I., [1992] 1 F.C.706 (C.A.) at 710. 17 Thirunavukkarasu v. M.E.I., [1994] 1 F.C.589 (C.A.). 18 Syvyryn, Ganna v.

M.C.I. (F.C., no. IMM-1569-09), Snider, October 13, 2009, 2009 FC 1027. 19 Exhibit R/A - 3, item 2.3, United Kingdom Home Office, Operational Guidance Note: Nigeria,, 14 April 2009. 20 Exhibits R/A - 1, unit 1.4; C - 6. 21 Exhibits C - 1, question 1 and C - 2, question 1. 22 Exhibit R/A - 3, Item 1.4, Norway. 2006. Landinfo, Country of Origin Information Centre. Geir Skogseth. Report - Fact-Finding Trip to Nigeria (Abuja, Lagos and Benin City) 12-26 March 2006. 23 Exhibit R/A-3, Item 2.1, United States (US). 8 April 2011. Department of State. "Nigeria." Country Reports on Human Rights Practices for 2010, page 14 of 59; Item 2.2, United Kingdom (UK). 6 April 2011. Home Office. Country of Origin Information (COI) Report: Nigeria. unit 8.05; Item 10.3, NGA102889.E. 31 July 2008. Structure and size of the police force; availability of complaint mechanisms; whether there is communication between the divisions and commands across the country; whether authorities in Sharia states can execute their warrants, make arrests and lay charges in non-Sharia states. 24 Exhibit R/A-3, Item 2.1 United States (US). 8 April 2011. Department of State. "Nigeria." Country Reports on Human Rights Practices for 2010. 25 Exhibit C-1, question 6. 26 Exhibit C-1, question 7. 27 Exhibit C-2, question 6. 28 Exhibit C-2, question 7. 29 Exhibit R/A-1, Item 1.5. 30 Exhibit R/A-1, Item 1.4, Norway. 2006. Landinfo, Country of Origin Information Centre. Geir Skogseth. Report - Fact-Finding Trip to Nigeria (Abuja, Lagos and Benin City) 12-26 March 2006, para. 2.4. 31 Exhibit C-1 and C - 2, question 1(h). 32 Exhibit R/A-1, Item 12.1, United States (US). 17 November 2010. Department of State. "Nigeria." International Religious Freedom Report 2010. 33 Exhibit C-1, question 1(g).

RPD.15.7 (February 12, 2009) Disponible en français RPD.15.7 (February 12, 2009) Disponible en français RPD File No. : TB1-15958 TB1-15961 RPD File No. :TB1-15958 TB1-15961

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

CASE PAGE <https://chat.esheria.ai/case-law/canada/credibility-refugee-protection-division-2012--6a40c3cc4cf2c72690fb8c36>

A source URL was not supplied in the case record. Consult the court's original record before reliance.

Prepared on 28 October 2026 · Esheria