

Federal Court



Cour fédérale

Date: 20250602

Docket: IMM-12977-24

Citation: 2025 FC 986

Toronto, Ontario, June 2, 2025

PRESENT: The Honourable Mr. Justice A. Grant

BETWEEN:

OLALEKAN DANIEL AKERELE

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. OVERVIEW

[1] The Applicant seeks judicial review of a decision by the Refugee Appeal Division [RAD], confirming a finding by the Refugee Protection Division [RPD] that he is neither a Convention refugee nor a person in need of protection.

[2] For the following reasons, the application for judicial review will be dismissed. The RAD appropriately assessed the Applicant's new evidence on appeal, and reasonably found that the group the Applicant fears does not have the means to locate him in a proposed internal flight alternative [IFA] within Nigeria. The Applicant has raised no reviewable errors.

II. BACKGROUND

A. *Facts*

[3] The Applicant, Olalekan Daniel Akerele, is a citizen of Nigeria. He alleges a well-founded fear of persecution from the Indigenous People of Biafra [IPOB], after he moved to Imo State in the Southeastern part of the country to start a hauling and transport business. Starting in 2018, IPOB began to extort Mr. Akerele, claiming he is not "a son of the soil," and demanding he pay levies and protection money. He reported the extortion to the police, who attempted to "settle the issue." However, the next day, the Applicant found that IPOB had broken all his mirrors. When he reported it, the police requested that Mr. Akerele make friends with IPOB and that "not being from their state they can cause [him] serious havoc, and harm." As a result, the Applicant continued to pay extortion money.

[4] In 2019, the Applicant was kidnapped by IPOB as he was travelling to Lagos. He was detained and tortured for several days, and was released only upon payment of a ransom from his family. He reported the incident to the police. He then fled Nigeria in September 2022 and made a claim for refugee protection in Canada. Since then, the IPOB have continued to threaten him and his family, who remain in Nigeria.

[5] The Refugee Protection Division refused the Applicant's claim on credibility grounds and based on the availability of an internal flight alternative in Abuja. He appealed to the RAD.

B. *Decision under Review*

[6] The RAD confirmed the RPD's determination that the Applicant is not a Convention refugee. It did not agree with the RPD's credibility concerns, but it did agree that Mr. Akerele has a viable IFA in Abuja. As a preliminary matter, the RAD admitted the following new evidence:

- A letter from the Applicant's wife, detailing ongoing threats;
- Medical records for the Applicant's daughter after a health scare;
- WhatsApp messages sent to the Applicant's wife, showing threats from the IPOB;
- A news article from Nigerian News Direct regarding the threats;
- A police report detailing the ongoing threats and the previous kidnapping; and
- A letter from the Applicant's lawyer in Nigeria.

[7] The RAD declined to admit three other letters of support from similarly situated persons, as the information contained in them was not new, and the Applicant had failed to explain why they were not reasonably available to him at the time of the RPD hearing.

[8] The RAD also declined to hold an oral hearing, as the new evidence related to ongoing threats rather than to the credibility of the Applicant's claim, which the RAD did not challenge. It also found that the new evidence does not establish that the IPOB has the means to locate Mr. Akerele in Abuja and therefore does not go to the credibility of his forward-facing risk.

[9] In coming to the conclusion that the Applicant has a viable IFA in Abuja, the RAD accepted the claim that the IPOB has continued to threaten Mr. Akerele and his wife remaining in Nigeria, and found that the group does remain interested in him, as evidenced by the letter from Mr. Akerele's wife, and the WhatsApp messages.

[10] However, the RAD found that the IPOB, despite being motivated to locate the Applicant, does not have the means to do so. It based these findings on the fact that the Applicant lived in Lagos from July 2019 to October 2022, after his kidnapping, but was never located by the IPOB; and that his wife and children continue to reside in Lagos but have not been located, despite receiving threats. The RAD also agreed with the RPD that the country conditions evidence does not suggest that the IPOB has a network in Abuja that would allow it to locate the Applicant there, as the organization is primarily regional and concerned with protecting Igbo and gaining political independence for Biafra, which is where the Applicant was kidnapped. The RAD equally found that, although IPOB has Mr. Akerele's identifying information, it would not be able to access government or other resources to locate him, as the organization is considered a terrorist group by the Nigerian state and there is no evidence it has infiltrated the Nigerian government.

[11] The RAD further found insufficient evidence that it would be objectively unreasonable or unduly harsh for the Applicant to relocate to Abuja.

III. ISSUES and STANDARD OF REVIEW

[12] The only issue in this matter is whether the RAD's decision was reasonable. Specifically, the Applicant submits that the RAD erred in its assessment of the IPOB's ability to locate him in the IFA.

[13] The standard of review is reasonableness: *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 23 [*Vavilov*]. In conducting a reasonableness review, a court "must consider the outcome of the administrative decision in light of its underlying rationale in order to ensure that the decision as a whole is transparent, intelligible and justified" (*Vavilov* at para 15). It is a deferential standard, but remains a robust form of review and is not a "rubber-stamping" process or a means of sheltering administrative decision-makers from accountability (*Vavilov* at para 13).

IV. LEGAL FRAMEWORK

[14] The test for the determination of an IFA is well-established. An individual who faces a risk of harm in one part of a country may only be found to have an IFA in another part of the country if two criteria are met:

- 1) There must be no serious possibility of the claimant being persecuted, or subject to a personalized risk of torture, risk to life, or risk of cruel and unusual punishment in the part of the country where the IFA exists; and
- 2) It must not be unreasonable for the claimant to seek refuge in the IFA, considering all of their particular circumstances.

[15] A serious possibility of persecution, or a risk of torture, risk to life, or risk or cruel and unusual punishment can only be found if it is demonstrated that the agents of persecution have the means and motivation to search for an applicant in the suggested IFA: *Saliu v Canada (Citizenship and Immigration)*, 2021 FC 167 at para 46, citing *Feboke v Canada (Citizenship and Immigration)*, 2020 FC 155 at para 43.

V. ANALYSIS

A. *The RAD's decision was reasonable*

[16] The Applicant submits that the RAD erred in its assessment of the IPOB's ability to locate him in Abuja. Specifically, the Applicant argues that the RAD failed to appropriately consider the new evidence it accepted, which he contends establish that the agents of harm [AOHs] have the capacity to locate him in the proposed IFA. With respect, I disagree. While the new evidence confirmed (as the RAD found) that the IPOB are motivated to locate Mr. Akerele, I see nothing unreasonable in the RAD's conclusion that this same evidence did not establish that the IPOB is capable of acting on this motivation.

[17] Recall that the RAD found that Mr. Akerele had relocated to Lagos, after the kidnapping but before coming to Canada, and was able to live there for a period of three years without being targeted again by the IPOB. Similarly, the RAD found that Mr. Akerele's wife and children have continued to reside in Lagos for the past five years, and have equally not been located despite receiving threatening phone messages. For the RAD, these factors indicated that the IPOB likely does not have the means to locate the Applicant. This is a rational chain of analysis that can be

followed without encountering any fatal flaws in its overarching logic. It is also justified according to the evidence, including the new evidence admitted on appeal.

[18] The Applicant submits that the WhatsApp messages to his wife establish that the IPOB has the ability to track and locate him in Abuja, contrary to the RAD's findings. I disagree. While the WhatsApp messages contain threats against Mr. Akerele and his family, once again, they do not establish that the group will be able to carry out these threats, which was the RAD's key finding. Neither the Applicant nor his family have been located by IPOB in the more than five years since they left Imo state. It was reasonable, in my view, for the RAD to rely on this fact to conclude that the Applicant could safely relocate to Abuja.

[19] Moreover, this is not a case where the agents of harm have easy access to the claimant's family, and may be able to locate the claimant through targeting the family. It appears that the IPOB has been unable to find Mr. Akerele's family, just as they were unable to find him, while he was in Lagos.

[20] In oral argument, the Applicant emphasized that while he was not targeted in Lagos, it is a very big city compared to Abuja, and that the RAD erred in failing to take this distinction into account. I disagree for two principal reasons. First, having reviewed the Applicant's RAD submissions, I do not see that he squarely put this argument to the Tribunal. In the circumstances, the RAD was not required to comparatively assess the Applicant's risk in Lagos, as contrasted with his risk in Abuja. The RAD's central finding was that the IPOB is a largely regional organization, focused primarily on protecting Igbos and gaining political independence in Southeastern Nigeria, and that it operates predominantly in that region. This finding was based

on accurate references to the documentary evidence and stood on its own in establishing the viability of Abuja as an IFA. Thus, it was not necessary for the RAD to consider the relative safety of Abuja to Lagos, given that there appears to be little evidence of IPOB's ability to find the Applicant in either location.

[21] The Applicant also pointed to a notation from a police extract indicating that the Applicant's family should "lay a low life-style to keep safe while investigation continue." This advice, the Applicant argues, suggests that the only way the Applicant and his family can be safe is to remain in hiding, which is contrary to the concept of an IFA. The Applicant further argues that the RAD's failure to consider this statement renders the decision unreasonable. Once again, I disagree. First, the advice provided to the Applicant's family was in respect of their stay in Lagos, and not the proposed IFA location. Second, as the RAD noted, the IPOB's inability to find the Applicant and his family over several years, and its largely regional orientation, call into question the group's ability to locate the Applicant, irrespective of any cautions that the police may provide. This may be due to another factor identified by the RAD, which is that the "Nigerian government has declared IPOB a terrorist organization and spends resources to stop its activities and prosecute members."

[22] As a result of the above, I find that the Applicant has failed to establish that the RAD's decision on the first prong of the IFA test was unreasonable. The Applicant did not make submissions on the second prong of the IFA test, and as such, there is no basis on which to disturb the RAD's findings.

VI. CONCLUSION

[23] For the foregoing brief reasons, this application for judicial review will be dismissed.

Assessing the RAD's reasons globally, I find that it adequately justified its findings, and that these findings were properly rooted in the evidentiary record before it.

JUDGMENT in IMM-12977-24

THIS COURT'S JUDGMENT is that:

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

"Angus G. Grant"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-12977-24

STYLE OF CAUSE: OLALEKAN DANIEL AKERELE v THE MINISTER
OF CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: MAY 21, 2025

JUDGMENT AND REASONS: GRANT J.

DATED: JUNE 2, 2025

APPEARANCES:

Shokur Fahd	FOR THE APPLICANT
Alison Engel-Yan	FOR THE RESPONDENT

SOLICITORS OF RECORD:

Globe Immigration Barrister and Solicitor Toronto, Ontario	FOR THE APPLICANT
Attorney General of Canada Toronto, Ontario	FOR THE RESPONDENT