

IMM-1621-96

OTTAWA, ONTARIO, THE 27TH DAY OF MARCH 1997.

PRESENT: THE HONOURABLE MADAME JUSTICE TREMBLAY-LAMER

BETWEEN:

NIKA NZINGA,

Applicant,

- and -

THE MINISTER OF CITIZENSHIP AND IMMIGRATION,

Respondent.

O R D E R

The application for judicial review is dismissed.

Danièle Tremblay-Lamer
JUDGE

Certified true translation

Audra Poirier

BETWEEN:

NIKA NZINGA,

Applicant,

- and -

THE MINISTER OF CITIZENSHIP AND IMMIGRATION,

Respondent.

REASONS FOR ORDER

TREMBLAY-LAMER J.

This is an application for judicial review brought by the applicant, Nika Nzinga, against a decision of the Convention Refugee Determination Division (the Refugee Division) of the Immigration and Refugee Board, which held that the applicant was not a Convention refugee.

1. The facts

The applicant was born on July 27, 1960 at Kinshasa, Zaire. In 1991, she obtained the position of secretary to the chief executive officer of the Compagnie Maritime Zaïroise (C.M.Z.), who was an active member of the Christian social democratic party (C.S.D.P.). Members of this party are opposed to the regime of President Mobutu.

Given her employer's involvement in this party, the applicant agreed to work for it as a volunteer. She typed up and photocopied documents required for the party's activities.

In 1994, her employer allegedly blocked the appointment of the brother of the Minister of State Supervision as director-general of a

maritime agency, AMIZA. On November 18, 1994, the applicant received a visit at her employer's office from three men demanding her co-operation in obtaining some documents. They returned three days later, this time with specific demands. They wanted her employer's daybook, the names of his visitors, and copies of certain confidential documents. A week later, they returned, at which time the applicant indicated to them that she could not provide copies of these documents, since she did not have them in her possession. The men left, threatening reprisals for her refusal to co-operate. On December 7, 1994, they turned up at her residence. Her parents were pushed around and threatened. From that moment on, the applicant realized that her safety, and even her life, was in jeopardy. She sought refuge with an uncle, who assisted her in leaving Zaire, which she did on January 9, 1995. She arrived in Canada on January 16, 1995, and immediately claimed refugee status.

The Refugee Division did not question the applicant's credibility, but concluded that, given the absence of a link between the alleged fear and one of the grounds of persecution set out in the definition of "Convention refugee" and the absence of an objective fear of persecution, the applicant had not discharged her burden of proving a reasonable fear of persecution.

The evidence shows that the applicant was not a member of the C.S.D.P. In her personal information form (P.I.F.), she indicates that, from time to time, as secretary of the chief executive officer, she looked after photocopying or typing for party meetings. She admits that she never attended a meeting of the C.S.D.P. The Refugee Division found that her evidence was not sufficient to support her allegation that political opinions had been attributed to her. I cannot find this conclusion unreasonable. It was open to the Refugee Division to reach such a conclusion, since it is based on the evidence presented. Moreover, the documentary evidence reinforces such a conclusion, because the applicant, as a secretary, does not

meet the profile of targeted figures, that is, leaders and key members of political parties, journalists and so on.

As for the conclusion reached by the tribunal from the documentary evidence, that the problems of the applicant were linked to the fact that she was the secretary of an important man involved in a problem of unauthorized spending, once again this was justified.

Although the applicant has given a different interpretation of the facts submitted, the Refugee Division could, as a specialized tribunal, assess the content of the evidence and draw a different conclusion than the applicant. In fact, the documentary evidence indicates that Prime Minister Kango Wa Dondo wanted to transform the enterprises in this portfolio, by restructuring, privatization, or liquidation. The applicant's employer was involved in a scandal involving patronage and unauthorized spending. It was, therefore, plausible to believe that the applicant's problems were related to this, particularly since the documents the authorities were seeking were her employer's daybook and other documents of his.

As for the objective fear of persecution, the Refugee Division has judged that the applicant's cessation of her secretarial duties and her employer's suspension removed all grounds for this. This conclusion was reasonable, because the applicant's fears were linked to her secretarial duties.

In short, nothing in this decision allows me to intervene, because the conclusions were not made in a perverse or capricious manner or without regard for the evidence.

Accordingly, the application for judicial review is dismissed.

OTTAWA, Ontario
The 27th day of March 1997

Danièle Tremblay-Lamer
JUDGE

Certified true translation

Audra Poirier

FEDERAL COURT OF CANADA
TRIAL DIVISION

NAMES OF COUNSEL AND SOLICITORS OF RECORD

COURT FILE NO:IMM-1621-96

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THE MINISTER OF CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING:MONTRÉAL, QUEBEC

DATE OF HEARING:MARCH 25, 1997

REASONS FOR ORDER BY:TREMBLAY-LAMER J.

DATED:MARCH 27, 1997

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