

**Date: 20070924**

**Docket: IMM-4502-06**

**Citation: 2007 FC 952**

**Ottawa, Ontario, September 24, 2007**

**PRESENT: The Honourable Mr. Justice Barnes**

**BETWEEN:**

**JOSIAH OSALADE**

**Applicant(s)**

**and**

**THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION**

**Respondent(s)**

**REASONS FOR JUDGMENT AND JUDGMENT**

[1] These are my reasons for judgment given orally at Toronto on September 13, 2007.

[2] This is an application for judicial review brought by Josiah Osalade from a decision of the Refugee Protection Division of the Immigration and Refugee Board (Board) dated July 25, 2006.

[3] Mr. Osalade is a citizen of Nigeria. He claimed protection in Canada on the basis of a fear of political persecution arising out of a false perception by the Nigerian authorities that he was a member of the Oduwa People's Congress (OPC).

[4] Mr. Osalade claimed in his testimony and in his Personal Information Form (PIF) that he was a businessman and operated a shop near the Century Hotel in Lagos, Nigeria. He said that on November 3, 2005 he heard a noise and came out of his shop. As he was standing outside, three policemen arrested him for being a member of the OPC. He stated that he was taken to a police station where he was tortured and beaten. However, no charges were ever brought against him. He stated that after a few days he met a sympathetic policeman who his uncle was able to bribe. This resulted in his release from detention on December 4, 2005. He then fled to Canada. He claims that all of his documents were taken from him at the border.

[5] The record contains media and documentary evidence that a police raid did occur at the Century Hotel on November 2, 2005 and that a number of alleged OPC members were arrested at that hotel. In his testimony, Mr. Osalade stated that he was arrested on the same day as this raid and that the police apparently believed that he had fled the hotel.

[6] Mr. Osalade was given the opportunity during his testimony to the Board to correct the date in his story but he insisted that he was arrested on November 3, 2005. He contended that the date reported in the newspapers was in error.

[7] Mr. Osalade argues on this application that the Board made patently unreasonable findings of fact in rejecting his testimony. He submits that the Board should have considered the possibility that there had been two police raids but that only one of them was reported in the press.

[8] I do not accept that the Board made any patently unreasonable factual errors in its decision.

[9] It is quite clear from the context of Mr. Osalade's evidence that he was claiming to have been caught up in the midst of a police raid at the Century Hotel directed at members of the OPC who were suspects in the murder of a police officer. Because he was in the vicinity of the hotel at the time of this raid, he alleged that he was arrested on suspicion of being an OPC member. In the Port of Entry Record of Examination, Mr. Osalade described the event as follows:

Detained by the police on suspicion of being an OPC member. My business was close to the Century Hotel and while the hotel was being raided by the police on 03 November 2005, I was picked up and detained for a period of one month.

[10] This event was further described in the following passage from Mr. Osalade's PIF:

I was just opening my shop where I sell building materials on Thursday the 3<sup>rd</sup> day of November, 2005 when I heard several gunshots and various people running helter skelter and on coming out of my store to look at what was going on I was accosted by the men of the Nigerian police force who stopped me and asked me where I was coming from and what I do for a living & also where I was living. I politely answered them that I was a trader selling building materials and I pointed to my store located, in the area and that I was opening for the day business. But to my surprise I was replied with hot slaps and my hands were immediately handcuffed by the policemen whom claimed that there were in my area to arrest OPC members whom had been responsible for the numerous acts of violence and atrocities such as the recent killing of a policeman and participating in the recent Iyana-Ipaja mayhem. My pleas to them that I was a law abiding individual who went about his daily duties respectfully and diligently fell on deaf ears and I was beaten and maltreated and taken away for detention. Due to the increasing crime rate in the country, various areas and community resorted to contributing money and bought arms for vigilante groups to protect

them from armed robbery and other forms of crime prevailing in the Nigerian society as the Nigerian police as failed in this major aspect to protect the country. I and the other traders selling in the area where arrested by the police and driven away to the station, where we were eventually detained and locked up in various cell under inhumane conditions. All my pleas and explanations that I was not present in the Century Hotel & that I was not a member of the OPC group nor was I a member of the vigilante groups formed to provide security to protect the area to the policemen fell on deaf ears, as I was severely beaten and tortured by the police.

[Quoted from original text]

[11] Before the Board, Mr. Osalade was questioned in detail about the circumstances of his alleged detention and once again, he asserted that it was connected to the police raid at the Century Hotel on November 3, 2005. However, when he was confronted by two newspaper articles stating that the hotel raid and associated arrests were carried out on November 2, 2005, his response was that the newspaper accounts were in error. This evidence was as follows:

**Claimant:** I didn't, I didn't - - I'm so sure of when I was arrested because it is one of the important things in my life. So the Century Hotel was raided on the 3<sup>rd</sup> of November that is when I was arrested. It couldn't because it was exactly when I was picked up so if *The Vanguard* makes a mistake, I do not want to defend them but I'm specifically sure that I was picked up on the 3<sup>rd</sup> of November.

...

**Claimant:** That is not my explanation; that is not how I understand it. The raid occurred and people fled from that hotel - - people fled from that hotel and the police suspected that people would flee from the hotel but had hidden in various houses. Since my shop was close to that Century Hotel, I guess that was why I was a victim of the circumstances.

The argument now made is that Mr. Osalade's arrest may have taken place in a second raid on the day following the Century Hotel police raid and that the Board erred by failing to consider that as a reasonable explanation for the dating inconsistency. This argument has no evidentiary foundation and, indeed, it is entirely inconsistent with Mr. Osalade's evidence. Before the Board, he did not attempt to explain the dating discrepancy by asserting that his arrest was on the day following the hotel raid. He asserted that he was an innocent victim caught up in a specific event which took place on November 3, 2005. The newspaper accounts indicate that this was a notorious incident and Mr. Osalade claimed to have been in the middle of it. If the police had conducted raids at the Century Hotel on two successive days it is reasonable to expect that Mr. Osalade would have known about it. However, he spoke of one event that occurred on one day. It was also entirely reasonable for the Board to reject his suggestion in testimony that two separate newspapers made the same mistake with respect to the date of the occurrence.

[12] It was also no error for the Board to fail to consider the possibility now advanced that there may have been two police raids. As noted above, that argument is completely inconsistent with Mr. Osalade's evidence and to describe it even as speculative is to give it consideration that it does not deserve.

[13] Some of Mr. Osalade's remaining challenges to the Board's credibility and factual holdings were based on the same unwarranted premise that the police had carried out two separate raids. For instance, Mr. Osalade says that this would explain the discrepancies between his narrative and the

newspaper descriptions with respect to the place of his detention and the time of day of the arrests.

These arguments, of course, fall for the reasons given above.

[14] Mr. Osalade's explanations for the other discrepancies noted in his evidence by the Board amount to nothing more than a re-argument of his case. It was open to the Board to be critical of the inaccuracies in his evidence and of his failure to produce reliable corroboration for the existence of his supposed business. These are all matters which go to the weight of the evidence and are not open to challenge on judicial review.

[15] For all of the reasons given above, this application for judicial review is dismissed.

[16] Neither party proposed a certified question and no issue of general importance arises on this record.

**JUDGMENT**

**THIS COURT ADJUDGES that** this application for judicial review is dismissed.

“ R. L. Barnes ”

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Judge

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

**DOCKET:** IMM-4502-06

**STYLE OF CAUSE:** JOSIAH OSALADE  
v.  
MINISTER OF CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** TORONTO

**DATE OF HEARING:** 13-SEPT-2007

**REASONS FOR JUDGMENT  
AND JUDGMENT:** BARNES J.

**DATED:** September 24, 2007

**APPEARANCES:**

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