



RPD File No. / N° de dossier de la SPR : TB2-10274

Private Proceeding / Huis clos

Reasons and Decision – Motifs et Décision

Claimant(s)	XXXX XXXX	Demandeur(e)(s) d'asile
Date(s) of Hearing	March 14, 2018	Date(s) de l'audience
Place of Hearing	Toronto, Ontario	Lieu de l'audience
Date of Decision and reasons	March 27, 2018	Date de la décision et des motifs
Panel	Milton Israel	Tribunal
Counsel for the Claimant(s)	Pius Okoronkwo Barrister and Solicitor	Conseil(s) du (de la/des) demandeur(e)(s) d'asile
Designated Representative(s)		Représentant(e)(s) désigné(e)(s)
Counsel for the Minister	N/A	Conseil du (de la) ministre

2018 CanLII 132434 (CA IRB)

REASONS FOR DECISION

[1] XXXX XXXX, a citizen of Nigeria, claims refugee protection pursuant to section 96 and subsection 97(1) of the *Immigration and Refugee Protection Act* (IRPA).

ALLEGATIONS

[2] The claimant alleges she was abused by her husband and threatened with death. She further alleges that her husband's attitude toward her changed as a result of making a lot of money, drinking and being with younger women.

[3] The claimant sought help from her in-laws and a friend of her husband but there was no change in his behaviour. In December 2011, she was hospitalized as a result of an attack by her husband, and she also made a report to the police. The claimant alleges that the police did nothing because of her husband's influence in society.

[4] The claimant sought help from her mother and the Village Town Union but there was no change in her situation. She was advised that her husband had said he did not want her out of his life because of the children but he hated her.

[5] In February 2012, she had an encounter with her husband at a restaurant where her husband was with his girlfriend. At home her husband beat her and grabbed a knife. The claimant ran to a neighbour's house and the next day she went to her mother's house. When her mother saw some strange faces near her house, the claimant was advised to go to her mother's friend's house. Subsequently, she travelled to Benin City and stayed with a friend, but two days later one of her friend's neighbours told her friend that some men came asking if she had a visitor. The next day the same men came back and left a letter telling her they knew she was housing the claimant and threatening to deal with her if the claimant did not leave.

[6] The claimant left Benin City on XXXX XXXX, 2012, and travelled to Abuja and stayed with another friend, but her husband and three men came to her friend's house on June 2, 2012. Her friend saw them and warned the claimant who was taken to another house. Her friend used

her contacts to connect with a smuggler who arranged for her exit from Nigeria. She left the country on XXXX XXXX, 2012, and came to Canada.

[7] In an Addendum to her narrative, the claimant stated that her husband continues to threaten her. She further states that her husband sent the children to her mother and told her he was going to get a good woman who will give him good children. She states as well that her husband said he wants her dead.

CREDIBILITY

[8] The claimant testified that she had been hospitalized many times as a result of her husband's abuse. The panel asked her how many times she had been hospitalized and she said more than two times. The panel noted she had disclosed one medical document dated March 5, 2012,¹ but she did not mention this alleged incident in her narrative. The panel further noted that she stated in her narrative that she was hospitalized after a beating on December 14, 2011, but she did not disclose a medical document concerning this incident. The claimant explained that her doctor told her he would not give her a medical document for each visit but only a summary note regarding many visits. The panel notes however that this document only mentions several episodes of gender based violence. It provides no specific information as to any injuries and the nature of the treatment the claimant received. The panel finds it reasonable to expect that a hospital document would include such information. The panel noted in the hearing that the doctor could not know the claimant would be back after the alleged initial incident and finds this explanation to be neither credible nor plausible. The panel also notes that according to the claimant's narrative, she left her home in Asaba on XXXX XXXX, 2012, and went to her mother's house and then to the house of her mother's friend and then to Benin City and Abuja. There is no evidence that the claimant saw her husband again before leaving Nigeria. The panel draws a negative inference as to the claimant's evidence concerning alleged hospitalizations as a result of spousal abuse.

¹ Exhibit 5, item 3, p. 3.

[9] The panel notes that the claimant disclosed a police report² concerning an alleged beating and death threat on December 14, 2011. The panel further notes the information in the report was provided by the claimant. The panel notes as well that the report is dated August 20, 2012, and the claimant testified it was requested by her mother. The panel also notes the claimant testified and stated in her narrative that the police called her husband to the police station and told her it was a domestic issue and they could not act because of her husband's influence. None of this is in the report. In addition, the report includes information about a text message from someone informing her that she will be killed if she refused to let them come into her house. None of this information is mentioned in the claimant's narrative. The panel gives this document no evidentiary weight.

[10] The panel asked the claimant why her husband was pursuing her if, as stated in her narrative, he did not want to live with her. The claimant responded that he only wanted her to look after the children. The panel notes the claimant stated in the Addendum to her narrative that her husband had contacted her mother and told her to come and take the children. The claimant also testified that her children were now living with her mother and her husband had a girlfriend. The panel finds there is no apparent reason why her husband would be pursuing the claimant.

[11] The claimant was asked how long she stayed with her mother's friend in Asaba. The claimant responded three months. She further testified her husband did not find her even though she remained in the same town. The claimant stated that he kept on searching for her in this period but no evidence was disclosed supporting this allegation.

[12] The claimant testified that she knew she would eventually be found and she left after three months and went to a friend's home in Benin City. She further testified that her husband came with two men to her friend's house and she managed to leave and go to Abuja. The claimant was asked how she knew it was her husband, and she responded that he left a note for the claimant's friend³ which indicated he was aware his wife was staying with her and he wanted her brought back to him.

[13] The panel noted that the claimant's husband was allegedly unable to find her in his own town during her three months stay with her mother's friend, but he allegedly found her two days after her arrival in Benin City. The claimant responded that her husband knew she had a friend in

² Exhibit 5, item 2, p. 1.

³ Ibid., item 3, p. 2.

Benin City. The panel is not persuaded by this explanation as it is reasonable to assume, if the claimant's husband was pursuing the claimant, he would have gone to Benin City some time earlier during the three months the claimant was allegedly hiding in Asaba.

[14] The panel notes as well that the claimant provided a very different description of the alleged incident in Benin City in her narrative than what she said in her testimony. The claimant stated in her narrative that two days after she arrived in Benin City, neighbours informed her friend that some men came asking if she had a recent visitor. These men returned the next day and left a letter telling her friend they know she was housing the claimant and threatening her if the claimant did not leave her house. The panel notes that there is no mention of this letter in the claimant's narrative, although it is dated May 22, 2012, when the claimant was still in Benin City. The panel finds it reasonable to assume that if this letter from her husband had been left with her friend in Benin City, while the claimant still resided in her friend's house, she would have included this information in her narrative. The panel further notes this document, a brief handwritten note, was not disclosed until March 2, 2018.

[15] The panel draws a negative inference from the inconsistency in the claimant's evidence concerning the alleged visit of her husband to Benin City. The panel finds, on the basis of the analysis above, that it has a serious doubt that the claimant's husband pursued her in Benin City. The panel gives this letter no evidentiary weight.

[16] The panel notes the claimant disclosed an affidavit⁴ from her friend in Benin City, Mrs. XXXX XXXX, dated February 9, 2018, which states that it was the claimant's husband and two thugs who came to her home in May 2012. The panel further notes that the information in this affidavit is substantially different from that stated in the claimant's narrative. The panel notes as well that the stamp from the Commissioner For Oaths is at the bottom of the page and partly off the page. In addition, part of the writing is in black ink and part of it is in red ink.

[17] The panel has also considered this affidavit in the context of country document evidence on the prevalence of fraudulent affidavits in Nigeria.⁵ It is stated that "fraudulent affidavits are 'widely available' and that 'touts' and 'court officials' procure affidavits for those who need them and charge exorbitant fees." It is further stated that the seal on affidavits "does not establish

⁴ Exhibit 5, item 8, pp. 8-9.

⁵ Exhibit 3, National Documentation Package (NDP) for Nigeria (November 30, 2017), item 9.2.

authenticity as all fake ones also carry [the] seal.” As well, court staff are involved in fraud and forge the signatures of the Commissioner For Oaths, and both the signature and stamp are easily forged.⁶ Another document states that practically any falsified document can be procured in Benin City.⁷

[18] The panel finds, in the context of the analysis above, that this affidavit is likely fraudulent in addition to its inconsistency with the claimant’s evidence in her narrative, and gives it no evidentiary weight. The panel further finds that the finding above raises a doubt as to the integrity of the other affidavits disclosed by the claimant.

[19] The panel considered the affidavit provided by the claimant’s mother⁸ dated February 8, 2018, and disclosed to the Board on March 2, 2018. The panel notes that this document states that the claimant’s husband “is still coming to our house threatening to kill my daughter any time he sees her.” The panel finds, in addition to its concerns regarding the affidavits disclosed by the claimant noted above, that this affidavit statement regarding the alleged visits by the claimant’s husband is vague and general and without any specific details as to the timing and content of these alleged visits over a five year period. The panel notes as well the claimant’s testimony that her husband only wanted her back to look after her children, who were now living with her mother. The panel finds there is insufficient credible evidence that the claimant’s husband is pursuing her, and gives this affidavit little weight.

[20] The claimant testified and stated in her narrative that she left Benin City on XXXX XXXX, 2012, and went to Abuja where she stayed with friends. The claimant further stated that her husband came to Abuja on June 2, 2012, and she fled to other friends and her friend contacted an agent who assisted her exit from Nigeria.

[21] The panel has the same concerns about the claimant’s evidence concerning her pursuit by her husband in Abuja as noted above concerning the alleged pursuit in Benin City. On the basis of the panel’s finding above, the panel further finds it doubtful that the claimant was pursued in Abuja. The panel notes that the claimant disclosed an affidavit from a friend in Abuja⁹ confirming

⁶ Ibid.

⁷ Exhibit 3, NDP for Nigeria (November 30, 2017), item 1.7, at section 14.1.1.

⁸ Exhibit 5, item 9, p. 10.

⁹ Exhibit 5, item 11, p. 14.

her allegation that her husband pursued her in that city. The panel finds that having found the Benin City affidavit likely to be a fraudulent document, it has a significant doubt as to the credibility of the Abuja affidavit. The panel notes that this document is dated January 23, 2013, but it was not disclosed until March 2, 2018.

[22] The panel finds that the claimant may have been abused by her husband. The panel further finds, however, on the basis of its analysis and findings above, that there is insufficient credible evidence to support the claimant's allegation that her husband pursued her after she left their home in February 2012, and that he is still pursuing her.

INTERNAL FLIGHT ALTERNATIVE (IFA)

[23] Notwithstanding the panel's finding as to the credibility of the claimant's allegation that her husband has pursued her, that he continues to do so and that she would be at risk of persecution in this regard if she were to return to Nigeria, the panel finds in the alternative, that if the claimant is being pursued by her husband, she has an IFA in Lagos.

[24] The claimant was questioned as to any reason she could not find a safe haven in Lagos. The claimant responded that her husband had friends and did business in Lagos. The panel noted that the population of Lagos is approximately 25 million people and asked the claimant how he would find her in such a large city. The claimant responded that she needed a place to live and she had to be able to go out and she did not believe she would be safe.

[25] The panel noted it was unclear why her husband would pursue her since she had testified that he did not want to live with her but wanted her back to look after the children, and the children were now living with the claimant's mother. The claimant testified he wanted to kill her but she did not know why.

[26] The panel notes that the claimant emphasized her husband's wealth and influence as to his ability to evade police interest after she went to the police, and also as the basis for his business activities outside Asaba, including Lagos. The panel asked the claimant if she had any corroborating evidence to support her allegation concerning her husband's wealth and influence. The claimant responded that she sought support from her husband's parents and a friend of her

husband but it did not help. The panel notes these efforts concerned her husband's abuse and not his identity of a wealthy and influential man. The claimant further testified that she had no evidence concerning her husband's wealth and influence and she did not think about it in preparing for the hearing.

[27] The panel notes the claimant's husband's wealth and influence is a central issue as to his ability to find her in the IFA, and finds it reasonable to assume that there would be some evidence in this regard available for disclosure by the claimant. The panel further notes its finding concerning the claimant's mother's affidavit at paragraph 20 above, concerning the credibility of the claimant's husband's continuing pursuit of the claimant.

[28] The panel notes that Lagos is a large metropolitan city with an ethnically mixed population of approximately 25 million people and approximately 450 km from Asaba. The panel cites country document evidence¹⁰ concerning internal relocation in Nigeria:

The constitution and law provide for freedom of internal movement and women all over the country reportedly travel on their own, be it on a short or long journey.

In general, it will not be unduly harsh for a woman to internally relocate to escape localized threats from members of their family or other non-state actors.

[29] The panel finds, as to the first prong of the IFA test,¹¹ that on a balance of probabilities, there is no serious possibility of the claimant being persecuted or at risk of the harms pursuant to subsection 97(1) of the IRPA in Lagos, the proposed IFA.

[30] As to the second prong of the IFA test,¹² the panel notes that Lagos's vast population lives at every economic level. While living near the centre of the city might be beyond the means of the claimant, the outskirts of the city is far less expensive. The panel further notes that the claimant has had 13 years experience as a trader in Nigeria and finds that she will likely be able to find work in the informal economy in order to support herself. The panel finds as well that the claimant will likely have the support of her parents in resettling in Lagos.

¹⁰ Exhibit 3, NDP for Nigeria (November 30, 2017), item 1.11, sections 2.47 and 2.4.8.

¹¹ *Rasaratnam, Sivaganthan v. M.E.I.* (F.C.A., no. A-232-91), Mahoney, Stone, Linden, December 5, 1991. **Reported:** *Rasaratnam v. Canada (Minister of Employment and Immigration)*, [1992] 1 F.C. 706 (C.A.).

¹² *Ibid.*

[31] The panel notes that the Federal Court of Appeal has set a very high threshold for the “unreasonableness test”, requiring nothing less than the existence of conditions which would jeopardize the life or safety of the claimant. In this regard there must be “actual and concrete” evidence of such conditions.¹³ The panel finds the claimant has not provided such evidence.

[32] The panel finds, as to the second prong of the IFA test,¹⁴ that conditions in Lagos would not be unreasonable in all circumstances, including those particular to the claimant, for her to seek refuge there.

DISPOSITION

[33] The panel finds that if the claimant were to return to Nigeria, there is less than a mere possibility that she would be at risk of persecution or, on a balance of probabilities, that she would be at risk of the harms pursuant to subsection 97(1) of the IRPA.

[34] Therefore the panel further finds that the claimant is neither a Convention refugee nor a person in need of protection. The claim is dismissed.

(signed)

“Milton Israel”

Milton Israel

March 27, 2018

Date

¹³ *Ranganathan: M.C.I. v. Ranganathan, Rohini* (F.C.A., no. A-348-99), Létourneau, Sexton, Malone, December 21, 2000. **Reported:** *Ranganathan v. Canada (Minister of Citizenship and Immigration)*, [2001] 2 F.C. 164 (C.A.).

¹⁴ *Rasaratnam, Sivaganthan v. M.E.I.* (F.C.A., no. A-232-91), Mahoney, Stone, Linden, December 5, 1991. **Reported:** *Rasaratnam v. Canada (Minister of Employment and Immigration)*, [1992] 1 F.C. 706 (C.A.)