

Federal Court



Cour fédérale

**Date: 20160217**

**Docket: IMM-1191-15**

**Citation: 2016 FC 214**

**Ottawa, Ontario, February 17, 2016**

**PRESENT: The Honourable Mr. Justice Phelan**

**BETWEEN:**

**ARALOLA RUTH ARUNA**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

I. Introduction

[1] This is the judicial review of a Refugee Appeal Division [RAD] decision upholding a finding by the Refugee Protection Division [RPD] that the Applicant is not a refugee or person in need of protection.

II. Background

[2] The Applicant is a Christian. She alleged before the RPD that she feared returning to Nigeria because she fears her Muslim husband's family, who blame her for his kidnapping. She also feared that his family wished to have her and her daughters circumcised.

[3] The Applicant alleged multiple instances of abuse by her husband's whole family, and in particular, her husband's uncle.

[4] The RPD decided against the Applicant based on a lack of credibility. The RPD also canvassed whether an IFA existed but made no formal determination on that issue.

[5] The RAD found that an IFA was available and held that, while not strictly necessary to decide because of the IFA determination, the credibility finding of the RPD was also justified.

[6] The Applicant focused this judicial review on the credibility issue. In particular, she emphasized that, having accepted Dr. Pilowsky's diagnosis of anxiety, it was unreasonable of the RPD to find that she was not credible.

[7] The real issues in this appeal are the reasonableness of the RAD's IFA and credibility findings.

III. Analysis

[8] The applicable standard of review is reasonableness.

[9] On the matter of the IFA finding, it is the Applicant's burden to show that no IFA exists. It is established law that if an IFA exists, then a person is not entitled to claim refugee protection status.

[10] The Applicant was fully able to canvass that issue at the RPD. She cannot now argue that she was deprived of procedural fairness because she did not do so and the RPD made no specific finding on the IFA.

[11] Given how thoroughly the RPD examined the IFA issue, the only reasonable conclusion is that it found either that an IFA existed or the Applicant had failed to show that none existed. It would have been preferable had it stated so but its failure is not fatal.

[12] The RAD simply confirmed the reasonableness of a conclusion that an IFA existed. The Applicant had a full opportunity to address the matter.

[13] More importantly, the RPD's credibility finding, confirmed by the RAD, is determinative of this refugee protection application and appeal. There are no grounds to review the conclusions.

[14] The fact that the psychologist's report of anxiety was accepted does not mean that the alleged foundation of that anxiety is accepted. A person may well present symptoms of anxiety and stress and claim the cause to be the truth of their narrative, but it is for the decision maker to decide whether the underlying story is true.

[15] There was nothing unreasonable in the RAD accepting that the Applicant had symptoms of anxiety and stress but also concluding that the narrative was not credible.

#### IV. Conclusion

[16] Therefore, this judicial review will be denied. There is no question for certification.

**JUDGMENT**

**THIS COURT'S JUDGMENT is that** the application for judicial review is denied.

"Michael L. Phelan"

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Judge

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** IMM-1191-15

**STYLE OF CAUSE:** ARALOLA RUTH ARUNA v THE MINISTER OF  
CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** TORONTO, ONTARIO

**DATE OF HEARING:** JANUARY 25, 2016

**JUDGMENT AND REASONS:** PHELAN J.

**DATED:** FEBRUARY 17, 2016

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