Federal Court		Cour fédérale

Date: 20100616

Docket: IMM-5689-09

Citation: 2010 FC 651

Toronto, Ontario, June 16, 2010

PRESENT: The Honourable Mr. Justice Beaudry

BETWEEN:

NIKE OKAFOR
SYDNEY JUNIOR OKAFOR (Minor)

Applicants

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

[1] This is an application for judicial review pursuant to subsection 72(1) of the *Immigration and Refugee Protection Act*, S.C. 2001, c. 27 (the Act), of the decision of a Pre-Removal Risk Assessment Officer (the Officer), where Nike Okafor and Sydney Junior Okafor were found not be persons described in sections 96 or 97 of the Act.

[2] At the beginning of the hearing, the parties agreed that the name of the minor should be spelled “Sydney” instead of “Sidney”.

[3] The Applicant, Nike Okafor and her minor son, Sydney Junior Okafor, are both citizens of Nigeria. They arrived in Canada in 2003 and made a claim for refugee protection. The basis of the claim was that the Applicant, a Muslim who converted to Christianity, feared persecution at the hands of the Muslim community. That claim for refugee protection was denied on June 2, 2005 due to credibility issues.

[4] In June 2006, the Applicants applied for a Pre-Removal risk assessment (PRRA) under the Act. That application was refused on September 17, 2009 and is the subject of this judicial review.

[5] At a hearing, the Applicants argued that the Officer should have held an oral hearing pursuant to section 167 of the *Immigration and Refugee Protection Regulations*. They submitted that although the Officer referred to a lack of sufficient evidence, credibility was clearly the main factor in the rejection of their PRRA application. They reason that as credibility was a deciding factor in their application, an oral hearing should have been granted and the failure to do so is a reviewable error.

[6] The standard of review on questions of procedural fairness is correctness (*Soares v. Canada (Minister of Citizenship and Immigration)*, 2007 FC 190, 308 F.T.R. 280).

[7] Paragraph 113(b) of the Act makes it clear that a hearing is to be held in exceptional circumstances. The factors to consider are found in section 167 of the *Immigration and Refugee Protection Regulations*. Having reviewed all of the circumstances under which a hearing must be held, I conclude that a hearing was not required. None of the enumerated factors were met and there was no breach of the regulatory requirement.

[8] The Officer did not make a veiled or disguised credibility finding as alleged by the Applicants. The Officer's decision is very well reasoned and provides a complete analysis, including extensive reliance on objective evidence, of all the new alleged fears claimed by the Applicants in their PRRA application namely: from the late husband's family, child sexual exploitation and human trafficking (Applicants' record, pages 15 to 18)**.** It is clear that the Officer did not take issue with the Applicants' credibility but found the evidence to be wholly insufficient.

[9] The Court's intervention is not warranted.

[10] No question for certification was submitted and none arises.

JUDGMENT

THIS COURT ORDERS AND ADJUDGES that the application for judicial review be dismissed. No question is certified.

"Michel Beaudry"
Judge

FEDERAL COURT

NAME OF COUNSEL AND SOLICITORS OF RECORD

DOCKET:	IMM-5689-09
STYLE OF CAUSE:	NIKE OKAFOR SYDNEY JUNIOR OKAFOR (Minor) v. THE MINISTER OF CITIZENSHIP AND IMMIGRATION
PLACE OF HEARING:	Toronto, Ontario
DATE OF HEARING:	June 15, 2010
REASONS FOR JUDGMENT AND JUDGMENT:	Beaudry J.
DATED:	June 16, 2010

APPEARANCES:

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Stephen Jarvis	FOR THE RESPONDENT

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