

CANADA / JUDGMENT

MB9-07933

COURT

Refugee Appeal Division

DECIDED

30 January 2020

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RAD File / Dossier de la SAR : MB9-07933 MB9-07934 / MB9-07935 / MB9-07936 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 XXXXXXXXXXX XXXX XXXX Personnes en cause Appeal considered / heard at Toronto, ON Appel instruit / entendu à Date of decision January 30, 2020 Date de la décision Panel Maureen Carter-Whitney Tribunal Counsel for the persons who are the subject of the appeal Johnson Babalola 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) and her two daughters, XXXX XXXX XXXX XXXX XXXX XXXX XXXX (Minor Female Appellants), and her son, XXXX XXXX XXXX (Minor Male Appellant), are all citizens of Nigeria. They appeal a decision of the Refugee Protection Division (RPD), dated November 14, 2018, rejecting their claims for refugee protection. The Appellants argue that the RPD erred in assessing their claims, and ask the Refugee Appeal Division (RAD) to allow their appeal and determine that they are Convention Refugees.

DETERMINATION

- [2] 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 paragraph 111(1)(a) of the Immigration and Refugee Protection Act (IRPA).¹ BACKGROUND AND PROCEDURAL MATTERS
- [3] The Appellants allege that the Principal Appellant's husband's extended family wants to perform female genital mutilation (FGM) on the Minor Female Appellants, and primarily the eldest Minor Female Appellant. The Appellants further allege that they face threats of harm from members of the extended family because the Principal Appellant and her husband refuse to have the Minor Female Appellants undergo FGM.²

- [4] The RPD found that the Principal Appellant's testimony was not credible in several areas and made an overall finding that she was not credible regarding the allegations that the Appellants would be exposed to the serious possibility of harm from the Principal Appellant's in-laws. The RPD also found that the Appellants had a viable internal flight alternative (IFA) in Port Harcourt or Aba.
- [5] The Appellants argue that the RPD erred in its assessment of the Appellants' credibility and in its IFA assessment.
- [6] On December 13, 2019, the RAD notified the Appellants of an updated National Documentation Package (NDP), dated November 29, 2019, directing them to items 5.9 and 13.1 of the NDP. The RAD also gave notice that an additional IFA of Abuja would be considered on appeal.³ The RAD received submissions from the Appellants in response on December 30, 2019.⁴ At that time, the Appellants also submitted new evidence under Rule 29 of the RAD Rules.⁵ DETERMINATIVE ISSUE
- [7] I find the determinative issue to be whether the Appellants have a viable IFA in Abuja, Port Harcourt or Aba. ROLE OF THE RAD
- [8] In determining this appeal, I have considered whether the decision of the RPD is correct on all questions of law, fact or mixed law and fact.⁶ In doing so, I have carried out my own independent analysis of the evidence before the RPD to determine whether, as the Appellant submits, the RPD erred. In this matter, I am reviewing the RPD's decision on the standard of correctness, as I do not find that the RPD enjoyed any meaningful advantage on a finding of credibility on the oral evidence. NEW EVIDENCE AND ORAL HEARING Evidence provided with the perfection of the appeal
- [9] The Appellants tendered the following documents as new evidence when they perfected their appeal: Federal Court Certificate of Order, issued March 25, 2019, on the Appellants' application for judicial review;⁷ and a Nigerian Inter Bank Settlement System document, dated March 8, 2019, about the use of Bank Verification Numbers by the Central Bank of Nigeria.⁸
- [10] For the following reasons, I have not admitted this evidence.
- [11] Under s. 110(4) of the IRPA, the Appellants may present only evidence that arose after the rejection of their claims or that was not reasonably available at the time of the rejection, or that they could not reasonably have been expected in the circumstances to have presented, at the time of the rejection.⁹ Where evidence meets one of these requirements, the RAD must consider whether it passes the tests of credibility, relevance and newness affirmed by the Federal Court of Appeal in Singh.¹⁰
- [12] While the Federal Court Certificate of Order arose after the rejection of the Appellants' claims, it does not meet the test of relevance set out in Singh. To be considered relevant, evidence must be capable of proving or disproving a fact that is relevant to the claim for protection. I find that the evidence about the judicial review application is relevant to the

Appellants' request to extend the time to file this appeal but is not relevant to the question now before the RAD of whether the Appellants are Convention refugees or persons in need of protection.

- [13] The Nigerian Inter Bank Settlement System document does not meet the requirements of s. 110(4) of the IRPA. The Appellants have tendered a document that is a print-out of a webpage on the internet; the website address and other hyperlinks are provided on the first page, and the date "3/8/2019" appears at the top of every page of the document. The Appellants submit that this document was issued after the RPD decision was made and, therefore, did not exist before the RPD's rejection of the claims, but provide no submissions as to why this information could not have been put before the RPD. I note that the text of the document itself indicates that the centralized biometric identification system for Bank Verification Numbers was launched on February 14, 2014. I find that, although the physical document tendered by the Appellants was generated on March 3, 2019, the evidence related to Bank Verification Numbers did not arise after the rejection of claims. The information was reasonably available and the Appellants could reasonably have been expected to have presented it prior to the rejection of the claims. I find that the Appellants have not met their onus to establish why this new evidence should be accepted. New evidence submitted in response to request for submissions on IFA
- [14] On December 30, 2019, the Appellants tendered the following new evidence relating to their submissions in response to the RAD's direction: sworn affidavit evidence from the Principal Appellant;¹¹ an amended Schedule A form;¹² and documents to corroborate the fact that the Appellants lived in Abuja from 2008 to 2014.¹³
- [15] For the following reasons, I admit this evidence.
- [16] In determining whether to admit evidence provided in response to my request for submissions, I must apply s. 110(4) of the IRPA the tests in *Singh*, as set out above. I find that this evidence meets s. 110(4) as the Appellants could not reasonably have been expected in the circumstances to have presented it at the time of the RPD's rejection of the claim because it was only required after my request for submissions. While it could be argued that the Schedule A form could have been amended prior to the rejection of claim, I accept that the Appellants only noticed the omission of their address in Abuja on the Schedule A form after I gave notice of Abuja as an additional IFA. I further note that the personal history section of the Schedule A form already reflected that the Appellants lived there from 2008 to 2014. I also find that this evidence meets the tests in *Singh*. New evidence submitted in Rule 29 application
- [17] On December 30, 2019, the Appellants tendered the following new evidence in a Rule 29 application: sworn affidavit evidence from the Principal Appellant;¹⁴ a copy of the obituary announcement of the death of the Principal Appellant's father-in-law;¹⁵ and an affidavit sworn by the Principal Appellant's mother, with several copies of photographs attached.¹⁶

- [18] For the following reasons, I admit this evidence.
- [19] In deciding whether to allow this application to admit new evidence, Rule 29(4) requires me to consider any relevant factors, including: the document's relevance and probative value; any new evidence the document brings to appeal; and whether the Appellants, with reasonable effort, could have provided the document with their appeal record.¹⁷ If the evidence addresses the factors in Rule 29(4) to my satisfaction, I then determine whether it meets s. 110(4) of the IRPA and the Singh tests.
- [20] All of this new evidence arises from the death of the Principal Appellant's father-in-law in August 2019, after this appeal was perfected. In addition to his obituary, the affidavit evidence from the Principal Appellant's mother alleges that a member of the Principal Appellant's husband family visited her home, along with police officers, to accuse the Principal Appellant of witchcraft causing the father-in-law's death and to search the home. The Principal Appellant's affidavit evidence also addresses these events. I find that all of this evidence meets the factors in Rule 29(4), in that it is relevant and probative, brings new evidence to the appeal and could not have been provided by the Appellants with their appeal record because these events occurred after the appeal was perfected.
- [21] I find that this evidence also meets s. 110(4) of the IRPA, because it arose after the rejection of the Appellants' claims. For the purposes of the tests in Singh, I also accept this evidence to be credible, relevant and new. Therefore, I admit these three pieces of new evidence. Oral hearing
- [22] The Appellants have not requested an oral hearing before the RAD. However, having admitted new evidence, I have assessed whether an oral hearing is required. I find that it is not necessary to hold a hearing because none of this evidence raises a serious issue with respect to the Appellants' credibility, and so the conditions of s. 110(6) of the IRPA are not met.¹⁸

ANALYSIS

- [23] For the reasons that follow, I find that the Appellants have a viable IFA in Port Harcourt or Aba.
- [24] The test to be applied in determining whether there is a viable IFA is two-pronged, and both prongs must be satisfied for a finding that the Appellants have a viable IFA. First, I must find that there is no serious possibility of the Appellants being persecuted under s. 96, nor a risk to life, danger of torture or of cruel and unusual treatment or punishment under s. 97, on a balance of probabilities, in the suggested IFA. The Appellants bear the burden of proof to show that they face a section 96 or 97 risk in the entire country and specifically in the suggested potential IFA. Secondly, I must find that conditions in the suggested IFA are not such that it would be objectively unreasonable in all of the circumstances, including those particular to the Appellants, to relocate and reside there.¹⁹

- [25] As discussed below, I find that both prongs of the test are met in the proposed IFA locations of Port Harcourt and Aba because the Appellants have not established that they face a section 96 or 97 risk in Port Harcourt or Aba, or that it would be unreasonable for them to relocate to Port Harcourt or Aba. As discussed below, based on the Principal Appellant's evidence, I am not proposing Abuja as an IFA.
- [26] In assessing IFA, I have considered the Chairperson's Guideline 4: Women Refugee Claimants Fearing Gender-Related Persecution²⁰ (Gender Guideline) and Guideline 3: Child Refugee Claimants.²¹ While I have also considered the Jurisprudential Guide released by the Chairperson of the Immigration and Refugee Board, regarding IFA locations in major cities in south and central Nigeria for claimants fleeing non-state actors (Jurisprudential Guide),²² I have not relied on it because of the new country condition evidence included in the November 29, 2019 NDP.²³ The Appellants have not established that they face a section 96 or 97 risk in Abuja, Port Harcourt or Aba.
- [27] The RPD found that, even if the Principal Appellant believed that the Appellants were at risk of a serious possibility of persecution or harm from her in-laws, they had not submitted sufficient probative evidence that her husband's family are willing to pursue them in Port Harcourt or Aba, or have the power or influence to find them on their own or through state authorities.
- [28] The Appellants submit that they have discharged their onus to show, on a balance of probabilities, that they face a s. 96 or 97 risk in Port Harcourt and Aba, and in Nigeria in general. They argue that the RPD erred in assessing the first prong of the IFA test by: requiring definitive proof of the influence or willingness of the agents of persecution to reach them in the IFA locations, and not considering evidence indicating the willingness of the husband's family to harass and harm the Appellants wherever they are located; drawing a negative inference from the fact that the Appellants did not produce extrinsic documents to corroborate their story; not considering that the willingness of the Principal Appellant's husband's family's efforts to harass and harm the Appellants, noting that they had to change locations in Nigeria a number of times, and her husband received threats when he was working in Nigeria after the Appellants left the country; and failing to consider the Principal Appellant's evidence of harassment by means of phone calls from her husband's family, and that owners of cell phones may be tracked down by their biometrics, which are captured by the government.
- [29] In their additional submissions, provided in December 2019, the Appellants submit that the new evidence shows that the Principal Appellant's husband's family are able to use the police to harass their family members in order to seek information to locate the Appellants, and to search the Principal Appellant's mother's phone for information about the Appellants' whereabouts if they resettle in an IFA. The Appellants further submit that the new evidence about the Appellants' family members in Abuja indicate that they could be found there.

- [30] I have assessed the Appellants' evidence, including the Basis of Claim (BOC) Narrative and testimony, concerning the risk they face in Port Harcourt and Aba and find that they have not met the onus to establish, on a balance of probabilities, that there is a serious possibility that they will be persecuted under s. 96, or of a risk to life, danger of torture or of cruel and unusual treatment or punishment under s. 97. Below, I address the evidence concerning the nature of the risk, the Appellants' moves within Nigeria, telephone calls received by the Principal Appellant and the presence of family in the proposed IFA locations. Nature of risk
- [31] While the Principal Appellant expresses fear about the potential threats to her family, there is a lack of specific information about the precise nature of these threats or how these threats would be realized. She and her husband refer to spiritual threats and diabolical means of harming them but do not offer sufficient evidence concerning how such threats would be manifested. There is information about Oro ceremonies in the objective country condition evidence,²⁴ but it is provided in the context of different issues and is not probative evidence regarding the threats made by the Principal Appellant's father-in-law.
- [32] The evidence further indicates that the Principal Appellant's husband has been disowned by his family as a result of refusing FGM for the Female Minor Appellants.²⁵ This is consistent with the objective country condition evidence stating that the parent of a minor child who opposes their child undergoing FGM may face ostracism for going against tradition, but that, in general, this is unlikely to reach the threshold to constitute persecution or serious harm.²⁶
- [33] I have assessed the new evidence of the witchcraft allegations arising since the death of the Principal Appellant's father-in-law and the police visit to the Principal Appellant's mother's home. Notwithstanding that her in-laws now accuse the Principal Appellant of witchcraft, they can only carry out their alleged threats toward her if they are able to find the Appellants. In the Principal Appellant's mother's affidavit, her mother states that they entered by force, handcuffed her and searched her house to confirm that the Principal Appellant was not hiding there.²⁷ While the Appellants submit that the police may search the Principal Appellant's mother's phone to locate the Appellants, she does not state in her affidavit that the police searched her phone to find information about the Appellants, and there is no indication in the evidence that the police did so, or that they would be able to locate the Appellants in this manner. As a result, I give this evidence little probative weight in determining a risk to the Appellants if they relocate to the IFA. Moves within Nigeria
- [34] I also find that the Appellants' evidence concerning their moves to three different areas of Nigeria in 2016 does not demonstrate that they were being pursued by the Principal Appellant's in-laws. According to the evidence of the Principal Appellant and her husband, the Appellants spent approximately three months with a family friend in Abuja, four months with the Principal Appellant's brother in Jos and one month in Ipaja before leaving for the United States.²⁸ During the RPD hearing, the Principal Appellant testified that the Appellants left both Abuja and Jos because the person accommodating them there could not support and feed her and the children; additional reasons for leaving Abuja included the

expense of putting her children into school there and, in the case of Jos, they also left due to the presence of Boko Haram in that area.²⁹ The Principal Appellant's evidence demonstrates that the reasons for the Appellants moving to different locations in Nigeria related to circumstances other than threats from her husband's family. Telephone calls and social media

- [35] The Principal Appellant testified that she received telephone calls from members of her husband's family, in which they claimed to know her location while she was in hiding. However, she further testified that she had since terminated that cell phone.³⁰ Regarding the Appellants' argument that cell phones may be tracked down through biometrics, I find that the Appellants have not provided sufficient evidence to show that the Principal Appellant's in-laws would have the power and influence to obtain such biometric information from the government.
- [36] Regarding the Appellants' submission that the Principal Appellant will not be able to use social media if she relocates to an IFA, impinging on her right to freedom of speech and amounting to persecution, this issue has been inserted into the appeal but is not related to evidence in the RPD Record or findings by the RPD. Based on my assessment of the evidence, however, I find that limiting one's access to social media does not rise to the threshold of persecution, and the Principal Appellant has the choice to keep her home address and phone number private on social media.³¹ Presence of family in IFA locations
- [37] The Principal Appellant testified that the Appellants could not live in Port Harcourt and Aba because some members of her husband's large family are present in those cities and would find out about the Appellants' presence there.³² Port Harcourt and Aba are both large cities; Port Harcourt has a population of 2.343 million,³³ and Aba has a population of between 250,000 and one million people.³⁴ Although population size is not necessarily indicative of an IFA, the Appellants have not provided sufficient evidence to show how the Principal Appellant's in-laws could locate them in a city of that size.
- [38] I find that the Appellants have not provided sufficient evidence to establish how the Principal Appellant's husband's family would have the power or influence to locate them in Port Harcourt or Aba. The mere fact that some members of the extended family member live in those cities does not establish, on a balance of probabilities, a serious possibility of persecution or a section 97 risk in the IFA locations. Just because the Appellants believe they could be found or located in Port Harcourt or Aba does not make it so, and it is not sufficient for them to discharge their burden.
- [39] I note the new evidence provided by the Appellants regarding Abuja. In her affidavit evidence, the Principal Appellant names several members of her husband's family who live in Abuja and states that the Aribilola surname is unique. She states that the presence of these relatives would make it easy for her husband's family to locate the Appellants.³⁵ In assessing this evidence, I have applied the same reasoning as above. Abuja has a population of 2.44 million people, and the Appellants have not provided sufficient evidence to establish

how the Principal Appellant's husband's family would have the power or influence to locate them in Abuja. However, for the reasons discussed below, I do not find Abuja to be an IFA for the Appellants.

- [40] In a recent decision, the Federal Court held that a finding of a lack of evidence establishing an individual's influence and connections does not represent an adverse credibility determination or offend the principle surrounding corroborative evidence, where an appellant's testimony relates only to their belief and not to any facts in support of that belief.³⁶ Although I accept that the Principal Appellant's evidence reflects her subjective fear of persecution, she has not provided sufficient evidence in support of that belief and it is not objectively supported by the country condition evidence. Finding on prong 1
- [41] I find that the Appellants have not established that they face a serious possibility of persecution, or a personal risk to life, risk of torture or risk of cruel and unusual punishment or treatment, on a balance of probabilities, in the IFA locations. The Appellants have not established that it would be unreasonable for them to relocate to Port Harcourt or Aba
- [42] The RPD found that it is not objectively unreasonable for the Appellants to seek refuge in the IFA locations. The RPD further found that the Principal Appellant had not shown that she would be a single mother or a woman heading a household in Nigeria, because there was not sufficient probative evidence that her husband would not accompany the Appellants to live with them in Port Harcourt or Aba if they returned there.
- [43] The Appellants submit that the RPD failed to assess the Principal Appellant's testimony regarding their inability to relocate to the IFA locations identified, and based its findings on speculation rather than positive evidence of safety in those locations. The Appellants also submit that the RPD failed to consider the gender of the female Appellants and the impact of the Gender Guideline on IFA relocation.
- [44] The Appellants argue, in their additional submissions, that the Appellants would be returning to Nigeria as a female-headed household. The Appellants note the challenges for a female-headed household relocating to an IFA in Nigeria, as set out in the November 29, 2019 NDP,³⁷ submitting that: factors favourable to the Appellants resettling in one of the IFAs will be outweighed by factors making it difficult for them; without connections or family wealth, the Principal Appellant's education will not mitigate the hardship of resettling; and her ability to communicate in English will not make a difference if she is unable to secure employment or does not have the resources to start a business. The Appellants also submit that the updated NDP confirms that indigeneship is a serious issue for non-indigenes settling in new parts of Nigeria.³⁸
- [45] I have considered whether or not the Principal Appellant would be head of the household in an IFA. Regarding their marital relationship, both the Principal Appellant and her husband expressed, in their evidence, the hope that they will reunite. The Principal Appellant stated that she and her husband are currently working on their relationship,³⁹ and she testified

that her husband wants to be reunited with the Appellants and that her children are asking for him and cannot do without him.⁴⁰ Her husband stated in his letter that he feels closer to his family and is hopeful that he will be reunited with them again.⁴¹ In the Principal Appellant's affidavit evidence, sworn December 27, 2019, she stated that her husband's concerns for his safety make it "impracticable for him to relocate to Abuja with us," so she would have to live there as a single woman.⁴²

- [46] Although it is possible that the Principal Appellant and her husband may reunite, I have considered the Appellants to be a female-headed household in assessing whether it would be unreasonable for the Appellants to relocate to an IFA. However, because the Principal Appellant and her husband may reunite, I have taken Abuja out of consideration as a possible IFA based on the Principal Appellant's evidence that her husband would not relocate to Abuja with the Appellants.
- [47] Therefore, I now turn to an assessment of Port Harcourt and Aba as IFAs for the Appellants, noting that there is a very high threshold for the unreasonableness test, which requires actual and concrete evidence of the existence of conditions that would jeopardize the life and safety of the Appellants.⁴³ Transportation and travel
- [48] Port Harcourt has an international airport,⁴⁴ and Aba is within 100 kilometres of Port Harcourt.⁴⁵ However, the Appellants submit that this will make it easy for the agents of persecution to travel easily to the IFA location, so the Appellants will have to move around the IFA location in a clandestine manner as they will be within the reach of their persecutors.
- [49] Given my conclusion above that there is not sufficient probative evidence to establish how the Principal Appellant's husband's family would be able to locate the Appellants in Port Harcourt or Aba, I find that the international airport located in Port Harcourt and near Aba is a factor to be weighed in favour of the IFAs. I have considered the Gender Guideline,⁴⁶ and find that the Principal Appellant's gender would not make it unreasonable or unduly harsh for her to travel with the Minor Appellants from Canada to Port Harcourt or Aba, as they would not have other transportation or travel concerns. Language
- [50] The Appellants submit that English is not the language spoken in daily life in the IFAs, notwithstanding that it is the official language, and that the RPD should have considered that the Principal Appellant testified in Yoruba rather than English at the hearing. They argue that the country condition evidence indicates that people do not use English in their daily lives.

- [51] The Principal Appellant indicated in her BOC that she speaks both Yoruba and English.⁴⁷ English is the official language of Nigeria⁴⁸ and the most up-to-date country condition evidence indicates that there is no language barrier in cities, including Port Harcourt, unless a person is not English-speaking.⁴⁹ While language is only one of the factors to consider in assessing reasonableness, the Principal Appellant's ability to communicate in English weighs in favour of the IFAs. Employment
- [52] The RPD found that the Principal Appellant had not shown that she would not be able to find sufficient work or paid employment in Port Harcourt or Aba, or that she and the other Appellants would not have sufficient financial support from her husband. The Appellants submit the country condition evidence shows that Nigeria is experiencing an economic recession and education may not indicate employability where opportunities do not exist. The Appellants further submit that only oil industry jobs are available in Port Harcourt, that the few government jobs available do not go to non-indigenes, and that updated information in the November 29, 2019 NDP indicates that non-indigenous informal workers who seek jobs that indigenous peoples are capable of doing are usually frustrated in informal manners, up to possible threats.⁵⁰
- [53] Regarding female-headed households, the objective country condition evidence indicates that while there are difficulties for female-headed households in Nigeria,⁵¹ professional women who are well-educated may not experience many problems, and relocating to another city without male or family support could be facilitated by possessing skills that are in demand in the labour market.⁵² Although there are high rates of unemployment and underemployment, the country condition evidence shows that the employment rate of women generally increases with their level of education, and that women with more than a secondary education were more likely to be engaged in "professional/technical/managerial" work.⁵³ Also, more well-educated women are entering the expanding private sector, including banking.⁵⁴ The country condition evidence further indicates that: while it may be difficult for non-indigenes to find employment in government jobs, candidates for private sector jobs generally are assessed based on merit and these private companies recruit people who have the necessary experience;⁵⁵ indigeneship status is less important in big cities, including Port Harcourt and non-indigenes generally can find work in most industries, where there is a demand for it;⁵⁶ and the ability to find gainful employment is facilitated by a good level of education, experience or expertise.⁵⁷
- [54] The Principal Appellant worked in the XXXX XXXX in Nigeria before starting her own XXXX selling XXXX XXXX. Although she testified that her level of education and past work experience would not be adequate to find a job in the IFA locations,⁵⁸ I note that the Principal Appellant completed 17 years of school, obtaining a Bachelor's degree in XXXX.⁵⁹ I find that the combination of her work experience and 17 years of education, which is above the Nigerian average of 8-9 years of school,⁶⁰ will increase her likelihood of finding employment in Port Harcourt or Aba. While indigeneship may influence access to employment within the civil or public service,⁶¹ this factor will be mitigated by the

Principal Appellant's high level of education, past work experience in the private sector and the fact that indigeneship status is a less important factor in large cities. Although the unemployment rate is high in Nigeria, most Nigerian citizens must contend with this. The Appellants have not provided specific evidence about how the high unemployment rate in Nigeria would make the proposed IFAs unreasonable or unduly harsh. Education

- [55] The Appellants submit that non-indigenes do not have access to free public education and the cost of education is high. The objective country condition evidence indicates that, while female-headed households can access public services such as education, they may have to pay for it.⁶² The country condition evidence further indicates that indigenes are granted preference in education, and non-indigenes might have to pay higher school fees.⁶³ For example, while indigenes of Rivers State may attend schools in Port Harcourt for free or a discounted rate, non-indigenes pay the full fee.⁶⁴ However, while education may be a cost for the Appellants, I find that they have not shown that this would make Port Harcourt or Aba unreasonable or unduly harsh as IFAs. Accommodation
- [56] The updated country condition evidence on female-headed households indicates that, due to discrimination against women seeking housing, they may take a male friend or relative with them to pose as their husband when negotiating rental accommodation. The evidence also states that there is a general lack of adequate housing in Nigeria and it is expensive.⁶⁵ The country condition evidence further indicates that: non-indigeneity does not necessarily influence access to housing and the ability to find employment is a key factor;⁶⁶ and female-headed households with sufficient funds would be able to access accommodation.⁶⁷ Based on the evidence of the Appellants, I find that they have not demonstrated that this factor would make relocating to Port Harcourt or Aba unreasonable or unduly harsh in their particular case. Religion
- [57] The Appellants made no submissions on this factor, although the Principal Appellant did testify that she is Christian. The country condition evidence indicates that religion is not an obstacle to relocating to Port Harcourt or Aba. The South is predominantly Christian and there is a Christian community in Port Harcourt.⁶⁸ I find that religion will not be an adverse factor for the Appellants. Indigeneship
- [58] The RPD found that the Appellants had not submitted probative evidence showing that their ethnic origin would be an obstacle for relocating to IFA areas proposed. The Appellants submit that they will face discrimination based on their ethnicity in the proposed IFAs due to the nature of indigeneship in Nigeria.
- [59] According to the country condition evidence, indigeneship status is less important in big cities, such as Port Harcourt,⁶⁹ which attracts people from all over the country.⁷⁰ The November 29, 2019 country condition evidence states that internal migration within Nigeria is the norm, that all large cities have quite large migrant communities, and that issues of indigeneity are nonexistent in most cosmopolitan and urban Nigerian cities.⁷¹ I find that the Appellants have not shown that any discrimination they may face in Port Harcourt or

Aba, based on ethnicity or non-indigeneship, would rise to the level that it would render those IFAs unreasonable or unduly harsh. Health care

- [60] According to the objective country condition evidence, female-headed households may have to pay in order to access public services such as health care.⁷² However, the country condition evidence also indicates that the ability to access health services is largely a function of the ability to pay for all Nigerians, and non-indigeneity does not influence access.⁷³ Therefore, I find that this factor does not indicate that it would be unreasonable or unduly harsh for the Appellants to relocate to Port Harcourt or Aba. Finding on prong 2
- [61] I find that the Appellants have not established that it would be unreasonable for them to relocate to Port Harcourt or Aba.

CONCLUSION

- [62] After independently assessing the evidence, I find that the Appellants have a viable IFA in Port Harcourt or Aba. This is the determinative issue in the claims.
- [63] 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 paragraph 111(1)(a) of the IRPA. (signed) "Maureen Carter-Whitney" Maureen Carter-Whitney January 30, 2020 Date 1 Immigration and Refugee Protection Act, S.C. 2001, c. 27, as amended. 2 Exhibit RPD-1, RPD Record, Exhibit 1, Basis of Claim (BOC), pgs. 18-30, and Addenda to BOC Narrative, pg. 38. 3 Exhibit RAD-1, Member's Direction, December 13, 2019. 4 Exhibit P-3, Response to Member's Direction and Rule 29 Application, December 30, 2019. 5 Can. Reg. 2012-257 - Refugee Appeal Division Rules, made under the Immigration and Refugee Protection Act. 6 Subsections 110-111, IRPA; *M.C.I. v. Huruglica, Bujar* (F.C.A., no. A-470-14), Gauthier, Webb, Near, March 29, 2016, 2016 FCA 93. 7 Exhibit P-2, Appellants' Record, Exhibit A, pg. 13. 8 Exhibit P-2, Appellants' Record, Exhibit B, pgs. 15-19. 9 IRPA, at ss. 110(4). 10 *Canada (Citizenship and Immigration) v. Singh*, [2016] 4 FCR 230, 2016 FCA 96. 11 Exhibit P-3, Response to Member's Direction and Rule 29 Application, Affidavit of XXXXX XXXXX XXXX, December 27, 2019, pgs. 6-7, paras. 12-23. 12 Exhibit P-3, Response to Member's Direction, Exhibit C, pg. 19. 13 Exhibit P-3, Response to Member's Direction, Exhibit D, pgs. 22-26. 14 Exhibit P-3, Response to Member's Direction and Rule 29 Application, Affidavit of XXXXX XXXX XXXXX, December 27, 2019, pgs. 5-6, paras. 4-11. 15 Exhibit P-3, Rule 29 Application, Exhibit A, pg. 10. 16 Exhibit P-3, Rule 29 Application, Exhibit B, pgs. 12-16. 17 RAD Rule 29(4). 18 IRPA, at ss. 110(6)(a). 19 *Rasaratnam v. Canada (MEI)*, [1992] 1 FC 706, at pgs. 709-710. 20 Chairperson's Guideline 4: Women Refugee Claimants Fearing Gender-Related Persecution: Update, Guidelines Issued by the Chairperson Pursuant to Section 65(3) of the Immigration Act, IRB, Ottawa, November 25, 1996, as continued in effect by the Chairperson on June 28, 2002, under the authority found in section 159(1)(h) of the IRPA. 21 Chairperson's Guideline 3: Child Refugee Claimants: Procedural and Evidentiary Issues, Guidelines issued by the Chairperson pursuant to section 65(3) of the Immigration Act, IRB, Ottawa, September 30, 1996, as continued in effect by the

Chairperson on June 28, 2002 pursuant to section 159(1)(h) of the IRPA. 22 X(Re), 2018 CanLII 52123 (CA IRB), Identified by the Chairperson as a Jurisprudential Guide on July 6, 2018. 23 Exhibit RAD-1, National Documentation Package for Nigeria (29 November 2019), items 5.9 and 13.1. 24 Exhibit RPD-1, RPD Record, Exhibit 3, National Documentation Package for Nigeria (10 July 2018), item 5.23. 25 Exhibit RPD-1, RPD Record, Exhibit 1, Basis of Claim, pg. 23, and RPD audio recording of the hearing, October 11, 2018, at 25:46. 26 Exhibit RPD-1, RPD Record, Exhibit 3, National Documentation Package for Nigeria (10 July 2018), item 5.30, at pg. 6. 27 Exhibit P-3, Rule 29 Application, Exhibit B, pgs. 12-13. 28 Exhibit RPD-1, RPD Record, Exhibit 5, pg. 189, and RPD audio recording of the hearing, October 11, 2018, at 37:30. 29 RPD audio recording of the hearing, October 11, 2018, at 42:56. 30 RPD audio recording of the hearing, October 11, 2018, at 56:34. 31 Rizwan v. Canada (Citizenship and Immigration), 2017 FC 456 (CanLII), at para. 14. 32 RPD audio recording of the hearing, October 11, 2018, at 49:30. 33 Exhibit RPD-1, RPD Record, Exhibit 3, National Documentation Package for Nigeria (10 July 2018), item 1.6, at pg. 3. 34 Exhibit RPD-1, RPD Record, Exhibit 3, National Documentation Package for Nigeria (10 July 2018), item 1.1. 35 Exhibit P-3, Response to Member's Direction and Rule 29 Application, Affidavit of XXXXX XXXX XXXXXX December 27, 2019, pgs. 6-7, paras. 13, 17 and 18. 36 Kassim v. Canada (Citizenship and Immigration), 2018 FC 621 (CanLII), at para. 22. 37 Exhibit RAD-1, National Documentation Package for Nigeria (29 November 2019), item 5.9. 38 Exhibit RAD-1, National Documentation Package for Nigeria (29 November 2019), item 13.1. 39 Exhibit RPD-1, RPD Record, Exhibit 1, Addenda to BOC Narrative, pg. 38. 40 RPD audio recording of the hearing, October 11, 2018, at 1:07:31 and 1:10:08. 41 Exhibit RPD-1, RPD Record, Exhibit 5, pg. 189. 42 Exhibit P-3, Response to Member's Direction and Rule 29 Application, Affidavit of XXXXX XXXXXX XXXXXX December 27, 2019, p.7, para. 20. 43 Ranganathan v. Canada (Minister of Citizenship and Immigration), 2000 CanLII 16789 (FCA), [2001] 2 F.C. 164, 266 N.R. 380 (F.C.A.) at para. 15. 44 Exhibit RPD-1, RPD Record, Exhibit 3, National Documentation Package for Nigeria (10 July 2018), item 1.7, at pg. 9. 45 Exhibit RPD-1, RPD Record, Exhibit 3, National Documentation Package for Nigeria (10 July 2018), item 1.1. 46 Gender Guideline at C, 4 states that, in determining the reasonableness of an IFA, decision-makers should: consider the ability of women, because of their gender, to travel safely to the IFA and stay there without facing undue hardship. 47 Exhibit RPD-1, RPD Record, Exhibit 1, Basis of Claim, pg. 19. 48 Exhibit RPD-1, RPD Record, Exhibit 3, National Documentation Package for Nigeria (10 July 2018), item 1.6, at pg. 2. 49 Exhibit RAD-1, National Documentation Package for Nigeria (29 November 2019), item 13.1, at pg. 14. 50 Exhibit RAD-1, National Documentation Package for Nigeria (29 November 2019), item 13.1, at pg. 17. 51 Exhibit RAD-1, National Documentation Package for Nigeria (29 November 2019), item 5.9, at pg. 2. 52 Exhibit RAD-1, National Documentation Package for Nigeria (29 November 2019), item 5.9, at pgs. 9 and 13. 53 Exhibit RAD-1, National Documentation Package for Nigeria (29 November 2019), item 5.9, at pgs. 5-6. 54 Exhibit RAD-1, National Documentation Package for Nigeria (29 November 2019), item 5.9, at pg. 7. 55 Exhibit RPD-1, RPD Record, Exhibit 3, National Documentation Package for Nigeria (10 July 2018), item 12.6 [now item 16.13 in the National Documentation Package for Nigeria (29 November 2019)], at pgs. 7-8. 56 Exhibit

RPD-1, RPD Record, Exhibit 3, National Documentation Package for Nigeria (10 July 2018), item 13.1 [now item 16.14 in the National Documentation Package for Nigeria (29 November 2019)], at pg. 9. 57 Exhibit RAD-1, National Documentation Package for Nigeria (29 November 2019), item 13.1, at pgs. 13-14. 58 RPD audio recording of the hearing, October 11, 2018, at 1:13:40. 59 Exhibit RPD-1, RPD Record, Exhibit 2, Schedule A - Background/Declaration, at pg. 79. 60 Exhibit RPD-1, RPD Record, Exhibit 3, National Documentation Package for Nigeria (10 July 2018), item 1.6, at pg. 4. 61 Exhibit RAD-1, National Documentation Package for Nigeria (29 November 2019), item 13.1, at pg. 7. 62 Exhibit RAD-1, National Documentation Package for Nigeria (29 November 2019), item 5.9, at pg. 15. 63 Exhibit RAD-1, National Documentation Package for Nigeria (29 November 2019), item 13.1, at pgs. 9-10. 64 Exhibit RPD-1, RPD Record, Exhibit 3, National Documentation Package for Nigeria (10 July 2018), item 12.6 [now item 16.13 in the National Documentation Package for Nigeria (29 November 2019)], at pg. 7. 65 Exhibit RAD-1, National Documentation Package for Nigeria (29 November 2019), item 5.9, at pgs. 2-3, Exhibit RPD-1, RPD Record, Exhibit 3, National Documentation Package for Nigeria (10 July 2018), item 12.6 [now item 16.13 in the National Documentation Package for Nigeria (29 November 2019)], at pgs. 5-6, and Exhibit RAD-1, National Documentation Package for Nigeria (29 November 2019), item 13.1, at pg. 13. 66 Exhibit RAD-1, National Documentation Package for Nigeria (29 November 2019), item 13.1, at pgs. 8, 9, 13 and 14. 67 Exhibit RAD-1, National Documentation Package for Nigeria (29 November 2019), item 5.9, at pg. 11. 68 Exhibit RPD-1, RPD Record, Exhibit 3, National Documentation Package for Nigeria (10 July 2018), item 12.6 [now item 16.13 in the National Documentation Package for Nigeria (29 November 2019)], at pgs. 1-2. 69 Exhibit RPD-1, RPD Record, Exhibit 3, National Documentation Package for Nigeria (10 July 2018), item 13.1 [now item 16.14 in the National Documentation Package for Nigeria (29 November 2019)], at pg. 9. 70 Exhibit RPD-1, RPD Record, Exhibit 3, National Documentation Package for Nigeria (10 July 2018), item 12.6 [now item 16.13 in the National Documentation Package for Nigeria (29 November 2019)], at pg. 1. 71 Exhibit RAD-1, National Documentation Package for Nigeria (29 November 2019), item 13.1, at pgs. 12-13. 72 Exhibit RAD-1, National Documentation Package for Nigeria (29 November 2019), item 5.9, at pg. 15. 73 Exhibit RAD-1, National Documentation Package for Nigeria (29 November 2019), item 13.1, at pg. 10, and Exhibit RPD-1, RPD Record, Exhibit 3, National Documentation Package for Nigeria (10 July 2018), item 12.6 [now item 16.13 in the National Documentation Package for Nigeria (29 November 2019)], at pgs. 6-7.

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