

Federal Court



Cour fédérale

**Date: 20230724**

**Docket: IMM-8784-22**

**Citation: 2023 FC 993**

[ENGLISH TRANSLATION]

**Ottawa, Ontario, July 24, 2023**

**PRESENT: Mr. Justice McHaffie**

**BETWEEN:**

**ODION IGHODALO AKHELUMELE**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

[1] Odion Ighodalo Akhelumele fled Nigeria because he feared people in his ancestral village, who wanted him to have his daughters undergo so-called traditional rites, including female genital mutilation. In 2012, Mr. Akhelumele was stabbed during a confrontation in the village on this issue. In August 2015, his fish pond at his home in Abuja, which was his primary source of income, was poisoned with motor oil, and he received a threatening note. He left

Nigeria for the United States two months later. His wife, who was denied entry to the United States, found another threatening note upon her return.

[2] The Refugee Appeal Division [RAD] found that Mr. Akhelumele had an internal flight alternative [IFA] in Lagos. It found that the evidence did not show that the agents of harm had the motivation to pursue Mr. Akhelumele there. The RAD relied mainly on the fact that Mr. Akhelumele's wife and children, who were still living in Abuja, had not been contacted by the agents of harm in the seven years between 2015 and the hearing before the Refugee Protection Division [RPD]. It also concluded that it would not be unreasonable for Mr. Akhelumele to move to Lagos.

[3] Mr. Akhelumele claims that the RAD's decision is unreasonable and is asking this Court to set it aside on judicial review. For the reasons that follow, the Court concludes that Mr. Akhelumele has failed to meet his burden of demonstrating that the RAD's decision is unreasonable.

[4] The Court will review the RAD's decision on a standard of reasonableness: *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 16–17, 23–25; *Aigbe v Canada (Citizenship and Immigration)*, 2020 FC 895 at para 7. When reviewing a decision on this standard, the Court does not reweigh and reassess the evidence and does not ask how it itself would have resolved an issue: *Vavilov* at paras 75, 125. The Court may intervene only if there are sufficiently serious shortcomings in the decision such that it cannot be said to exhibit the requisite degree of justification, intelligibility and transparency. *Vavilov* at paras 99–101.

[5] Mr. Akhelumele claims that the RAD focused too much on the seven-year period during which his family had no contact with the agents of harm and that it did not give sufficient weight to the events in 2012 and 2015 that demonstrate that Mr. Akhelumele was specifically targeted by these agents. The Court disagrees. Refugee determination is prospective and must necessarily take into account the alleged risks as they exist on the date of the hearing. The RAD considered the events in 2012 and 2015 as well as Mr. Akhelumele's argument that his family was hiding in Abuja. It concluded that the absence of communication for 7 years was compelling evidence that the agents of harm no longer had the motivation to pursue Mr. Akhelumele in Lagos, since his wife was still working for the same employer after 14 years and his family was still living in Abuja. This finding was open to the RAD. In arguing that the agents are still motivated to pursue him, Mr. Akhelumele is effectively asking this Court to reweigh the evidence and draw its own conclusions, which is not the role of the Court on judicial review: *Vavilov* at para 125.

[6] Mr. Akhelumele also objects to the RAD's conclusion that it would be reasonable for him to move to Lagos. He relies mainly on the high unemployment rate in Lagos and the problems faced by non-indigenous people in one region of Nigeria, particularly in relation to access to employment and government services in the region. The Court cannot accept these arguments. The RAD reasonably considered the particular situation of Mr. Akhelumele, an educated man with a positive employment history. It is not sufficient to refer generally to the unemployment rate to establish that one cannot find refuge in a city: *Ajepe v Canada (Citizenship and Immigration)*, 2022 FC 91 at para 25.

[7] On the issue of indigenous identity, the Court agrees with the Minister that this argument cannot be accepted because it was not raised before the RAD. Mr. Akhelumele did not allege before either the RAD or the RPD that it would be unreasonable for him to move to Lagos because he is not a native of that area. Therefore, it is not unreasonable that the RAD did not address this issue, and Mr. Akhelumele cannot raise it for the first time on judicial review: *Ibrahim v Canada (Citizenship and Immigration)*, 2022 FC 1194 at para 35.

[8] Finally, Mr. Akhelumele raised briefly in his written submissions that the RPD did not give him notice before the hearing that it would deal with the IFA issue, so that he could prepare his arguments accordingly. As the Minister submits, this argument must be rejected, both because it was not raised before the RAD and because it is, in any event, without merit because the RPD did give notice at the outset of the hearing: *Tariq v Canada (Citizenship and Immigration)*, 2017 FC 1017 at paras 27–29.

[9] Mr. Akhelumele has not demonstrated to the Court's satisfaction that the RAD's decision is unreasonable. Consequently, the application for judicial review must be dismissed.

[10] Neither party proposed a question for certification. The Court agrees that the case does not raise any.

**JUDGMENT in IMM-8784-22**

**THIS COURT'S JUDGMENT is as follows:**

1. The application for judicial review is dismissed.

“Nicholas McHaffie”

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Judge

Certified true translation  
Vincent Mar

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

**DOCKET:** IMM-8784-22

**STYLE OF CAUSE:** ODION IGHODALO AKHELUMELE v THE  
MINISTER OF CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** MONTRÉAL, QUEBEC

**DATE OF HEARING:** JULY 19, 2023

**JUDGMENT AND REASONS:** MCHAFFIE J

**DATED:** JULY 24, 2023

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