

Federal Court



Cour fédérale

Date: 20110818

Docket: IMM-97-11

Citation: 2011 FC 1004

Montréal, Québec, August 18, 2011

PRESENT: The Honourable Mr. Justice Beaudry

BETWEEN:

KOME WILLIAMS

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

[1] This is an application for judicial review pursuant to section 72 of the *Immigration and Refugee Protection Act*, SC 2001, c 27 (the Act) of a negative decision of the Immigration and Refugee Board (the Board) made on December 13, 2010.

[2] For the reasons set out below, this application shall be dismissed.

[3] The applicant is a 23-year-old citizen of Nigeria. In December 2004, she violated a tradition in her home village and was sentenced by the village elders to death. With the help of her father, she escaped to Lagos where she met Felix Ozomo (the Agent) who helped her flee the country in January 2005 in exchange for agreeing to the payment of 50,000 Euros, once in Italy. The applicant was later forced into prostitution in order to repay this debt. In April 2005, she was arrested by the police and upon providing information against the Agent, she was subsequently provided status in the country along with shelter services. In February 2007, the Agent tracked her down, seeking payment of the debt and uttering threats.

[4] In September of that year, she contacted Paul, a client/boyfriend, and sought his assistance in leaving the country, which she did in May 2008 with the help of a false Italian passport. She arrived in Montreal by airplane on May 24 and immediately requested asylum. She was then seven months pregnant and was detained for identity purposes until July 11, 2008.

[5] The determinative issue in this case is the existence of an internal flight alternative (IFA) in Abuja, Nigeria. Despite several concerns regarding the applicant's credibility, the Board accepted that she had satisfactorily established her identity, her lack of status in Italy, her fears and the reasons underlying these fears.

[6] The Board considered and analyzed several arguments raised by the applicant as to why she could not live safely in the proposed IFA namely her fear of the Agent, the village elders who sought to murder her in 2004. It also assessed the applicant's personal particular circumstances and came to the conclusion that Abuja was a reasonable and realistic IFA.

[7] The Court agrees with the parties that the appropriate standard of review in the case at bar is reasonableness *Dunsmuir v New Brunswick*, 2008 SCC 9, [2008] 1 SCR 190 at para 47.

[8] The Court is of the opinion that the Board applied reasonably the two-pronged test as set out in *Thirunavukkarasu v Canada (Minister of Employment and Immigration)*, [1994] 1 FC 589, paras 14-15 to the case at bar. It undertook all of the applicant's objections for fearing living in Abuja and gave cogent reasons for not agreeing. It referred to country conditions to find that adequate and effective state protection would be reasonably forthcoming to the applicant if need be.

[9] The Board considered and applied the *Chairperson's Guideline for Women Refugee Claimants Fearing Gender-Related Persecution*. It explained in details why Abuja was a reasonable IFA for the applicant (see paras 32 to 43 of the decision).

[10] Unlike the decision rendered in *Sara Okafor v The Minister of Citizenship and Immigration* (2011 FC 1002), in this case, the Board analyzed the undue hardship that the applicant would face staying in Abuja. It took into consideration her precarious personal situation but was satisfied, in referring to documentary evidence in Nigeria, that the proposed IFA would not jeopardize her life and safety.

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

[12] The parties did not propose questions for certification and none arise.

JUDGMENT

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

“Michel Beaudry”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-97-11

STYLE OF CAUSE: Kome Williams and MCI

PLACE OF HEARING: Montréal, Quebec

DATE OF HEARING: August 17, 2011

**REASONS FOR JUDGMENT
AND JUDGMENT:** BEAUDRY J.

DATED: August 18, 2011

APPEARANCES:

Annick Legault

FOR THE APPLICANT

Anne-Renée Touchette

FOR THE RESPONDENT

SOLICITORS OF RECORD:

Annick Legault
Montréal, Quebec

FOR THE APPLICANT

Myles J. Kirvan
Deputy Attorney General of Canada
Montréal, Quebec

FOR THE RESPONDENT

“Michel Beaudry”

Judge