

Federal Court



Cour fédérale

**Date: 20120413**

**Docket: IMM-4290-11**

**Citation: 2012 FC 405**

**Ottawa, Ontario, this 13<sup>th</sup> day of April 2012**

**Before: The Honourable Madam Justice Heneghan**

**BETWEEN:**

**KATE IGBINOBA**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION**

**Respondent**

**REASONS FOR JUDGMENT AND JUDGMENT**

[1] Ms. Kate Igbinoba (the “Applicant”) seeks judicial review of the decision of the Refugee Protection Division of the Immigration and Refugee Board (the “Board”), pursuant to subsection 72(1) of the *Immigration and Refugee Protection Act*, S.C. 2001 c. 27, (the “Act”) determining that she is not a Convention refugee and not in need of protection pursuant to sections 96 and 97 of the Act.

[2] The Applicant is a citizen of Nigeria. At the age of 13 she was married in a traditional ceremony to a wealthy man. The marriage took place in 1982.

[3] She claims that in 1990, her husband brought her to Italy under the pretext of obtaining an education but, after three weeks of Italian language classes, that training ended and her husband forced her to engage in prostitution. The Applicant became pregnant by her husband in 1990 and returned to Nigeria to give birth to her son.

[4] The Applicant claims that her husband physically abused her throughout the 1990s and that she bears many scars as a result of that abuse.

[5] In 1993, her husband forced her to return to Italy and to resume work as a prostitute. Her child remained in Nigeria.

[6] The Applicant remained in Italy with her husband from 1993 until either 1997 or 1999. She did not seek protection from the Italian authorities while living in Italy.

[7] Upon returning to Nigeria she attempted to flee from her husband several times but he always located her. As being part of a traditional marriage, her family offered to return the bride price to the husband in order for him to release her from the marriage, but her husband refused.

[8] The Board, although expressing doubt about the Applicant's overall credibility, accepted that the Applicant was forced by her husband to work as a prostitute in Italy for some years in the

1990s. It was not satisfied as to the credibility of the Applicant's evidence following her return to Nigeria whether in 1997 or 1999. It accepted that the Applicant was able to flee from her husband several times in Nigeria and that he found her and brought her back with him. It squarely addressed if the Applicant could access state protection and an Internal Flight Alternative ("IFA") in Nigeria, and concluded that she could. The Applicant now argues, in this application for judicial review, that the Board committed a reviewable error in reaching these conclusions.

[9] The findings as to the availability of state protection and IFA involve questions of mixed fact and law. Accordingly, the applicable standard of review is reasonableness (see *Canada (Minister of Citizenship and Immigration) v. Khosa*, [2009] 1 S.C.R. 339 and *Meija v. Minister of Citizenship and Immigration*, 2009 FC 354).

[10] The Applicant argues that the Board made selective use of the documentary evidence to reach its conclusions on state protection and IFA and further, that it failed to analyze contradictory evidence, for example the contents of the "Report of Joint British-Danish Fact-Finding Mission to Lagos and Abuja" dated October 29, 2008. I am not persuaded that the Board did so.

[11] According to the decision of the Federal Court of Appeal in *Carrillo v. Canada (Minister of Citizenship and Immigration)*, [2008] 4 F.C.R. 636, the Applicant bears the burden of leading evidence of inadequate state protection. He or she must establish that evidence on a balance of probabilities and that evidence must be of sufficiently probative value to show that state protection is inadequate. In my opinion, the Applicant has not met any of these requirements and has failed to show that the Board's conclusion on state protection is unreasonable.

[12] Concerning the Board's finding about an IFA, the Applicant argues that the Board failed to properly analyze the documentary evidence. I reject this contention since it amounts to an invitation for this Court to reweigh the evidence. The Applicant has not shown that the Board reached an unreasonable conclusion.

[13] In the result, this application for judicial review is dismissed. There is no question for certification existing.

**JUDGMENT**

The application for judicial review of the decision of the Refugee Protection Division of the Immigration and Refugee Board is dismissed. This is not a matter for certification.

“E. Heneghan”

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Judge

**FEDERAL COURT**

**NAME OF COUNSEL AND SOLICITORS OF RECORD**

**DOCKET:** IMM-4290-11

**STYLE OF CAUSE:** KATE IGBINOBA v. THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION

**PLACE OF HEARING:** Toronto, Ontario

**DATE OF HEARING:** April 3, 2012

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

**DATED:** April 13, 2012

**APPEARANCES:**

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Teresa Ramnarine FOR THE RESPONDENT

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