

CANADA / JUDGMENT

MB9-22375

COURT

Refugee Appeal Division

DECIDED

3 September 2020

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RAD File / Dossier de la SAR : MB9-22375

MB9-22376 / MB9-22377

Private Proceeding / Huis clos

Reasons and decision ? Motifs et décision

Persons who are the subject of the appeal

XXXX XXXX

(a.k.a. XXXX XXXX XXXX)

XXXX XXXX XXXX

(a.k.a. XXXX XXXX XXXX)

XXXX XXXX

Personnes en cause

(a.k.a. XXXX XXXX XXXX)

Appeal considered / heard at

Toronto, ON

Appel instruit / entendu à

Date of decision

Date de la décision

Panel

Christopher Marcinkiewicz

Tribunal

Counsel for the persons who are the subject of the appeal

Mbong Elvira Akinyemi

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] The principal appellant, XXXX XXXX, her adult daughter XXXX XXXX (the co-appellant), and minor son XXXX XXXX (minor appellant), appeal a decision of the Refugee Protection Division (RPD) dated August 30, 2019, rejecting their claims for refugee protection. The appellants request that the Refugee Appeal Division (RAD) substitute a finding that they are Convention refugee or persons in need of protection or return the matter to the RPD for redetermination.¹ The principal appellant is the designated representative for her minor son.

DETERMINATION

- [2] Pursuant to paragraph 111(1)(a) of the Immigration and Refugee Protection Act (IRPA), I confirm the decision of the RPD that the appellants are not Convention refugees nor persons in need of protection. I find that the appellants have an internal flight alternative (IFA) in Abuja and this is determinative of their appeal. As a result, the appeal is dismissed.

BACKGROUND

- [3] The principal and co-appellant were accused of being witches in January 2018 as the co-appellant had dreams that a chief priest would pass away, which he ultimately did. Their accusers, various members of the principal appellant's husband's traditional community, want them to undergo cleansing rituals including female genital mutilation (FGM), incisions on their bodies, and dancing naked in public. The appellants refused and fled to America in XXXX 2018 and eventually made their way to Canada in XXXX 2018, where they initiated refugee claims. The principal appellant's husband opposes the community's wishes but remains in Nigeria along with the couples two teenage sons.

ROLE OF RAD

- [4] In circumstances where I determine that the RPD had a meaningful advantage in assessing the credibility of oral testimony, I may defer to the RPD's findings. 2 In this case, I find that the RPD did not benefit from a meaningful advantage in any manner in assessing the Appellant's evidence. As such, I have considered the RPD's findings on the correctness standard.

NEW SUBMISSIONS AND EVIDENCE

- [5] The RAD contacted counsel for the appellants by way of letter on March 5, 2020, inviting submissions on a new document contained in an updated National Documentation Package (NDP), Item 5.9, from November 29, 2019. Specifically, the submissions were sought as they may impact the IFA analysis for Abuja. The appellants' reply was due March 19, 2020.³
- [6] No reply was received by the due date. Around the same time, the world started to grapple with the COVID-19 pandemic. On June 15, 2020, the RAD provided counsel with a notice related to the COVID-19 pandemic. This notice advised Counsel that they had 30 days from the date that the notice was received to submit any document or written submission in support of the appeal. Additionally, counsel was also advised that the other requirements of Rule 29 and 110(4) continue to apply.⁴
- [7] On July 28, 2020, RAD received further submissions⁵ in response to the March 5th letter. Although the submissions go beyond the scope of the letter and Item 5.9 specifically as discussed above, they relate largely to evidence contained in other NDP's and the Jurisprudential Guide which are known and accessible to me. As a result, I have accepted and considered these submissions.
- [8] Additionally, new evidence was received on July 29, 2020, consisting of a table of contents, 91 pages of various articles related to sexual violence in Nigeria, and the same submissions received one day prior. Despite stating in the table of contents that there are "new evidence submissions", no such submissions on the new evidence were received.⁶ At best, there are short descriptions of the articles in the table of content.
- [9] Rule 29 requires a consideration of the following factors: the relevance and probative value of the document; any new evidence the document brings to appeal; and whether the evidence could have been provided, with reasonable effort, with the appellants' record.
- [10] Subsection 110(4) requires that the evidence arose after the RPD decision, or was not reasonably available, or that the appellants could not reasonably have been expected in the circumstances to have presented at the time of the rejection. If this initial step is met, then I must consider the Singh/Raza⁷ factors related to credibility, relevance and newness.

- [11] It is not for the RAD to do the job of the appellants, who are represented by counsel. The RAD is not in the position to make assumptions on what portion(s) of any document is relevant and how it is relevant in the appellants' particular circumstances. It is the appellants' job to explain the relevance of the evidence adduced and how the criteria under subsection 110(4) are met. This was not done in this case.
- [12] Nonetheless, I have considered the new evidence in the context of the RPD record and the appeal material presented. I note the articles post-date perfection of the appeal as they are from 2020. If I understand the appellants' arguments, the articles are relevant and probative as they speak to the situations faced by women in Nigeria and the threats of sexual violence.
- [13] Furthermore, the new evidence meets 110(4) and the Singh/Raza factors in that they arose after the RPD decision and appear on their face to be credible, new and relevant in context of the appeal. Therefore, for these reasons, the new evidence is admitted.

NO ORAL HEARING

- [14] The appellants state in their initial appeal memorandum that they "may be asking for an Oral Hearing in this Appeal...and will request an oral hearing if new evidence is provided".⁸
- [15] Subsection 110(6) of IRPA requires that three factors are met in order to hold an oral hearing: the evidence raises a serious issue with respect to the credibility of the person who is subject of the appeal; the new evidence is central to the decision with respect to the refugee protection claim; and the new evidence, if accepted, would justify allowing or rejecting the refugee protection claim.
- [16] The first factor is not met as the new evidence does not raise a serious issue with respect to the credibility of the appellants. As a result, the requirements for an oral hearing are not met.

ANALYSIS

- [17] The RPD generally accepted the allegations of the adult appellants and found that they have an internal flight alternative in Abuja. This was determinative of their claim. In respect to the minor appellant who is a citizen of the United States of America (USA), the RPD found that the appellants' failed to establish he faces a serious possibility of persecution or on a balance of probabilities, he faces a danger of torture or a risk to life, or a risk of cruel and unusual treatment or punishment if returned to the USA.
- [18] The appellants argue that the RPD committed numerous errors in its analysis and findings. It is argued:
- a) The RPD erred in concluding the minor appellant could return to the USA as his mother and caregiver, the principal appellant, could not abandon him there;

- b) The RPD erred by rigidly relying on the Jurisprudential Guide on Nigeria⁹ when it is distinguishable from the appellants case and has since been revoked;
- c) The RPD erred in its first prong IFA analysis in respect to the means of the agents of persecution to locate the appellants, the tracing of the appellants through social media, and the dangers of sexual violence for "single" women in Abuja;
- d) The RPD erred in its second prong IFA analysis in respect to the appellants ability to find suitable accommodations in Abuja and the impact of their education on employment prospects and the risks associated with trying to make a living.

Minor Appellant Not at Risk in USA

- [19] The RPD found that the minor appellant, who is citizen of the USA, does not face persecution or risk to life, a danger of torture or cruel and unusual treatment or punishment if returned to the USA. While noting family separation is undesirable, it is not factor for consideration under either section 96 or 97 of IRPA.
- [20] The appellants argue that the principal appellant can not be expected to return the minor appellant to the USA and abandon him there as there is no one to look after him in the USA. The appellants attempt to argue an additional point in respect to the minor appellant in the conclusion of their memorandum, however have left it unfinished, stating "[t]he expectation that XXXX could live in America without the support of his mother and sister who have no access t [sic]".¹⁰
- [21] Having independently analyzed the record, I find the RPD was correct in their assessment and finding related to the minor appellant. I find that he is both a citizen of the USA and Nigeria.¹¹ While it is unfortunate that he could, in theory, be separated from his family, there have been no Convention grounds under section 96 or protection grounds under section 97 of IRPA identified or argued against one of his countries of nationality, that being the USA. As pointed out by the RPD, family unification is not contemplated under either section. Further, jurisdiction relating to family unification and/or separation falls into the realm of what could reasonably be considered humanitarian and compassionate arguments for allowing the minor appellant to remain in Canada. My task under sections 96 and 97 is to assess whether all appellants face harm in all their countries of nationality. I have no jurisdiction under sections 96 or 97 to consider issues related to family separation or removal. Having independently reviewed the evidence, it is obvious no nexus has been established to a Convention ground and no risk of harm under section 97 exists for the minor appellant in the USA. As such, I reject his appeal.

Reliance on the Jurisprudential Guide for Nigeria

- [22] The appellants argue that the RPD erred by applying and relying on the Nigerian Jurisprudential Guide (JG) in carrying out its analysis and reaching the decision. Specifically, it is argued that the JG was based on dated information from 2016 when there are reports from August 2019 now available, the RPD "blindly followed the reasoning in the Jurisprudential Guide and therefore fettered its independence",¹² and the RPD failed to consider the differences in the appellants case to that of the individual in the JG.
- [23] With respect, after having independently reviewed the evidence, the JG, and the decision, I see no merit in the appellants' arguments. To begin, while the appellants' argument about the date of the reports used in the JG compared to what is currently available is somewhat unclear as there is a missing sentence in their memorandum,¹³ if I understand correctly they were pointing to a Home Office report from August 2019 being available and it was "unsafe" to rely on the 2016 report. With respect, this argument fails as the NDP relied on by the RPD was from March 29, 2019¹⁴ and April 30, 2019¹⁵ and as a result, the Home Office report from August 2019 would not have been available to the RPD.
- [24] Now, in terms of Jurisprudential Guides, the Federal Court has recently weighed in on their use generally and the Nigerian JG specifically, finding that if the analysis is conducted with a particular focus on the personal circumstance of the claimants, and utilized on a case by case basis, reliance on the JG is appropriate.¹⁶ In my view, this is precisely the exercise carried out by the RPD, as it considered and weighed the numerous specific circumstances of the appellants. Further, where appropriate, the RPD explicitly notes the factual similarities, including that they were fleeing non-state actors, that they are women with above average education, and are fleeing gender-related persecution. The RPD also considered the differences, including the fact that if returned to Nigeria there would be two adults (the principal appellant and the co-appellant) in the household given the co-appellant's desire to live with her family upon return and that the adult appellants have their husband and father living in Nigeria who could assist them upon their return. In my view, the RPD conducted the analysis envisioned by the C.A.R.L. decision and provided a thorough and thoughtful analysis of the appellants' particular situation. As a result, I find that the RPD did not err in its application and reliance on the JG.
- [25] Finally, while the Chairperson revoked the JG in April 2020, the decision was then identified as a RAD Reasons of Interest decision. In carrying out my own independent assessment, I have used the framework of analysis in the RAD Reasons of Interest decision to assess the particular facts of this case, as well as the recently available country of origin information.

IFA Analysis

- [26] After my independent review of the evidence, I find that there is a viable internal flight alternative for the appellants in Abuja. In order for a viable IFA in Abuja to exist, the following two factors must be met¹⁷:

a. There is no serious possibility of persecution or a danger of torture or risk to life or cruel and unusual treatment or punishment (the IFA is safe).

b. The IFA is reasonable.

[27] Once an IFA has been identified, the appellants bear the burden of establishing that the proposed IFA is neither safe nor reasonable.

1st Prong IFA Analysis - Means of Agents of harm, social media, gender related risk

[28] The appellants argue that they provided credible evidence and established that the agents of persecution are rich and well-connected in Nigeria and therefore have the capacity to locate them in Abuja. Further, they argue they could be traced via social media and that sexual violence against women is prevalent in Abuja.

Capacity of Agents

[29] The RPD accepted the appellants' evidence that the agents of persecution are motivated to find them. However, it also found that the appellants have failed to establish that the agents of persecution "have the capacity, including sufficient power, influence or wealth, to mount a search that would find the claimants in the IFA".¹⁸ Specifically, the RPD considered the appellants' evidence that the agents of harm are part of a community of 200,000 people, that they have country wide businesses, and are connected, rich, and influential with limitless powers, and found the principal appellant's testimony to be speculative and vague. Further, in respect to the agents influence, the RPD considered the appellants' testimony of a story her husband told her regarding what happened to a man who killed a python and was found through the phone company with which the agents have a "rapport", and found this anecdotal account to lack probative value. Finally, the RPD found the appellants' evidence regarding the connection the agents have to the phone company to be vague and speculative as it failed to explain how these contacts would lead to the appellants being located.

[30] The appellants argue that the RPD erred in its analysis and points to evidence from the NDP that refers to the power held by chief priests in Nigeria and their connections to corrupt officials and organized crime. It is argued, given the experiences with the man who killed the python which should be given appropriate weight, and the level of corruption and bribery in Nigeria, the appellants too can be traced through their phones and located in Abuja. The appellants argue that due to bribery and corruption, it would be "easy for their persecutors to bribe institutions such as phone service providers to obtain personal information and use that information to go after the Appellants".¹⁹ Finally, in their updated submissions, the appellants argue that due to the nature of the businesses the chiefs and community members are involved in throughout Nigeria and including Abuja, "chances are that they could locate them in Abuja within a matter of time during their business travels"²⁰ and that they had previously located the appellants in Lagos.

- [31] Having independently reviewed the evidence, I disagree with the appellants that the RPD erred in its analysis and findings. I agree with the RPD that the appellants' evidence regarding how the wealth, power and influence of the agents of harm was largely vague and speculative. When pushed for details regarding how these factors would lead to the agents locating them, the appellants' evidence initially was that one has a business all over Nigeria.²¹ Owning a nationwide business does not make her or him automatically capable of finding the appellants.
- [32] In respect to the account of the man who killed the python, although hearsay evidence is permissible under IRPA, I find that this evidence should be afforded little weight as none of the appellants personally witnessed this incident and were only told of the story by the principal appellant's husband. Additionally, I note the principal appellant's evidence was that the community members that are part of the agents of harm already had the man's phone number and with this they went to the phone company to get his address to find him, but the principal appellant did not know how they obtained his phone number in the first place.²² I find that this evidence is vague and more importantly I find the appellants' situation if returned to Nigeria would be different as the agents of persecution would not already have their phone numbers as they did with the man who killed the python.
- [33] I acknowledge bribery and corruption are significant and real societal problems in Nigeria and that chief priests may have connections to corrupt officials and organized crime, there is no concrete evidence in this case that these particular agents of persecution have those capabilities. The objective evidence relied upon by the appellants is not that all chief priests are connected to corrupt officials and organized crime, but rather that many are. Many is not all. Also, regarding the appellants' claim that the agents of harm have a rapport with the telephone company, there is a lack of evidence that the telephone companies are infiltrated or even influenced by corrupt officials or organized crime groups. As such, I agree with the RPD that the appellants have failed to establish with credible and concrete evidence that the agents of harm are so powerful and connected that they can trace individuals via the phone company.
- [34] Finally, the appellants argue that the agents of harm previously found them in Lagos and also, due to the business-related travel the agents of harm take part in, they would find the appellant's in Abuja. Firstly, the principal appellant testified that the agents of harm had come to their home in April 2018 to "take us", as they had previously written and asked the appellants to come to the community voluntarily. But when the appellants did not follow this direction, they came in person to try and kidnap the appellants.²³ When asked how they found the appellants, the principal appellant first stated she did not know. When asked if the address was known to family members, the principal appellant testified they may know it but she did not know. I find, on a balance of probabilities, given a letter was first sent and then the agents attended in person, along with the fact that this is the principal appellant's husband's family, the agents of harm likely knew where the appellants were living and that's how they were able to locate them in Lagos.

- [35] Secondly, the appellants testified that after this incident they stayed with a friend in Lagos and the agents of harm attended this address in May 2018, and when the appellants were not there, the agents of harm assaulted the friend. The principal appellant did not know how the agents of harm were able to locate them at their friend's residence. While this is concerning and reveals the agents of harm can find the appellants in Lagos, it does not necessarily lead one to conclude they would be able to find them in Abuja, a city some 700 kilometers away. Further, as discussed in the next section, it is unclear if the appellants, given their use of social media, took any precautions against publicly disclosing their locations in Lagos and potentially providing the agents of harm with an avenue to locate them.
- [36] Finally, the appellants' concern of being eventually located by the chiefs or community members due to their frequent business travel throughout Nigeria speaks only to a random chance of running in to someone from this community. When considered in context of the size of Abuja, with approximately 2.9 million inhabitants,²⁴ the possibility of being randomly spotted is very remote. Further, not only would that community member have to know the appellants and know that they are being sought by the community back home, this individual would have to take enough interest in the matter to actually report the appellants' location back to the agents of harm. In my view, for these reasons this argument fails, and the appellants have not established they would be located by the agents of harm or community members interested in reporting back on them.

Use of Social Media

- [37] The RPD found the adult appellants failed to explain how their use of social media would result in them being located by the agents of harm. Further, while acknowledging the prevalence of social media use in Nigeria, the RPD found the appellants failed to establish it is necessary to use social media in such a way as to expose their location, in light of their fear of being harmed or killed by the agents of harm.
- [38] The appellants argue the agents "use social media in their dealings" and can use the platforms to locate the appellants.²⁵ It is argued that the JG did not contemplate this issue and the concept of IFA generally is outdated given the internet era we are living in, allowing the agents of harm to easily find the appellants through technology. Finally, it is argued that the adult appellants "want to remain active on social media",²⁶ and that it is "unfair" to expect them not to have phones or be on social media, which they contend is a "protected human and fundamental right of the Appellants as they should have a right to associate and be on any media platform".²⁷ They cite the UN Declaration on Human Rights, Article 19, relating to one's right to freely hold and express their opinion.
- [39] I find the RPD did not err in its analysis or findings. I agree that the appellants need not disclose their location on or through social media. It appears the appellants are arguing the RPD was of the view that they ought not use cell phones or social media. I find this is an inaccurate interpretation of the RPD finding as it was not about whether the appellants could use a cell phone or be active on social media, but rather the issue was about them not

disclosing their location via social media platforms. The platforms referenced by the appellants, such as WhatsApp and Facebook, do not actually require individuals to disclose their location to the public or even to individuals they are friends with, as such details can be kept confidential through the privacy settings.

- [40] I further find that the use of social media is not a fundamental right. The UN Declaration cited by the appellant concerns one's right to freely express their opinions, including through media platforms. I do not accept that this was what the RPD envisioned for the appellants. They are free to express themselves and their opinions, but could do so in a way that does not disclose their location. Even if the appellants choose to use social media, keeping their profile and information private is not the same as living in hiding as a fugitive.²⁸ It must be stated that we are talking about the appellants life and safety and frankly it seems absurd that they would put their social media use and disclose their location over and above their own and their family's safety. Doing so, in my view, would raise serious questions regarding their alleged fear if they are willing to expose their whereabouts simply to have a social media presence. For all these reasons, I find there was no error in the RPD findings related to the use of social media.

Gender Related Risk

- [41] The RPD acknowledged the existence and prevalence of gender-related violence in Nigeria, including evidence that points to almost a third of women experiencing physical violence at least once and 7% having experienced violence of a sexual nature. Further, in respect to Abuja specifically, the RPD noted rape is rarely reported and appears "widespread" with numerous factors potentially impacting a women's risk, including such things as access to safe housing.²⁹ Ultimately, the RPD considered the profiles of both adult appellants, as well as the fact that they have the principal appellant's husband and co-appellant's father living in Nigeria, and concluded they had failed to establish they would face a serious possibility of persecution based on gender-related violence in Abuja.
- [42] The appellants argue that the RPD acknowledged rape is widespread in Abuja and "still went ahead to minimize this risk as a non-serious risk".³⁰ It is argued this is "unfair and unreasonable" as the appellants living in Abuja as single women face a "serious risk of rape and even detention".³¹ The appellants' argue that the RPD failed to consider the Gender Guidelines and be sensitive to the appellants circumstances as women living alone in Abuja. Finally, in their additional submissions, the appellants argue that they would be targeted for sexual violence because they are women and "[i]t matters not whether they live in Abuja or elsewhere",³² also noting that "domestic violence or wife abuse is persecution under the Refugee Convention".³³

- [43] Having reviewed the record as well as the new evidence provided by the appellants, I find no error with the RPD findings on this issue. I agree with both the appellants and the RPD that unfortunately sexual violence is a major problem in Abuja and elsewhere in Nigeria. The new evidence indicates that sexual attackers and predators come from all walks of life and can be found throughout Nigeria and despite a growing social awareness and push for reforms to help protect women, the reality is that sexual violence remains prevalent.³⁴
- [44] Having said that, the RPD correctly considered Gender Guidelines and the appellants' personal circumstances and concluded that they have not established a serious possibility of persecution based on gender-related violence. I agree. I also find that both women would not be "single" or living alone in Abuja. The principal appellant is married with a husband residing in Nigeria and there is no evidence he would not support her emotionally or financially and assist her in finding safe and adequate accommodations, which is a significant factor in minimizing the likelihood of experiencing sexual violence. Also, the co-appellant indicated a desire to live with her mother and again there is no evidence that she would also not receive the support of her father. Finally, the appellants argument is, in essence, that it is not safe for any woman to return to Nigeria as they are at a constant risk of experiencing sexual violence. While one rape or sexual assault is one too many, the objective evidence cited by the RPD indicates that while likely under-reported, a significant majority of women do not report being victims of sexual violence. Finally, the appellants reference to domestic violence or spousal abuse is curious as neither have alleged any violence at the hands of the principal appellant's husband.
- [45] For these reasons, I find the RPD did not err in its assessment of the appellants circumstances related to threats of sexual violence if required to return to Abuja.
- [46] In summary, I find that while the agents of harm are motivated to find the appellants and have had some success in doing so in the past, the appellants can live safely in Abuja, on a balance of probabilities, and would not be at risk from the agents of harm or generally from sexual perpetrators who target women. Further, I find that they can use social media safely by keeping their location and whereabouts private and this does not infringe on any of their rights.

Second Prong of IFA

- [47] The RPD found that it was not unduly harsh and it was reasonable for the appellants to relocate to Abuja given their educational background, employment experience, and the fact that they have the support of their husband and father who remained in Nigeria.

- [48] To start, I note that the appellants are in a unique position in that while they claim they will live together and without the principal appellant's husband who lives in another part of Nigeria, the RPD found, and the appellants did not challenge, that he would continue to support them, including financially. There is no evidence that he has abandoned his family or sided with the agents of harm. In fact, the appellants' claim that he opposes the agents of harms requests for them to undergo the cleansing rituals.
- [49] Further, the appellants do not challenge the RPD's finding in respect to the role indigeneship plays in finding employment and accommodations in Abuja which is described as a "melting pot" with ethnicity and religion not being major factors for women living alone.³⁵ I agree.

Employment and Education

- [50] The appellants argue that the RPD erred as one's educational credentials do not necessarily result in finding employment in Abuja, especially as it relates to women generally and single women in particular. Further, it is argued women seeking employment are discriminated against and sexually exploited and the principal appellant would have to start her own business which requires the use of social media.
- [51] In respect to employment, the appellants are correct that their higher than average levels of education do not automatically translate into finding adequate employment. However, there are never guarantees that one will find employment and especially in the field of their choosing and with the desired compensation. The RPD considered the objective evidence indicating a generally high rate of unemployment in Nigeria and acknowledged finding work can be a challenge. However, it also considered the appellants' above average education, as well as, the principal appellant's previous employment history, and found these factors are favourable in her securing employment in Abuja.
- [52] Having independently reviewed the evidence before the RPD and contained in the new NDP, I find no error in the RPD's findings. Obtaining employment is challenging in Nigeria, however, I agree that the principal appellant in particular is in a better position than the average Nigerian woman in securing employment based on her above average education and work experience. She has worked in fields that have transferrable skills, such as a XXXX in Lagos for over 4 years³⁶ and 5 years as an XXXX XXXX.³⁷ As for the co-appellant, while she does have above average education, she does not have work experience which could make finding a job difficult. However, she still has the support of her parents and plans to live with at least her mother if returned to Nigeria and there is no evidence her parents would no longer support or assist her even though she is an adult. Given her relatively youthful age, she may choose to continue her studies or training to assist in the job market.
- [53] Now, the principal appellant again argues that social media would be problematic as she would be starting her own business upon returning to Nigeria and would need to advertise her services through social media platforms.³⁸ The RPD considered this evidence and did not understand why the principal appellant would restrict herself to self-employment given

she has not previously ran her own business and even if she did start her own business, why she would need to expose her personal identity and location in order to advertise her services.

- [54] Having independently considered the record and new evidence, I agree with the RPD. Even if the principal appellant was to start her own business, she would not necessarily need to reveal publicly that it is her own business or her location. For example, she can advertise the business and services offered, even through social media, without providing her name or image or specific location. As a result, I reject this argument.

Accommodations

- [55] Finally, the RPD found that despite single women in Abuja experiencing challenges in finding accommodations, the appellants have not established they would face these same challenges, including the co-appellant as she intends to live with her mother and family.
- [56] The appellants argue that they would be discriminated against when it comes to obtaining accommodations in Abuja as they are a household headed by a woman. Further, it is argued landlords may not lease to women and a lack of safe accommodations may place the appellants at risk of sexual violence.
- [57] Having independently reviewed the record and new evidence, I find the appellants would be able to obtain suitable accommodations in Abuja. Again, the appellants are in a unique position where, while they claim they will not live with the husband and father who remained in Nigeria, there is no evidence he would not assist them with establishing themselves and finding safe accommodations for them in Abuja. I accept, as per the documentary evidence, there is often discrimination against single women in obtaining accommodations. However, I find it reasonable to expect a husband and father, given his employment as a XXXX XXXX at a university, to have the financial means and motivation to help his wife and children with obtaining housing. In fact, the objective evidence indicates that when it comes to securing accommodations, women usually rely on the assistance of male relatives or friends to overcome the discrimination single women typically face.³⁹ I see no reason why the principal appellant's husband can not assist in this manner as well.
- [58] Finally, it must be noted that the appellants have already displayed an ability to relocate internationally and establish themselves in foreign countries, spending months in the USA and several years in Canada.
- [59] Based on the totality of the evidence along with the previously stated reasons, I find that the appellants have not discharged their burden and established that re-location to Abuja would be unreasonable or unduly harsh, in light of their personal circumstances.

CONCLUSION

[60] The RAD dismisses the appeal and confirms the decision of the RPD that the appellants are neither Convention refugees nor persons in need of protection, pursuant to section 111(1)(a) of the Immigration and Refugee Protection Act (IRPA).

(signed)

"Christopher Marcinkiewicz"

Christopher Marcinkiewicz

September 3, 2020

Date

1 Exhibit P-2, Appellants' Record, Appellant's Memorandum, pp. 19-20. para. 55.

2 M.C.I. v. Huruglica, Bujar (F.C.A., no. A-470-14), Gauthier, Webb, Near, March 29, 2016, 2016 FCA 93.

3 RAD-1, Member's Direction, dated March 5, 2020.

4 RAD-2, Member's Direction, dated June 15, 2020.

5 Exhibit P-3, Response to Member's Direction, Further Submissions, dated July 28, 2020.

6 Exhibit P-4, New Evidence, Table of Contents, received July 29, 2020.

7 Raza, Syed Masood v. M.C.I. (F.C.A., no. A-11-07), Linden, Sharlow, Ryer, December 6, 2007, 2007 FCA 385, cited in Singh, 2016 FCA 96.

8 Exhibit P-2, Appellants' Record, Appellant's Written Statement. p. 3.

9 Jurisprudential Guide - Decision TB7-19851. Guide identified by the Chairperson pursuant to paragraph 159(1)(h) of the IRPA, effective July 6, 2018. Revoked April 2020.

10 Exhibit P-2, Appellants' Record, Appellants' Memorandum, p. 19, para. 54.

11 Exhibit RPD-1, RPD Record, Exhibit 1, pp. 126-127 and p. 143.

12 Exhibit P-2, Appellants' Record, Appellants' Memorandum, p. 6, para. 6.

13 Exhibit P-2, Appellants' Record, Appellants' Memorandum, pp. 5-6, para. 4.

14 Exhibit RPD-1, RPD Record, Exhibit 3, p. 56, National Documentation Package (NDP) for Nigeria (29 March 2019), p. 56.

15 Exhibit RPD-1, RPD Record, Exhibit 3, NDP for Nigeria (30 April 2019), p. 55.

16 Canadian Association of Refugee Lawyers v. Canada (Citizenship and Immigration), 2019 FC 1126.

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- 17 Rasaratnam v. Canada (Minister of Employment and Immigration), [1992] 1 F.C. 706 (C.A.).
- 18 Exhibit RPD-1, RPD Record, RPD Reasons, p. 11, para. 29.
- 19 Exhibit P-2, Appellants' Record, Appellants' Memorandum, p. 8, para. 15.
- 20 Exhibit P-3, Response to Member's Direction, Further Submissions, dated July 28, 2020, p. 3, para. 13.
- 21 RPD Hearing, Audio Recording, July 5, 2019, at [02:03:00]
- 22 RPD Hearing, Audio Recording, July 30, 2019, at [00:34:00]
- 23 RPD Hearing, Audio Recording, July 5, 2019, at [01:27:00]
- 24 Exhibit RPD-1, RPD Record, Exhibit 3, NDP for Nigeria (29 April 2019), item 1.6, United States. Central Intelligence Agency, Nigeria, The World Factbook, p. 2019, p. 4/19
- 25 Exhibit P-2, Appellants' Record, Appellant's Memorandum, p. 6, para. 9.
- 26 Exhibit P-2, Appellants' Record, Appellant's Memorandum, p. 9, para. 20.
- 27 Exhibit P-2, Appellants' Record, Appellant's Memorandum, pp. 9-10, para. 25.
- 28 Rizwan v. Canada (Minister of Citizenship and Immigration), 2017 FC 456, par. 14.
- 29 Exhibit RPD-1, RPD Record, RPD Reasons, p. 14, para. 37.
- 30 Exhibit P-2, Appellants' Record, Appellants' Memorandum, p. 14, para. 44.
- 31 Exhibit P-2, Appellants' Record, Appellants' Memorandum, p. 14, para. 44.
- 32 Exhibit P-3, Response to Member's Direction, Further Submissions, dated July 28, 2020, p. 17, para. 41.
- 33 Exhibit P-3, Response to Member's Direction, Further Submissions, dated July 28, 2020, p. 17, para. 45.
- 34 Exhibit P-3, Response to Member's Direction, Further Submissions, dated July 28, 2020, see articles, pp. 1-2, 21-28, 29-30, 31-33, 36-43, 48-70,
- 35 Exhibit RPD-1, RPD Record, Exhibit 3, NDP for Nigeria (29 April 2019), Item 5.22
- 36 Exhibit RPD-1, RPD Record, Exhibit 1, p. 115.
- 37 RPD Hearing, Audio Recording, July 5, 2019, at [00:25:00].
- 38 Exhibit P-3, Response to Member's Direction, Further Submissions, dated July 28, 2020, p. 5, paras. 17-18.
- 39 Exhibit P-5, National Documentation Package for Nigeria, November 29, 2019, Item 5.9, section 1.3.

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Immigration and Refugee

Board of Canada

Refugee Appeal Division

Commission de l'immigration

et du statut de réfugié du Canada

Section d'appel des réfugiés

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