

Federal Court



Cour fédérale

**Date: 20231130**

**Docket: IMM-12159-22**

**Citation: 2023 FC 1610**

**Montréal, Quebec, November 30, 2023**

**PRESENT: Mr. Justice Sébastien Grammond**

**BETWEEN:**

**GODWIN SOLOMON RAPHAEL  
ANIGHORO**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

[1] Mr. Anighoro is seeking judicial review of the decision of the Refugee Appeal Division [RAD] to exclude him from refugee protection pursuant to section 98 of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [the Act], and Article 1F(b) of the *United Nations Convention Relating to the Status of Refugees* (14 December 1950, General Assembly resolution 429 (V) (adopted 28 July 1951)) [the Convention].

[2] Mr. Anighoro is a citizen of Nigeria. His family has agricultural fields in Kaduna. Fulani herdsmen destroyed his crops, which he then set out to defend with his pastor and other community members, armed with a firearm provided by his pastor. He was involved in an altercation with Fulani herdsmen, which resulted in several deaths. Mr. Anighoro subsequently moved to the United States of America. Shortly upon arrival to Canada, he told an immigration officer that he had shot and killed Fulani herdsmen during this altercation.

[3] Mr. Anighoro applied for refugee protection in Canada on the basis that he feared for his life upon return to Nigeria because of the conflicts with the Fulani herdsmen over land and religion. Based on statements he made to the immigration officer, the Refugee Protection Division [RPD] concluded that there were serious reasons to consider that he had committed a serious crime, that of voluntarily discharging a firearm in the direction of others, causing the death of several people, contrary to section 244 of the *Criminal Code*, RSC 1985, c C-46. The RPD concluded that Mr. Anighoro acted for economic reasons, not political reasons, and was therefore excluded from the application of the Convention pursuant to Article 1F(b).

[4] Mr. Anighoro appealed this decision to the RAD, who dismissed the appeal. The RAD found that the evidence showed serious reasons to consider that he had committed a serious crime. It concluded that he had not adequately explained why it should not believe his declarations to the immigration officer. The RAD found that the unexplained contradictions between these statements and the testimony he gave at the RPD hearing undermined his credibility. Therefore, the RAD concluded that he was excluded from refugee protection under section 98 of the Act and Article 1F(b) of the Convention.

[5] Before this court, Mr. Anighoro made two main arguments challenging the RAD's decision. First, he argued the transcript of his interview with the immigration officer was not complete and therefore was not credible. Second, he argued that he acted in self-defence.

[6] First, there is no reason to doubt the credibility or accuracy of the transcript of Mr. Anighoro's interview with the immigration officer. The transcript was in the certified court tribunal record provided by the Immigration and Refugee Board. These are not handwritten notes that the officer took during the interview. Rather, the interview was recorded and transcribed verbatim. Mr. Anighoro did not provide evidence that would cast doubt over the transcription's accuracy or completeness. It was therefore reasonable for the RAD to rely on this document.

[7] Second, I am not convinced by Mr. Anighoro's argument that he acted in self-defence or, as he argues in his written submissions, that he did not have an intention to kill or that he acted out of fear of the community's response if he did not participate.

[8] To find that Mr. Anighoro is excluded from refugee protection under section 98 of the Act and Article 1F(b) of the Convention, the Minister need only demonstrate that serious reasons exist to consider that he has committed a serious crime. Proof beyond a reasonable doubt or on a balance of probabilities is not required: *Ezokola v Canada (Citizenship and Immigration)*, 2013 SCC 40 at paragraphs 40 and 101, [2013] 2 SCR 678.

[9] The transcript of Mr. Anighoro's interview with the immigration officer clearly shows that he had acquired a firearm in advance and was waiting for the Fulani herdsmen to attack with

the intention of defending his fields. Before the RPD, his testimony was somewhat different, but he admitted to having a firearm and discharging it in the direction of other persons. It is reasonable for the RAD to reject Mr. Anighoro's assertion that he acted in self-defence or had no intention to kill.

[10] In his written submissions, Mr. Anighoro also argued that his conduct would not be serious enough to warrant exclusion pursuant to Article 1F(b) of the Convention. A crime that carries a maximum sentence of ten years' imprisonment or more will generally be considered a serious crime: *Febles v Canada (Citizenship and Immigration)*, 2014 SCC 68 at paragraph 62, [2014] 3 SCR 431; *Jayasekara v Canada (Minister of Citizenship and Immigration)*, 2008 FCA 404 at paragraphs 44 and 55, [2009] 4 FCR 164 [*Jayasekara*]. In the present case, section 244 of the *Criminal Code* provides for a maximum sentence of 14 years' imprisonment. Moreover, given the facts of the case and Mr. Anighoro's lack of credibility, it was reasonable for the RAD to conclude that the mitigating factors described in *Jayasekara* were not present.

[11] For these reasons, I am dismissing Mr. Anighoro's application for judicial review.

**JUDGMENT**

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

1. The application for judicial review is dismissed.
2. No question is certified.

"Sébastien Grammond"

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Judge

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

**DOCKET:** IMM-12159-22

**STYLE OF CAUSE:** GODWIN SOLOMON RAPHAEL ANIGHORO v THE  
MINISTER OF CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** MONTRÉAL, QUEBEC

**DATE OF HEARING:** NOVEMBER 29, 2023

**JUDGMENT AND REASONS:** GRAMMOND J.

**DATED:** NOVEMBER 30, 2023

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