

Federal Court



Cour fédérale

**Date: 20210430**

**Docket: IMM-1570-20**

**Citation: 2021 FC 387**

**Holyrood, Newfoundland and Labrador, April 30, 2021**

**PRESENT: The Honourable Madam. Justice Heneghan**

**BETWEEN:**

**ABUBAKAR OLADIMEJI ALABI  
AWALE MEME OLUFUNKE ALABI  
ZAIDA OLUWAFIKEMI NGOZI ALABI  
GADIL OLUWASENI ALABI**

**Applicants**

**and**

**THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

[1] Mr. Abubakar Oladimeji Alabi (the “Principal Applicant”), his wife Awale Meme Olufunke Alabi, and their minor children Zaida Oluwafikemi Alabi and Gadil Oluwaseni Alabi (collectively “the Applicants”) seek judicial review of the decision of the Immigration and Refugee Board, Refugee Appeal Division (the “RAD”), dismissing their appeal from the decision of the Immigration and Refugee Board, Refugee Protection Division (the “RPD”).

[2] The Applicants are citizens of Nigeria. They sought protection pursuant to section 96 and subsection 97(1), respectively, of the *Immigration and Refugee Protection Act*, S.C. 2001, c. 27 (the “Act”), on the basis of hostility from the family of the Principal Applicant, because theirs had been an interfaith marriage; the Principal Applicant is a Muslim and his wife is a Christian.

[3] The Applicants also claimed a fear of persecution arising from the potential genital mutilation of their daughter, as she approached her tenth birthday. They cited a physical attack upon the Principal Applicant and vandalism of their home.

[4] The RPD dismissed their claim on the basis of credibility. Following its own review of the evidence and arguments, the RAD likewise dismissed the claim on the basis of credibility.

[5] Credibility findings are reviewable on the standard of reasonableness; see the decision in *Zeweldi v. Canada (Citizenship and Immigration)*, 2020 FC 114. The content of the standard of reasonableness, even after delivery of the decision of the Supreme Court of Canada in *Canada (Minister of Citizenship and Immigration) v. Vavilov* (2019), 441 D.L.R. (4th) 1, remains the same as set out in the decision in *Dunsmuir v. New Brunswick* (2008), 291 D.L.R. (4th) 577 (S.C.C.).

[6] In considering the content of the standard of reasonableness, the Court is to ask if the decision under review “bears the hallmarks of reasonableness – justification, transparency and intelligibility – and whether it is justified in relation to the relevant factual and legal constraints that bear on the decision”; see *Vavilov, supra* at paragraph 99.

[7] The Applicants challenge three credibility findings of the RAD's credibility analysis.

First, they argue that the RAD unreasonably found that the failure of the Principal Applicant to testify at the earliest opportunity about the relocation of his wife and children to Delta State, from December 2017 until September 2018, negatively impacted his credibility.

[8] Second, the Applicants submit that the RAD's determination that the police report extract was not "conclusive" evidence of vandalism of their house by the alleged persecutors.

[9] Finally, the Applicants argue that the RAD unreasonably concluded that their failure to seek protection during foreign travel and the fact that they possessed visas for Canada and the United States of America for some months before their departure from Nigeria in September 2018 undermined the subjective basis of their fear of persecution.

[10] Upon the basis of the evidence set out in the Certified Tribunal Record (the "CTR"), I am satisfied that the RAD reasonably assessed the evidence of the Principal Applicant about the relocation of his family. It was entitled to question why the evidence about the relocation was not introduced at the earliest possible moment since it was relevant to the claim for protection against persecution, at the hands of family members.

[11] Likewise, I see no reviewable error in the manner in which the RAD assessed the extract from the police report. The RAD found that the extract did not support the Applicants' claim of fear of persecution. While the use of the word "conclusive" is unfortunate since it invites inquiry

as to whether the RAD required a particular standard of proof about police activity, it is clear enough that the RAD assessed that evidence and found it unpersuasive.

[12] The RAD did not specifically say that the Applicants' failure to seek protection during their foreign travels undermined their subjective fear of persecution. Rather, it noted that the Applicants had traveled to the United States, United Arab Emirates, France, Turkey, Egypt, and the United Kingdom prior to their departure from Nigeria in September 2018, and did not seek protection in any of those countries.

[13] The RAD also noted that the Applicants acquired a visa in February 2018 for travel to the United States and a visa for travel to Canada in May 2018, yet the Applicants did not leave Nigeria and claim protection until September 2018.

[14] The RAD made a general finding that the Applicants' claim lacked credibility. On the basis of the evidence before it, including the travel history of the Applicants, I cannot say that the RAD's conclusion is unreasonable. There is no basis for judicial intervention and the application for judicial review will be dismissed. There is no question for certification arising.

**JUDGMENT in IMM-1570-20**

**THIS COURT'S JUDGMENT is that** the application for judicial review is dismissed,  
no question for certification arising.

“E. Heneghan”

---

Judge

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

**DOCKET:** IMM-1570-20

**STYLE OF CAUSE:** ABUBAKAR OLADIMEJI ALABI, AWALE MEME  
OLUFUNKE ALABI, ZAIDA OLUWAFIKEMI NGOZI  
ALABAI, GADIL OLUWASENI ALABI v. THE  
MINISTER OF CITIZENSHIP AND IMMIGRATION

**HEARING HELD BY VIDEOCONFERENCE ON APRIL 13, 2021 FROM ST.  
JOHN'S, NEWFOUNDLAND AND LABRADOR (COURT) AND TORONTO,  
ONTARIO (PARTIES)**

**JUDGMENT AND REASONS:** HENEGHAN J.

**DATED:** APRIL 30, 2021

**APPEARANCES:**

Adrienne Smith FOR THE APPLICANTS

Meva Motwani FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

Battista Smith FOR THE APPLICANTS  
Migration Law Group  
Barristers & Solicitors  
Toronto, Ontario

Attorney General of Canada FOR THE RESPONDENT  
Toronto, Ontario