

Federal Court



Cour fédérale

Date: 20220623

Docket: IMM-5508-20

Citation: 2022 FC 937

Ottawa, Ontario, June 23, 2022

PRESENT: The Honourable Mr. Justice Pentney

BETWEEN:

**CYRIL CHINEDU UGORJI
RACHAEL OYIZA UGORJI
PRECIOUS CHISOM UGORJI
DIADEM CHISOROM UGORJI**

Applicants

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Introduction

[1] The Applicants seek judicial review of the decision of the Refugee Appeal Division (RAD) that upheld the decision of the Refugee Protection Division finding that they were not Convention refugees or persons in need of protection.

[2] The Principal Applicant in this matter is Cyril Chinedu Ugorji. His wife, Rachael Oyiza Ugorji (the Co-Applicant) together with their daughters (Precious Chisom Ugorji and Diadem Chisorum Ugorji) based their claims on the narrative of the Principal Applicant. The claims are based on the alleged fear that the wife and daughters will be forced to undergo Female Genital Mutilation (FGM) at the hands of the Principal Applicant's extended family and other villagers.

[3] The RPD rejected the claims because of credibility concerns, and the RAD upheld this finding. The credibility concerns essentially relate to the omission of certain core elements of the narrative from the Principal Applicant's Basis of Claim form, together with the evolving nature of certain of the testimony and the deficiencies in the corroborative evidence.

[4] The Applicants seek judicial review of the decision. A question arose at the hearing regarding different versions of the Basis of Claim forms that were in the record. A Direction was issued following the hearing requesting the Immigration and Refugee Board (IRB) to review its records and to provide an updated Certified Tribunal Record; following receipt of this document, the parties were granted the opportunity to make further submissions. All of this material has been considered, as explained more fully below.

[5] For the reasons that follow, this application for judicial review will be dismissed.

II. Background

[6] The Applicants are citizens of Nigeria. Their claims are based on problems which began in March 2013, when the Principal Applicant took his then-fiancé (the Co-Applicant, who later became his spouse) to meet his parents in Oloroko, the village where he was raised. He claimed

that the village Chief High Priest and some elders visited them and asked if the Co-Applicant had been circumcised. When the Principal Applicant answered in the negative, they indicated that she must undergo the procedure.

[7] The Principal Applicant claims that the following evening, the Chief High Priest and elders said that his fiancé must be initiated into womanhood, and they took her and started to make incisions all over her body. The ritual was stopped when his father intervened, saying that it should wait until after the marriage.

[8] The Principal Applicant said that the next incident occurred in December 2013, when he received a letter from the Chief High Priest reminding him that his spouse needed to be circumcised. The Principal Applicant replied that this would have to wait because his wife was pregnant. After their first daughter was born, he said that some of his family members together with village representatives arrived at his home in Lagos to congratulate him on the birth and to remind him that his daughter also needed to be circumcised. The Principal Applicant objected, telling them that he was Christian, but they responded that his religion did not matter because the ritual is a tradition that must be respected.

[9] The narrative of the Principal Applicant states that he and his wife were able to put off the villagers and relatives until November 2016, when their second child was born. He says that the Chief High Priest contacted him saying that no more excuses would be accepted for delaying the ritual. The first attempt to deliver the message failed because the Principal Applicant and his family were not home, but when the villagers returned an argument erupted and he says they tried to kidnap his daughter. He claims that during the melee his older daughter was injured and

had to be taken to the hospital. He says he reported this incident to the police, but they refused to become involved because it was a family matter.

[10] The Principal Applicant says he went into hiding following this incident, and in October 2017, the family travelled to the United States using a visa they had obtained. They crossed the Canadian border at Lacolle, Quebec on March 5, 2018, and claimed refugee protection.

[11] The RPD rejected the Applicants' claims, finding that the Principal Applicant's credibility was undermined because his testimony was inconsistent with significant aspects of his Basis of Claim form.

[12] On appeal, the RAD upheld this finding. The RAD granted the Applicant's request to file new evidence, including medical records, a psychiatric assessment and a radiologist's report, because some of this evidence post-dated the RPD hearing, while the rest provided background support to the more recent medical reports. The evidence was intended to support the Applicant's claim that certain gaps in his Basis of Claim form were caused by his memory issues and the trauma he had endured, and thus it was relevant to the credibility issue. The RAD concluded that the new evidence would not justify granting or rejecting the claim, and thus denied the Applicants' request for an oral hearing.

[13] Turning to the substance of the appeal, the RAD rejected the Applicant's challenge to the RPD's credibility findings. The RAD addressed each of the RPD's findings on the Principal Applicant's credibility. First, it noted that his testimony that the Chief High Priest and elders had taken his fiancé for initiation and had begun to make incisions all over her body was not

mentioned in his Basis of Claim form, and was also inconsistent with her testimony (she said there were cuts made in the middle of her chest). The RAD rejected the Principal Applicant's explanation that he had forgotten to include this because of his memory problems. The Panel found that this was a key element of the refugee claim, and although the Principal Applicant had previously amended his Basis of Claim form, he neglected to include it.

[14] The RAD then considered the Principal Applicant's testimony that the next significant incident occurred following the birth of his daughter in 2017, when the High Priest sent him the letter demanding that she undergo FGM. This was contrasted with the Principal Applicant's testimony that between 2014 and 2017 his family received many threats because his wife had not submitted to FGM. Again, the RAD rejected the Principal Applicant's explanation that he omitted to include this because he was so traumatized by the prior events. The RAD found that if the threats had been repeated, as the Principal Applicant testified, it was less likely that he would have forgotten them than would be the case if there had only been a single instance. In addition, the Principal Applicant had again omitted to include this when he amended his Basis of Claim form, and the RAD noted that his testimony about these threats evolved during the hearing.

[15] Turning to the documentary evidence submitted by the Applicants, the RAD found that this did not overcome its credibility concerns. The medical report regarding the treatment of the daughter did not indicate how she sustained her injuries; in addition, the time stamp on the hospital report did not correspond to the description of when the attack occurred that was set out in the letter submitted by the Principal Applicant's lawyer. Other supporting evidence was also discounted, because of the similarity in the wording of two letters from individuals who claimed to have witnessed the attack. Finally, a police report was not believed because it indicated that

the Principal Applicant had reported both the murder of his parents by Fulani tribesmen (which occurred several months earlier) and the injuries and attempted kidnapping experience by his daughter, which occurred in September 2017. The RAD found it strained credulity that he had waited several months to report the deaths of his parents.

[16] Because the documentary evidence did not overcome the credibility concerns, the RAD concluded that the Applicants had not provided sufficient trustworthy and reliable evidence to establish their refugee claim on a balance of probabilities. The RAD also concluded that the Applicants had failed to demonstrate that they were in need of protection under section 97 of the *Immigration and Refugee Protection Act*, S.C. 2001, c 27 [IRPA]. Their claim was dismissed.

[17] The Applicants seek judicial review of this decision.

III. Issues and Standard of Review

[18] Two issues are raised in this case: (i) whether the Applicants were denied procedural fairness because the RAD did not hold an oral hearing; and (ii) whether the RAD's credibility assessment is reasonable. There is also one preliminary matter to be discussed, relating to the discrepancy in the record regarding the versions of the Basis of Claim forms that were before the RAD.

[19] The first issue is to be assessed under the reasonableness standard of review, in accordance with *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [Vavilov]. Under the *Vavilov* framework, a reviewing court "is to review the reasons given by the administrative decision maker and determine whether the decision is based on an internally

coherent chain of reasoning and is justified in light of the relevant legal and factual constraints” (*Canada Post Corp v Canadian Union of Postal Workers*, 2019 SCC 67 [*Canada Post*] at para 2). The burden is on the applicant to satisfy the Court “that any shortcomings or flaws relied on... are sufficiently central or significant to render the decision unreasonable” (*Vavilov* at para 100, cited with approval in *Canada Post* at para 33).

[20] Questions of procedural fairness require an approach resembling the correctness standard of review, in which a reviewing court asks “whether the procedure was fair having regard to all of the circumstances” (*Canadian Pacific Railway Company v Canada (AG)*, 2018 FCA 69 at para 54 [*Canadian Pacific*]). As noted in *Canadian Pacific* at paragraph 56, “the ultimate question remains whether the applicant knew the case to meet and had a full and fair chance to respond.”

IV. Preliminary Matter – the Basis of Claim Forms

[21] As noted earlier, the RPD and RAD decisions turned on their assessment of the Principal Applicant’s credibility, and these findings rested largely on the discrepancies between his testimony and the contents of his amended Basis of Claim form. An issue arose at the hearing because the version of his Basis of Claim form submitted as part of the Applicant’s Record included many of the missing details, and differed from the versions of the form included in the Certified Tribunal Record (CTR) submitted by the Immigration and Refugee Board (IRB).

[22] In the CTR submitted originally, there is a version of the Basis of Claim forms submitted by each Applicant, which are date-stamped as received by the IRB on April 10, 2018. There are also versions of the forms stamped “FDA Partiel- Partial BOC” date-stamped March 14, 2018. In

addition, there is a “partial” Basis of Claim form for the Principal Applicant date-stamped March 12, 2018. None of these versions includes the details that are set out in the version of the form date-stamped March 14, 2018, submitted as part of the Applicant’s Record.

[23] It is important to note that counsel for the Applicants in the present application did not act for them before the RPD or the RAD, and so nothing in the discussion that follows should be understood to call into question her good faith in submitting this document as part of the record. Counsel for the Attorney General was also not a participant in either earlier proceeding.

[24] When the issue related to the different versions of the BOC forms was raised at the hearing before the Court, neither counsel could confirm which version of the form was actually before the RPD or the RAD. It was agreed that the argument would proceed, and the Court would issue a Direction to the IRB to review its records and to produce an updated CTR following the hearing. The parties would then have an opportunity to make submissions – either orally or in writing.

[25] The Direction was issued, and the IRB provided an updated CTR on October 6, 2021. The updated CTR did not include the version of the Basis of Claim form submitted as part of the Applicant’s Record. Following receipt of the updated CTR, both parties made written submissions.

[26] The Applicants contend that based on the record, it is not possible to know which version of the Basis of Claim form was before the RPD and the RAD when they considered the claims, and therefore it would be a denial of procedural fairness to uphold the decisions. This claim is

bolstered, according to the Applicants, because the alleged omissions of the details in the forms were a central plank of the credibility assessment.

[27] In contrast, the Respondent submits that the updated and original CTRs both include several versions of the Basis of Claim forms, including at least three partial narratives, two different versions of which are both dated December 11, 2018. The Respondent points out that the RPD decision mentions that the Applicants had submitted amended Basis of Claim narratives and that the amendments consisted of corrections to dates (RPD Decision at para 6). This appears to correspond to the amended forms included in both versions of the CTR, rather than to the more detailed version of the narrative included in the Applicant's Record – which does not include handwritten amendments to the dates.

[28] Having examined the various versions of the Basis of Claim forms in some detail, I am not persuaded that there has been any denial of procedural fairness, because I find on a balance of probabilities that the version of the form included in the Applicant's Record was not before the RPD or the RAD. The original and updated CTRs include several versions of the forms, including amendments that show handwritten corrections to certain dates. Based on the RPD's comment at paragraph 6 of its decision, it is likely that only these versions were before it.

[29] This conclusion is reinforced by the careful attention paid to the Basis of Claim forms by both by the RPD and the RAD. The discrepancies between the details included in these forms and the Principal Applicant's testimony grounded much of their credibility assessments. Yet these specific details are only included in the version of the form submitted as part of the Applicant's Record. It is unlikely in the extreme that both the RPD and the RAD would have

drawn such negative conclusions based on a careful examination of the forms as compared with the testimony if this version of the Basis of Claim form had been before them.

[30] Based on all of this, I am unable to conclude that the Applicants have been denied procedural fairness on this ground, and I find that the versions of the Basis of Claim forms included in both the original and updated CTRs were the ones that were before the RPD and the RAD.

V. Analysis

A. *The Applicants were not otherwise denied procedural fairness*

[31] The Applicants also claim that they were denied procedural fairness because the RAD admitted the new medical evidence, and acknowledged that it went to the credibility of the Principal Applicant, yet failed to explain how it was taken into account or to offer the opportunity to clarify any questions through an oral hearing. The Applicants argue that the RAD acted inconsistently in accepting the medical evidence because it was pertinent to the Principal Applicant's explanation for the gaps in his evidence, but then denying them an oral hearing because this evidence would not affect the outcome.

[32] The Applicants point out that credibility was central to the RAD's decision, and they argue that they should have been provided the opportunity to have an oral hearing so that the RAD could assess the Principal Applicant's testimony in light of the new medical evidence.

[33] The Respondent argues that the Applicants have misconstrued the RAD's finding on the new evidence. They say that the RAD accepted the evidence as new and relevant, but went on to apply the required test, set out in subsection 110(6) of *IRPA*. This test calls for an assessment of whether an oral hearing is required because the new evidence was sufficiently important to key aspects of the claim that it might result in a different outcome. The RAD applied the test to the new evidence and concluded that an oral hearing was not necessary. The Respondent submits that this constituted a fair procedure in the circumstances.

[34] Three key factors guide the analysis of this question. First, the question before me is whether the procedure was fair; the RAD's decision whether to hold an oral hearing must be guided by the statutory framework, but in the end the overall assessment that I must make is whether the Applicants were treated fairly or not.

[35] Second, this analysis must take into account the context for the decision, and in particular that the RAD generally proceeds on the basis of written representations and the record that was before the RPD. Oral hearings are the exception, under the statutory framework as confirmed by the Federal Court of Appeal in *Canada (Minister of Citizenship and Immigration) v Singh*, 2016 FCA 96 [*Singh*].

[36] Third, it is important to focus on precisely what the RAD decided concerning the new evidence, because this sets the frame within which it had to assess whether an oral hearing was required. On this point, the RAD began by noting that the Applicants' request to file new evidence was regarding the medical evidence that purported to explain his memory and

psychological problems. The RAD then applied the factors for the admission of new evidence set out in subsection 110(4) of *IRPA*, as well as those confirmed in *Singh*.

[37] Based on its application of these criteria, the RAD admitted the new evidence because either the documents post-dated the RPD's determination, or the Applicants could not reasonably have been expected to present them earlier. The RAD admitted the medical records and a psychiatric assessment from April 2019, as well as a radiologist report and prescription records dating from October 2018. The RAD also found these "documents are credible and relate to the Principal [Applicant's] psychological condition which is relevant to the appeal" (RAD Decision at para 8).

[38] The Principal Applicant was in a car accident in June 2018, and the medical reports relate to that. The radiologist's report from October 2018 provided context and background information to the more recent medical evidence, and the RAD noted that the radiologist's impression was that the compression fracture suffered by the Principal Applicant was presumably related to the car accident. The psychiatric assessment, dated April 4, 2019, states that "the Principal Applicant reported that since the car accident in June of 2018, he has had difficulty with his memory, concentration, and forgetfulness" (RAD Decision, para 11). The report indicated that the Principal Applicant said he experienced multiple psychological stressors, including family stress concerning his family in Nigeria, the stress of the refugee process, and stress related to his injuries. The RAD notes that the psychiatrist's report included a diagnosis of the Principal Applicant's condition, and also that the Doctor "could rule out post-traumatic stress disorder." Medication was prescribed, and the Principal Applicant was referred to other mental health support services for counselling.

[39] The RAD next considered whether the admission of the new evidence warranted an oral hearing, as it was required to do under subsection 110(6) of *IRPA*. Although the evidence came from credible independent medical third parties, the RAD found that this evidence alone would not justify allowing or rejecting the claim and therefore an oral hearing was not required.

[40] The Applicants contend this denied them procedural fairness because the new medical evidence was relevant to the Principal Applicant's credibility, which was the determinative issue for both the RPD and the RAD. They argue that the RAD's failure to allow the Principal Applicant to testify prevented the full understanding of the impact of his prior trauma on his psychological capacity.

[41] I am unable to conclude that the procedure followed by the RAD was unfair to the Applicants. The RAD applied the appropriate legal tests, and even if there is some question about the interpretation of the psychiatrist's statement about PTSD, the Applicants failed to meet the high bar that governs whether an oral hearing is required before the RAD.

[42] The Applicants fully knew the case they had to meet, and in particular, they knew that their appeal would turn on their ability to call into question the RPD's credibility findings. The medical evidence was meant to bolster this aspect of their appeal, but the Applicants would have been aware of two key elements of that evidence. First, the key doctor's report stated that the Principal Applicant had reported that his memory problems began after the car accident. And, second, the report stated, under the heading "Impression" that the Principal Applicant had experienced a moderate to severe single episode of major depressive disorder (following the car accident) but also stated "Rule out posttraumatic stress disorder" (PTSD). There are other

references in the clinical note that suggests that the physician was questioning whether the Principal Applicant had PTSD, but no definitive diagnosis is provided. On a related point, the Applicants would also have been aware that the CTR did not include any other, subsequent medical reports regarding any follow-up treatment (the psychiatrist's report notes that the clinic does not provide such follow-up for patients).

[43] The RAD's interpretation of the evidence from the report is reasonable, based on the contents of the report itself and the absence of any subsequent medical information. The report contains two key statements: (i) the Principal Applicant told the doctor that his memory problems started after the car accident; and (ii) the Doctor's impression is that PTSD has been ruled out. The onus was on the Applicants to demonstrate that this report was inaccurate, or incomplete, and to show that the discrepancies between the Basis of Claim forms and the Principal Applicant's testimony were related to this diagnosis. They failed to meet this burden, and thus the RAD's treatment of the new evidence and its reasons for not holding an oral hearing are reasonable, based on the evidence before it.

[44] If the Principal Applicant misspoke and his memory problems in fact pre-dated the car accident, he had to bring forward other evidence to support this; otherwise, the RAD had no alternative than to accept the comments in the doctor's report regarding what he said about this point. Similarly, if the Applicants believe that the doctor did not mean to rule out PTSD, but rather was indicating that further testing was needed to arrive at a definitive diagnosis, once again the onus was on them to bring forward such evidence. As that did not occur, the RAD did not act unreasonably in reading the report in the way that it did.

[45] It is true that the Psychiatrist's Report states that the Principal Applicant reported that he witnessed his parents being killed in Nigeria and "[a]s a result of these traumatic event, he developed nightmares and intrusive memories... He reported in constant fear that resulted after these experiences." (sic throughout) However, the RAD did not ignore these statements .The RAD mentioned them in its analysis of the substance of the claims, and the RAD's failure to refer to them in considering whether to hold an oral hearing is not unreasonable, given that it was clearly aware of the Principal Applicant's evidence about the impact of these events on his psychological well-being. Even if these incidents had been included in the RAD's analysis of whether to conduct an oral hearing, and when combined with the other new evidence, they would not have resulted in a different outcome.

[46] Based on its conclusions on these points, the RAD's decision that an oral hearing was not required is both reasonable and correct, in light of all of the evidence and the statutory criteria that guided its analysis. There is no basis to find that the RAD's decision denied the Applicants procedural fairness.

B. *The RAD's credibility assessment was reasonable*

[47] The Applicants argue that the RAD's preoccupations with minor gaps or discrepancies, which can be explained, overshadowed the heart of their claim: that the Co-Applicant and the minor daughters face a risk of FGM in Nigeria. They submit that the RAD's failure to grapple with the medical evidence concerning the Principal Applicant's memory issues, combined with the failure to give due weight to the ongoing impact of witnessing the murder of his parents, makes the credibility assessment unreasonable. The Applicants contend that the RAD fastened

onto insignificant inconsistencies in the evidence rather than appreciating the totality of the evidence in a holistic manner, and thus it failed to grasp the essence of their claims.

[48] The Applicants offer three key examples in support of this argument. First, the Applicants submit that although there were some differences between the evidence of the Principal Applicant and the Co-Applicant about the nature of the cuts on her body, there can be no doubt that this incident is concrete proof that she faces a risk of FGM in Nigeria. The Applicants submit that the RAD failed to grasp this essential point.

[49] Second, the Applicants submit that the RAD overly emphasised the discrepancies between the Principal Applicant's testimony as compared with the Basis of Claim form. They acknowledge that the form had been amended prior to the hearing, but submit that the RAD should have appreciated the difficulty he faced in recounting very traumatic events, and his subsequent recall of certain details should not detract from the assessment of his narrative overall.

[50] Finally, the Applicants say that the negative credibility finding relating to the medical evidence about the daughter's injuries, and the other corroborative evidence, is unreasonable. They argue that there are many reasons why the doctor's report may not include a reference to why she was assaulted, or by whom, but this is not a basis to diminish the Applicants' credibility. Similarly, the fact that certain of the corroborative documents contained similar contents is not a reasonable basis to give them less weight and the RAD failed to explain why it found them to be fraudulent.

[51] Based on the cumulative impact of these flaws, the Applicants contend that the RAD's decision is unreasonable.

[52] I disagree with the Applicants on this point. The RAD is entitled to considerable deference in its assessment of credibility (see, for example: *Rahal v Canada (Minister of Citizenship and Immigration)*, 2012 FC 319 at para 42; *Tsigehana v Canada (Citizenship and Immigration)*, 2020 FC 426 at para 34), and in this case its reasoning is clear and it is grounded in the evidence. That is all that reasonableness review demands.

[53] It is not necessary to recount all of the differences between the details provided in the Principal Applicant's testimony and the more general narrative set out in the amended Basis of Claim form; these are described above. The RAD carefully considered the discrepancies, and it examined and rejected the Principal Applicant's explanation for the gaps. The RAD's analysis on this question is amply supported by the case law regarding credibility assessments and by the record. The RAD reasonably noted that the Basis of Claim forms had been amended prior to the hearings, but the significant details to which the Principal Applicant testified – details that went to the core of the Applicants' claims – were never added. The Applicants argue that this was simply a manifestation of the trauma that the Principal Applicant had endured, but the RAD considered and rejected this argument and it is not the role of a reviewing court to second-guess that assessment.

[54] On the issue of the RAD's treatment of the medical report regarding the daughter's injuries, I agree with the Respondent that the Applicants' argument mischaracterizes that aspect of the RAD's decision. The RAD found that the medical report contradicted other evidence

submitted by the Applicants relating to the incident, and its analysis is supported in the evidence. The medical report and the lawyer's affidavit both speak to the daughter's injuries, but they offer different time frames for these events. This is a relevant and rational basis to question the credibility of the Applicants' narrative about this incident.

[55] Similarly, the RAD discounted other corroborative evidence because of the similarities of the contents of the affidavits and the fact that they were sworn at the same time. While another decision-maker might have come to a different conclusion on this point, that does not make the RAD's assessment unreasonable, and in any event, these findings were peripheral to the RAD's main conclusions regarding the Applicants' credibility. Even if the RAD's finding on this evidence was overturned, the rest of the analysis would sustain the RAD's decision.

[56] For all of these reasons, I find that the RAD's credibility assessment was reasonable, especially in light of the deference accorded to such determinations. The RAD has carefully examined the totality of the evidence, and its findings are clearly explained and supported in the evidence. That is what reasonableness review requires, and I find that any deficiencies in the decision are not sufficiently central to warrant overturning the RAD's conclusion.

VI. Conclusion

[57] In sum, I find that the detailed version of the Basis of Claim form was not in the record before the RPD or the RAD, based on an assessment of the evidence in the record including the supplementary CTR provided by the IRB. On the balance of probabilities, the more detailed and complete version of the Basis of Claim form included in the Applicant's Record was not before the RPD or the RAD.

[58] On the substance of the Applicants' argument, I find that the Applicants were not denied procedural fairness when the RAD admitted the new medical evidence but refused to hold an oral hearing, and the RAD's credibility findings are reasonable, based on the evidence in the record.

[59] There is no question of general importance for certification.

[60] One final point should be noted. While it is true that there is substantial evidence in the documentary record regarding the risk of FGM that women and girls still regrettably face in Nigeria, that does not, in itself, support a refugee claim. On the evidence before it, the RAD found that the Co-Applicant and the daughters had not established that they faced a risk from the Principal Applicant's family or the villagers from his home village. There is no basis to disturb that finding, and thus no grounds to uphold their claim.

JUDGMENT in IMM-5508-20

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed.
2. There is no question of general importance for certification.

“William F. Pentney”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-5508-20

STYLE OF CAUSE: CYRIL CHINEDU UGORJI, RACHAEL OYIZA,
UGORJI, PRECIOUS CHISOM UGORJI, DIADEM
CHISOROM UGORJI v THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: BY VIDEOCONFERENCE

DATE OF HEARING: SEPTEMBER 27, 2021

**JUDGMENT AND
REASONS:** PENTNEY J.

DATED: JUNE XX, 2020

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