



**B E T W E E N:**

**OSAZUWA AMADASUN**

Applicant

- and -

**THE MINISTER OF CITIZENSHIP AND IMMIGRATION**

Respondent

**REASONS FOR ORDER**

**GIBSON, J.:**

These reasons arise out of an application for judicial review of a decision of the Convention Refugee Determination Division (the "CRDD") of the Immigration and Refugee Board wherein the CRDD determined the applicant not to be a Convention refugee within the meaning of subsection 2(1) of the *Immigration Act*<sup>1</sup>. The decision is dated the 7th of February, 1997.

The applicant is a citizen of Nigeria. He bases his claim to Convention refugee status on an alleged well-founded fear of persecution if he is required to return to Nigeria by reason of his political opinion and his membership in a particular social group which, in his Personal Information Form, he describes as:

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<sup>1</sup> R.S.C., 1985, c. I-2

"pro-democracy activists in Nigeria who are prone to repressive reprisals by the military dictatorship which has a stranglehold on Nigeria."

The background to the applicant's claim may be briefly summarized as follows. From 1988 to 1990, the applicant studied at Auchi Polytechnic in Nigeria. From 1992 to 1994, he studied at Edo State University. During his university time, he became active politically. In August of 1994, he participated in the preparation for, and took part in, a political demonstration that took place over two days. On the second day, the demonstration was violently broken up and many students were arrested. The university attended by the applicant was shut down. Some months later, the applicant was arrested. He was held in detention, interrogated and mistreated. Some seven months later, he was released on bail with a requirement to report twice a week. On a number of occasions when he reported, a bribe was demanded on threat of return to custody. The applicant went into hiding. His mother was severely beaten when she was unable or unwilling to disclose his whereabouts. On the 25th of April, 1996, the applicant fled Nigeria on fraudulent travel documents.

The CRDD found the applicant's testimony not to be credible. In support of that finding, the CRDD commented on the convoluted nature of the applicant's testimony when he undertook to elaborate on what was in his Personal Information Form. It commented that such elaboration was "... provided in a very sketchy and confusing manner." It wrote:

Instead of being forthright, and candid, the claimant provided the information in pieces, a bit at a time rather than as a coherent, logical whole, thus every little piece of information (which was often new additions to the story) had to be adduced by asking repeated questions.

The CRDD described what it considered to be omissions, impossibilities and inconsistencies in the applicant's testimony and concluded as follows:

Documentary evidence before the panel depicts a deplorable and appalling picture of human rights abuses in Nigeria. The Nigerian government does not tolerate any form of opposition to its totalitarian regime. Members of opposition are killed often, they "disappear", and are jailed without trial. However, such evidence in itself does not make every citizen of Nigeria a Convention refugee. The onus is on the claimant to establish, on a balance of probabilities, that he faces a reasonable chance of persecution based on one of the five grounds of the definition, should he return to his country. In the panel's opinion, in this case, the claimant has not discharged such a burden.

In the applicant's Further Memorandum of Argument, counsel raised twelve issues for consideration by this Court. I conclude that they can be summarized as follows:

Was the decision of the CRDD in this matter perverse or capricious or made without regard to the totality of the evidence that was before it?

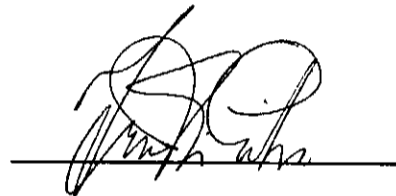
Counsel for the applicant urged that the CRDD manufactured evidence, misinterpreted evidence and ignored evidence that was before it. Counsel for the respondent acknowledged that the finding by the CRDD that the applicant had not attended Edu State University was hardly sustainable on the basis of the totality of the evidence. In other respects, he urged that the findings of the CRDD and its conclusion were reasonably open to it.

At the end of the hearing, I reserved my decision to allow myself an opportunity to review the transcript of the hearing before the CRDD in detail. The applicant and his counsel made a choice to have the applicant give his testimony in English rather than in his native language. In so doing, they may have done the applicant a disservice. I agree with the CRDD's conclusion that his testimony, where he attempted to expand on what was in his Personal Information Form, was "...extremely vague and convoluted... ."

On the totality of the evidence that was before it, I conclude that the CRDD's determination regarding the applicant's credibility was entirely open to it. I further

conclude that the CRDD made no reviewable error in arriving at the decision it made. In the result, this application for judicial review will be dismissed.

Counsel for the respondent recommended against certification of a question. Counsel for the applicant, while not specifically agreeing that no question should be certified, recommended no question. I am satisfied that this matter turned on its particular facts, the evidence before the CRDD and the way in which it was presented. The law regarding decisions based upon credibility findings is, generally speaking, well settled. No question will be certified.

A handwritten signature in black ink, appearing to be "J. P. ...", written over a horizontal line.

Judge

Ottawa, Ontario  
August 18, 1997