Federal Court Cour fédérale

Date: 20250923

Docket: IMM-9741-24

Citation: 2025 FC 1562

Toronto, Ontario, September 23, 2025

PRESENT: Mr. Justice Norris

BETWEEN:

FAWAZ ADEDOTUN ASUNMO

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

[1] The applicant is a 23-year-old citizen of Nigeria. In 2022, he applied for permanent residence in Canada on humanitarian and compassionate (H&C) grounds under subsection 25(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 (*IRPA*). The application was based on the hardship the applicant would face in Nigeria and his establishment in Canada.

[2] A Senior Immigration Officer refused the application in a decision dated March 15, 2024.

[3] The applicant now applies for judicial review of this decision under subsection 72(1) of the *IRPA*. As I will explain, I agree with the applicant that the decision is unreasonable in a crucial respect – namely, the officer's assessment of the hardship the applicant would face in Nigeria due to his mental illness. As a result, this application must be allowed and the matter remitted for redetermination.

[4] The parties agree, as do I, that the officer's decision should be reviewed on a reasonableness standard (*Kanthasamy v Canada (Citizenship and Immigration)*, 2015 SCC 61 at para 44; *Canada (Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 10).

[5] A decision is reasonable if it is "based on an internally coherent and rational chain of analysis and [is] justified in relation to the facts and law that constrains the decision maker" (*Vavilov*, at para 85). It is not the role of the reviewing court to reweigh or reassess the evidence or interfere with the decision maker's factual findings unless there are exceptional circumstances (*Vavilov*, at para 125). This constraint on the reviewing court is especially important when considering a decision made under subsection 25(1) of the *IRPA*. Such decisions are highly discretionary and, as a result, the decision maker's weighing of relevant factors warrants a considerable degree of deference from the reviewing court (*Williams v Canada (Citizenship and Immigration)*, 2016 FC 1303 at para 4; *Legault v Canada (Minister of Citizenship and Immigration)*, 2002 FCA 125 at para 15). To set aside a decision on the basis that it is unreasonable, the reviewing court must be satisfied that "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).

[6] The applicant entered Canada irregularly from the United States on April 8, 2018, with his stepmother and several siblings. Together, the family made claims for refugee protection on the basis of their fear of persecution due to their refusal to participate in rituals in Nigeria. The Refugee Protection Division (RPD) of the Immigration and Refugee Board of Canada (IRB) rejected the claims on April 8, 2019. The Refugee Appeal Division (RAD) dismissed the family's appeal of the RPD decision on January 17, 2020. An application for leave and for judicial review of the RAD's decision was dismissed at the leave stage on September 21, 2020 (IMM-913-20). Subsequently, the applicant applied for permanent residence in Canada on H&C grounds.

[7] As noted above, the H&C application was based on two main grounds: the hardship the applicant would face in Nigeria and his establishment in Canada. Submissions and evidence supporting the application were provided in May 2022. Further supporting evidence was provided in February 2024. The RPD and RAD decisions were not included in the application for H&C relief and they are not part of the record on this application for judicial review.

[8] With respect to hardship in Nigeria, among other things, the applicant provided evidence that he has been diagnosed with schizophrenia, that he had been suffering from it since 2020, that he had been hospitalized twice, that he has been prescribed medication for this condition, that he is under the care of a psychiatrist as an out-patient, and that he receives support in the community from mental health workers and others. The applicant submitted in his H&C application that he would suffer stigmatization in Nigeria because of his mental illness and that he would be unable to obtain the care and treatment he requires. The applicant also

submitted that, as a consequence of this, he would be at particular risk of additional hardships in Nigeria due to the prevailing social and economic conditions, including that he would be unable to find employment, that he would find himself homeless, and that his personal safety and security would be endangered.

[9] The applicant's submissions were supported by extensive evidence drawn from the IRB's National Documentation Package for Nigeria, including Item 1.27, a Response to Information Request addressing the availability of mental health services as well as the treatment of persons with mental illness by the authorities and in society at large. This document provided detailed information drawn from a variety of sources concerning the scarcity of resources for mental health care in Nigeria, including that mental health care services "were almost nonexistent" (US Department of State *Country Report on Human Rights Practices for 2021*), that in 2022 Nigeria had only 300 psychiatrists to treat a population of 200 million, and that 75 percent of Nigerians who need mental health care do not have access to it.

[10] The officer accepted that "there may be room for some improvement in Nigeria in the area of mental health care" and that "there may be some room for social growth" in countering the stigma typically associated with mental illness there. However, the officer was not satisfied that the applicant had established that he would be unable to obtain the care and treatment he requires because, as a result of their own research, the officer had learned that in 2022, the Lagos State Mental Health Programme had developed a strategy to fund and deliver mental health care in Nigeria and, further, that there was an organization, Lagos Mind, that provides mental health services such as assessments, public education, and "delivering a range of

programs." As well, at the national level, the *Mental Health Bill* had been enacted in 2023 to replace the *Lunacy Act*, the National Mental Health Program had as its aim the continual improvement of the mental health of every Nigerian, and the Mental Health Foundation Nigeria had as its mission to create a society "in which mental health is not enshrouded in mysteries, stigma and discrimination." Furthermore, on the issue of stigmatization of the applicant himself, the officer found that it was "speculative" that someone like a potential employer or landlord could learn of the applicant's "history with mental health issues."

[11] The applicant submits that the officer's assessment of this factor is unreasonable. As I have already noted, with respect to factual determinations, a reviewing court must refrain from reweighing and reassessing the evidence considered by the decision maker. Nevertheless, the administrative decision maker "must take the evidentiary record and the general factual matrix that bears on its decision into account, and its decision must be reasonable in light of them" (*Vavilov*, at para 126). The reasonableness of a decision may be jeopardized if the decision maker has "failed to account for the evidence before it" (*ibid.*). Moreover, "a decision maker's failure to meaningfully grapple with key issues or central arguments raised by the parties may call into question whether the decision maker was actually alert and sensitive to the matter before it" (*Vavilov*, at para 128).

[12] Applying these principles, I agree with the applicant that the officer's analysis of the risk of hardship in Nigeria due to the applicant's mental illness lacks transparency, intelligibility and justification.

[13] In seeking H&C relief, the applicant contended that he required the care of a psychiatrist and other mental health professionals and that this would not be available to him in Nigeria. While the evidence offered to establish that the necessary mental health care would not be available to the applicant in Nigeria consisted of general country condition evidence, such evidence can be a sufficient basis for a reasoned inference as to the hardship a particular applicant would face on return (*Kanthasamy*, at para 56, citing and quoting with approval *Aboubacar v Canada (Minister of Citizenship and Immigration)*, 2014 FC 714 at para 12). In the present case, the officer's rejection of such an inference is unreasonable because there is no explanation for why the officer was satisfied that recently proclaimed strategies, aims, and missions to improve mental health care in Nigeria were sufficient to counter the actual shortcomings documented in the applicant's supporting materials. Likewise, whether considered on its own or in conjunction with the other information the officer relied on, the fact that the officer was able to identify a single agency (Lagos Mind) that provided mental health support and treatment does not reasonably support the conclusion that the "the evidence presented does not demonstrate that [the applicant] would be unable to obtain suitable mental health care in Nigeria or that he cannot access medication or other required resources" given the other evidence before the officer.

[14] I also agree with the applicant that it was unreasonable for the officer to dismiss the applicant's concerns about stigma because it was "speculative" that a potential employer or landlord could learn of the applicant's "history with mental health issues." In so concluding, the officer failed to account for evidence in the record that the applicant's symptoms can manifest themselves involuntarily, especially when the applicant's condition is not being treated.

[15] As I have already stated, the hardship the applicant would face in Nigeria due to his mental illness was central to the request for H&C relief. Given the flaws I have identified in the officer's analysis of this issue, the decision as a whole cannot stand. As a result, it is not necessary to address the other grounds on which the applicant has challenged the reasonableness of the decision.

[16] For these reasons, the application for judicial review will be allowed. The decision of the Senior Immigration Officer dated March 15, 2024, will be set aside and the matter will be remitted for redetermination by a different decision maker.

[17] Neither party suggested a serious question of general importance for certification under paragraph 74(d) of the *IRPA*. I agree that no question arises.

JUDGMENT IN IMM-9741-24

THIS COURT'S JUDGMENT is that

1. The application for judicial review is allowed.
2. The decision of the Senior Immigration Officer dated March 15, 2024, is set aside and the matter is remitted for redetermination by a different decision maker.
3. No question of general importance is stated.

"John Norris"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

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