

Federal Court



Cour fédérale

**Date: 20231205**

**Docket: IMM-7928-22**

**Citation: 2023 FC 1640**

**Ottawa, Ontario, December 5, 2023**

**PRESENT: Madam Justice Sadrehashemi**

**BETWEEN:**

**OLAJIDE PETER OLADIPUPO**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

I. Overview

[1] The Applicant, Olajide Peter Oladipupo, is challenging the rejection of his application for refugee protection. Mr. Oladipupo applied for a Pre-Removal Risk Assessment [PRRA] alleging new risk from events occurring after the rejection of his refugee claim at the Immigration and Refugee Board. An officer at Immigration, Refugees and Citizenship Canada [IRCC] rejected his

PRRA, finding that he had failed to provide sufficient, probative evidence that he would be at risk in Nigeria.

[2] Mr. Oladipupo raised a number of arguments on judicial review. I find the determinative issue is the Officer's treatment of his corroborative evidence. The parties agree, as do I, that I should review the Officer's decision on this issue on the standard of reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*] at para 23). I find the Officer's dismissal of some of the corroborative evidence as non-probative or inconsistent, to not be in line with the evidence in the record; on key points of the analysis, the Officer's reasoning is not in accordance with the factual constraints bearing on it, and therefore is unreasonable (*Vavilov* at para 126).

[3] Based on the reasons below, I grant the judicial review.

## II. Background on Immigration History in Canada and PRRA Allegations

[4] Mr. Oladipupo is a citizen of Nigeria who came to Canada on November 20, 2017 and made a refugee claim upon arrival at the border. This refugee claim was rejected by the Refugee Protection Division [RPD] on November 14, 2018. The RPD decision was appealed to the Refugee Appeal Division [RAD], which rejected the appeal in reasons dated June 26, 2019. Mr. Oladipupo sought leave for judicial review of this RAD decision. Leave was refused on October 28, 2019.

[5] In February 2021, Mr. Oladipupo applied for a PRRA, alleging that he fears being arrested upon his return to Nigeria due to recent political activities of his brother, who is currently at large in Nigeria, having escaped police custody. Mr. Oladipupo's brother allegedly left his father's home in Ogun State and travelled to Lagos in order to participate in protests against the Nigerian police's Special Anti-Robbery Squads ("SARS"). He was arrested and then fled police custody, assaulting a police officer in the process. The police then allegedly followed Mr. Oladipupo's brother to Ogun State where, upon being unable to locate him, arrested and detained his father. Mr. Oladipupo then learned that the authorities claim that his father has escaped. Mr. Oladipupo is doubtful this is the case because of his father's advanced age. He suspects this is a fabrication to cover up that the police killed his father or that his father died in custody. Mr. Oladipupo also alleges that his sister travelled from Spain, where she is a permanent resident, to assist in having their father released from prison. She was also arrested and detained.

[6] Mr. Oladipupo has knowledge of the above events through his communications with his pastor in Nigeria, who communicates with him via text message and has also provided a letter. There is also a letter from a law firm that was initially retained to assist Mr. Oladipupo's sister.

[7] The Officer initially rejected the PRRA on May 6, 2022. The Officer then realized that Mr. Oladipupo had filed new evidence prior to the Officer making their decision that had not been considered by the Officer in their May 6th decision. The Officer re-opened the decision, and considered the new evidence and submissions. The Officer then made a final decision on the complete record, rejecting the PRRA on May 18, 2022.

III. Corroborative Evidence

[8] The Officer's key concern was the lack of sufficient, probative evidence establishing the central elements of Mr. Oladipupo's allegations. In my view, the Officer's assessment of three key pieces of corroborative evidence was not supported by the evidence in the record, namely: i) the pastor's letter and text messages; ii) the country condition articles about the government protests; and iii) the letter from the law firm.

[9] The Officer states that the text messages between Mr. Oladipupo and the pastor are not probative because the identity of the parties to the text messages cannot be confirmed. In their evaluation of the weight to be given to the text messages, the Officer does not address the letter from the pastor that confirms the information that he has been texting to Mr. Oladipupo, or Mr. Oladipupo's own letter that states that he learned about his family's problems in Nigeria through his text messages with his pastor. The Officer does not evaluate this relevant evidence in making their determination that the text messages, on their own, are of limited probative value.

[10] The Officer finds that the news articles submitted contradict the allegations about Mr. Oladipupo's brother's political activities. The Officer finds that contrary to the allegations that Mr. Oladipupo's brother went to Lagos in February 2021,

“to join the End SARS protest in Lagos because of bigger momentum’ ... the President of Nigeria had terminated SARS squads in a tweet dated 11/10/2020. The Nigerian government had terminated the operations of the SARS units five months before ... [Mr. Oladipupo's brother] allegedly participated in a demonstration in Lagos.”

[11] This is a narrow reading of the country condition evidence and Mr. Oladipupo's evidence.

[12] Mr. Oladipupo explains that his brother had been involved in the "End SARS" protests in October 2020, that he had warned him against participating, but he took part in it anyways and when he got away with it in October, he decided to be part of it again in February 2021. He also further explains that the protest in February 2021 was "to protest the reopening of the toll gate at Lagos." This is consistent with the news articles that discuss this further protest after the government had stated that it had terminated the operations of the SARS squad. The reference made by the Officer about joining the "End SARS" protests was in reference to his brother's participation in the October 2020 protests in Lagos. The Officer's conclusion that there is a contradiction is not supported when Mr. Oladipupo's evidence and the news articles are read in their entirety and not selectively.

[13] Lastly, the Officer notes that the letter from a law firm that had once represented Mr. Oladipupo's sister in Nigeria states that they have no involvement with her since November 2021 and are no longer retained. The Officer does not, however, address the other part of the letter that indicates that the law firm had initially represented Mr. Oladipupo's sister "who has been held and continues to be held in the police custody in Nigeria." The letter also states: "Please recall that during one of our discussions, we intimated you of all our efforts towards assisting your sister, ... to regain her freedom and facilitate her travelling back to Spain where she is resident with her husband and children." The Officer does not address this part of the letter and only notes the lawyer's lack of continued involvement with Mr. Oladipupo's sister.

[14] Overall, I find that the Officer did not provide sufficient justification for dismissing the corroborative evidence in this case as inconsistent or not probative. Given the stakes involved in a PRRA, the Officer had a heightened obligation to provide responsive reasons that justify their decision to the Applicant (*Vavilov* at para 133). I do not find that the reasons adequately explain, in light of the evidence in the record, the Officer's treatment of Mr. Oladipupo's corroborative evidence.

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

**JUDGMENT in IMM-7928-22**

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

1. The application for judicial review is allowed;
2. The May 18, 2022 decision of the IRCC is quashed and the matter is sent back to be redetermined by a different decision-maker; and
3. No serious question of general importance is certified.

"Lobat Sadrehashemi"

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Judge

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

**DOCKET:** IMM-7928-22

**STYLE OF CAUSE:** OLAJIDE PETER OLADIPUPO v THE MINISTER OF  
CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** OTTAWA, ONTARIO

**DATE OF HEARING:** JUNE 1, 2023

**JUDGMENT AND REASONS:** SADREHASHEMI J.

**DATED:** DECEMBER 5, 2023

**APPEARANCES:**

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