

Federal Court



Cour fédérale

Date: 20250102

Docket: IMM-3120-23

Citation: 2025 FC 9

Ottawa, Ontario, January 2, 2025

PRESENT: Mr. Justice Norris

BETWEEN:

AJARAT MOJIROLA AKINPELU

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] The applicant is a citizen of Nigeria. In late 2016, she and her husband, Wale Francis Akinpelu, obtained visitor visas for the United States. The applicant entered the United States on May 1, 2017. Her husband joined her there on October 5, 2017, shortly after quitting his job as an officer with the Nigeria Police Service, a position he had held since 2001.

[2] In March 2018, the applicant and her husband entered Canada irregularly. They made claims for refugee protection the following day, seeking protection on the basis of their fear of members of a criminal gang who had targeted the applicant's husband and his family for retribution as well as their fear of corrupt police officers who had their own scores to settle with the applicant's husband.

[3] Early in the refugee determination process, the applicant's husband's claim was suspended pending an inadmissibility determination. The applicant's claim was severed from her husband's. The applicant then proceeded to a hearing alone before the Refugee Protection Division (RPD) of the Immigration and Refugee Board of Canada (IRB) on March 12, 2019. The RPD rejected the applicant's claim on March 26, 2019. On August 14, 2020, however, the Refugee Appeal Division (RAD) of the IRB allowed the applicant's appeal and ordered a new hearing before the RPD. This hearing eventually took place on January 30, 2023.

[4] The RPD rejected the applicant's claim again in a decision dated February 2, 2023. The RPD found that the applicant is neither a Convention refugee nor a person in need of protection because she had not credibly established the core elements of her claim, including key events she described in her narrative. The RPD also found under subsection 107(2) of the *Immigration and Refugee Protection Act, SC 2001, c 27 (IRPA)* that there is no credible basis for the applicant's claim.

[5] Meanwhile, the Immigration Division of the IRB determined that the applicant's husband is inadmissible under paragraph 35(1)(a) of the *IRPA* on grounds of violating human or

international rights due to his past employment as a police officer in Nigeria. This decision was upheld on judicial review: see *Akinpelu v Canada (Public Safety and Emergency Preparedness)*, 2024 FC 400.

[6] The applicant has applied for judicial review of the RPD's decision rejecting her claim for protection. She contends that the decision is unreasonable and that it was made in breach of the requirements of procedural fairness. As I will explain, the applicant has not established any basis for interfering with the RPD's decision. This application for judicial review must, therefore, be dismissed.

[7] The applicable standards of review are not in dispute. With respect to the grounds for review relating to procedural fairness, strictly speaking, no standard of review is implicated. Rather, I must determine whether the applicant knew the case she had to meet before the RPD and had a full and fair opportunity to do so (*Canadian Pacific Railway Co v Canada (Attorney General)*, 2018 FCA 69 at para 56). On the other hand, the substance of the RPD's decision is reviewed on a reasonableness standard. A reasonable decision "is one that is based on an internally coherent and rational chain of analysis and that is justified in relation to the facts and law that constrain the decision maker" (*Canada (Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 85). To establish that the decision should be set aside because it is unreasonable, the applicant must demonstrate that "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 para 100).

[8] Looking first at whether the RPD breached the requirements of procedural fairness, the applicant contends that the RPD did not alert her to all of its concerns about the credibility or trustworthiness of her documentary evidence or give her an opportunity to address those concerns. It is true that the RPD had serious concerns about the applicant's documentary evidence; indeed, those concerns ultimately led the RPD to reject that evidence almost entirely and to find that there was no credible basis for the applicant's claim. I do not agree, however, that the RPD reached these conclusions in a procedurally unfair way.

[9] The applicant acknowledged at the RPD hearing that, for the most part, the documentary evidence on which she was relying had been obtained by her husband. The RPD found that, when it tried to question the applicant about that evidence, this resulted in "vague, rambling testimony" from the applicant where she "denied having any knowledge or reasons for inconsistencies or discrepancies" because it had been her husband, not her, who had obtained the evidence. The RPD member explained as follows why the applicant was not questioned further about the documentary evidence:

If a claimant defers responsibility for addressing problems with documentary disclosure to a former co-claimant, and does not seek to call that former co-claimant as a witness to testify to this point per RPD Rule 44, I must conduct my questioning and assess the credibility of the evidence on the basis of the resources available to me. Given this, I considered it would serve little purpose to belabour these issues in questioning the claimant.

[10] In its decision, the RPD identifies a number of concerns with the applicant's documentary evidence, including internal discrepancies as well as inconsistencies with key aspects of the applicant's narrative. Admittedly, the RPD did not raise all of these concerns with the applicant. On this application for judicial review, however, the applicant has not provided any evidence

that, if only the RPD had done so, she could have provided responses that may have assuaged these concerns. In the absence of such evidence, there is no basis on which to find that the applicant was prejudiced by how the RPD conducted the proceeding.

[11] When the RPD tried to raise some of its concerns with the applicant, it found that this was an exercise in futility. The applicant has not disputed the RPD's characterization of her testimony in this regard. She has not provided any reason to think that things would have improved with further questioning. Nor has she established that she had probative testimony concerning the documentary evidence that she was prevented from presenting to the RPD. In these circumstances, there is no basis for finding that the applicant did not know the case she had to meet or have a full and fair opportunity to meet that case. As a result, this ground for review must be rejected.

[12] Turning to the substance of the decision, while the applicant contends that it is unreasonable, her submissions do not amount to anything more than disagreements with how the RPD assessed her evidence.

[13] There is no question that a no credible basis finding is a serious matter because it takes away a right to appeal the RPD's decision to the RAD. In the present case, this finding is supported by detailed, cogent reasons that are commensurate with its significance for the applicant. The RPD thoroughly explained why, after considering all the evidence relied on by the applicant, it was left with no credible or trustworthy evidence on which it could have rendered a favourable decision. The RPD found that the applicant's husband's narrative (which

for the most part the applicant had simply adopted as her own) was not credible. The RPD also found that the applicant herself was not a credible witness, “due to the abundance of inconsistencies and contradictions in her evidence, evolving testimony, and relying upon multiple fraudulent documents created specifically to bolster her allegations.” These findings are supported by transparent and intelligible reasons. The RPD identified six key points in the applicant’s narrative that it found had not been established with credible evidence, including an alleged attack in December 2013 in which the applicant’s husband’s first wife and their daughter were killed, and another in December 2021 in which the applicant’s husband’s elderly father was killed. All of these findings of fact are explained by transparent and intelligible reasons as well. In short, there is no basis to interfere with the RPD’s ultimate conclusion rejecting the applicant’s claim for protection and finding that it has no credible basis.

[14] For these reasons, the application for judicial review will be dismissed.

[15] The parties did not suggest any serious questions of general importance for certification under paragraph 74(d) of the *IRPA*. I agree that no question arises.

JUDGMENT IN IMM-3120-23

THIS COURT'S JUDGMENT is that

1. The application for judicial review is dismissed.
2. No question of general importance is stated.

“John Norris”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-3120-23

STYLE OF CAUSE: AJARAT MOJIROLA AKINPELU v THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: JULY 16, 2024

JUDGMENT AND REASONS: NORRIS J.

DATED: JANUARY 2, 2025

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