

Cour fédérale



Federal Court

Date: 20111109

Docket: IMM-837-11

Citation: 2011 FC 1281

Toronto, Ontario, November 9, 2011

PRESENT: The Honourable Mr. Justice Campbell

BETWEEN:

QUEEN OSAWE

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

REASONS FOR ORDER AND ORDER

[1] The Applicant in the present Application is a Nigerian citizen who claims refugee protection on the basis of a fear of members of the Movement for the Emancipation of the Niger Delta (MEND). The Applicant's claim is based on fear of persecution on political grounds stemming from the fact that her fiancé was targeted and killed in Nigeria because he refused to become a member of MEND, and because she had been raped and brutalized by members of MEND in the course of their pursuit of her fiancé. The Refugee Protection Division (RPD) found that the Applicant was "essentially credible" (Decision, para. 12) and has a genuine subjective and objective fear of the

members of MEND (Decision, para. 22 and 15). However, the RPD rejected the Applicant's claim on the basis of a determination that there exists an Internal Flight Alternative (IFA) in Lagos, Nigeria should the Applicant return to that country.

[2] The IFA determination has two components: a finding that the Applicant would not be of such an interest to members of MEND that they would be motivated to locate the claimant in Lagos, a metropolitan area of at least ten million people (Decision, para. 26); and the following evaluation of the reasonableness of expecting the Applicant to access the IFA:

The panel is mindful that it can be very difficult for single women in Nigeria to establish themselves outside of their area of origin without visible attachment to a father, husband or boyfriend. However, the claimant has at least two contacts in Lagos who can assist her in establishing herself.

(Decision, para. 27)

In my opinion, a fair reading of the evaluation is that it would be unreasonable to expect the Applicant to access the IFA in Lagos as a single woman without male protection, but because she has, presumably, male contacts in Lagos, it would not be unreasonable for her to access the IFA. It is not disputed that in the record before the RPD there is no evidence that the contacts exist. As a result I find that the RPD's IFA evaluation is unsupportable, and, therefore, the decision under review was rendered in reviewable error.

ORDER

THIS COURT ORDERS that

The decision under review is set aside and the matter is referred back for redetermination by a differently constituted panel.

There is no question to certify.

“Douglas R. Campbell”

Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET: IMM-837-11

STYLE OF CAUSE: QUEEN OSAWE V. THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: Toronto

DATE OF HEARING: November 8, 2011

REASONS FOR ORDER: CAMPBELL J.

DATED: November 9, 2011

APPEARANCES:

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