

Federal Court



Cour fédérale

Date: 20220505

Docket: IMM-5650-20

Citation: 2022 FC 657

St. John's, Newfoundland and Labrador, May 5, 2022

PRESENT: The Honourable Madam Justice Heneghan

BETWEEN:

**BRIDGET OKPORU AND
HILDER IYOBOSA OKPORU**

Applicants

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

REASONS AND JUDGMENT

[1] Ms. Bridget Okporu (the “Principal Applicant”) and her minor daughter Hilder Iyobosa Okporu (collectively, the “Applicants”) seek judicial review of the decision of a Senior Immigration Officer refusing their application for protection to a Pre-Removal Risk Assessment (“PRRA”), pursuant to subsection 112(1) of the *Immigration and Refugee Protection Act*, S.C. 2001, c. 27 (the “Act”).

[2] The Principal Applicant is a citizen of Nigeria, her daughter was born in Italy. The Principal Applicant fears return to Nigeria because of gender-based discrimination at the hands of her father and his community.

[3] The Officer found that the Applicants were not subject to a risk of torture, a risk of persecution or face a risk to life or of cruel and unusual treatment or punishment if returned to Nigeria.

[4] The Applicants argue that the officer erred by applying the wrong test for assessing persecution pursuant to section 96 of the Act and further, that the consideration of the evidence was unreasonable.

[5] The Minister of Citizenship and Immigration (the “Respondent”) submits that the Officer applied the correct test and otherwise, reasonably considered the evidence. He argues that there is no basis for judicial intervention.

[6] The decision of the Officer is reviewable on the standard of reasonableness, pursuant to the decision in *Canada (Minister of Citizenship and Immigration) v. Vavilov* (2019), 441 D.L.R. (4th) 1 (S.C.C.).

[7] In considering 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 that decision”; see *Vavilov, supra* at paragraph 99.

[8] The Applicants argue that the Officer erred in applying the test for persecution, pursuant to section 96 of the Act. They also submit that the Officer unreasonably considered the evidence about risk in Nigeria.

[9] The Respondent argues that the Officer committed no reviewable error.

[10] Upon reviewing the Certified Tribunal Record, the affidavit of the Principal Applicant and considering the written and oral submissions of the parties, I am satisfied that the Officer erred in stating the test for persecution, pursuant to section 96 of the Act.

[11] The Officer unreasonably imported the notion of “significant harm” in addressing the Applicants’ risk of persecution upon return to Nigeria.

[12] This error disposes of this application for judicial review. The decision will be set aside and the matter remitted to a different officer for redetermination. No question for certification is proposed.

JUDGMENT in IMM-5650-20

THIS COURT'S JUDGMENT is that the application for judicial review is allowed, the decision of the Officer is set aside and the matter remitted to a different officer for redetermination. No question for certification is proposed.

“E. Heneghan”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-5650-20

STYLE OF CAUSE: BRIDGET OKPORU AND HILDER IYOBOSA
OKPORU v THE MINISTER OF CITIZENSHIP AND
IMMIGRATION

PLACE OF HEARING: HELD BY WAY OF VIDEOCONFERENCE
BETWEEN TORONTO, ONTARIO AND ST. JOHN'S,
NEWFOUNDLAND AND LABRADOR

DATE OF HEARING: APRIL 14, 2022

REASONS AND JUDGMENT: HENEGHAN J.

DATED: MAY 5, 2022

APPEARANCES:

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Aida Kalaj FOR THE RESPONDENT

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