

Federal Court



Cour fédérale

Date: 20220615

Docket: IMM-4910-21

Citation: 2022 FC 898

Ottawa, Ontario, June 15, 2022

PRESENT: The Honourable Madam Justice Strickland

BETWEEN:

MOMOH PEACE EROMOSELE

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] This is the application for judicial review of the decision of the Refugee Appeal Board [RAD] of the Immigration and Refugee Board of Canada dismissing the Applicant's appeal of the decision of the Refugee Protection Division [RPD] which found that the Applicant had failed to establish his identity and, therefore, was not a Convention refugee or a person in need of protection under s 96 and s 97, respectively, of the *Immigration and Refugee Protection Act* cite [IRPA].

Background

[2] The Applicant claims that he is a Nigerian citizen. He claims that his father is a devout Muslim and an Imam who disowned the Applicant after finding out that he had married a Christian woman and converted to Christianity. The Applicant claims that his father had him declared “wanted” with the help of his father’s younger brother, Rilwan Eromosele, who is an Assistant Inspector General of Police, a very high rank in the national police force. The Applicant claims he fears persecution by his father.

[3] The Applicant claims that he used a “travel agent” to apply for a United States [US] visa. Because the Applicant was concerned that his uncle would cause the immigration authorities to stop him at the airport, the travel agent arranged for him to travel with a woman and her three children, the Applicant pretending to be her husband. To facilitate this, the Applicant applied for a Nigerian passport using the name Glee Peace Nwozor. The Applicant arrived in the United States on June 10, 2017. He claims that shortly after arriving he fell ill and sought medical treatment. He remained in the US for 9 months always using the name Glee Peace Nwozor. He claims that while he was in the US his wife couriered his real identification to him. He entered Canada at an irregular border crossing on March 10, 2018. He sought refugee protection under the name Momoh Peace Eromosele and alleges that this is his true identity.

i. RPD decision

[4] The RPD denied his claim in a decision dated July 9, 2020. The RPD found that the determinative issue was the Applicant’s identity and his credibility as it related to his identity.

The RPD provide detailed reasons and addressed each of the documents submitted by the Applicant to support his identity, being: a birth certificate; a declaration of age; a National Identification Number slip [NIN Slip]; a voter's card; a certificate of origin; a baptism certificate; a marriage certificate; a school certificate; and, a copy of the passport of Ms. Blessing Osarenren Eromosele, who the Applicant claims is his wife. The RPD set out its concerns with each of these documents.

[5] The RPD also addressed the Applicant's claimed reason for obtaining a passport under an assumed name. The RPD identified an inconsistency between his basis of claim [BOC] narrative (where he claimed that his father sought help from his high ranking police officer brother) and his testimony (where he claimed that as an Imam his father is well connected and that many influential people are his allies, but did not mention his father's brother). The Applicant's explanation for this omission was that his uncle delegated things to his junior. The RPD found this not to be reasonably explained. The RPD also noted that during the time the Applicant claimed to be living in hiding in Port Harcourt he had a lease under his name and a bank account in his wife's name. The RPD found that this was incompatible with someone who had been declared "wanted" as, based on the documentary evidence, this would have enabled the police to discover the Applicant's whereabouts.

[6] Faced with a voter's card and a passport, both of which purported to be genuine official documents issued by the Republic of Nigeria, containing the fingerprints and biometrics of the same individual with different names, the RPD found that it had no way of determining which of the documents actually contained the real name of the Applicant. The RPD found that the

Applicant's inability to provide a credible and reasonable explanation as to why he used the assumed name undermined his credibility. One, or possibly both, of the identities was false and the RPD found, on a balance of probabilities, that the Applicant presented himself to immigration authorities, somewhere, under a false identity. It accordingly drew a negative inference with respect to the Applicant's credibility as it related to his identity.

[7] The RPD concluded that the Applicant had failed to establish his identity as required by section 106 of the IRPA and Rule 11 of the Refugee Protection Division Rules. Accordingly, his claim must fail.

Relevant Legislation

Immigration and Refugee Protection Act, SC 2001, c 27 ("IRPA")

106 The Refugee Protection Division must take into account, with respect to the credibility of a claimant, whether the claimant possesses acceptable documentation establishing identity, and if not, whether they have provided a reasonable explanation for the lack of documentation or have taken reasonable steps to obtain the documentation.

Refugee Protection Division Rules, SOR/2002-228 [RPD Rules]

11 The claimant must provide acceptable documents establishing their identity and other elements of the claim. A claimant who does not provide acceptable documents must explain why they did not provide the documents and what steps they took to obtain them.

Decision under review

[8] The RAD found that jurisprudence supports that foreign documents purporting to be issued by a competent foreign public official should be accepted as evidence of their content unless there is valid reason to doubt their authenticity. Further, that the presumption that foreign

identity documents are valid “falls away” when there is a valid reason for doubting their authenticity. The RAD addressed each of the Applicant’s identity documents, found that the RPD’s decision was correct and dismissed the appeal.

Issues and standard of review

[9] The sole issue in this matter is whether the RAD’s decision that the Applicant had not established his identify was reasonable.

[10] The parties submit, and I agree, that the decision is to be reviewed on the reasonableness standard. On judicial review, the reviewing court asks whether the decision bears the hallmarks of reasonableness — justification, transparency and intelligibility — and whether it is justified in relation to the relevant factual and legal constraints that bear on the decision (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [Vavilov] at paras 23, 25 and 99).

Reasonableness of the RAD’s decision

Applicant’s position

[11] The Applicant submits that the RAD unreasonably assessed his baptismal certificate as being inauthentic and having no probative value, discounting the security features in the document and unreasonably applying irrelevant and unreliable country information in a result-oriented analysis.

[12] Further, that the RAD erred in assessing his voter's card as inauthentic or not warranting any weight because the Applicant was able to obtain a false passport to leave Nigeria. The Applicant submits that resort to false documents to flee as country of origin is not a permissible basis on which to impugn his credibility or the reliability of his documents. On the same basis, the RAD erred in finding that it could place no more weight on his voter's card than on the passport issued under the name Glee Peace Nwozor [Nwozor Passport] and erred in fact in stating that the Nwozor Passport purports to be a genuine document issued by Nigeria. Further, the finding that there is no basis to determine the Applicant's true identity from the voter's card is unreasonable in light of the totality of the identity evidence presented by the Applicant.

[13] The Applicant submits that the RAD also unreasonably misconstrued the evidence in assessing the Applicant's certificate of identification/origin and failed to appreciate the dual purpose of that document. Further, that the RAD unreasonably assessed his West African Examinations Council General Certificate of Education Ordinary Level Result [Exam Certificate], erring in fact by ascribing it no probative value, and in law failing to make a clear finding as to its authenticity.

[14] Finally, the Applicant submits that the preponderance of the identity evidence, some of which was issued many years ago, established his identity as Momoh Peace Eromosele and that the RAD erred in taking a piecemeal approach to the evidence rather than assessing it in whole.

Respondent's position

[15] The Respondent submits that the RAD did not err in assessing the voter's card. The RPD found that the Applicant had not reasonably explained why he sought a passport under the name Glee Peace Nwozor. The RAD reasonably agreed with the RPD that at least one of the identities presented by the Applicant to immigration authorities was false, and that this undermined his credibility. In the absence of a reasonable explanation, there was no violation of the precedent that adverse credibility findings should not be based on a refugee's claimant's need to flee their country of origin using false documents.

[16] The RAD also reasonably found that more weight should not be given to the voter's card versus other official documents containing a different name attributed to the Applicant because there was no basis to prefer the voter's card over other documents. The Applicant testified that he did not submit any documents when he applied for the voter's card, which is contrary to the objective country information indicating that several pieces of information are collected, including scanning fingerprints and taking pictures.

[17] The Respondent submits that the RAD reasonably determined that the baptismal certificate was inauthentic because it did not contain a birth date or a parent's name and was therefore inconsistent with objective country information contained in the National Documentation Package for Nigeria [NDP].

[18] And, finally, the Respondent submits that when the RAD's decision is considered as a whole, it is reasonable.

Analysis

[19] The general principles concerning the establishment of identity were set out in *Toure v Canada (Citizenship and Immigration)*, 2014 FC 1189 [*Toure*], in the context of a decision made by the RPD:

[31] The Applicant claiming refugee status must first establish her identity before the RPD (Rule 11 of the *Refugee Protection Division Rules*, SOR/2012-256 and section 106 of IRPA). The Applicant has a high onus to produce acceptable documentation establishing her identity (*Su v Canada (Minister of Citizenship and Immigration)*, 2012 FC 743, [2012] FCJ No 902 at para 4 [Su]). When making identity findings, the RPD must take into account the totality of the evidence related to the identity of the refugee claimant (*Yang v Canada (Minister of Citizenship and Immigration)*, 2009 FC 681, [2009] FCJ No 848 at para 6 [Yang]). If the Applicant does not establish her identity, the RPD can then draw a negative conclusion as to her credibility (*Matingou, supra* at para 2).

[32] It is also well established that the issue of identity is at the very core of the RPD's expertise and this Court should be cautious about intervening on such decisions (*Barry v Canada (Minister of Citizenship and Immigration)*, 2014 FC 8, [2014] FCJ No 10 at para 19 [Barry]). Justice Gleason further states in *Rahal v Canada (Minister of Citizenship and Immigration)*, 2012 FC 319, [2012] FCJ No 369 at para 48 [*Rahal*]:

[...] In my view, provided that there is some evidence to support the Board's identity-related conclusions, provided the RPD offers some reasons for its conclusions (that are not clearly suspicious) and provided there is no glaring inconsistencies between the Board's decision and the weight of evidence in the record, the RPD's determination on identity warrants deference and will fall within the purview of a reasonable decision. In other words, if these factors pertain, the determination cannot be

said to have been made in a perverse or capricious manner or without regard to the evidence.

[20] The RAD found that the RPD's decision was correct and gave two overarching considerations as the premise for its decision. First, that the presumption that foreign documents are valid had "fallen away" in this case (referencing *Teweldebrhand v Canada (Citizenship and Immigration)*, 2015 FC 418 at paras 14-16 [*Teweldebrhand*]). This did not necessarily mean that the documents submitted by the Applicant were not authentic, rather that the onus had shifted and that the Applicant was required to prove their authenticity. Second, and relatedly, the documents were in different names and the Applicant had not provided sufficient evidence to establish which of the documents were authentic and which were not. Accordingly, there was no basis to determine that the documents in the name of Momoh Peace Eromosele were valid over those in the name of Glee Peace Nwozor. The RAD stated that the RPD had explained why the presumption of validity had fallen away and why there were valid reasons for doubting the authenticity of the Applicant's identity documents and stated that it agreed with the RPD's reasoning.

[21] On judicial review, the Applicant specifically challenges the RAD's findings with respect to four documents: the baptismal certificate; the voter's card; the certificate of origin; and the Exam Certificate. He also submits that the RAD erred by treating these, and his other identity documents, in a piecemeal fashion rather than holistically.

[22] In my view, the RAD's analysis of the birth certificate and declaration of age is significant because, based on this analysis, the RAD found that the presumption of validity was

no longer in play. Further, the RAD's analysis of these documents would factor into a holistic analysis by the RAD and into this Court's assessment of the overall reasonableness of the RAD's decision. Accordingly, although not challenged by the Applicant, I will address these findings first.

i. *Birth certificate/declaration of age*

[23] The RPD devoted 18 paragraphs to the birth certificate and declaration of age. With respect to the birth certificate, it noted that this lacked certain basic and salient features such as a lack of a stamp or seal of the issuing authority, the name of the issuing officer and an issuing date. Based on the documentary evidence concerning birth certificates, and the Applicant's failure to provide a reasonable explanation for the discrepancies, as well as his inability to provide reasonable explanations regarding the registration of his birth and what documentation his wife used to obtain the birth certificate, the RPD concluded that the birth certificate was inauthentic and that the Applicant had failed to establish the reliability of the document.

[24] With respect to the declaration of age, the RPD noted that the affiant of the document indicated that he was a cousin of the Applicant. The affiant stated that the Applicant was born on April 4, 1970 and that his birth was not registered but was included in the family's record. However, in his testimony before the RPD, the Applicant stated that the affiant was not his cousin and that such affiants are paid money and issue the documents. The RPD found that as the information relied upon by the authorities to issue the declaration of age came from someone who does not know the Applicant and who could not have attested to his identity – his name or date of birth – and because the Applicant was unable to state if any of his acquaintances or older

family members had gone with him to attest to his date of birth when he applied for the declaration of age document, it did not accept the declaration of age as corroborating proof establishing the Applicant's identity.

[25] The RPD also addressed the contradiction between the birth certificate and declaration of age. Specifically, while the Applicant presented a birth certificate, the declaration of age states that his birth is not registered. The RPD did not accept as reasonable the Applicant's explanation that it is standard practice to indicate that the birth is not recorded, given that the Applicant was able to acquire a birth certificate and the objective documentary evidence indicates that a birth certificate is issued only if the birth is registered. Accordingly, the RPD afforded no weight to the declaration of age.

[26] For its part, the RAD found that while the objective country information indicates that there are documents that would have been required to have been submitted to obtain the birth certificate, the Applicant was unable to name any documents that his wife had submitted to obtain his birth certificate. Further, the Applicant had been unable to answer whether or not his birth had been registered. The objective country information for Nigeria indicated that if his birth had not been registered, the standard procedure would have been to issue an attestation letter, not a birth certificate.

[27] The RAD did not explicitly state that the RPD correctly found that the birth certificate was inauthentic nor did it make its own finding in that regard. However, the RAD found that the RPD correctly analyzed the birth certificate in light of the declaration of age document and

agreed with the RPD that the two documents did not present a consistent story. The Applicant presented a birth certificate which suggested his birth was registered. However, the declaration of age document specifically states “That, at the time of his birth, his birth was not registered, but it was written in the family’s record for that purpose”. While the Applicant testified at the RPD hearing that it is standard to indicate on the declaration of age that the birth is not recorded, the RAD stated that it was unable to locate any objective country information to support that assertion.

[28] The RAD found that the concern about the birth certificate and declaration of age were sufficient to justify the conclusion that the presumption that the Applicant’s identity documents were valid had fallen away, meaning that the onus had shifted to the Applicant to establish their validity.

ii. *National Identification Number Slip*

[29] Like the RAD’s finding with respect to the Applicant’s birth certificate, on judicial review the Applicant does not challenge the RAD’s finding about the NINS Slip.

[30] The RAD found that no weight should be given to the NINS Slip because it had no probative value. It demonstrated only confirmation that the Applicant had applied for a National Identity Card, not that he was issued one. The RAD also pointed to item 3.9 of the NDP: “Implementation of the National Identity Card (NIC), including roll-out of the National Identification Number (NIN); requirements and procedures to obtain a NIN and NIC”, which explained that, after applying for a National Identification Number, an applicant would have to

return within two to seven working days as the application was subject to “authentication and verification”. The RAD found that the Applicant had not established after that this process ever took place and had testified that he did not receive a national identity card.

iii. *Baptismal Certificate*

[31] The RAD found that no weight should be given to the baptismal certificate in answering the question of the Applicant’s identity as the document was inauthentic and of no probative value. The RAD held:

[28] The Baptismal Certificate is in the name of Momoh Peace Eromosele and dated August 4, 1999. The certificate is issued by "God's Revelation Holy Ghost Deliverance Ministry" and is signed by the General Overseer.

[29] The baptismal certificate does not contain a birth date or the parent's name, which contrasts with the objective country information for Nigeria that indicates that such information should be included in Baptismal Certificates:

In a telephone interview with the Research Directorate, a Catholic Priest in Nasarawa state indicated that baptism certificates contain a person's date of birth, along with other information such as their name and parents’ names (Catholic Priest 22 Oct. 2013). The Catholic Priest said that baptism certificates are "very often used as a birth certificate by the holders of these documents," as a lot of people do not register their births and do not have any certification of their births" (ibid.) He said that the date of birth on a baptism certificate is often used as an official date of birth (ibid.).

[endnote omitted]

[32] The RAD acknowledged the Applicant’s submission that the RPD erred by indicating that the baptismal certificate does not have a seal of the issuing authority and does not state the name of the issuing authority. However, the RAD found that the question of the sufficiency of

the seal or whether the “General Overseer” is an issuing authority was secondary to the important fact that the certificate is missing a date of birth and the parents’ names, contrary to the objective country information indicating that this information should be included. On a balance of probabilities, the absence of this basic information rendered the document inauthentic. The RAD also stated, more importantly, that the document had no probative value. Although it contains the name Momoh Peace Eromosele, there was no information in the document linking it to the Applicant, such as a birth date or parent’s name.

[33] The Applicant reproduces the section entitled Baptism Certificates found in the NDP, NGA104601, *Nigeria: Requirements and Procedures an Adult must fulfill to obtain a Birth certificate, including those who apply from within the Country and Abroad*, dated November 8, 2013 and attacks the source of the information reporting that baptism certificates contain a person’s date of birth and other information such as their name and their parent’s name, the source being a Catholic priest.

[34] He asserts that nothing in this information states that a Catholic priest has knowledge about non-Catholic denominations in Nigeria and that nothing in the name of the issuing authority “God’s Revelation Holy Ghost Deliverance Ministry” suggests it is a Catholic Ministry or church. Thus, it was unreasonable to rely on the uncorroborated information of a Catholic priest to find that the baptismal certificate is not authentic. Further, that the priest’s statement suggests that such baptismal certificates would normally be issued for baptisms issued contemporaneous to birth, which is not the case for the Applicant, as his baptismal certificate was issued on August 4, 1999 when he was 29 years old and converted to Christianity.

[35] In my view, while the Applicant asserts that the Catholic priest's information is unreliable, this is little more than speculation.

[36] The Applicant points to no evidence to support that there is any difference in baptismal certificates issued by Catholic authorities and those issued by the authorities of any other denomination. Indeed, he speculates that the issuing authority in his case may not be Catholic – but offers no evidence on this point even though his baptismal certificate was allegedly issued when he was 29 years old and he would presumably know if he were baptized in a Catholic church. Further, even if as the priest stated that baptismal certificates are very often used as a birth certificate by the holder of the document, this does not establish, as the Applicant submits, that the type of baptismal certificates the priest was speaking about would normally be issued for baptisms that are contemporaneous with birth, nor is this relevant. This is not a situation such as *Kathirkamu v Canada (Citizenship and Immigration)*, 2003 FCT 409 (CanLII), relied upon by the Applicant. In this matter, the RAD clearly explained why it determined the baptismal certificate to be inauthentic and based this finding on evidence in the NDP as to the expected content of birth certificates. It is not the Court's role to reweigh the NDP evidence that was considered by the RAD (*Canada (Citizenship and Immigration) v Khosa*, 2009 SCC 12 at paras 59 and 61; *Vavilov* at para 125).

[37] The Applicant also submits that the RAD unreasonably discounted the authenticity features of the baptismal certificate. However, unlike *Denis v Canada (Citizenship and Immigration)*, 2018 FC 1182, also relied upon by the Applicant, this is not a situation where a security feature was overlooked. The RAD acknowledged the seal and signature, but found that

those features were secondary to the missing information that it would have expected to be contained in the baptismal certificate based on the objective country information contained in the NDP. The RAD was entitled to give less weight to the security features than to the missing information. And, as pointed out by the RPD, the name of the issuing authority is not stated on the stamp.

[38] In my view, in the absence of any evidence establishing or even suggesting that the objective country conditions document was not reliable or was unfounded, the RAD reasonably found the baptismal certificate to be inauthentic.

iv. *Voter's Card*

[39] The RAD found that no more weight should be given to the voter's card as compared to other official documents containing a different name attributed to the Applicant. That is, there was no basis to prefer that document, specifically, to the Nwozor Passport. The RAD states that it agreed with the RPD's reasoning on this point found at paragraphs 93-97 of its reasons.

[40] The Applicant asserts that the RAD essentially afforded the voter's card no weight or found it to be inauthentic because he was able to obtain a false passport to leave Nigeria. However, resort to the use of false documents in order to flee a country of origin is not a proper basis on which to impugn an applicant's credibility or the reliability of their documents referencing *Teneqexhiu v Canada (Minister of Citizenship and Immigration)*, 2003 FCT 397 (CanLII) at paras 4, 5 and 14 and other case law.

[41] The Respondent submits that the RAD did not err. Rather, that before the RPD the Applicant had not provided a reasonable explanation for why he had applied for a passport under the name Glee Peace Nwozor. The absence of such an explanation undermined his credibility.

[42] This Court has held that it is an error to draw an adverse credibility inference against a refugee claimant solely due to the fact that they used fraudulent documents in order to escape persecution when the need to resort to false documentation has been established (see *Koffi v Canada (Citizenship and Immigration)*, 2016 FC 4 at paras 42-45, 55-56).

[43] In this case, the RPD provided detailed reasons about why it did not accept the Applicant's explanation for why he needed to obtain the Nwozor Passport (paragraphs 68 to 97 of its reasons). Specifically, he did not reasonably explain the discrepancy between his BOC and his testimony as to how his father had him declared "wanted". Further, while he claimed to be in hiding in Port Harcourt he held a bank account in his wife's name and a lease under his name, which, had he been "wanted" would have made him easily discoverable by the police if they were looking for him. Based on this, the RPD drew a negative inference as to the Applicant's credibility as it related to *why* he obtained a passport under the name Glee Peace Nwozor. The RPD also referred to the documentary evidence as to the prevalence of fraudulent documents in Nigeria, including that all forms of genuine documents – such as passports – can be obtained using false documentation.

[44] As to the voter's card, which the Applicant testified was issued in 2014, the RPD referred to the NDP for Nigeria which indicates that between 2011 and 2015 there were cases of the same

individual registering to vote under different names. The RPD afforded the voter's card no weight. The RPD also explained why it did not prefer the Nwozor Passport to the voter's card. Both the Nwozor Passport and the voter's card purported to be genuine official documents issued by the Republic of Nigeria containing the fingerprints and biometrics of the same individual with different names. The RPD found it had no way of determining which of the documents actually contained the real name of the Applicant. It drew an adverse inference with respect to the Applicant's credibility as it relates to his identity as a result of his use of a false identity and his failure to reasonably explain why he used a false identity. This undermined the credibility of his claim that he is Momoh Peace Eromosele.

[45] The RAD referred to the RPD's conclusion on the Nwozor Passport and the voter's card and held:

[40] I find that the RPD's reasoning in paragraphs 93 to 97 of its decision is correct, and I agree with the analysis that the Voter's Card, based on the fingerprints and a photograph, in the name of Eromosele Momoh Peace can be given no more weight than the passport under the name Glee Peace Nwozor, also purporting to be a genuine document issued by Nigeria, and based on fingerprints and a photograph. As indicated by the RPD, "The Panel has no way of determining which one of them actually contains the real name of the claimant." In other words, faced with two documents, both issued by a government and both based on fingerprints and photographs, there is no basis for me to give one document containing one name more weight than another competing document with a different name. This is especially so when the reliability of the voter's cards can be an issue, as indicated by the objective country information referred to above.

[46] I first address the Applicant's submission that the RAD erred in fact in stating that the Nwozor Passport purports to be genuine. There is no merit to this submission. The evidence was that the Applicant applied for the passport using the name Glee Peace Nwozor. That passport

was issued by the Nigerian authorities and contains the same biometric information as the voter's card held in the name of Momoh Peace Eromosele. Put otherwise, there is no evidence that the Nwozor Passport is the product of forgery. Rather, it is an official document issued by the Nigerian authorities. It purports to be genuine. The fact that the Applicant now disavows the Nwozor Passport on the basis that he claims that he was forced to obtain it under an assumed name to flee the country does not necessarily mean it is not genuine – rather, his assertion is that it was obtained by fraud.

[47] Second, it is clear from the RPD's reasons it did not draw an adverse credibility inference against the Applicant because he used an allegedly fraudulent document, the Nwozor Passport, in order to escape persecution. Rather, the RPD drew an adverse credibility finding because it did not accept the Applicant's explanation for *why* it was necessary to obtain the Nwozor Passport. That is, it did not accept that the Applicant needed a false passport to flee because it did not find credible his story as to why he had to flee. As a result, of that adverse credibility finding, the RPD found that the Applicant had presented himself – somewhere – using a false identity.

[48] In his submission to the RAD, the Applicant asserted that the RPD erred by giving no probative value to the voter's card without making an explicit finding as to its authenticity.

[49] In my view, the difficulty here is that the RAD did not explicitly adopt the RPD's credibility findings, nor does it make any adverse credibility findings itself. That is, it did not conduct an independent analysis concerning the adverse inference that the RPD drew as to the Applicant's credibility (*Gomes v Canada (Citizenship and Immigration)*, 2020 FC 506 at para

52; *Rozas del Solar v Canada (Citizenship and Immigration)*, 2018 FC 1145 at para 125) that impacted its assessment of the voter's card and the Nwozor Passport.

[50] I also tend to agree with the Applicant that the RAD was hedging its bet in its treatment of the voter's card. While reference was made to the objective documentary evidence indicating that voter's cards may not be reliable, the RAD made no finding that the voter's card was inauthentic or, more specifically, that it had been acquired by fraud (*Mabirizi v Canada (Citizenship and Immigration)*, 2021 FC 1354 at paras 18-20; *Oranye v Canada (Citizenship and Immigration)*, 2018 FC 390 at paras 27-29; *Ogbebor v Canada (Citizenship and Immigration)*, 2021 FC 994 at paras 17-21). It is also unclear what weight, if any, the RAD was affording to the voter's card or the Nwozor Passport in establishing the Applicant's identity.

[51] In my view, the RAD erred in its assessment of the RPD's finding and in failing to make a determination as to the authenticity of the voter's card.

v. *Certificate of origin*

[52] The RPD noted that it had found the Applicant's birth certificate to be inauthentic and, accordingly, that the presumption had been refuted in regard to the Applicant's other identity documents, including the certificate of origin. In that context, the RPD found that the certificate of origin was not sufficiently probative to establish the Applicant's identity.

[53] The RAD found that the certificate of origin was not useful in answering the question of the Applicants identity because the objective country evidence indicates that a place of origin

speaks to the paternal ancestral place of birth of an individual and not the place of birth of the individual. In other words, the certificate relates to someone else's birth, not the Applicant's. The same objective evidence also indicated that certificates of origin have no legal basis and that there are no established written criteria surrounding them.

[54] The Applicant submits that the RAD misconstrued the objective documentary evidence in assessing certificate of origin because the primary purpose in examining that document was to ascertain the Applicant's identity as Momoh Peace Eromosele, not his place of birth within Nigeria. The Applicant submits that, as its name implies (Certificate of Identity/Origin), the document has a dual purpose of identifying the bearer of the certificate and the paternal birthplace of the bearer. Because of the RAD did not recognize this, it failed to consider this document along with all of the other identity documents in establishing his identity as Momoh Peace Eromosele.

[55] The NDP indicates that, in the absence of a law prescribing documentary requirements on the matter, proof of an individual's "right to be Nigerian" is effectively by way of a certificate of indigeneity. That document that has no legal basis, and there are no established written criteria on the basis of which a refusal of the right could be challenged. Other materials in the NDP indicate that the Certificate of State of Origin is evidence of the state from which a person claims to belong and can be used as a general means of identification. What may be required as proof to issue a certificate may vary from state to state. In sum, a certificate of origin is issued by the state government rather than the federal government of Nigeria. It would appear to be an official document that can be used as identification and can be relied upon by some local, state, and

federal governments for certain administrative purposes. Given this, and that the Certificate of Identity/Origin presented by the Applicant (apparently issued by Esan West Local Government, Edo State, Nigeria) contains not only his name but his photograph, I agree with the Applicant that the RAD erred in concluding that the document does not speak to his identity but relates to related to someone else's birth.

[56] That said, given the RAD's findings concerning the Applicant's birth certificate, it was open to it to require the Applicant to establish that the certificate of origin was authentic. However, the RAD does not appear to have questioned the authenticity of the document. And, at least on its face, the document would appear to have some probative value.

[57] I also agree with the Applicant that if the RAD was not questioning the authenticity of the certificate of origin then it should have also considered that document in the context of the other documents presented by the Applicant which also, at least on their face, support his identity as Momoh Peace Eromosele. As the Applicant points out, only the Nwozor Passport indicates that he is Glee Peace Nwozor; all of the other documents are in the name Momoh Peace Eromosele.

[58] In that regard, this Court has previously held that "evidence as a whole is to be considered. No piece should be dismissed simply because it is a piece" (*Warsame v. Canada (Citizenship and Immigration)*, 2019 FC 920 at para 47. See also *Warsame v Canada (Immigration, Refugees and Citizenship)*, 2019 FC 118 at paras 16-18; *Teganya v Canada (Citizenship and Immigration)*, 2012 FC 42 [*Teganya*] at para 25). In my view, the RAD's

analysis of the certificate or origin was in error as it “essentially treats this evidence in isolation, without considering the evidence purposively and contextually, in light of the other evidence before it” (*Warsame v. Canada (Citizenship and Immigration)*, 2019 FC 920 at para 47).

vi. *Marriage certificate, Exam Certificate and Ms. Eromosele’s passport*

[59] The RPD found that the marriage certificate did not purport to be an official document and the documentary evidence indicates that Benin City is a centre of the engraving industry and practically any falsified document can be procured there, from birth certificates to diplomas. The Exam Certificate was a grade report issued by the Western African Examination Council. The RPD found that these were insufficient to alleviate all of the other problems it had identified and to establish the Applicant’s identity as Momoh Peace Eromosele. The RPD also found that Ms. Eromosele’s passport excerpt was insufficient to establish the Applicant’s identity as it made no mention of him.

[60] The RAD found that the marriage certificate, Exam Certificate and Ms. Eromosele’s passport were insufficient to establish the Applicant’s identity. The marriage certificate was not credible as it is not an official document and there was a lack of evidence to support that it was authentic. The RAD stated that while the pervasiveness of fraudulent documents does not necessarily mean that a document is fraudulent, in the matter before it, the presumption of authenticity had fallen away and the Applicant had not provided sufficient proof to establish that the document was authentic.

[61] I note that the marriage certificate is issued by the “Ministry of Perfection International Inc.” (Worldwide Deliverance & Information Centre) and states that Eromosele P. Memok and Oronsaye O. Blessing were married according to the ordinance of God and the laws of Ministry of Perfection Church Worldwide. It purports to be signed by the bride, her parents, the groom, witnesses, the general overseer and the officiating minister. While it does contain a seal, the seal is blank.

[62] It is not an official document issued by the Nigerian authorities. As such, the RAD was entitled to afford it limited probative value in establishing the Applicant’s identity. More problematic is that while the RAD found that the Applicant had not demonstrated that the marriage certificate was authentic, the RAD did not consider the marriage certificate in the context of the wedding photographs and the passport page, with a photo, allegedly of Ms. Eromosele. While the marriage certificate alone may not have been sufficient to confirm the Applicant’s identity, it should have been assessed by the RAD in light of the other documentation submitted in support of the Applicant’s identity as Momoh Peace Eromosele.

[63] The RAD found that the Exam Certificate was not probative because it provided only grades, it was simply a report card.

[64] The Applicant submits that the RAD failed to consider that the West African Examinations Council is an international examining body. Further, that the certificate bears an official seal and the signatures of the Registrar and the Chairman as well as the Applicant’s candidate number and the certificate number. The Applicant submits that the RAD misconstrued

this evidence because it is an authentic document issued 35 years ago. He submits that it should have been considered in the context of his other identity documents to establish his identity and that the failure to afford it any probative value is a reviewable factual error. He also submits that the failure to afford the document any probative value is a legal error in the absence of an explicitly finding as to its authenticity. Further, that the RAD was implicitly requiring the Exam Certificate to contain authenticity features such as a photograph.

[65] I do not agree with the Applicant that the RAD was implicitly requiring the Exam Certificate to contain a photograph. And, again, the Exam Certificate is not an identity document issued by the Nigerian authorities. Nor does the Applicant point to any evidence to support his argument that the West African Examinations Council is an international examining body or to otherwise confirm the authenticity of the document.

[66] That said, the RPD mentioned an NDP item, in a footnote, relating to the prevalence of fraudulent documents, but did not make a clear authenticity finding with respect to the Exam Certificate. And, while the document does bear the Applicant's name as well as a seal, the RAD made no determination as to its authenticity. Again, as with the marriage certificate, the Exam Certificate may not have been sufficient to establish the Applicant's identity, but the RAD erred by failing to consider either the authenticity of the document or its probative value in the context of all of the identity documents submitted by the Applicant in the name Momoh Peace Eromosele (*Warsame v. Canada (Citizenship and Immigration)*, 2019 FC 920 at para 47; *Warsame v Canada (Immigration, Refugees and Citizenship)*, 2019 FC 118 at paras 16-18; *Teganya* at para 25).

[67] The RAD found that Ms. Eromosele's passport was not probative as it did not mention the Applicant's name or provide any particulars. This is true. But, Ms. Eromosele's passport bears the same last name as that of the Applicant and it contains a photograph that could have been considered in the context of the wedding photos. In that context, it may have had some probative value.

Conclusion

[68] The RAD erred in its treatment of the voter's card, including by failing to adopt the RPD's adverse credibility finding or to conduct an independent analysis concerning the adverse inference that the RPD drew as to the Applicant's credibility. Further, the RAD did not assess whether the voter's card, Exam Certificate, the certificate of origin or the marriage certificate, were authentic. Nor did it assess whether these documents as well as the marriage photos and passport photo of Ms. Eromosele were, when taken together and not viewed in isolation, sufficiently probative to overcome the RAD's concerns with primary identity documents – such as the birth certificate – and establish the Applicant's identity as Momoh Peace Eromosele (see *Nti v Canada (Citizenship and Immigration)*, 2020 FC 595 at para 21). Accordingly, I find that the RAD's decision is not reasonable.

[69] It may well be that the same outcome will be entered on reconsideration by a different RAD member, however, the RAD's reasons in this matter do not justify its decision.

JUDGMENT IN IMM-4910-21

THIS COURT'S JUDGMENT is that

1. The application for judicial review is granted;
2. The decision is set aside and the matter shall be remitted to another officer for redetermination;
3. There shall be no order as to costs; and
4. No question of general importance for certification was proposed or arises.

"Cecily Y. Strickland"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-4910-21

STYLE OF CAUSE: MOMOH PEACE EROMOSELE v THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: BY VIDEOCONFERENCE USING ZOOM

DATE OF HEARING: MAY 24, 2022

JUDGMENT AND REASONS: STRICKLAND J.

DATED: JUNE 15, 2022

APPEARANCES:

Taiwo Olalere FOR THE APPLICANT

Yusuf Khan FOR THE RESPONDENT

SOLICITORS OF RECORD:

Barrister, Solicitors and Notary Public FOR THE APPLICANT
Olalere Law Office
Ottawa, Ontario

Attorney General of Canada FOR THE RESPONDENT
Ottawa, Ontario