Federal Court  Cour fédérale

Date: 20251031

Docket: IMM-24772-24

Citation: 2025 FC 1760

Ottawa, Ontario, October 31, 2025

PRESENT: The Honourable Madam Justice Ngo

BETWEEN:

WALE IDOWU KOMOLAFE

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The Applicant, Wale Idowu Komolafe [Applicant], seeks judicial review of a decision of the Refugee Appeal Division of the Immigration and Refugee Board of Canada [RAD] dated December 10, 2024. The RAD rejected his refugee claim, upholding a decision of Refugee Protection Division [RPD] concluding that the Applicant is not a refugee nor a person in need of protection within the meaning of sections 96 and 97 of the *Immigration and Refugee Protection*

Act, SC 2001, c 27 [IRPA] because there is an Internal Flight Alternative [IFA] within his originating state, Nigeria [Decision].

[2] For the reasons that follow, this application is dismissed. The Applicant has not demonstrated that the Decision is unreasonable.

II. Background and Decision Under Review

[3] The Applicant is a citizen of Nigeria. He states that he fears prosecution from his father's brothers (i.e., his uncles), IK and TK, who wish to harm him because he refused the role of 'Asolo,' or tribal chief, after his father's death. He states that accepting the role would necessitate drinking blood. This goes against the Applicant's Christian religion. IK and TK wanted the Applicant to take on the role of chief starting from 2014, but he refused. As a result, he claims his life was repeatedly threatened. He reported these threats to the police, in November 2014. In April 2015, the Applicant relocated to another city in Nigeria, Akure.

[4] The Applicant lived in Akure with no contact from IK and TK for almost seven years, until February 2022. At that time, the Applicant's wife posted pictures of their court wedding to social media. According to the Applicant, this prompted IK and TK to send thugs to Akure to threaten him. After hiding in his church, the Applicant left Nigeria for Canada in June 2023. Since his departure, the Applicant's wife and son remained in Akure, and neither IK nor TK have contacted them.

[5] On June 28, 2023, the Applicant submitted a refugee claim. In a decision dated September 6, 2024, the RPD rejected the Applicant's claim for protection, finding that there was a viable IFA. The Applicant appealed this decision to the RAD.

[6] The RAD dismissed the Applicant's appeal of the RPD decision and held that the RPD's finding on a viable IFA was correct. On the first prong of the applicable IFA test, the RAD concluded that IK and TK did not have the motivation to track the Applicant to the IFA, that he would be able to practise his religion freely in the IFA, and that the IFA is safe. On the second prong of the IFA test, the RAD found that relocation to the IFA was reasonable, concluding that the Applicant did not demonstrate how he could not access mental health support should he need it, among other things. The RAD's Decision is the subject of this judicial review.

III. Issues and Standard of Review

[7] The Applicant challenges the Decision that there was a viable IFA. On that issue, he states that the Court should apply the standard of correctness (citing *Huruglica v Canada (Citizenship and Immigration)*, 2016 FCA 93 [*Huruglica*]).

[8] The Respondent submits that the Applicant has incorrectly referenced *Huruglica*, which speaks to the standard that the RAD should apply to the RPD's decision on an appeal to the RAD. The Respondent submits that the Court should apply the presumptive reasonableness standard of review with respect to the merits of the Decision (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*] at paras 10, 25). The Applicant has not set out any arguments supporting a departure from the presumptive standard of review of

reasonableness, nor has he properly raised any issues of procedural fairness, other than making a general statement to that effect.

[9] The Supreme Court has established a presumption that the standard of review of the merits of an administrative decision is reasonableness, subject to limited exceptions (*Vavilov* at paras 7, 10; *Mason v Canada (Citizenship and Immigration)*, 2023 SCC 21 at para 7 [*Mason*]). Other than presenting generalized statements, the Applicant has not demonstrated why I should depart from the reasonableness standard of review in his case as instructed by *Vavilov* and *Mason*. I also find the Applicant's references to *Huruglica* unhelpful to his position on the appropriate standard of review.

[10] In fact, this Court's case law is consistent that the RAD's assessment of the evidence and circumstances when determining the viability of a possible IFA attracts a reasonableness standard of review. Indeed, it is not disputed that the standard of reasonableness applies to the RAD's decision and to findings regarding the existence of a viable IFA (*Vishist v Canada (Citizenship and Immigration)*, 2024 FC 1908 at para 17 [*Vishist*] citing *Singh v Canada (Citizenship and Immigration)*, 2023 FC 1554 at para 18; *Khosla v Canada (Citizenship and Immigration)*, 2023 FC 1557 at para 16; *Valencia v Canada (Citizenship and Immigration)*, 2022 FC 386 at para 19; *Adeleye v Canada (Citizenship and Immigration)*, 2022 FC 81 at para 14; *Ambroise v Canada (Citizenship and Immigration)*, 2021 FC 62 at para 6; *Singh v Canada (Citizenship and Immigration)*, 2020 FC 350 at para 17).

[11] As such, I will apply reasonableness as the standard of review as to whether the RAD's Decision was unreasonable in its analysis and finding of an IFA.

[12] A reasonable decision will always depend on the constraints imposed by the legal and factual context of the particular decision under review (*Vavilov* at para 90). On judicial review, the Court must consider whether a decision bears the hallmarks of reasonableness – justification, transparency and intelligibility (*Vavilov* at para 99). A decision may be unreasonable if the decision maker misapprehended the evidence before it (*Vavilov* at paras 125–126). The party challenging the decision bears the onus of demonstrating that the decision is unreasonable (*Vavilov* at para 100).

IV. Analysis

[13] The two-prong test set out by the Federal Court of Appeal on the issue of an IFA requires applicants to establish that 1) "there is no serious possibility of the claimant being persecuted in the part of the country to which it finds an IFA exists" and that 2) "it would not be unreasonable, in all the circumstances, for the claimant to seek refuge there" (*Olusola v Canada (Citizenship and Immigration)*, 2020 FC 799 at paras 7–9, citing *Thirunavukkarasu v Canada (Minister of Employment and Immigration)* (CA), 1993 CanLII 3011 (FCA) at 592–93 [*Thirunavukkarasu*], citing *Rasaratnam v Canada (Minister of Employment and Immigration)* (CA), 1991 CanLII 13517 (FCA) at 710).

[14] When an IFA is established, the onus is on the refugee claimant to demonstrate that the IFA is inadequate (*Vishist* at para 26 citing T*hirunavukkarasu* at para 12; *Salaudeen v Canada*

(Citizenship and Immigration), 2022 FC 39 at para 26; *Manzoor-Ul-Haq v Canada (Citizenship and Immigration)*, 2020 FC 1077 at para 24).

[15] According to the Applicant, the Decision is unreasonable because the RAD overlooked significant elements of the Applicant's claim. Notably, the Applicant submits that the RAD failed to conclude the IFA is unreasonable, as the Applicant could still be tracked there by IK and TK. Furthermore, he submits that the IFA is not reasonable because he will be forced into perpetual hiding: unable to seek work or medical help for his mental health, restricting his social media presence, and concealing his whereabouts from his family. As such, the Applicant contends that he will be constrained from living freely which renders the IFA unreasonable. Finally, the Applicant also points to the RAD's analysis of the "psychological report" that he submitted. While he admits that the RAD considered the report, he argues that the RAD failed to identify what triggers the Applicant's post-traumatic stress disorder, and whether relocation to the IFA would negatively impact the Applicant's mental health as he would be unable to leave his home safely to seek out mental health support. Moreover, the Applicant claims that the RAD failed to conduct a section 97 analysis, constraining itself to section 96 of IRPA.

[16] I cannot agree with the Applicant's submissions.

[17] I conclude that the RAD reasonably addressed the RPD's decision, remedied the RPD's errors in not referring to the psychological report, and considered the Applicant's submissions on appeal. The RAD engaged with the evidence provided and provided a justification why the Applicant did not meet his burden to refute the viability of the IFA. The RAD's conclusions that

IK and TK did not have the motivation to find the Applicant in the IFA is grounded on the evidence that the Applicant and his wife lived without any contact from the agents of persecution for over seven years. It was a social media post by his wife that triggered IK and TK to send thugs to their city. In addition, despite the Applicant's assertions, the RAD did consider sections 96 and 97 of the IRPA in its assessment.

[18] Justice McHaffie outlined that "the *Rasaratnam* analysis was developed for Convention refugees within the meaning of section 96 of the IRPA, but the requirement in subparagraph 97(1)(b)(ii) that a person in need of protection face a risk "in every part of that country" means that the existence of an IFA is equally fatal to claims for refugee protection made under section 97" (*Leon* v *Canada (Citizenship and Immigration)*, 2020 FC 428 at para 9 [*Leon*], other citations omitted). Subsection 97(1) does not incorporate a subjective component and is an objective test to be administered in the context of a present or prospective risk for the claimant (*Sanchez v Canada (Citizenship and Immigration)*, 2007 FCA 99 at paras 14-15).

[19] In the Applicant's case, he framed his section 97 risks as associated with "the right to practice his religion and faith without any fear" and that his beliefs do not align with the role that IK and TK want him to assume. Reading the Decision holistically, I cannot agree with the Applicant that the RAD never considered his submission. Rather, the RAD rejected the Applicant's assertions and explained why. I see no reason to intervene with this conclusion.

[20] I also agree with the Respondent that demonstrating an interest in the Applicant within his own city on one occasion in 2022, does not automatically establish their motivation to pursue him outside of that city to the IFA (*Vishist* at para 35).

[21] There is no serious possibility of persecution for a claimant in a proposed IFA where there is no evidence that the persecutors have any interest in pursuing him or her, regardless of the reach of these agents of persecution (*Leon* at para 15; *Feboke v Canada (Citizenship and Immigration)*, 2020 FC 155 at para 34).

[22] In the Applicant's case, it was not contested that before his wife made the social media post, there was no evidence that IK and TK were looking for him. It was therefore open to the RAD to conclude that their lack of pursuit for seven years while he lived in Akure was an indication of a lack of serious possibility of persecution. Furthermore, after the Applicant left this city, his wife and son continued to live there without any further contact from IK and TK. Thus, given the context, it was not unreasonable for the RAD to conclude that the Applicant did not demonstrate that the agents of persecution had the motivation to find him in the IFA.

[23] The Applicant also takes umbrage with the RAD's conclusion that he "is reasonably expected to mitigate his own risk" in response to his argument that social media platforms could threaten his life and that he would be constrained from living freely.

[24] In disagreeing with the Applicant's submissions, the RAD relied on Federal Court jurisprudence and found that "refugee claimants are expected to take reasonable steps to shield

their location from the agent of harm. Keeping social media posts private is not the same as requiring the appellant to live in hiding." I can find no reviewable error with this conclusion. It is consistent with the case law (*Iwuanyanwu v Canada (Citizenship and Immigration)*, 2022 FC 837 at para 10 [*Iwuanyanwu*], citing *Olusesi v Canada (Citizenship and Immigration)*, 2021 FC 1147 at paras 19–20).

[25] In other words, despite the Applicant asserting his right to access social media, it is not a reviewable error for the RAD to expect a refugee claimant to be careful and vigilant, or exercise caution in their use of social media. This includes being discreet in social media and making use of privacy settings. It does not amount to improperly asking them to go into hiding (*Iwuanyanwu* at para 10; *Gonzalez Pastrana v Canada (Citizenship and Immigration)*, 2024 FC 296 at para 37; *Adeyig Olusola v Canada (Citizenship and Immigration)*, 2021 FC 659 at para 24).

[26] As such, I do not find that the RAD erred in its conclusions under the first prong of the IFA test. I will now deal with the RAD's analysis and conclusion on the second prong of the IFA test.

[27] The case law is also clear that before the RAD, a claimant has the burden of presenting "actual and concrete" evidence that it would be unreasonable to relocate to the IFA. The burden on the claimant is very heavy and that "[i]t requires nothing less than the existence of conditions which would jeopardize the life and safety of a claimant in travelling or temporarily relocating to a safe area" (*Leon* at para 30, citing *Ranganathan v Canada (Minister of Citizenship and Immigration)* (CA), 2000 CanLII 16789 (FCA) at para 15; *Olvera Correa v Canada*

(Citizenship and Immigration), 2012 FC 243 at para 17; *Hamdan v Canada (Immigration, Refugees and Citizenship)*, 2017 FC 643 at para 12).

[28] The Applicant challenged the reasonableness of the IFA based on a number of factors. At the hearing, he challenged the RAD's consideration (or perceived lack thereof) of a Bio-Psychosocial Assessment Report completed by a Clinical Social Worker [Report], which he states demonstrates he would be unable to safely access mental health support in the IFA. The Applicant also states that the RAD erred by not considering what triggered his post-traumatic stress disorder. He also argued that the RAD failed to recognize that restricting his social media, among other things, meant living in hiding. These render the IFA unreasonable.

[29] This argument must also be rejected.

[30] The Applicant invited me to glean from one passage of the Report cited to me that he would not be able to access mental health care in the IFA. However, nothing in that passage confirms his assertions. The Applicant has also not identified any other references in the Report or in the record before the RAD that contradicted the RAD's conclusions or demonstrated that it misapprehended the evidence before it with respect to his mental health. Furthermore, I reject the Applicant's assertion that the RAD did not engage at all with the Report. The RAD does summarize the diagnosis provided by the Clinical Social Worker, correcting the RPD's omission to do so. The RAD also considered that the Report stated that the Applicant is pursuing cognitive behavioural therapy once a week for one hour. There was simply nothing else in the Report. I cannot fault the RAD for its assessment of the Report.

[31] In the Applicant's case, it was open for the RAD to find that there was nothing presented to it that the Applicant could not access mental health support should he need it. It was the Applicant's onus to persuade the RAD with actual and concrete evidence, not implied observations. The RAD was accordingly not unreasonable in concluding that the Applicant failed to meet the onus required of him, and that he did not demonstrate that his mental health renders the IFA unreasonable.

[32] The Decision meets the hallmarks of reasonableness. It is coherent and rational in its analysis of the evidence and arguments provided. The RAD was responsive to the Applicant's submissions and the Decision is intelligible, justified and transparent in light of the legal and factual constraints that bear upon the decision-maker.

V. Conclusion

[33] The application for judicial review is dismissed. The parties do not propose any question for certification, and I agree that in these circumstances, none arise.

JUDGMENT in IMM-24772-24

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed.

2. There is no question for certification.

"Phuong T.V. Ngo"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

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