

Federal Court



Cour fédérale

Date: 20200325

Docket: IMM-4621-19

Citation: 2020 FC 418

Ottawa, Ontario, March 25, 2020

PRESENT: The Honourable Mr. Justice Fothergill

BETWEEN:

**AGNES OMOLARA ADENIJI-ADELE
AMINAT ADEOLA ADENIJI-ADELE (MINOR)
MUSEDIKU OLADEGA ADENIJI-ADELE (MINOR)**

Applicants

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Overview

[1] Agnes Omolara Adeniji-Adele and her children Aminat Adeola Adeniji-Adele, aged 19, and Musediku Oladega Adeniji-Adele, aged 17 [Applicants], are citizens of Nigeria. They seek judicial review of a decision of the Refugee Appeal Division [RAD] of the Immigration and

Refugee Board [IRB]. The RAD determined that the Applicants are neither Convention refugees nor persons in need of protection under ss 96 and 97 of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA], because they have internal flight alternatives [IFAs] in Port Harcourt and Abuja.

[2] Aminat entered Canada on August 30, 2015 on a student visa, accompanied by her mother Agnes and her father, Prince Ademola Jimoh Adeniji-Adele. Prince Ademola was the son of the 20th Oba of Lagos, the traditional and ceremonial sovereign of Lagos. He was also a politician who served as the Commissioner for Youth, Sports and Social Development. The successor to Prince Ademola's political party remains in power.

[3] Prince Ademola died in 2016 without a will. The Applicants say that the executor of his estate [Executor] demanded that Aminat return to Nigeria, marry his friend's son, denounce Christianity, and return to Islam. The Executor paid for Agnes to travel to Canada and bring Aminat back to Nigeria. Instead, on June 7, 2017 Agnes brought Musediku with her to Canada.

[4] The Applicants have since refused to return to Nigeria. The Executor has ceased to fund Aminat's education, and has cut off Agnes' monthly allowance from her husband's estate.

[5] The Refugee Protection Division [RPD] of the IRB rejected the Applicants' refugee claims on June 12, 2018. The determinative issue was credibility. They appealed to the RAD.

[6] The RAD upheld the RPD's decision, but on different grounds. The RAD disagreed with the RPD's adverse credibility findings, but concluded that the Applicants were not at risk in Nigeria due to the availability of IFAs in Port Harcourt and Abuja.

[7] The onus was on the Applicants to demonstrate that the proposed IFAs were unsuitable. The RAD reasonably found that they were unable to meet this high threshold. The application for judicial review is dismissed.

II. Decision under Review

[8] The RAD provided notice to the Applicants that it may find Port Harcourt and Abuja to be reasonable IFAs. The Applicants responded with written submissions on June 3, 2019. They said that the IFAs would be unsafe because the Applicants would be immediately recognized throughout Nigeria due to Prince Ademola's public profile. They also submitted news reports of difficult circumstances in Port Harcourt and Abuja.

[9] The RAD concluded that the Applicants could reasonably relocate to either of the IFAs, and the Executor would be unable to locate them in Port Harcourt or Abuja. There was no evidence before the RAD that Prince Ademola was well known outside Lagos. The RAD preferred the reports of country conditions in the National Documentation Package [NDP] for Nigeria, which portrayed the IFAs, and Nigeria generally, in a more positive light than the articles submitted by the Applicants.

III. Issue

[10] The sole issue raised by this application for judicial review is whether the RAD's decision was reasonable.

IV. Analysis

[11] The RAD's decision is subject to review by this Court against the standard of reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*]). The Court will intervene only if it is satisfied "there are sufficiently serious shortcomings in the decision such that it cannot be said to exhibit the requisite degree of justification, intelligibility and transparency" (*Vavilov* at para 100). These criteria are met if the reasons allow the Court to understand why the decision was made, and determine whether the decision falls within the range of acceptable outcomes defensible in respect of the facts and law (*Vavilov* at paras 85-86, citing *Dunsmuir v New Brunswick*, 2008 SCC 9 at para 47).

[12] The RAD preferred the country condition reports in the NDP because they were "the result of a more complete analysis of the subject and ... prepared by unbiased researchers". The Applicants say that the RAD unreasonably discounted the news reports they submitted based on unwarranted findings of bias, citing *Grama v Canada (Citizenship and Immigration)*, 2004 FC 1030 and *Chavarria v Canada (Citizenship and Immigration)*, 2005 FC 1166. However, these decisions caution against unreasonably rejecting personal accounts and testimony from witnesses

who are not disinterested. They do not stand for the proposition that a decision-maker cannot prefer one documentary source over another.

[13] Furthermore, some of the news reports submitted by the Applicants were irrelevant to their personal circumstances. One example was a CNN World article that described women who were arrested in Abuja and assaulted by the police based on the suspicion they were working as prostitutes. Others concerned challenges encountered by the population in general, such as homelessness, unemployment, pollution and unsafe drinking water. These problems were said to be particularly severe for those who are impoverished or lack family connections. However, by their own account the Applicants are members of a wealthy and distinguished family, most of whose members continue to be well disposed towards them.

[14] The Applicants adduced no evidence to substantiate their assertion that the Executor would have access to government or corporate databases, would be able to trace them through their mobile telephone SIM cards, and would therefore be able to locate them in the IFAs. There was no evidence of the extent of public awareness of the Applicants' surname outside Lagos.

[15] The onus was on the Applicants to demonstrate that the proposed IFAs were unsuitable. They were unable to meet this high threshold. The RAD found that the Applicants have a comparatively high level of education and supportive relatives in Nigeria, including the Applicant children's numerous adult half-siblings. The Applicants speak English, which is Nigeria's official language and is widely used in both Port Harcourt and Abuja. The Applicants have not demonstrated that any of these findings by the RAD were unreasonable.

[16] The RAD's reasoning is transparent and intelligible. There was insufficient evidence to demonstrate that the Applicants will not have access to housing and clean drinking water in the IFAs, be unable to find employment, or be denied their family's support.

V. Conclusion

[17] The application for judicial review is dismissed. None of the parties proposed that a question be certified for appeal.

JUDGMENT

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

"Simon Fothergill"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

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STYLE OF CAUSE: AGNES OMOLARA ADENIJI-ADELE, AMINAT
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THE MINISTER OF CITIZENSHIP AND
IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

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DATED: MARCH 25, 2020

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