

Federal Court



Cour fédérale

Date: 20210325

Docket: IMM-115-20

Citation: 2021 FC 260

Ottawa, Ontario, March 25, 2021

PRESENT: Madam Justice Simpson

BETWEEN:

**JOHN ADEKUNLE LAWLAD
CHRISTIANA MODUPEOLUWA LAWLAD,
ENOCH TOLUWALASE LAWLAD
EZEKIEL OLUWATIMILEHIN LAWLAD**

Applicants

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

JUDGMENT AND REASONS
(Delivered orally from the Bench by videoconference
at Ottawa, Ontario on January 12, 2021)

[1] This application is for judicial review of a decision of the Refugee Appeal Division [RAD] of the Immigration and Refugee Board of Canada, dated December 18, 2019, in which the Applicants' appeal was dismissed on the basis that they had a viable internal flight alternative [IFA] in Nigeria in either Port Harcourt or Abuja.

[2] The Applicants are four members of a family from Nigeria, consisting of a husband [the Principal Applicant] and his wife and two of their minor children. All are Nigerian citizens.

[3] Before they left Nigeria, the family lived in Lagos, where the Principal Applicant and his wife operated a meat processing factory.

[4] The Applicants left Nigeria following an incident which resulted in the destruction of their factory. A violent cult group, the Badoo Cult, had been terrorizing the population with killings in their neighbourhood in Lagos. On August 20, 2017, to exact revenge, a vigilante group doused several of the cult members with gasoline and set them on fire. The burning Badoo cult members sought refuge in the Applicants' factory and caused the building to catch fire and burn to the ground.

[5] Thereafter, the Principal Applicant disclosed to the police the names of people he had heard were sponsors of the cult. As a result, he received death threats.

[6] In November 2017, because of the threats, the Applicants relocated to Osun where the Principal Applicant's family was based. It is a five-hour drive from Lagos. The threats continued but they came to no harm in Osun although they were there for three months.

[7] The Applicants left Nigeria for the United States in January 2018. They stayed for a month in Philadelphia where they had friends from their Nigerian church. They travelled to

Canada and claimed refugee status on February 19, 2018. The Refugee Protection Division [RPD] denied their claims for lack of credibility.

I. **The RAD Decision**

[8] However, the RAD Member rejected the RPD's negative credibility assessment and instead found that although the Badoo Cult could be a threat to the Applicants in the Lagos area, they had an IFA in Port Harcourt or Abuja.

[9] The RAD Member did not believe that the Badoo Cult or its sponsors had a motive or the capacity to find the Applicants in the IFA locations. The Member found the documentary evidence to be "very general" and insufficient to establish that the Badoo Cult was active outside Lagos. Furthermore, the fact that the Applicants' factory was destroyed by chance and not because it was targeted by the Cult suggested to the RAD Member that continuing attacks on the Applicant outside Lagos were unlikely.

[10] The RAD Member found that the Applicants had not met their onus of demonstrating that circumstances in the proposed IFAs were objectively unreasonable or unduly harsh. The Member noted several concerns raised by the Applicants including the cost of living, the ability to find housing and employment prospects. They also raised the issue of lack of social safety nets and family in the proposed IFAs. They raised indigeneship and the availability of health care. All these concerns were dismissed.

[11] In concluding that the IFAs were reasonable, the Member considered the since revoked Nigerian jurisprudential guide [JG]. The Member held that language and religion were not a barrier and in considering employment prospects, she noted that both the Principal Applicant and his wife have above-average levels of education and have the skills to adapt and find new jobs. The submission about the husband's access to adequate medication was dismissed because section 97 of the IRPA bars access to health care as a consideration.

II. Issues

[12] The issues to be addressed are as follows:

1. The use of the JG -- Should the RAD have relied on the JG?
2. Did the RAD require corroboration for the evidence that threats were made in Osun?
3. The reasonableness of the IFA analysis. In particular, was it reasonable, given the husband's health and the lack of any analysis about the sponsor's ability to locate the Applicants.

[13] The JG relied on by the RAD Member was revoked in April 2020. The Applicants criticized its use by the RAD but they have not pointed out any information in the JG which was out of date or contradicted by country condition documents at the time the Member considered it. In these circumstances, I find nothing unreasonable about the Member's reliance on the JG in its assessment of the Applicants' particular circumstances.

[14] The RAD Member concluded that the Applicants did not establish that the Badoo Cult or its sponsors had the motivation or capacity to find the Applicants in Port Harbour or Abuja. The RAD Member relied on the fact that the Cult was only active in Lagos and primarily in 2017. As

well, the Applicants were not targeted when their factory was destroyed -- it was an accident.

The RAD did not consider the evidence about the threats in Osun to be particularly meaningful as an indication of the Cult's reach as Osun was only about a five-hour drive from Lagos and was the husband's family home. As such it was an obvious place for them to relocate. Further, no harm came to the Applicants during their three months in Osun and no family members have been contacted by the Cult since the Applicants' departure. This suggests that there is no motivation to locate them.

[15] The Applicants are critical of the RAD for appearing to suggest that it required corroboration of the evidence about the threats they received in Osun. I find the passage at the end of paragraph 43 of the RAD Member's decision to be unclear. A requirement for corroboration, if that is what the passage means, appears unreasonable in the absence of a negative credibility finding. However, I have concluded that this unclear passage was not material because the RAD Member also considered whether other family members in Osun had been threatened after the Applicants departed. This suggests that the evidence about the threats was accepted.

[16] The husband's health issues meant that he might possibly be unable to work due to the unavailability of medications that he required. The Applicants say this should have been factored in when the RAD considered the reasonableness of the IFA. I am not persuaded by this submission as I find that the health issue was too speculative to be meaningfully considered.

[17] The problem with speculation also impacts the sponsors' potential role. The RAD had no information about their names or positions or their networks and was not in a position to assess whether they could locate the Applicants in the IFA locations.

[18] In my view, the RAD's extensive analysis of whether Port Harcourt and Abuja were reasonable IFAs was in itself reasonable. All the relevant topics that could be considered were considered.

III. CERTIFICATION

[19] No question was posed for certification for appeal.

IV. CONCLUSION

[20] For all these reasons, the application for judicial review will be dismissed.

JUDGMENT IN IMM-115-20

THIS COURT'S JUDGMENT is that the application for judicial review is hereby dismissed.

"Sandra J. Simpson"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-115-20

STYLE OF CAUSE: JOHN ADEKUNLE LAWLAD, CHRISTIANA
MODUPEOLUWA LAWLAD, ENOCH
TOLUWALASE LAWLAD, EZEKIEL
OLUWATIMILEHIN LAWLAD v THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: HELD BY VIDEOCONFERENCE FROM
OTTAWA, ONTARIO (THE COURT) AND
TORONTO, ONTARIO (THE PARTIES)

DATE OF HEARING: JANUARY 12, 2021

JUDGMENT AND REASONS SIMPSON J.

DATED: MARCH 25, 2021

APPEARANCES:

Jeffrey L. Goldman FOR THE APPLICANTS

Amy King FOR THE RESPONDENT

SOLICITORS OF RECORD:

Jeffrey L. Goldman FOR THE APPLICANTS
Barrister and Solicitor
Toronto, Ontario

Attorney General of Canada FOR THE RESPONDENT
Toronto, Ontario