

Federal Court



Cour fédérale

**Date: 20230606**

**Docket: IMM-8295-21**

**Citation: 2023 FC 799**

**Ottawa, Ontario, June 6, 2023**

**PRESENT: Madam Justice Sadrehashemi**

**BETWEEN:**

**VICTOR NKEMJIKA NATHANIEL**

**Applicant**

**and**

**MINISTER OF CITIZENSHIP AND IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

I. Overview

[1] The Applicant, Victor Nkemjika Nathaniel (“Mr. Nathaniel”), claims to be at risk in Nigeria because of threats from members of the Eiye confraternity, a group he asserts is a cult, in Nigeria. Mr. Nathaniel’s risk was assessed by an officer (“the Officer”) at Immigration, Refugees and Citizenship Canada [IRCC] reviewing his application for a Pre-Removal Risk Assessment [PRRA]. The Officer found that Mr. Nathaniel could access state protection in Nigeria and refused his PRRA on this basis.

[2] Mr. Nathaniel challenges this determination on judicial review. Specifically, he argues that the Officer ignored contradictory, relevant evidence in coming to their key finding that the state would be able to provide him with protection from members of the Eiye confraternity.

[3] I agree with Mr. Nathaniel. The Officer's state protection analysis is limited and not responsive to the particular circumstances of Mr. Nathaniel and the evidence filed in support of his claim. Consequently, the decision is neither transparent nor justified to Mr. Nathaniel and therefore redetermination by a different officer is required.

[4] Based on the reasons below, I allow this application for judicial review.

## II. Analysis

[5] The only issue on judicial review is whether the Officer's state protection analysis was reasonable. Essentially, the key issue is whether the Officer failed to address key contradictory evidence in coming to their determination on state protection (*Cepeda-Guiterrez v Canada (Minister of Citizenship and Immigration)*, 1998 CanLII 8667 (FC) at para 17; *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 126).

[6] Mr. Nathaniel argues that the Officer failed to engage with the extensive evidence about police corruption, including problems related to officers upholding the interests of various cults, like the Eiye Confraternity. The Respondent argues that the Officer is presumed to have considered all the evidence and did acknowledge the evidence of police corruption but noted that some members of the Eiye confraternity had been "charged and arrested."

[7] I agree with Mr. Nathaniel that the Officer's assessment of the evidence on state protection was unbalanced and limited. The Officer acknowledged police corruption is a problem in Nigeria and that protection against cults is "far from perfect." The Officer relied on one source that notes the police had arrested and charged individuals for their alleged membership in the Eiyé confraternity to find that the Nigeria authorities are taking action against the cult and state protection is forthcoming.

[8] First, as this Court has noted several times, it is not sufficient to point to some police action in an individual instance to demonstrate there is adequate state protection available at an operational level for a particular claimant (*AB v Canada (Minister of Citizenship and Immigration)*, 2018 FC 237 at para 19; *Zatreanu v Canada (Minister of Citizenship and Immigration)*, 2019 FC 332 at para 53; *Mekhashishvili v Canada (Minister of Citizenship and Immigration)*, 2021 FC 65 at para 30).

[9] Second, the Officer failed to mention the evidence that went against their findings. The remainder of the article referenced by the Officer notes that "corruption, witness intimidation and lack of evidence" sometimes causes the police to drop cases related to cults. The same article further notes that politicians sometimes use fraternities as hired thugs and for election rigging and then shield members of cults from public prosecution. There was also evidence that police corruption and ineffective attempts at protection have bolstered the power of cults in Nigeria. The Officer's failure to address relevant evidence that went against their finding that the police take action against members of cults renders their review of this key evidence unreasonable. The Officer failed to grapple with the evidence on the determinative issue in this case – whether state

protection would be available at an operational level to someone like Mr. Nathaniel who complained of threats by the Eiyé confraternity.

[10] For these reasons, I find the decision unreasonable and requires redetermination by a different PRRA officer.

[11] Neither party raised a question for certification and I agree none arises.

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

1. The application for judicial review is allowed;
2. The decision dated September 15, 2021, is set aside and sent back to be redetermined by a different officer; and
3. No serious question of general importance is certified.

"Lobat Sadrehashemi"

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Judge

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** IMM-8295-21

**STYLE OF CAUSE:** VICTOR NKEMJIKA NATHANIEL v. THE MINISTER  
OF CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** HELD BY WAY OF VIDEOCONFERENCE

**DATE OF HEARING:** APRIL 12, 2023

**JUDGMENT AND REASONS:** SADREHASHEMI J.

**DATED:** JUNE 6, 2023

**APPEARANCES:**

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