



IMMIGRATION AND REFUGEE BOARD  
(REFUGEE DIVISION)

LA COMMISSION DE L'IMMIGRATION  
ET DU STATUT DE RÉFUGIÉ  
(SECTION DU STATUT DE RÉFUGIÉ)

IN CAMERA  
HUIS CLOS  
**T99-06804**

CLAIMANT(S)

**XXXXXXXXXXXXXXXXXXXXX**  
**(a.k.a. XXXXX)**  
**(a.k.a. XXXXXXXXXXXXX)**

DEMANDEUR(S)

DATE(S) OF HEARING

**June 7, 2000**

DATE(S) DE L'AUDIENCE

DATE OF DECISION

**July 11, 2000**

DATE DE LA DÉCISION

CORAM

**Marcelle Bourassa**

CORAM

FOR THE CLAIMANT(S)

**Kingsley I. Jesuorobo**  
**Barrister and Solicitor**

POUR LE(S) DEMANDEUR(S)

REFUGEE CLAIM OFFICER

**Peter Stolworthy**

AGENT CHARGÉ DE LA REVENDICATION

DESIGNATED REPRESENTATIVE

**N/A**

REPRÉSENTANT DÉSIGNÉ

MINISTER'S COUNSEL

**N/A**

CONSEIL DE LA MINISTRE

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On June 7, 2000, the panel heard the Convention refugee claim of XXXXXXXX XXXXXXXX. At the conclusion of the hearing, the panel rendered an oral positive decision. These are the written reasons for decision, which have been edited for syntax and grammar, with added references to the appropriate documentary evidence and case law.

The claimant gave her written consent to have her claim determined in a hearing before one member of the Refugee Division, pursuant to section 69.1(8) of the Immigration Act.<sup>1</sup>

The claimant is a 34-year-old citizen of Nigeria. She is a widow. Her late husband passed away in February 1999 as a result of a fever, which she believes may have been malaria. She testified that the belief in her husband's family was that his death was somehow unnatural, given his age of 39, and that it was also somehow attributable to her. In order to clear her name she was to undergo certain rites. She performed some of these rites. For instance, she slept with her dead husband for a number of hours and ate remnants of food that he had eaten just before he died. However, she refused to perform certain of the rites. For instance, she refused to drink water in which he had been bathed, on account of her condition (she was pregnant at the time and has since given birth to a son in Canada) and her religious beliefs as a Christian. The claimant testified that she continues to practice her Christian beliefs here in Canada.

As part of the rites, she was also asked to marry a younger brother-in-law. She refused to do this as well, as the younger brother-in-law is a polygamist. She also testified that she refused to sit for a period of seven days without sleep and to use the same dishes.

The claimant had testified that she was able to leave her husband's family home and fled to the house of a friend of her sister where she remained until she was able to make her way to Canada.

The claimant testified that some of her family members are Christians. She testified that although her husband was a Christian, his family members were not. She also referred

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<sup>1</sup> As enacted by S.C. 1992, c. 49, s. 60.

to them as pagans.

The claimant added that some of her family members made a complaint to the local police. However, the police refused to intervene in the matter, as it was viewed as a family matter. She has been branded a witch and fears that she will be killed by members of her husband's family in the event of her return to Nigeria. She is particularly fearful of a brother-in-law who is a senior police officer in Benin City, with the apparent ability to locate her throughout Nigeria. Currently, her two boys are with her mother. She added, however, that her in-laws want the boys.

Identity was identified as an issue at the outset of the hearing. In terms of her personal identity, numerous documents<sup>2</sup> were produced. The claimant also testified in the Edo language to establish her ethnicity as an Edo. Accordingly, the panel is satisfied on a balance of probabilities as to her identity.

In terms of credibility, the claimant presented herself as an unsophisticated claimant. However, her basic account was consistent with the port of entry notes, her Personal Information Form (PIF) and her testimony. There were no major inconsistencies in her testimony. On the balance of probabilities, the panel found the claimant to be a credible witness.

In terms of the well-foundedness of her fear and the viability of an internal flight alternative (IFA), the panel has taken into account that the claimant testified to certain traditional beliefs that remain deeply rooted in Nigeria society.

She fears for her own life at the hands of members of her husband's family. She does not believe that she could receive state protection. She provided testimony as to a complaint made on her behalf by family members and for which the police refused to intervene given that they perceived the matter to be family related.

Again, she fears for her own life at the hands of her husband's family as a result of her being branded a witch, as a result of her refusal to perform certain rites and for refusing

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<sup>2</sup> Exhibit C-4.

to marry her brother-in-law.

In terms of the evidence before the panel, the panel has taken into account documentary evidence as contained in counsel's package of documentary evidence<sup>3</sup> and which he referred to in the course of his submissions. The panel has also taken into account evidence<sup>4</sup> that deals with the practice of levirate marriages within the Edo ethnic group. The practice of liberate marriages continues and is deeply rooted in Nigerian society, although the practice is also characterized as being much reduced in more recent modern times.

The panel is cognizant of the fact that there is documentary evidence<sup>5</sup> speaking to the fact that police do not intervene in matters which they perceive as being family related matters.

In light of the foregoing and all of the evidence, the panel has decided to give the claimant the benefit of the doubt. The panel therefore concludes that there is a reasonable chance<sup>6</sup> that the claimant would face treatment at the hands of family members which would be tantamount to persecution on the interrelated grounds of religion and membership in a particular social group in the event of her return to Nigeria. State protection would not be forthcoming. Also, an internal flight alternative would not be viable.

Lastly, the panel notes that the gender guidelines to which counsel referred in the course of his submissions were considered in arriving at this decision.

For all of these reasons, the Refugee Division therefore determines XXXXXXXX XXXXXXXXX be a Convention refugee.

"Marcelle Bourassa"  
 \_\_\_\_\_  
 Marcelle Bourassa

DATED at Toronto, this 11<sup>th</sup> day of July, 2000.

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<sup>3</sup> Exhibit C-3.

<sup>4</sup> Exhibit R-5.

<sup>5</sup> Ibid.

<sup>6</sup> Adjei v. Canada (Minister of Employment and Immigration), [1989] 2 F.C. 680 (C.A.) at 683.

**KEYWORDS - REFUGEE DIVISION – WOMEN REFUGEES – GENDER - PARTICULAR SOCIAL GROUP - RELIGION – GENDER-RELATED PERSECUTION - FORCED MARRIAGE - FEMALE – BENCH REASONS - POSITIVE - NIGERIA**