Federal Court Cour fédérale

Date: 20250825

Docket: IMM-7945-24

Citation: 2025 FC 1402

Ottawa, Ontario, August 25, 2025

PRESENT: The Honourable Mr. Justice Duchesne

BETWEEN:

IBRAHIM MOHAMMED B SALEH

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

[1] The Applicant seeks judicial review of an Immigration, Refugees and Citizenship Canada [IRCC] Senior Immigration Officer's [the Officer] February 5, 2024, decision [the Decision] rejecting the Applicant's Pre-Removal Risk Assessment [PRRA] application because the Applicant is not is likely to face a danger of torture, or a risk to life, or a risk of cruel and unusual treatment or punishment if removed from Canada to Nigeria.

[2] The application for judicial review is dismissed for the reasons that follow.

I. **Background**

[3] The Applicant is a 29-year-old citizen of Nigeria. He has never visited Nigeria and does not know anyone living there. The Applicant was born in Saudi Arabia to Nigerian parents and was raised from birth in Saudi Arabia. In accordance with Saudi citizenship laws, he is a citizen of Nigeria and remains a foreigner in Saudi Arabia.

[4] The Applicant represented Saudi Arabia in international track and field competitions as a youth. He began attending King Abdulaziz University in 2014 and trained there as a competitive athlete. The Applicant was provided a Saudi passport solely for the purpose of athletic travel, but the passport was always taken from him upon return to Saudi Arabia. He alleges that he was exploited and unpaid by the Saudi athletics authorities because he was a foreigner without rights and that they threatened to have him deported to Nigeria.

[5] In April 2019, the Applicant was returning from a track competition in Qatar when a problem arose with his flight. He was left behind by his team and handlers. He had his Saudi passport and a valid American visa in hand. He booked a flight to New York and travelled to Canada to file for refugee status because he knew a friend that had done the same.

[6] The Applicant filed a refugee claim on May 25, 2019. He alleged fear of removal to Nigeria from Saudi Arabia or Canada because he does not know anyone there, does not speak the predominant language and fears recruitment by Boko Haram because he has an Arabic accent and practices Islam. He also testified before the RPD that he feared Nigerians would perceive

him to be Boko Haram or a spy because he speaks Arabic, or because of his family's historic ties to Borno State, a region controlled by Boko Haram, and because he would be a foreigner in their community.

[7] The RPD rejected the Applicant's claim on June 29, 2020. The RPD found the Applicant credible but identified a viable Infernal Flight Alternative [IFA] location. The RPD found insufficient evidence that Saudi security authorities would be motivated to locate him in the IFA location Nigeria.

[8] The Applicant appealed the RPD decision to the RAD. The RAD rejected his appeal and confirmed the RPD decision, finding insufficient evidence that the Applicant had a profile such that he would be targeted by Saudi authorities in Nigeria or that the Applicant would be at risk by Boko Haram in the proposed IFA location. The Applicant did not seek judicial review of the RAD decision.

[9] Canada Border Services Agency [CBSA] began proceedings to remove the Applicant to Nigeria in 2023. The Applicant submitted a PRRA application and new submissions and evidence on September 29, 2023, based on claims that he developed and was diagnosed with a psychotic disorder leading to more than a mere possibility of persecution and risk of cruel and unusual treatment if he is returned to Nigeria.

[10] The Applicant claims that his mental health began declining after the IRB refusals but that he developed more significant symptoms of paranoia and suspicions of people close to him

during the COVID-19 pandemic. He began to suspect his roommates of poisoning his food. He claims that his mental health declined further as the result of an apartment fire in 2021, which resulted in homelessness and severe depression. The Applicant's trust issues and paranoia continued, and he maintains that his former roommates continued to conspire against him. In the summer of 2023, the Applicant sought police assistance to return to Saudi Arabia, who in turn contacted CBSA. CBSA informed the Applicant that he is subject to removal to Nigeria but not Saudi Arabia, outlined the PRRA process and released him to a refugee shelter. The Applicant began seeing a psychiatrist on August 31, 2023, and was diagnosed with Major Depressive Disorder with Psychotic Features, including paranoia, as well as alcohol use disorder.

[11] The Applicant was in remission at the time of his PRRA application.

[12] The Applicant provided new evidence to the Officer pertaining to new risks emerging from his mental health decline. The Applicant adduced a statutory declaration, a psychiatric assessment and objective evidence regarding country conditions in Nigeria with his PRRA application. The Applicant emphasized in his submissions that his PRRA application is not based on lack of adequate healthcare in Nigeria. Rather, he fears persecution and risks under section 96 and section 97(1) of the IRPA by members of the Nigerian society and authorities, including Nigerian mental health institutions, if his psychosis recurs in a foreign context without community, family and medical supports, and absent the ongoing and comprehensive care in Canada to which he attributes his current remission.

II. **Decision Under Review**

[13] On a PRRA application an officer is required to assess whether, at the time of the PRRA application, the applicant is a *Convention* refugee as defined in section 96 of the IRPA or a person in need of protection as defined in subsection 97(1) of the IRPA (*Ogbebor v Canada (Citizenship and Immigration)*, 2021 FC 994 at para 15, citing *Raza* at para 11). Stated differently, the main question in a PRRA is whether the Applicant's situation rises to the level of personalized risk as a *Convention* refugee or a person in need of protection, under sections 96 or 97 of the IRPA (*Sohi v. Canada (Citizenship and Immigration)*, 2022 FC 1649, at para 28).

[14] A PRRA Officer may allow a PRRA application in connection with section 96 of the IRPA if the applicant leads new evidence that at the time of application they have a well-founded fear of persecution in relation to enumerated *Convention* grounds and are outside their country of nationality by reason of that fear and unwilling or unable to return there. The well-founded fear must be established on the balance of probabilities based on all of the evidence. The persecution feared must however be assessed on the "reasonable chance" or "serious" possibility as opposed to a "mere" possibility of persecution if returned (*Gomez Dominguez v Canada (Citizenship and Immigration)*, 2020 FC 1098 at 19, citing *Pacificador v Canada (Citizenship and Immigration)*, 2007 FC 1050 at para 74; *Adjei v Canada (Minister of Employment and Immigration)*, 1989 CanLII 9466 (FCA)).

[15] A PRRA officer may also or otherwise allow an application under subsection 97(1) of the IRPA if the applicant establishes by new evidence that, at the time of application, they are in danger of torture, or that there is a risk to life or of cruel and unusual treatment or punishment should they be returned. The dangers and risks described in section 97 must be established on the

balance of probabilities (*Li v Canada (Minister of Citizenship and Immigration)*, 2003 FC 1514 at para 50, aff'd *Li v Canada (Minister of Citizenship and Immigration)*, 2005 FCA 1).

[16] The Officer rejected the Applicant's PRRA application because they were not satisfied on the evidence led before them that the Applicant would be at a risk of persecution within the meaning of section 96 of the IRPA, or personally subject to a danger of torture, a risk to life or a risk of cruel and unusual treatment or punishment within the meaning of subsection 97(1) of the IRPA if returned Nigeria.

[17] The Officer accepted all of the Applicant's new evidence as admissible. The Officer considered the Applicant's tendered psychiatric report, noting that it indicated the Applicant's "most concerning mental health issue," Major Depressive Disorder with psychotic features, was in remission and stable and that medication was unnecessary unless the Applicant's depression and psychosis recurred. The Officer noted the Applicant's submissions that he "would not receive sufficient medical, community, or familial supports in Nigeria, which would cause his mental health to deteriorate" and that deterioration would put him at risk of persecution and harm. The Officer dedicated the vast majority of their Decision to addressing the Applicant's submissions on this point.

[18] The Applicant relied on objective evidence from a UK Home Office report to conclude that there is an "understaffed" but "established" system for mental healthcare available in Nigeria, including inpatient and outpatient treatment, counselling, medication and other supports. The Officer acknowledged that the Applicant's materials suggest that inpatient treatment centers

in Nigeria are “very poor,” but also found that there was little in the Applicant’s evidence to indicate that the Applicant would be unable to continue to access outpatient care for his mental health issues. The Officer also found that there was little in the Applicant’s PRRA materials to indicate that the Applicant would need access to inpatient care with respect to his mental health issues if he was to be removed to Nigeria.

[19] Overall, on the basis of country conditions evidence and evidence of the Applicant’s then current health status, the Officer concluded that the Applicant would not be unable to obtain relevant medical care and community supports in Nigeria. The Officer therefore found that the Applicant’s mental health would not deteriorate such that he would be at risk of persecution or harm from authorities or Nigerian society due to his mental health issues as alleged in his PRRA submissions.

[20] The Officer also found that the Applicant’s general allegations of stigmatization and discrimination in Nigeria because of his diagnosis were insufficient as they do not constitute a personalized, forward-looking risk of harm contemplated by sections 96 or subsection 97(1) of the IRPA.

[21] The Officer also rejected that the Applicant would be at risk of harm in Nigeria due to his ethnicity, language or religion as these were risks previously considered by the RPD and upheld by the RAD. No new evidence regarding these points arising after the RPD or RAD decisions was submitted to the Officer for their review.

III. **Issue**

[22] The sole issue in this matter is whether the Decision is reasonable.

IV. **Standard of Review**

[23] There is no dispute between the parties, and I agree, that reasonableness is the presumptive standard of review applicable to the merits of a PRRA officer's decision (*Josheph v Canada (Citizenship and Immigration),* 2024 FC 799 at para 6 [*Josheph*], citing *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 16 – 17 [*Vavilov*]).

[24] The burden rests upon the Applicant to establish that the Decision is unreasonable (*Vavilov*, at para 100). Mr. Justice Shirzad Ahmed of this Court neatly summarized reasonableness review and what makes a decision unreasonable in the context of judicial review of a negative PRRA decision in *Lin v. Canada (Citizenship and Immigration),* 2024 FC 1873, as follows:

> [13] Reasonableness is a deferential, but robust, standard of review (*Vavilov* at paras 12-13). The reviewing court must determine whether the decision under review, including both its rationale and outcome, is transparent, intelligible, and justified (*Vavilov* at para 15). 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 (*Vavilov* at para 85). Whether a decision is reasonable depends on the relevant administrative setting, the record before the decision-maker, and the impact of the decision on those affected by its consequences (*Vavilov* at paras 88-90, 94, 133-135).
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> [14] For a decision to be unreasonable, the applicant must establish the decision contains flaws that are sufficiently central or significant (*Vavilov* at para 100). Not all errors or concerns about a decision will warrant intervention. A reviewing court must refrain from reweighing evidence before the decision-maker, and it should not interfere with factual findings absent exceptional circumstances (*Vavilov* at para 125). Flaws or shortcomings must

> be more than superficial or peripheral to the merits of the decision, or a "minor misstep" (*Vavilov* at para 100).

[25] I adopt Justice Ahmed's helpful summary of the reasonableness standard and what must be established by the Applicant to demonstrate that the decision under review in is unreasonable.

V. **Arguments and Analysis**

[26] The Applicant argues that the Officer erred in their assessment of the Applicant's evidence and submissions in three ways:

i. the Officer erred by not assessing the negative impact that removal would have on the Applicant's mental health;

ii. the Officer unreasonably assessed evidence and reasoned illogically about the likelihood that the Applicant would be forcibly admitted to in-patient treatment in Nigeria; and,

iii. the Officer's conclusion that sufficient mental health services would be available in Nigeria was illogical and unjustified by the country conditions evidence before them.

A. ***The Effect of Removal Itself***

[27] The Applicant argues that the Officer erred by not assessing the negative impact that removal would have on the Applicant's mental health. The Applicant argues that the Officer disregarded evidence and submissions that removal to Nigeria, regardless of the mental health services available there, would cause the Applicant's mental health to deteriorate.

[28] The Applicant supports this argument with reference to the Supreme Court of Canada's reasoning in *Kanthasamy v Canada (Citizenship and Immigration),* 2015 SCC 61 [*Kanthasamy*]. The Supreme Court of Canada held in *Kathasmany,* in connection with an exemption based on humanitarian and compassionate grounds [H&C], that if a psychological diagnosis is accepted by an immigration officer, the effect of removal on this condition "in addition to medical inadequacies in the country of origin" may be relevant to their assessment of hardship in an H&C application (*Kanthasamy* at paras 47-48). *Kanthasamy* has long been cited in the H&C context for the principle that it is unreasonable to discount evidence about the mental health effect of removal from Canada because of the availability of treatment in one's country of origin (*Osmani v Canada (Citizenship and Immigration*), 2022 FC 647 at 10, citing *Jang v Canada (Immigration, Refugees and Citizenship)*, 2017 FC 996 at 32).

[29] The Applicant argues that the principles in *Kanthasamy* regarding the assessment of mental health evidence should be applied equally in the context of a PRRA application. In support of his argument, the Applicant relies on *Sarrisky v Canada (Citizenship and Immigration)*, 2022 FC 1014 at paras 37 – 39 [*Sarrisky*], while acknowledging that the mental health evidence overlooked in *Sarrisky* had been adduced to address the RPD's credibility findings rather than to establish risks upon removal.

[30] *Kanthasamy* was concerned with an H&C application and not with a PRRA decision. A PRRA application is concerned with the assessment of risk factors on the basis of sections 96 to 98 of the IRPA, not with a complete assessment of H&C grounds that might otherwise be a sound basis for a claim to be exempted from the application of the IRPA (*Kim v. Canada*

(Minister of Citizenship and Immigration), 2005 FC 437, at para 70; *Azimi v. Canada (Public Safety and Emergency Preparedness),* 2015 FC 1177, at para 21). The Officer conducted the analysis they were required to carry out pursuant to the IRPA. The Decision reflects that the Officer considered the potential effect of removal on the Applicant and found that his mental health would not deteriorate upon removal because of the Applicant's ability to access medical and community supports in Nigeria. The Officer's findings were rational and based on their assessment of the whole of the evidence led. Their findings and decision on this specific point cannot be said to be unreasonable.

[31] The Applicant's argument that *Sarrisky* supports his argument that H&C grounds should be parachuted into a PRRA assessment must be rejected. *Sarrisky* is distinguishable on its facts and focusses on the error in law made by the PRRA officer when the officer insisted on requiring further evidence of what the applicant had done or not done by way of treatment after having accepted the psychiatric diagnosis (*Sarrisky*, at paras 41 and 42). No such error is alleged to have occurred here, and the record reflects that no such error actually occurred.

[32] The Applicant's first argument does not establish that the Decision is unreasonable.

B. ***The Likelihood of Forcible Admission to Inpatient Treatment in Nigeria***

[33] The Applicant argues that the Officer erred in three ways in analyzing the Applicant's evidence of risk in Nigeria due to his mental health conditions.

[34] First, the Applicant argues that the Officer's assessment of the Applicant's risk that he would be subjected to inpatient treatment in Nigeria is based on an unreasonable assessment of the objective evidence led and is the result of an illogical assessment of the Applicant's risk of forcible admission into inpatient facilities in Nigeria.

[35] The Applicant highlights the objective evidence, accepted by the Officer, of "very poor" conditions in in-patient mental health institutions in Nigeria. This evidence included a Human Rights Watch report on involuntary detention without mental health or therapeutic treatment under Nigeria's 1958 *Lunacy Act*. The Applicant notes that given such "vast differences" between the legal requirements for involuntary detention in mental institutions in Canada and Nigeria, it was unreasonable for the Officer to rely on the fact that the Applicant had not received in-patient treatment in Canada to find that the Applicant would not be subjected to in-patient treatment in Nigeria. The Applicant claims that the Officer "misconstrued" the relevant risks as to whether there would be inpatient facilities available in Nigeria should the Applicant need them and failed to assess and justify objective evidence and submissions related to risk of involuntary admission to such an institution.

[36] I disagree with the Applicant.

[37] The Officer properly observed and noted the objective evidence regarding the condition in inpatient mental health institutions in Nigeria. The Officer also properly noted that the Applicant has not required inpatient services in Canada, that at the time of the PRRA application the Applicant's mental health issues were in remission and were controlled, and that there was

little evidence that the Applicant would need access to inpatient care with respect to his mental health issues if he was to be removed to Nigeria.

[38] The Applicant's past mental health needs and treatment as well as his control over his mental health at the time of the application logically and rationally lead to the conclusion that the Applicant would not likely require inpatient treatment in Nigeria. That legislation exists in Nigeria to subject a person to inpatient treatment in circumstances described in the legislation does not lead to the conclusion that there is a serious possibility that the Applicant will find himself in a situation where he will be forced into inpatient treatment in Nigeria on the basis of the circumstances set out in the Nigerian legislation.

[39] The Officer's assessment of the evidence and of the risk of in-patient care being required by the Applicant or forced upon him were logical, took the evidence into account, and were open to the Officer to make. The Applicant's argument on this issue is in essence a request for the Court to reassess the evidence that was before the Officer and to come to a different conclusion. Re-weighing the evidence is not this Court's function on judicial review (*Vavilov* at para 125; *Doyle v. Canada (Attorney General),* 2021 FCA 237, at para 3).

[40] Second, the Applicant argues that the Officer failed to justify their decision in relation to the applicable standard of proof – a serious possibility of persecution - for assessing the risks faced by the Applicant in Nigeria. While the balance of probabilities standard is applicable to establishing facts, the risks resulting from these facts, what will happen in the future are to be assessed according to the less demanding test of a serious possibility. This distinction was among

the legal constraints bearing upon the Officer. The Applicant argues that the Officer was required to demonstrate that they were aware of this distinction in evidence standards and that they applied the correct standard in their assessment of the objective risks faced by the Applicant in Nigeria.

[41] I disagree with the Applicant.

[42] The Applicant conflates the evidentiary standard applicable to a section 96 IPRA refugee claim on the basis of *Convention* grounds and the subsection 97(1) IPRA refugee claim on the basis of a risk to their like or to a risk of cruel or unusual treatment. The Officer identified the correct evidentiary standard in part 9 of their Decision and set out their conclusions based on the application of the correct evidentiary standard. The Applicant's argument is therefore rejected.

[43] Third, the Applicant alleges that the Officer unreasonably failed to justify their decision in light of two RPD decisions alleged to be analogous to the issues in this proceeding and which granted refugee claims of Nigerians on the basis of mental health concerns. The Applicant claims that the Officer's wholesale failure to acknowledge or address these submissions renders the Decision inadequate given the significant impact on the Applicant and the fact that his mental health concerns had not been considered by the RPD or RAD (*Josheph* at para 23, citing *Vavilov* at para 133).

[44] It is well established that each claim or application must be considered on its own merits (*Azvar v Canada (Citizenship and Immigration)*, 2024 FC 1879 at para 8, citing *Uygur v Canada*

(Citizenship and Immigration), 2013 FC 752 at para 28). It is also accepted that prior decisions by a differently constituted RPD or RAD panel considering the evidence before them are not evidence (*Mansour v. Canada (Citizenship and Immigration)*, 2022 FC 846, at para 26). While a tribunal is properly constrained by its previous decisions, it is not bound by its previous decisions (*Faisal v Canada (Citizenship and Immigration)*, 2021 FC 412, at para 26; *Vavilov* at para 131). Parties affected by administrative decisions such as RPD or RAD decisions "are entitled to expect that like cases will generally be treated alike" (*Vavilov* at para 129). Although they are not bound by prior administrative decision maker decisions, an administrative decision maker that departs from "longstanding practices or established internal authority" must justify why they are doing so, or the decision will be unreasonable (*Vavilov* at para 131).

[45] The context in which the prior administrative decisions were raised and how they were presented in argument are important factors to consider in this regard. Decisions cited only as footnotes without development or other mention in submissions should not attract the same degree of consideration as decisions that are alleged to be determinative of an issue.

[46] In this case, the alleged prior administrative decisions were referred to but not argued in the Applicant's PRRA submissions. They were referred to in support of the Applicant's assertion that state protection was not available to the Applicant and that it was rather the state who is the perpetrator of harm, violence and persecution in Nigeria. The Applicant then argued as follows in support of his assertion: "This is further supported by findings made by the Refugee Protection Division in the attached decisions". Those decisions were referred to as "redacted

RPD decisions at pp 48-93". The decisions alleged were not identified with any other particularity and were not otherwise mentioned or argued in the Applicant's PRRA submissions.

[47] It is apparent that neither of the "redacted RPD decisions" carried any great weight or loomed large in the Applicant's PRRA submissions as they remained otherwise unargued. An undeveloped footnote among 75 other footnotes in 20 pages of single-spaced written submissions does not suggest that the Applicant considered the "unredacted RPD decisions" as significant in supporting his application. Indeed, the Applicant made no submissions in his PRRA submissions that any longstanding practices or established internal authority at the RPD were either found in or based on the "unredacted RPD decisions".

[48] The "unredacted RPD decisions" were not actually argued by the Applicant. There was no requirement for the Officer to explicitly justify why they did not follow or apply the "unredacted RPD decisions" footnoted by the Applicant in his PRRA submissions in this context. The Officer's failure to refer to the "unredacted RPD decisions" in their reasons does not fall within the category of serious shortcomings that cause the Court to lose confidence in the reasonableness of the Decision (*Vavilov* at para 122).

C. ***Insufficient Mental Health Services in Nigeria***

[49] Lastly, the Applicant argues that the Officer's conclusion that mental health services in Nigeria are sufficient was unjustified on the evidence before them, particularly in light of the UK Home Office report titled *Nigeria: Medical Treatment and Healthcare.*

[50] The Applicant highlights a reference in this report to the fact that thousands of people in Nigeria are “chained and locked up” in mental health facilities. They further note that “the fact that some mental health services exist” in Nigeria does not negate evidence, including in the UK Home Office report, of poor conditions and overall lack of services. The Applicant suggests that the Officer “selected passages” from the UK Home Office report despite contradictory evidence on the record, including in that same report, and in doing so discounted relevant evidence on key issues without justification (*Ali v Canada (Citizenship and Immigration)*, 2021 FC 731, citing *Vavilov* at para 126).

[51] PRRA officers need not refer explicitly to each piece of country conditions evidence before them in coming to their decision because they are presumed to have reviewed and considered all of the evidence. However, they must consider evidence that contradicts their conclusion. The more central or important the evidence, the more the Court may conclude that relevant evidence was not considered or that the officer failed to account for the evidence before them (*Cepeda-Gutierrez v Canada (Minister of Citizenship and Immigration)*, 1998 CanLII 8667 (FC) at paras 15–17; *Solis Mendoza v Canada (Citizenship and Immigration)*, 2021 FC 203 at paras 36–43; *Vavilov* at paras 125–126).

[52] The Officer acknowledges objective evidence that Nigeria’s system for mental healthcare faces “ongoing challenges,” including staffing insufficiencies and “very poor” conditions at inpatient facilities and concludes that the system is “imperfect” but adequately established such that the Applicant would not be unable to receive support. The Officer does not fail to acknowledge evidence contradicting their overall finding. The Officer’s reasons reflect that they

did not reach their findings about mental healthcare in Nigeria in a manner unjustified by the country conditions evidence before the Officer.

[53] The Applicant's argument that the Officer's conclusion is unjustified must be rejected.

VI. **Conclusions**

[54] I conclude that the Applicant has not demonstrated 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 that is required to make the Decision reasonable.

[55] The Decision reflects a rational reasoning process and findings that are justified in light of the relevant factual and legal constraints that bear on it and is reasonable.

[56] The Applicant's application for judicial review is therefore dismissed.

[57] The parties have not suggested that there is any question to be certified, and I agree with them.

JUDGMENT in IMM-7945-24

THIS COURTS JUDGMENT is that:

1. The Applicant's application for judicial review is dismissed.

2. There is no question to be certified.

3. There is no order as to costs.

"Benoit M. Duchesne"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

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