Federal Court  Cour fédérale

Date: 20240909

Docket: IMM-8311-23

Citation: 2024 FC 1408

Toronto, Ontario, September 9, 2024

PRESENT: The Honourable Mr. Justice A. Grant

BETWEEN:

LOOKMAN ADEWOLE SHADARE
KOFOWOROLA OMOWUNMI AYINDE
KHALID NELSON SHADARE (a minor)
KAMAL WILSON SHADARE (a minor)

Applicants

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. OVERVIEW

[1] The Applicants seek judicial review of a negative Pre-Removal Risk Assessment [PRRA], in which an Officer found that they would not face a personalized risk of serious harm upon return to Nigeria.

[2] For the reasons that follow, I will dismiss this application for judicial review, as I have found the Officer's decision to be reasonable.

II. BACKGROUND

A. *Facts*

[3] The Applicants are: Lookman Adewole Shadare, the Principal Applicant [PA], a citizen of Nigeria; his spouse, Kofoworola Omowunmi Ayinde, the Associate Applicant [AA], also a citizen of Nigeria; Khalid Nelson Shadare and Kamal Wilson Shadare, the minor applicants [MAs], citizens of the United States by birth. The adult Applicants also have a Canadian-born child named Kamilah Shadare.

[4] Previously, the Applicants made a refugee claim in Canada, based on their fear of persecution in Nigeria arising from extremist Islamic groups, and from attempts on the part of the AA's father to force her to marry a man named Alhaji Badmus, to pay off his debts. The claim was refused by the Refugee Protection Division [RPD] of the Immigration and Refugee Board [IRB] on March 10, 2021. The Applicants appealed to the Refugee Appeal Division [RAD], but the RAD confirmed the RPD's refusal on September 13, 2021. The Applicants filed an application for leave and judicial review of the negative RAD decision before this Court, which was dismissed on January 5, 2022.

[5] The Applicants applied for a PRRA on February 8, 2023. In their PRRA submissions, they alleged a risk of persecution, or risk to life, risk of torture, or risk of cruel and unusual punishment from their family members and community at large, based on their conversion to

Christianity from Islam. They also alleged risk based on perceived wealth as returnees from overseas, inadequate healthcare in Nigeria, and generally worsening country conditions.

[6] On the matter of religion, the Applicants alleged that since moving to Canada, the Associate Applicant and Minor Applicants have converted to Christianity and attend church every Sunday. The AA and the MAs have all been baptized, and the PA is also active as a volunteer with their church. The Applicants allege that in Nigeria, converting from Islam to Christianity can lead to persecution and physical violence from followers of Islam. The PA's father was a chief Imam. They argue that once in Nigeria, their families and community would become aware of their conversion to Christianity - as the AA would be attending church openly - which would put their lives in danger.

B. *Decision under Review*

[7] A PRRA Officer refused the application in a letter dated May 17, 2023. They determined that the Applicants would not face a risk of s.96 or s.97 harm upon return to Nigeria. In coming to this conclusion, the Officer found that the Applicants had adduced insufficient evidence of risk on any of the alleged grounds.

[8] Regarding the Applicants' risk as converts to Christianity, the Officer found that the Applicants had adduced little independent and corroborative evidence to establish that they would be seriously harmed by their families or community. Further, the Officer found that the Applicants are not required to reconnect with their relatives, and therefore there is insufficient

evidence that the Applicants' family members would be aware of their conversion to Christianity and seek to harm them as a result.

[9] The Officer also noted country conditions evidence that the situation for Christians in Lagos, where the AA used to reside, is "normal" – and found as a result that there is little objective evidence to indicate that the Applicants would be unable to return to Lagos.

[10] Further, the Officer found that the Applicants had not rebutted the presumption of state protection, as there was little objective and corroborative evidence that state protection would not be available to the Applicants, given their personal circumstances.

[11] The Officer noted the Applicants' submission and country conditions evidence regarding the Special Anti-Robbery Squad [SARS], but concluded that there was insufficient corroborative evidence to establish that the Applicants would personally face a risk of s.96 or s.97 harm resulting from the SARS unit.

[12] With regard to the Applicants' profile as returnees from overseas, the Officer found that there was little corroborative evidence to demonstrate that they would fall into the category of real or perceived wealthy returnees, and would subsequently face a risk of serious harm. Further, the Officer noted that there is little documentary evidence to suggest that returnees from overseas are more likely than the general population to become victims of crime in Nigeria.

[13] Similarly, the Officer found that the generalized country conditions in Nigeria do not constitute personalized risk pursuant to s.96 or s.97.

[14] On the alleged risk from inadequate medical care, the Officer noted that s.97(1)(b)(iv) of the *Immigration and Refugee Protection Act* [IRPA] specifies that risk to life must not be caused by the inability of the country of return to provide adequate health or medical care. On the evidence in the record, the Officer concluded that the Applicants had tendered insufficient corroborative evidence to establish that any inadequacies they could expect in medical care was due to discrimination or persecutory treatment.

[15] Finally, the Officer considered the risk to the minor applicants. They noted that the MAs are US citizens by birth, and there is little objective or corroborative evidence that they would face a personalized risk of serious harm upon return to the US.

III. ISSUES

[16] The Applicants submit that the underlying decision was unreasonable based on two key errors:

1. The Officer erred in finding that the Applicants would not face a personalized, forward-looking risk of harm upon return to Nigeria.
2. The Officer erred in finding that state protection is available to the Applicants.

IV. STANDARD OF REVIEW

[17] The parties agree that the standard of review is reasonableness, per *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 23 [*Vavilov*].

[18] In conducting a reasonableness review, a court “must consider the outcome of the administrative decision in light of its underlying rationale in order to ensure that the decision as a

whole is transparent, intelligible and justified" (*Vavilov* at para 15). It is a deferential standard, but remains a robust form of review and is not a "rubber-stamping" process or a means of sheltering administrative decision-makers from accountability (*Vavilov* at para 13).

[19] A reasonable decision is "one that is based on an internally coherent and rational chain of analysis and that is justified in relation to that facts and law that constrain a decision-maker" (*Vavilov* at para 85). Reasonableness review is not a "line-byline treasure hunt for error" (*Vavilov* at para 102). Any flaws or shortcoming relied upon must be sufficiently central or significant, to render the decision unreasonable (*Vavilov* at para 100).

[20] The rights at stake in PRRA decisions are considerable. The allegations associated with such cases are invariably serious, as are the consequences of any decisions made in relation to these allegations, as they can result in the removal of individuals from Canada. In *Vavilov*, the Court noted that the reasons provided in support of a decision must reflect the stakes of the proceedings, which in this matter are at the high end of the spectrum: *Vavilov* at para 133.

V. ANALYSIS

[21] The Applicants argue that the PRRA Officer did not properly assess the risks they face. While the Officer referred to the general situation of Christians in Nigeria, the Applicants maintain that the Officer erred in failing to consider their specific risks as converts to Christianity from a devout Islamic family.

[22] The Applicants further argue that the Officer erred in relying on a selective assessment of the objective country conditions evidence, and in finding that they had failed to demonstrate that the Nigerian state would not protect them.

[23] For the reasons that follow, I am not persuaded that the PRRA Officer's decision was unreasonable.

[24] The Officer was clearly aware that the risks asserted by the Applicants in their PRRA application were based on fears related to their conversion to Christianity from Islam. The Officer reproduced the particular paragraphs from their PRRA submissions in which the Applicants set out this fear, and then responded to them – noting that there was little evidence they would be targeted by family members on account of their conversion. The PRRA Officer also pointed out that the Applicants are not required to reconnect with their relatives. As such, the Officer found that the Applicants had failed to provide sufficient evidence to establish that they would be targeted due to their conversion to Christianity. In my view, this finding was reasonable.

[25] Contrary to the Applicants' assertions, the PRRA Officer acknowledged the evidence in the record, which indicates ongoing religious violence in many parts of Nigeria - particularly violence emanating from groups such as Boko Haram. However, the PRRA Officer also observed that Nigeria is roughly evenly divided between Muslims and Christians; that Christians can freely practice their religion in places such as Lagos (where the AA used to reside); and that incidents of violence based on religion are still "isolated" and relatively rare. I see nothing unreasonable in these conclusions.

[26] I also find that the PRRA Officer's observations on state protection in Nigeria were reasonable. The Officer accurately summarized the prevailing jurisprudence on the issue, and reasonably concluded that the Applicants had failed to demonstrate that state protection would be unavailable.

[27] The PRRA Officer also reasonably considered the Applicants' rather speculative assertion that they would be targeted as returnees to Nigeria, who would be perceived to have some wealth. The Officer stated:

> the applicants present little documentary evidence to demonstrate that returnees from oversees are more likely to become victims of crime than the general population of Nigeria. While I accept that returnees can become victims of crime in Nigeria, I do not find that returnees are more likely to become victims of crime than the rest of the Nigerian population.

The Applicants have pointed to no documentary evidence demonstrating the unreasonableness of the above finding.

[28] Finally, I have concluded that the Officer's brief assessments of the general country conditions evidence and the availability of adequate medical care were sufficiently rooted in the applicable jurisprudence and the documentary evidence.

[29] Ultimately, I agree with the Respondent that this case can be distilled down to the sufficiency of the evidence before the PRRA Officer. For the above reasons, I have concluded that it was reasonable for the Officer to have concluded that there was insufficient objective evidence to establish that the Applicants face a serious risk of harm in Nigeria.

VI. CONCLUSION

[30] As a result of the above, I will dismiss this application for judicial review. The parties did not propose a question for certification, and I agree that none arises.

JUDGMENT in IMM-8311-23

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed.

2. No question is certified for appeal.

"Angus G. Grant"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

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STYLE OF CAUSE:	LOOKMAN ADEWOLE SHADARE, KOFOWOROLA OMOWUNMI AYINDE, KHALID NELSON SHADARE (a minor), KAMAL WILSON SHADARE (a minor) v THE MINISTER OF CITIZENSHIP AND IMMIGRATION
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