

Federal Court



Cour fédérale

Date: 20260325

Docket: IMM-390-25

Citation: 2026 FC 403

Ottawa, Ontario, March 25, 2026

PRESENT: Mr. Justice Pentney

BETWEEN:

AKINSOLA AKINWALE AKINNIYI

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] The Applicant, Akinsola Akinwale Akinniyi, is a citizen of Nigeria who fled that country to seek refugee protection in Canada because he fears persecution by Fulani Herdsman who extorted him and invaded his property and killed his brother.

[2] The Applicant's refugee claim was dismissed by the Refugee Protection Division [RPD] on the basis of credibility. On appeal, the Refugee Appeal Division [RAD] found his evidence to

be credible, but dismissed his claim because he had a viable Internal Flight Alternative [IFA] in Nigeria. The Applicant seeks judicial review of the RAD decision, arguing he was denied procedural fairness and that the decision is unreasonable.

[3] I am unable to accept the Applicant's procedural fairness argument, largely because it is based on assertions that are contradicted in the record. He claims that he was not given enough time to gather new evidence to refute the IFA issue after the RAD gave him notice that it was considering this issue. The Applicant says he only had 10 days to respond, but the written submissions his representative filed with the RAD in response to the notice state that the notice was received on the same day it was sent, thus giving him 14 days to respond. There is no evidence to confirm which statement is correct. The Applicant did not formally seek more time, nor explain what further evidence he needed more time to obtain.

[4] Moreover, the Applicant's submissions to the RAD stated that the RPD had a full and complete record on the IFA question. At paragraph 7 of his submissions, the Applicant states: "It is submitted that the RPD had ample information before it, in the form of country condition evidence, personal documentation and testimony from the Appellant in order to fully consider IFA." This seems to contradict his claim that he was treated unfairly because he was not given time to gather more evidence. For these reasons, I reject the procedural fairness argument.

[5] The Applicant also argues that the RAD was barred from considering the IFA question because the RPD mentioned it but did not base its decision on that issue. The Applicant argues that the IFA question is not, therefore, a "new" issue. I cannot accept this argument. A "new"

issue has been defined as a question which constitutes a new ground or reasoning on which a decision-maker relies, other than the grounds of appeal raised by the applicant, to support the valid or erroneous nature of the decision appealed from (*Kwakwa v Canada (Citizenship and Immigration)*, 2016 FC 600 [*Kwakwa*] at para 25). The RAD reasonably treated the IFA issue as a new issue on appeal.

[6] The RAD gave the Applicant notice that it was considering the issue of IFA and it ultimately based its decision on that issue. The fact that the RPD mentioned this question in passing, but did not rule on it, cannot bar the RAD from fulfilling its statutory duty of re-examining the Applicant's refugee claim, taking into account the submissions made on appeal and any other issues the RAD considers pertinent, subject to the RAD giving notice of any new issues it proposes to consider. The RAD gave notice here, and it was entitled to consider and rule on the IFA question (*Ching v Canada (Citizenship and Immigration)*, 2015 FC 725, at paras 65-76; *Kwakwa* at para 25; *Rathnalingam v. Canada (Citizenship and Immigration)*, 2026 FC 12 at para 37).

[7] Turning to the reasonableness of the RAD's decision, the Applicant asserts that the RAD's IFA decision was based on an inadequate record and that the RAD failed to consider his evidence about the risks he faced from the Fulani Herdsmen in Nigeria. I am not persuaded by these submissions.

[8] The RAD's key finding is that the evidence did not indicate that the Fulani Herdsmen had the means or motivation to locate the Applicant if he relocated to Port Harcourt or Abuja. The

RAD accepted the Applicant's evidence about the first attack during which his brother was killed. The RAD then reviewed his evidence about the attack at the church after he had fled his original location in Nigeria, noting that the Applicant did not specify how this incident was linked to the extortion and ransom incident. The RAD consulted the country condition evidence which indicated that while conflicts between Fulani Herdsmen and others had increased, these were localized, clan-based disputes and there was no evidence that the Fulani Herdsmen shared information or pursued such matters in other regions of the country.

[9] I cannot agree that the RAD's IFA analysis was based on an inadequate record. The Applicant was provided with notice and an opportunity to make additional submissions on the IFA issue. In his response to the notice, the Applicant explicitly acknowledges that the RPD had ample evidence on the issue of IFA, including the country condition evidence and testimony of the Applicant. The Applicant also availed himself of this opportunity to provide around nine pages of additional submissions on why the two prongs of the IFA test were not met.

[10] The Applicant has also not pointed to any specific or relevant evidence in the record that was ignored or overlooked by the RAD, other than mentioning that certain photos were not accepted by the RAD because they were undated. A plain reading of the RAD's decision does not suggest that the photos were not accepted. Rather, the issue was that the Applicant had not explained how his evidence refuted the IFA question.

[11] The RAD's IFA analysis reflects its application of the legal tests to the evidence in the record, and its conclusion is explained clearly in the decision. That is all that reasonableness review requires. I can find no basis to disturb the RAD's decision.

[12] For the reasons set out above, this application for judicial review will be dismissed. There is no question of general importance for certification.

JUDGMENT in IMM-390-25

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed.
2. There is no question of general importance for certification.

"William F. Pentney"
Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-390-25

STYLE OF CAUSE: AKINSOLA AKINWALE AKINNIYI v THE
MINISTER OF CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

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JUDGMENT AND REASONS: PENTNEY J.

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