

Federal Court



Cour fédérale

Date: 20210401

Docket: IMM-1321-20

Citation: 2021 FC 290

Ottawa, Ontario, April 1, 2021

PRESENT: Mr. Justice Sébastien Grammond

BETWEEN:

**OLUWOLE NATHANIEL ADEGBENRO
OLUWATOYIN ADEGBENRO
OMODESIIRE INIOLUWA ADEGBENRO
OMODESOLA IFEOLUWA ADEGBENRO
OLUWADUNMININU OMODESAYO ADEGBENRO**

Applicants

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] The Adegbenros are a family of citizens of Nigeria who made a claim for refugee protection. They alleged a risk of persecution by family members, for refusing to participate in certain traditional ceremonies, and threats made against Mr. Adegbenro, who is a lawyer, in relation to a court case he took up. The Refugee Protection Division [RPD] and Refugee Appeal

Division [RAD] dismissed their claim, given that they had an internal flight alternative [IFA] in Ibadan, Port Harcourt or Benin City. They now seek judicial review of the dismissal of their claim. They argue that the RAD's reasoning is based on a jurisprudential guide that was subsequently revoked, that the RAD failed to apply a decision of this Court regarding Nigerian lawyers, that its reasons lack transparency and that it made errors in its analysis of the evidence.

[2] The Adegbenros first challenge the RAD's decision for being based on the now-revoked Nigeria jurisprudential guide. They invoke cases where this Court found RAD decisions to be unreasonable where based on revoked jurisprudential guides: *Cao v Canada (Citizenship and Immigration)*, 2020 FC 337, at paragraph 38; *Liu v Canada (Citizenship and Immigration)*, 2020 FC 576 [*Liu*].

[3] Nevertheless, this Court usually declines to intervene where the RAD mentioned a jurisprudential guide that is subsequently revoked, if the RAD made a decision based on the claimants' individual circumstances: *Agbeja v Canada (Citizenship and Immigration)*, 2020 FC 781, at paragraph 78; *Onjoko v Canada (Citizenship and Immigration)*, 2020 FC 1006, at paragraphs 24 et 26; *Oyewoley v Canada (Citizenship and Immigration)*, 2021 FC 21; *AB v Canada (Citizenship and Immigration)*, 2021 FC 90, at paragraph 65; *Ogunkunle v Canada (Citizenship and Immigration)*, 2021 FC 111, at paragraphs 9-15; *Saliu v Canada (Citizenship and Immigration)*, 2021 FC 167, at paragraph 42.

[4] In the present case, the RAD analyzed the Adegbenros' individual circumstances and concluded that it would not be unreasonable for them to relocate to one of the proposed IFAs.

Unlike what happened in *Liu*, the RAD does not reproduce word for word the jurisprudential guide nor does it integrate an erroneous finding from the jurisprudential guide. Thus, the reference to the jurisprudential guide does not vitiate the RAD's decision.

[5] Second, the Adegbenros assert that the RAD's reasons lack transparency, because they do not contain a detailed analysis of the risk to which they would be exposed in the three cities identified as IFAs. This is explained, however, by the RAD's finding that the risks alleged have now disappeared, even in the Adegbenros' home city of Lagos. Thus, as the RAD mentioned at paragraph 22 of its decision, "there is no prospective risk." If the risk has disappeared at its point of origin, it goes without saying that it cannot extend to the proposed IFAs. It may be that the RAD could have dismissed the Adegbenros' claim on the sole basis of lack of well-founded fear, without recourse to the concept of IFA. Nevertheless, viewing the case from the perspective of an IFA does not render the decision unreasonable.

[6] Third, the Adegbenros challenge the RAD's conclusion that there is no longer any prospective risk and impugn various findings of fact that led to this conclusion. In particular, they note that their return to a different area of Lagos, after spending a month in Benin City, proves their subjective fear; that the RAD mistakenly attributed an incident that took place in February 2018 to persons who were persecuting Mr. Adegbenro in relation to a court case he took up, whereas Mr. Adegbenro said he did not know who the assailants were; and that the RAD failed to take into account the mysterious death of another lawyer involved in the case. These criticisms, however, do not detract from the RAD's main finding that the alleged agents of

persecution have lost any interest for harming the Adegbenros. In the end, the Adegbenros failed to show that the RAD's decision was unreasonable.

[7] The Adegbenros' last ground is based on the fact that Mr. Adegbenro is a lawyer and that, should he move to one of the IFA cities, his contact details will be made public on the Nigerian Bar Association's web site. In *Ambrose-Esede v Canada (Citizenship and Immigration)*, 2018 FC 1241 at paragraph 44, my colleague Justice James Russell stated that this web site provides an "easy way to locate" a claimant. Yet, this was not a determinative element of my colleague's decision. More importantly, the RAD carefully considered the facts of the case in light of *Ambrose-Esede* and found that the alleged agents of persecution would not have the motivation to harm Mr. Adegbenro.

[8] I fail to find anything unreasonable in the RAD's decision in this regard. Refugee status is determined on a case-by-case basis. Here, the main basis for the RAD's conclusion is that Mr. Adegbenro is no longer exposed to any risk. Whether he could be found through the Nigerian Bar Association's web site then becomes irrelevant.

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

JUDGMENT in IMM-1321-20

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed.
2. No question is certified.

"Sébastien Grammond"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-1321-20

STYLE OF CAUSE: OLUWOLE NATHANIEL ADEGBENRO,
OLUWATOYIN ADEGBENRO, OMODESIIRE
INIOLUWA ADEGBENRO, OMODESOLA
IFEOLUWA ADEGBENRO, OLUWADUNMININU
OMODESAYO ADEGBENRO v THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: HELD BY VIDEOCONFERENCE BETWEEN
OTTAWA, ONTARIO AND MONTRÉAL, QUEBEC

DATE OF HEARING: MARCH 31, 2021

JUDGMENT AND REASONS: GRAMMOND J.

DATED: APRIL 1, 2021

APPEARANCES:

Mark Gruszczynski FOR THE APPLICANTS

Sean Doyle FOR THE RESPONDENT

SOLICITORS OF RECORD:

Canada Immigration Team FOR THE APPLICANTS
Barristers and Solicitors
Montréal, Quebec

Attorney General of Canada FOR THE RESPONDENT
Ottawa, Ontario