



Refugee Protection Division

Section de la protection des réfugiés

RPD File No. / N° de dossier de la SPR : MB7-24112

Client ID No. / No ID client : XXXX

Huis clos / Private Proceeding

## Reasons and Decision – Motifs et décision

**Claimant(s)**

**Demandeur(e)(s) d'asile**

XXXX XXXX XXXX

**Date(s) of hearing**

June 27, 2018  
July 17, 2018

**Date(s) de l'audience**

**Place of hearing**

Montreal (Québec)

**Lieu de l'audience**

**Date of decision  
and reasons**

October 12, 2018

**Date de la décision  
et des motifs**

**Panel**

Jeffrey Brian Gullickson

**Tribunal**

**Counsel for the  
claimant(s)**

Alain Tayeye

**Conseil(s) du (de la/des)  
demandeur(e)(s) d'asile**

**Designated representative**

N/A

**Représentant(e)  
désigné(e)**

**Counsel for the Minister**

N/A

**Conseil du (de la) ministre**

## REASONS FOR DECISION

[1] XXXX XXXX XXXX, citizen of Nigeria, is claiming refugee protection pursuant to ss. 96 and 97(1) of the *Immigration and Refugee Protection Act*.

[2] In deciding this claim, I have considered the *Guidelines on Women Refugee Claimants Fearing Gender-Related Persecution*<sup>1</sup> and the *Guidelines Concerning Procedures with Respect to Vulnerable Persons Appearing before the Immigration and Refugee Board of Canada*<sup>2</sup>.

## DETERMINATION

[3] The claimant has not established that there is a serious possibility of persecution on a Convention ground, or that, on a balance of probabilities, the claimant would personally be subjected to a danger of torture or face a risk to life or a risk of cruel and unusual treatment or punishment upon return to her country.

[4] My reasons are as follows.

## CLAIMANT'S ALLEGATIONS

[5] She is an XXXX year-old woman born in Lagos who last resided there with her family before departing Nigeria on XXXX XXXX 2017 for the USA with her family.

[6] She had been the victim of sexual abuse and molestation from her father in Nigeria and feared that if she returned to Nigeria that she would continue to be the victim of sexual abuse due to his power and influence to find her in Nigeria and to prevent her from obtaining state protection.

[7] She came to Canada on XXXX XXXX 2017 and made a refugee claim at the border.

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<sup>1</sup> Chairperson Guidelines 4 of Immigration and Refugee Board of Canada: *Women Refugee Claimants Fearing Gender-Related Persecution*, effective November 1996

<sup>2</sup> Chairperson Guideline 8 of Immigration and Refugee Board of Canada: *Procedures With Respect to Vulnerable Persons Appearing Before the IRB*, effective December 15, 2006.



## ANALYSIS

[8] The determinative issues in this case are credibility, sufficiency of evidence and IFA.

### Identity

[9] The claimant's passport filed established her identity as a national and citizen of Nigeria<sup>3</sup>.

### Credibility

[10] I note that the claimant had completed her Basis of Claim Form (BOC) when she was 17 years old and without a designated representative, even though she did have the same legal counsel present in the hearing. She signed and confirmed the contents of her BOC again on the first day of the hearing.

[11] I have specifically taken into consideration the *Guidelines on Women Refugee Claimants Fearing Gender-Related Persecution (Guideline 4)*, in particular on assessing the testimony and credibility of women having been the victims of abuse or violence by spouses, men or family members, having difficulties disclosing details of abuse for reasons of shame or psychological distress. The claimant has not shown that these factors sufficiently explain all of the contradictions, omissions or inconsistencies in her testimony or other evidence that weakened her credibility.

[12] The panel, in evaluating credibility, has taken into consideration the principal claimant's medical or psychological evidence regarding her health issues (C-2). The psychological report submitted repeats the allegations of abuse expressed by the claimant in her BOC but does not give further details regarding what particular acts would have constituted sexual assault or abuse. The report also mentions that the claimant shows symptoms of post-traumatic stress disorder (PTSD) but does not state what those particular PTSD symptoms are, although earlier in her report the psychologist mentions that the claimant is anxious and has trouble sleeping.

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<sup>3</sup> Document 2 – Package of information from the referring Canada Border Services Agency (CBSA) or Immigration, Refugees and Citizenship Canada (IRCC).

[13] The panel notes that the claimant, according to her submitted evidence including the psychological report, has succeeded in her studies in Nigeria and in Canada, is identified as a good student (“impressive academic record”) and has been accepted to XXXX XXXX in Ottawa (C-2 to C-6).

[14] The panel has found the claimants’ testimony not to be credible with respect to the following areas.

***Insufficient effort to obtain evidence of father’s power and influence in Nigeria***

[15] The claimant in her hearing testimony stated that she did not want to talk about her father. I note that neither the psychological report (C-2) nor the claimant’s Canadian maternal uncle, XXXX XXXX XXXX, in his testimony could specify what acts occurred that would constitute sexual abuse as alleged by the claimant. However, she did state in her BOC that she was molested by her father. I understand, in the context of *Guideline 4*, the claimant’s reluctance to elaborate on the particular details of the alleged sexual abuse and accept as fact that the claimant believes that she has been the victim of sexual abuse by her father in Nigeria.

[16] However, in the hearing she stated that she did not want to answer questions about her father’s business or other activities in reference to his alleged power and influence in Nigeria that would allegedly enable him to influence authorities there, find the claimant and harm her.

[17] Asked what efforts she had made to find and submit documentary evidence of her father’s stature, power and influence with police, she responded “none”. Asked why, she responded that it was none of her business. Asked if she knew any of the names of his companies in Nigeria, she responded that she wanted to “skip the question” and did not want to answer the question and that she did not want to talk about her father. Asked if she thought her father was an important element in her refugee claim, she responded that “no” he was not and that her claim was about her and her personal issues.

[18] While, I recognize that talking about her father may be difficult, in particular if on the subject of actual sexual abuse, I find the claimant’s response regarding evidence showing that her father is powerful and influential, as she alleges, to be inadequate, not reasonable and

undermining her credibility regarding her father's alleged influence in Nigeria. I would expect that she would at least recognize that her father is an important element in her refugee claim since she alleges that she cannot return to Nigeria due to his power and influence enabling to continue to harm her.

***Insufficient evidence that her father is motivated to find her and return her to his home***

[19] The claimant testified that, to her knowledge and after frequent communications with her mother, her father has never sought to have the claimant returned to Nigeria from Canada when she entered Canada as a minor. There is no evidence in the file that her father, or anyone in the family, had issued a missing person's report in the US where she travelling with her father before coming to Canada. Given the above and the absence of other probative evidence, I conclude that there is insufficient probative evidence showing that her father is motivated to find her and force her to return to his home in Nigeria.

[20] The claimant submitted letters and emails from family members (C-7). The documents from the claimant's mother and brother mention the claimant's admission to university in Canada, well wishes and that the claimant had surgery, but nothing about any problem at home in Nigeria for the claimant and no mention of her father or related problems. Consequently, these documents are not probative as evidence in support of the claimant's allegations of past or future harm from her father.

***Corporate affairs search Nigeria***

The claimant submitted a corporate affairs search in Nigeria (Document #7). The document does not sufficiently show that the company listed is that of the claimant's father, XXXX XXXX XXXX If the record did show that the father did have such a company, the evidence is not probative evidence since it does not does not show the activities, size, power or influence of the company or the father's businesses or his capacity to find and harm the claimant.

***Women in Nigeria – discrimination and sexual violence***

[21] The claimant has not alleged that she was the victim of or feared sexual violence or other harm in Nigeria other than from her father. She has not submitted sufficient probative evidence that her father is motivated to find her, would be able to find her or would be able to harm her if he did find her in Nigeria, now that she is an adult, XXXX years old<sup>4</sup>.

[22] The claimant submitted several documents on discrimination and sexual violence against women in Nigeria (C-8 and Document #5). Many of those documents are found in the National Documentation Package for Nigeria dated 10 July 2018 (NDP). Counsel highlighted in particular that women face discrimination in Nigeria in employment, rights and protection in law and that statistics show that between almost 20 % and 30% of women had admitted in a survey that they had been raped at least once in their life and that rape was widespread in Nigeria and that Female Genital Mutilation (FGM) is still practiced in Nigeria (18%) (C-8).

[23] The NDP gives similar information on discrimination and violence against women. However, the claimant had not alleged that, in Nigeria up to the age of 17, the age at which she last departed Nigeria, she had been victim of any other sexual abuse other than from her own father and she has not provided sufficiently probative evidence that he is willing and able to pursue her into another State to harm her.

## **Internal Flight Alternative**

### ***First prong***

[24] On the evidence before me, I find that there is no serious possibility that the claimant would be persecuted, or that she would be subjected, on a balance of probabilities, to a danger of torture or to a risk to life or a risk of cruel and unusual treatment or punishment in Onitsha, in Anambra State.

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<sup>4</sup> Document 3 – National Documentation Package, Nigeria, 10 July 2018, tab 1.6: Nigeria. *The World Factbook*. United States. Central Intelligence Agency. 14 November 2017. ( pp.5 and 11: minimum voter age and minimum age for military service is 18 years old).

[25] The claimant has not submitted sufficient probative evidence that her father is willing to pursue her in that location or that he has the power and influence to find her through state authorities.

[26] She mentioned that her father is from that area but has not provided sufficient evidence that he would be able to find her through relatives, in particular since the specific relatives that she mentioned in her testimony were on her mother's side of the family and have not been shown willing to collude with the father to assist him in finding the claimant.

***Second prong***

[27] Having considered the conditions in Onitsha, in Anambra State and all the circumstances of this case, including those particular to the claimants, I find that it is not objectively unreasonable for the claimant to seek refuge in that location.

[28] Onitsha is identified in the NDP as being a city having a population between 250,000 and one million<sup>5</sup>.

[29] Regarding IFA there, the claimant testified that if did not have problems from her father's family, then she could live safely there. She did not indicate that general discrimination or violence against women in that location or that there would be serious or unreasonable obstacles for her in the IFA area proposed.

[30] The claimant is identified as a good student, has been admitted to university in Canada and has not shown that she could not find work and housing in Onitsha or in Anambra State. She testified Onitsha is a big town with lots of people and that her grandmother lives there with the claimant's mother's brothers and nine cousins. She testified that her grandmother speaks Igbo, not English, and the claimant speaks only English, but that her cousins who live with the grandmother in Onitsha speak English and she can communicate with them. She also testified that she has good relations with her grandmother.

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<sup>5</sup> Document 3 – National Documentation Package, Nigeria, 10 July 2018, tab 1.1: *Nigéria. L'Encyclopédie en ligne*. Larousse, p. 1.



[31] Asked if she could live with her grandmother in Onitsha or somewhere in Onitsha even if her father could not find her there, she responded that he would not allow her to live with any other people. The claimant has not sufficiently explained how she relocating in Onitsha would be unreasonable or that she would not have the means to find housing, either with relatives or find employment to sustain herself.

[32] Furthermore, the claimant's uncle in Canada who currently cares for and financially supports the claimant had testified in the first instance that if the claimant had to return to Nigeria and live separately from her father that he would financially support her. He testified that the claimant also received money from a level of government in Canada, social assistance, but that he provides the majority of the support. He later modified his testimony stating that it was "not his place" to financially support the claimant in Nigeria. But when questioned further on this subject regarding what level of support he would provide to her if she had to return to Nigeria he responded that he did not know. While the panel recognizes that this uncle modified his testimony after a further moment of reflection, I recognize that it is adjusting his testimony and weakening his credibility without pronouncing clearly that he would not financially support the claimant if she returned to Nigeria instead of stating that he did not see it as his role.

[33] The claimant has not shown with probative evidence that her relatives would not financially support her if she needed financial support in Onitsha to live.

[34] The NDP indicates that internal relocation is generally not unduly harsh for women escaping their family or other non-state actors, especially if single and without children to support<sup>6</sup> and women who are educated and who have a higher social status are more likely to

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<sup>6</sup> Document 3 – National Documentation Package (NDP), Nigeria, 10 July 2018, tab 1.11: *Country Information and Guidance. Nigeria: Women fearing gender-based harm or violence*. Version 3.0. United Kingdom. Home Office. August 2016, section 2.4.8.

gain employment<sup>7</sup> and that the average number of years of education for men and women in Nigeria is 9<sup>8</sup>. The claimant has 11 years of education (Document #2, Schedule A form).

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<sup>7</sup> Document 3 – NDP, tab 5.9: *Whether women who head their own households, without male or family support, can obtain housing and employment in large northern cities, such as Kano, Maiduguri, and Kaduna, and southern cities, such as Lagos, Ibadan, Port Harcourt; government...* Immigration and Refugee Board of Canada. 19 November 2012. NGA103907.E. p. 4.

<sup>8</sup> Document 3 NDP, tab 1.6: *Nigeria. The World Factbook*. United States. Central Intelligence Agency. 14 November 2017, p.4.

[35] The claimant submitted medical documents regarding the grandmother (document #6). These documents do not show an incapacity of the grandmother. I do not expect the claimant to live necessarily with the grandmother but am proposing an IFA in that same area which the claimant has not shown to be unreasonable.

[36] Although I consider that the claimant has not shown that she needs State Protection in the IFA proposed, I note that the counsel submitted a document (Document #5) dated in November 2017 documenting cases in Nigeria of sexual assault on girls and minors where actual recent prison sentences imposed ranged from 10 years to life imprisonment, thus not rebutting the presumption of State Protection for minor girls who have been the victims of sexual assault.

## CONCLUSION

[37] Having considered all of the evidence, I determine that there is not a serious possibility that the claimant would be persecuted in Nigeria, or that, on a balance of probabilities, the claimant would be personally subjected to a danger of torture or face a risk to life or a risk of cruel and unusual treatment or punishment in Nigeria.

[38] The claimant is not a “Convention refugee” or “persons in need of protection”.

*Jeffrey Brian Gullickson*

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**Jeffrey Brian Gullickson**

**12 October 2018**

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**Date**

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