Federal Court  Cour fédérale

**Date: 20210326**

**Docket: IMM-7411-19**

**Citation: 2021 FC 266**

**Ottawa, Ontario, March 26, 2021**

**PRESENT: The Honourable Mr. Justice Pamel**

**BETWEEN:**

**ADEBISI ANDEKUNYIN SUNDAY**
**(A.K.A. ADEBISI ANDEKUN SUNDAY)**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND IMMIGRATION**

**Respondent**

# JUDGMENT AND REASONS

## I. Overview

[1] On November 8, 2019, the Refugee Appeal Division [RAD] dismissed Mr. Adebisi Andekunyin Sunday's [Mr. Sunday] appeal from the Refugee Protection Division [RPD] decision dated June 14, 2019, which dismissed his claim for refugee protection. Both the RPD and the RAD found that Mr. Sunday had an internal flight alterative [IFA] in Lagos, Nigeria.

[2] Mr. Sunday contests the RAD's determination of a viable IFA in Lagos and its refusal to admit new evidence.

[3] In short, I find nothing unreasonable with the RAD's decision, either as regards the issue of the new evidence or of its determination of a viable IFA in Lagos. In essence, Mr. Sunday is asking the Court to reweigh the evidence that was before the RAD, something the Court is not prepared to do.

[4] For the reasons that follow, I would dismiss the application.

## II. Facts

[5] Mr. Sunday is a citizen of Nigeria, and professes the Christian faith. He submits that Fulani herdsmen [Herdsmen], a group of nomadic and semi-nomadic people of Muslim faith whose primary occupation is raising livestock, repeatedly attacked his farming village over grazing rights to land. He alleges that the most recent attack occurred on April 19, 2018, when he was in the United States attending a conference. During that attack, Mr. Sunday alleges that the Herdsmen destroyed his entire village, displaced his family, and killed his close friend and uncle.

[6] Mr. Sunday submits that he is at risk because he was one of the village members who reported attacks by the Herdsmen to the police who then proved incapable of preventing further attacks. He alleges that he is also at an increased risk from the Herdsmen and Boko Haram because of his Christian faith.

[7] The RPD rejected Mr. Sunday's submission on the basis that he had a viable IFA in Lagos. The RAD upheld the RPD's finding.

[8] As regards the new evidence sought to be introduced by Mr. Sunday, the RAD found (1) some to be admissible, (2) some to be inadmissible as not meeting the explicit conditions of subsection 110(4) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA], and (3) some of the evidence, although meeting explicit conditions of that subsection, failed to meet the implied conditions of admissibility – in this case the issue of credibility – as set out in the Federal Court of Appeal's decision in *Raza v Canada (Citizenship and Immigration)*, 2007 FCA 385 [*Raza*].

[9] Finally, the RAD refused Mr. Sunday's request for an oral hearing, having determined that the new documents that were admitted did not raise a serious issue with respect to Mr. Sunday's credibility.

## III. Standard of review

[10] The issues are to be reviewed on the standard of reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 10, 23 and 83; *Canada (Minister of Citizenship and Immigration) v Huruglica*, 2016 FCA 93; *Canada (Minister of Citizenship and Immigration) v Singh*, 2016 FCA 96 at para 23 [*Singh*]).

## IV. Discussion

### A. *Did the RAD unreasonably refuse to consider new evidence?*

[11] The new evidence sought to be introduced by Mr. Sunday were:

1) An affidavit of Mr. Sunday's cousin attaching a threatening letter and a police report;
2) A legal opinion from a lawyer in Nigeria;
3) A series of newspaper and on-line news articles; and
4) A DHL envelope.

[12] Subsection 110(4) of the IRPA allows a claimant to present new evidence to the RAD in limited circumstances:

| **Evidence that may be presented** | **Éléments de preuve admissibles** |
|---|---|
| (4) On appeal, the person who is the subject of the appeal may present only evidence that rose alter the rejection of their claim or that was not reasonably available, or that the person could not reasonably have been expected in the circumstances to have presented, at the time of the rejection. | (4) Dans le cadre de l'appel, la personne en cause ne peut présenter que des éléments de preuve survenus depuis le rejet de sa demande ou qui n'étaient alors pas normalement accessibles ou, s'ils l'étaient, qu'elle n'aurait pas normalement présentés, dans les circonstances, au moment du rejet. |

[13] If the proposed new evidence meets the explicit conditions of subsection 110(4) of the IRPA, the RAD must then apply the analysis set out by the Federal Court of Appeal in *Raza* in conformity with the Court's reformulation in *Singh* to determine admissibility; the new

documents must also meet the implied conditions of admissibility as set out by Justice Sharlow in *Raza* (*Singh* at para 44).

B. *Affidavit of Mr. Sunday's cousin, with, in attachment, a threatening letter and a police report*

[14] Mr. Sunday sought to introduce before the RAD an affidavit dated June 17, 2019 (three days following the rejection of his claim by the RPD), from his cousin who resides in Nigeria which attests to the fact that on June 12, 2019, a handwritten letter threatening Mr. Sunday was delivered to the community leader of Mr. Sunday's home community of Rufu. Mr. Sunday also tried to introduce a police report dated July 15, 2019, which purports to detail the cousin's report to the police regarding the threatening letter.

[15] The RAD concluded that the documents met the conditions of subsection 110(4) of the IRPA; however, it refused to consider those three documents because the RAD found that they lacked credibility; the RAD specifically cited the test on credibility set out in *Raza* and confirmed in *Singh*: "Is the evidence credible, considering its source and the circumstances in which it came into existence? If not, the evidence need not be considered" (*Raza* at para 13; *Singh* at para 38).

[16] In determining that the documents were inadmissible, the RAD set out at length its credibility concerns with respect to the documents, in particular:

i. There were no identification documents attached to the affidavit which would assist in corroborating the identity of Mr. Sunday's cousin;

ii. There was no indication how Mr. Sunday's cousin was able to secure the threatening letter when it was not addressed to him, how the cousin even became aware of the letter, and how Mr. Sunday was able to communicate with his cousin;

iii. The timing of the production of the affidavit and the threatening letter was suspect given their very close proximity (a matter of days) to the rejection of Mr. Sunday's claim by the RPD, particularly as the threatening letter, which suggests that the Herdsmen intend to locate and harm Mr. Sunday "throughout the country", seems to be a direct response to the determinative issue of IFA on which Mr. Sunday's claim was rejected;

iv. Although the threatening note is directed to the "People of Rufu Village", there is no indication as the who actually sent the threatening letter, let alone that it came from the Herdsmen. In addition, although Mr. Sunday testified that he was not the only person in his village to report the attacks of the Herdsmen to the police, the RAD found that it was "very suspicious" that only Mr. Sunday's name was mentioned in this threatening letter, which simply appeared days after his claim was rejected by the RPD;

v. The objective documentation confirms the widespread proliferation and availability of fraudulent documents in Nigeria, including affidavits which are "rampantly forged" in that country.

[17] I reject Mr. Sunday's argument to the effect that the RAD relied on a "microscopic examination of issues" as well as on "speculative inferences" in coming to its decision. I find the RAD provided extensive reasons to justify its credibility concerns.

[18] Mr. Sunday cites a case decided by this Court, *Warsame v Canada (Immigration, Refugees and Citizenship)*, 2019 FC 118 [*Warsame*], in support of his contention that the RAD unreasonably expected that the affidavit of Mr. Sunday's cousin would address every specific issue in relation to his claim (*Warsame* at paras 16-18).

[19] I accept the proposition that affidavits must be considered for what they state, not for what they do not state (*Warsame* at para 16; *Teganya v Canada (Minister of Citizenship and Immigration)*, 2012 FC 42 at para 25 [*Teganya*]). However, gaps in the evidence are not the only reason why the RAD found the affidavit of Mr. Sunday's cousin to be deficient. The RAD looked at the evidence as a whole, including the affidavit, the threatening letter that was attached thereto, the police report, the objective evidence, and the surrounding circumstances and concluded that the documents were not credible; clearly, the RAD undertook its analysis in line with the approach advanced by Justice Hughes in *Teganya*: "[t]he evidence as a whole is to be considered" (*Teganya* at para 25; *Warsame* at para 18).

[20] Mr. Sunday further submits that it was unreasonable to doubt the identity of the affiant simply because he has not provided an identity card, especially since Mr. Sunday's affidavit states that the affiant is truly his cousin and that there was no evidence in the record that

contradicted that statement (*Ouya v Canada (Citizenship and Immigration)*, 2017 FC 55 at para 17).

[21] I accept the proposition that there is no requirement to attach an identification document to a sworn affidavit, however in assessing the RAD's decision, in particular the credibility of the underlying threatening letter and police report, I am not convinced that the issue of the proper identification of Mr. Sunday's cousin was determinative of the RAD's overall decision.

[22] Mr. Sunday further submits that it was unreasonable to conclude that the omission of other names in the threatening letter, in addition to his own, meant that it was fraudulent. He adds that he cannot know why only he was identified by name in the letter when others in the village as well reported the raids by the Herdsmen to the police; he claims that being asked to provide an explanation was unreasonable (*Kong v Canada (Minister of Employment and Immigration)*, [1994] FCJ No 101 at para 11 [*Kong*]. In other words, Mr. Sunday argues that it was unreasonable to have put questions to him that relate to matters which he clearly could not know.

[23] I fail to see how *Kong* assists Mr. Sunday here. In that case, Justice Reed concluded that it was unreasonable to draw a strong negative credibility inference from a question to which an applicant could only speculate (*Kong* at paras 10-11). In this case, Mr. Sunday's credibility was not in issue. It is true that he could not be expected to know what the Herdsmen had in mind when they wrote the threatening letter, but that is beside the point as the RAD did not expect that he would know. Here, the fact that only Mr. Sunday's name is mentioned in the letter is simply

one of several other considerations which raise doubt as to the genuineness of the letter. Having reviewed the supposed threatening letter myself, I can certainly understand why the RAD had serious reservations regarding its credibility.

[24] Mr. Sunday then states that the RAD should make a determination as to the implausibility of new evidence only in the clearest of case and that the RAD's unreasonable suspicions were speculative and should not be allowed to stand (*Mohamud v Canada (Citizenship and Immigration)*, 2018 FC 170 at paras 7-8; 11 [*Mohamud*]).

[25] In *Mohamud*, the RPD found a document to be fraudulent because of a minor typographical error. This Court found that this was not enough and concluded that the RPD's determination was unreasonable (*Mohamud* at paras 6-8). Here, we are miles away from a simple typographical error. As mentioned earlier, there are numerous concerns with the new evidence, and even considering that "[i]mplausibility findings should only be made in the clearest cases, and must be sensitive to the realities of a claimant's cultural context" (*Mohamud* at para 8), I conclude that the RAD's determination here is not unreasonable.

[26] Mr. Sunday submits that the prevalence of fraudulent documents in a country does not mean that every document emanating from that country is fraudulent and that there is a presumption that documents issued by foreign authorities are valid (*Chen v Canada (Citizenship and Immigration)*, 2015 FC 1133; *Jacques v. Canada (Citizenship and Immigration)*, 2010 FC 423; *Ali v Canada (Citizenship and Immigration)*, 2015 FC 814 at paras 30-31).

[27] I agree with Mr. Sunday that the RAD should not presume that every document originating from Nigeria is fraudulent simply because there is objective evidence to the effect that there is a high level of documentary fraud in that country. However, that is not what the RAD did. Here, the RAD was being more vigilant when analyzing documents that originate from a country where, according to objective documentary evidence, fraudulent documents are more common. This accrued vigilance does not affect the presumption of validity of documents emanating from foreign authorities. Evidence of widespread forgery does not, in itself, mean that all documents emanating from that country are fraudulent, however it does establish that false documentation could have been made available to Mr. Sunday (*Cheema v Canada (Minister of Citizenship and Immigration)*, 2004 FC 224 at paras 7-8).

[28] In the end, the RAD concluded that:

> For all of these reasons, which consider the sources, documentary evidence, the circumstances in which this evidence came into existence and concerns regarding the authenticity of the evidence, the RAD finds that the Affidavit, police report and threatening note are not credible and are not admissible as new evidence.

[29] I find nothing unreasonable with that conclusion.

C. *Legal opinion from the lawyer in Nigeria*

[30] Mr. Sunday sought to offer in evidence a legal opinion that was supposedly relevant because it spoke to the "threat regarding the operations of the Fulani herdsmen, their plan to overtake the South West, and the heightened fear of insecurity in the South West where Lagos is situated due to attacks from Fulani herdsmen".

[31] The RAD concluded “that despite the date of correspondence, the contents deal primarily with events which predate the refugee claim or argument relating to the Appellant’s failed claim” and that as such, the legal opinion did not meet the requirement of subsection 110(4) of the IRPA.

[32] Mr. Sunday submits that he could not have known that the proposed IFA would be Lagos and that it was consequently unreasonable to discard the legal opinion in question on the basis that it could have been obtained prior to the RPD hearing.

[33] I cannot agree with Mr. Sunday. IFAs are regularly part of the mix in the determination of refugee claims, hence Mr. Sunday should have been prepared to speak to it at the time of his hearing before the RPD. Moreover, subsection 110(4) of the IRPA is not to be used to complete an otherwise deficient record (*Singh* at para 54).

[34] I find nothing unreasonable in the RAD’s conclusion on this issue.

D. *Published news articles*

[35] The RAD admitted some news articles because they post-dated the RPD decision and were relevant to Mr. Sunday’s claim. However, the RAD refused to admit other articles because they pre-dated the RPD’s decision and hence were easily accessible to Mr. Sunday.

[36] Mr. Sunday submits that the articles the RAD refused to admit are highly relevant as they speak to “the central issues of the operations of the Fulani Herdsmen in the South West area and

on Yorubaland which includes Lagos". In addition, they are relevant because they speak of the use of social media by the Herdsmen.

[37] Mr. Sunday has not convinced me on this issue, and I find nothing unreasonable with the RAD's decision in respect of the news articles. The articles that were not admitted simply do not meet subsection 110(4) of the IRPA requirements for admissibility, and as such, the RAD did not need to assess whether they were relevant to Mr. Sunday's claim.

E. *DHL envelope*

[38] Mr. Sunday did not make submissions as to the DHL envelope, which allegedly contained the documents Mr. Sunday received from his cousin. It was rejected by the RAD because Mr. Sunday had failed to demonstrate that the envelope met the requirements of subsection 110(4) of the IRPA and that it had any relevancy to his claim.

[39] Again, I see nothing unreasonable with the decision of the RAD on this issue.

F. *Was the RAD's decision not to conduct an oral hearing reasonable?*

[40] Mr. Sunday contends that he should have been afforded the opportunity of a hearing because the RAD's "credibility concerns with respect to the authenticity of the documents […] were central to Mr. Sundays' claim".

[41] The RAD may hold a hearing in the following circumstances, as provided for in subsection 110(6) of the IRPA:

| **Hearing** | **Audience** |
|---|---|
| (6) The Refugee Appeal Division may hold a hearing if, in its opinion, there is documentary evidence referred to in subsection (3) | (6) La section peut tenir une audience si elle estime qu'il existe des éléments de preuve documentaire visés au paragraphe (3) qui, à la fois : |
| (a) that raises a serious issue with respect to the credibility of the person who is the subject of the appeal; | a) soulèvent une question importante en ce qui concerne la crédibilité de la personne en cause; |
| (b) that is central to the decision with respect to the refugee protection claim; and | b) sont essentiels pour la prise de la décision relative à la demande d'asile; |
| (c) that, if accepted, would justify allowing or rejecting the refugee protection claim. | c) à supposer qu'ils soient admis, justifieraient que la demande d'asile soit accordée ou refusée, selon le cas. |

[42] Mr. Sunday is conflating, on the one hand, a finding that a proposed new document is not credible and thus fails the implied conditions of admissibility according to *Raza* and *Singh* with, on the other hand, a finding that the document constitutes evidence which raises a serious issue with respect to credibility; in my view one does not necessarily follow from the other.

[43] Mr. Sunday has not convinced me that the conclusion by the RAD that the affidavit, threatening letter and police report failed the implied admissibility criterion of credibility necessarily undermines his own credibility as determined by the RPD. Here, the RPD found Mr. Sunday to be credible, yet concluded that he simply had a viable IFA in Lagos.

[44] The determination by the RAD that the new evidence which Mr. Sunday was seeking to introduce lacked credibility does not, in my view, necessarily undermine the RPD's previous finding as to his credibility, nor has the RAD determined that Mr. Sunday's assertions of persecution lacked credibility. If that was the case, then every time that the RAD refused to allow for the introduction of new evidence on the grounds that it lacked credibility would invariably lead to an oral hearing. That cannot be right.

[45] As regards the news articles that were admitted as new evidence, the RAD simply found that they did not raise a serious issue with respect to Mr. Sunday's credibility.

[46] On the whole, I see nothing unreasonable with the RAD's decision as regards Mr. Sunday's request for an oral hearing.

G. *Was the RAD's determination that Mr. Sunday had an IFA in Lagos reasonable?*

[47] The two-pronged test for the determination of an IFA was recently set out by Justice McHaffie in *Olusola v Canada (Citizenship and Immigration)*, 2020 FC 799:

> [8] To determine if a viable IFA exists, the RAD must be satisfied, on a balance of probabilities, that (1) the claimant will not be subject to persecution (on a "serious possibility" standard), or a section 97 danger or risk (on a "more likely than not" standard) in the proposed IFA; and (2) in all the circumstances, including circumstances particular to the claimant, conditions in the IFA are such that it would not be unreasonable for the claimant to seek refuge there: *Thirunavukkarasu* at pp 595–597; *Hamdan v Canada (Immigration, Refugees and Citizenship)*, 2017 FC 643 at paras 10–12.
>
> [9] Both of these "prongs" of the test must be satisfied to conclude that a refugee claimant has a viable IFA. The threshold on the second prong of the IFA test is a high one. There must be "actual

> and concrete evidence" of conditions that would jeopardize Mr. Sundays' lives and safety in travelling or temporarily relocating to a safe area: *Ranganathan v Canada (Minister of Citizenship and Immigration)*, 2000 CanLII 16789 (FCA), [2001] 2 FC 164 (CA) at para 15. Once the potential for an IFA is raised, the claimant bears the onus of establishing it is not viable: *Thirunavukkarasu* at pp 594–595.

(1) First prong of the IFA test

[48] The RAD found that the Herdsmen are focused on accessing land for their cattle, and that clashes, although numerous, are driven by the "real or perceived need to protect themselves or their livelihoods". As such, the RAD found that the Herdsmen do not have any actual or future interest in the City of Lagos. In fact, there was no evidence that Herdsmen conduct attacks in urban Lagos. For instance, the RAD noted that a report of Amnesty International indicates that there have been no deaths in Lagos attributed to the Herdsmen from January 2016 to October 2018. In addition, the RAD considered that the organizational structure of Boko Haram makes it doubtful that they would have the means or the will to locate someone with Mr. Sunday's profile in a city as large as Lagos.

[49] In the end, the RAD concluded that neither the Herdsmen nor Boko Haram have the means, resources or capacity to locate someone like Mr. Sunday if he were to move to Lagos.

[50] Mr. Sunday alleges that the RAD relied too heavily on the National Documentation Package [NDP] as opposed to the news article that he had offered in evidence. Mr. Sunday also highlights that there was objective evidence that the Herdsmen activities extended to the South

West region where Lagos is situated, and that the Herdsmen have become one of the deadliest groups in Nigeria and parts of central Africa.

[51] Finally, Mr. Sunday argues, without citing any case law, that he cannot be required to provide definitive proof of how the agents of persecution would be able to locate him in Lagos.

[52] I note that Mr. Sunday does not address the reasonableness of the RAD's conclusion that he had provided insufficient evidence to establish that he would be at risk in the City of Lagos.

[53] It is not up to this Court to reweigh the evidence weighed by the RAD. The mere fact that the RAD relied more on the NDP than on the news articles is not in itself a sufficient ground to set aside the decision. Mr. Sunday does not explain why this greater reliance on objective evidence by the RAD would be unreasonable in the circumstances. He does not explain how, for instance, some information in the NDP relevant to Mr. Sunday's claim would be outdated.

[54] The fact that the agents of persecution are located in the same region as the IFA city does not mean that they have the mean or the will to come into the city. A regional presence is very different from an urban presence, especially in the case of a nomadic group mainly interested in finding pasture for its cattle.

[55] I disagree with Mr. Sunday's assertion that the RAD did not take into consideration the country's overall situation. In fact, the RAD conducted a detailed analysis of the Herdsmen's presence in the country before finding that their presence in Lagos was very limited, if not

inexistent and that they did not have the means nor the will to locate someone with a profile such as Mr. Sunday's.

[56] In short, Mr. Sunday did not provide any evidence that the Herdsmen had a presence in Lagos or that they would have the means or the will to locate him within the IFA. At the end of the day, he simply failed to make out his case.

(2) Second prong of the IFA test

[57] Before the RPD and the RAD, Mr. Sunday raised some challenges with living in Lagos, such as his indigeneship and ethnicity, but neither tribunal found that those challenges reached the level of rendering the proposed IFA unduly harsh under the circumstances.

[58] Mr. Sunday also argued that the IFA would be unduly harsh considering the unemployment level in Lagos, homelessness, violence, high rent for accommodation, high crime rates, inability to work in the agricultural field, lack of medical and mental health care, and ethnic and religious clashes.

[59] Although the challenges raised by Mr. Sunday were general in scope, there was no evidence as to how those issues would impact Mr. Sunday specifically. In the end, the RAD agreed with the RPD that while Mr. Sunday may experience some hardship in Lagos, it would not be unreasonable for Mr. Sunday to move there. I see no reason to disturb that conclusion.

[60] Mr. Sunday is university-educated, a fact which the RAD found to be an asset for him to find employment in Lagos. In addition, the fact that Mr. Sunday is a Christian is not an impediment as 40% of the population of Nigeria is Christian and the situation for Christians in Lagos is “normal”.

[61] The RAD also noted that Lagos has an international airport and Mr. Sunday speaks and understands English. Even though the security situation in Nigeria is challenging, the difficulties are especially concentrated in regions other than Lagos and Mr. Sunday does not have the profile, even considering his indigeneship, that would put him at higher risk.

[62] According to the RAD, the lack of mental health facilities in Nigeria does not make the IFA unreasonable, especially when there is no evidence that Mr. Sunday has a mental health issue. Consequently why this issue was even raised is not clear.

[63] Finally, the RAD draws a distinction between the IFA analysis and humanitarian and compassionate considerations. The fact that Mr. Sunday would be better off in Canada emotionally than in a safe place in his home country is not a relevant factor in the IFA analysis. Hardship associated with departure and relocation is not the kind of undue hardship that renders an IFA unreasonable. I must agree with the RAD on this point.

[64] Mr. Sunday submits that the discrimination faced by ethnic minorities in all Nigeria as well as the cost of living, the difficulty to find employment, and the lack of medical access in Lagos make the IFA unreasonable. Mr. Sunday essentially asks me to reweigh the evidence

based on the same arguments he submitted to the RAD, however he does not explain how the RAD's determination is unreasonable. He essentially reiterates the very arguments that he submitted before the RAD. Mr. Sunday must show that the RAD's determination is unreasonable. He has failed to do so.

[65] On the whole, I do not find the RAD's determination unreasonable. It examined each of Mr. Sunday's arguments in detail and concluded that none reaches the high threshold of establishing that an IFA is not viable. Mr. Sunday did not submit "actual and concrete evidence" of conditions that would jeopardize his life and safety.

## V. Conclusion

[66] Overall, I have not been convinced of any irregularity in the RAD's decision. Accordingly, the application for judicial review is dismissed.

**JUDGMENT in IMM-7411-19**

**THIS COURT'S JUDGMENT is that**:

1. The style of cause is amended to name the Minister of Citizenship and Immigration as the proper respondent.

2. The application for judicial review is dismissed.

3. There are no questions for certification.

"Peter G. Pamel"
Judge

**FEDERAL COURT**

**SOLICITORS OF RECORD**

| | |
|---|---|
| **DOCKET:** | IMM-7411-19 |
| **STYLE OF CAUSE:** | ADEBISI ANDEKUNYIN SUNDAY (A.K.A. ADEBISI ANDEKUN SUNDAY) v THE MINISTER OF CITIZENSHIP AND IMMIGRATION |
| **PLACE OF HEARING:** | HELD BY VIDEOCONFERENCE BETWEEN MONTREAL, QUEBEC AND TORONTO, ONTARIO |
| **DATE OF HEARING:** | DECEMBER 15, 2020 |
| **JUDGMENT AND REASONS:** | PAMEL J. |
| **DATED:** | MARCH 26, 2021 |

**APPEARANCES:**

| | |
|---|---|
| Dotun Davies | FOR THE APPLICANT |
| Gregory George | FOR THE RESPONDENT |

**SOLICITORS OF RECORD:**

| | |
|---|---|
| Topmarke Attorneys LLP<br>North York, Ontario | FOR THE APPLICANT |
| Attorney General of Canada<br>Toronto, Ontario | FOR THE RESPONDENT |