

THE HIGH COURT
JUDICIAL REVIEW

2007 955 JR

BETWEEN

S. O. A.

APPLICANT

AND

THE MINISTER FOR JUSTICE, EQUALITY AND LAW REFORM AND

JUDY BLAKE, SITTING AS THE REFUGEE APPEALS TRIBUNAL

RESPONDENTS

JUDGMENT OF MS. JUSTICE CLARK, delivered on the 24th day of March, 2009.

1. The applicant is seeking leave to apply for judicial review of the decision of the Refugee Appeals Tribunal (RAT), dated the 29th June, 2007, to affirm the earlier recommendation of the Office of the Refugee Applications Commissioner (ORAC) that she should not be granted a declaration of refugee status. Mr. Paul O'Shea B.L. appeared for the applicant and Ms. Fiona O'Sullivan B.L. for the respondents. The hearing took place at the King's Inns, Court No. 1, on the 24th February, 2009.

Factual Background

2. The applicant is a national of Nigeria, a member of the Yoruba tribe and a Christian. She says she attended a Polytechnic College for three years and obtained a diploma in accounting. In January, 2001, she married her husband, who is a secondary school teacher and they had two children: a girl born in May, 2001 and a boy born in January, 2003. The family lived with the applicant's in-laws in the village of Odo Iju in Osun State. According to the applicant, her troubles began in November, 2003 when her husband's father – the chief priest of their village – died. A fortnight later her husband was chosen by the Oracle to be his father's successor but he refused to take up the position as he had converted to Christianity in 2002 and no longer held the traditional beliefs of his family. According to the applicant, one those traditions was that the first child of the chief priest's successor would have to be sacrificed if the child was a female. Another was that if the person chosen to be the successor refused to take up the position, his first child would be sacrificed irrespective of its gender.

3. On the 5th December, 2003, shortly after her husband refused to take up the position, members of the community came to the applicant's home. Her husband escaped through a window and she did not see him again until December, 2005. Members of the community abducted the applicant and her daughter and took them to the bush where they were beaten and left tied to a tree. Their abductors left them promising to return later but after some hours the applicant managed to untie herself and free her daughter. They went back to their house to collect her

son and then walked to her sister's house in Ilesha where they stayed for a few weeks.

4. When her sister and her husband told the applicant it was not safe for them to stay, they moved to a male friend's house where they stayed for six months. In July, 2004, they left that house because the applicant's friend wanted to have sex with her and she was afraid he would rape her. They moved to Owena in Ondo State, where the applicant worked as a farm labourer. In August, 2004, they moved to stay with the applicant's aunt in another part of Ondo State but as the aunt's house had been demolished, they were forced to live in a derelict building. At first the applicant begged for money but she then got a job as a sweeper. In August, 2005, she became ill and met a man named Mr. Gbenga who was connected with the "Liberty Foundation". He brought her to hospital where she stayed for five days. During that time Mr Gbenga visited with two journalists and two policemen who also promised to help. Articles appeared in two newspapers describing the applicant's case and her plight.

5. On the 30th December, 2005, some two years after the abduction, the applicant's husband came to see her, saying he saw the newspaper articles published about her and had traced her through them. He stayed one night and left the following day because people were looking for him. The applicant has not seen him since. She and her children left Nigeria on 12th March, 2006 with the help of the Liberty Foundation and flew to Ireland via Amsterdam. They were accompanied by a Mr Johnson who arranged and paid for their travel.

The Asylum Application

6. The applicant and her children arrived in Ireland on 13th March, 2006 and applied for asylum the following day but not at the airport. The applicant indicated that she wished for her two children to be included under her application. She completed a questionnaire in which she claimed to fear persecution on the ground of her religion. She said that after leaving her village she stayed at "a secret hide-out" the name of which she did not know as she was not told. She said the police and "every citizen of [her] country" were aware of her case as a result of the publication of her story.

7. Her s. 11 interview with the ORAC was held on the 28th March, 2006. The applicant was interviewed in English without an interpreter. No identity documentation of any kind was submitted but she did submit two newspaper articles, one entitled "Sunshine Express" dated 25th February -10th March, 2006, and the other entitled "Odua Voice" dated 11th - 17th January, 2006. She also submitted a photograph taken by Mr Gbenga of the applicant and her daughter in 2005. When asked why she had submitted the articles and photograph she said the articles refer to her by name and were given to her by Mr. Gbenga in 2005 as evidence of her problem. The newspaper articles were viewed with considerable scepticism. When asked to explain why the dates on two pages of the "Odua Voice" article were crossed out, she replied "maybe my children use them for play". When asked to explain why different dates appeared on some pages when compared to the others, she said "That's what Mr. Gbenga gave me". She was asked to explain how Mr Gbenga could have given her the "Sunshine Express" article in 2005 when it was dated 2006; she replied that the newspaper published her and her daughter in October 2005 and after that published the "Sunshine Express" article.

8. The applicant was asked where she stayed after leaving her sister's house in January, 2004. She said she went "from one place to another, sleeping in the gutter, begging for food". She did not know the names of the places she stayed

as "they were secret hide-outs". She was also asked a series of questions about the funeral of her father-in-law, the previous village priest, which she had difficulty in providing answers.

9. A s.13 report was compiled on the 5th April, 2006, in which a negative recommendation was made. A number of adverse credibility findings were made, relating primarily to the "doubtful" provenance and "questionable" veracity of the newspaper articles submitted by the applicant. Among other issues it was noted that articles were "not on newsprint as would be the norm". The officer had particular difficulty with the following elements of the applicant's account of events:

- That her husband traced her in December, 2005 through newspapers articles which the applicant claims were published in 2006;
- That if she were pursued she would have allowed articles to be published giving details which would enable her to be traced;
- The "unconvincing" reply given when asked how Mr Gbenga gave her a newspaper article in 2005 that was published in 2006;
- The "implausible" explanation that her children may have scribbled out the inconsistent dates on the articles when playing;
- The fact that COI indicates that newspapers in Nigeria are open to bribery and will publish "articles" for a fee;
- Inconsistencies in her account of the sacrificial traditions of the village;
- The fact that COI indicates that the offices of chiefs and priests are not hereditary and that ascension is dictated by cultural and religious authority whereas the applicant claimed her husband was a Christian who no longer believed in the oracle or the traditions of his village;
- Her account of her own escape with her daughter from the bush and of her husband's escape through the window of their home;
- Her lack of knowledge about the demise and funeral of her father-in-law;
- Her claim that Mr Gbenga reported her abduction to the police even though she met him nearly two years afterwards.

10. The ORAC officer concluded that in the light of the applicant's statements, the "many" credibility issues and relevant country of origin information (COI), it was not apparent that the applicant had a well-founded fear of persecution.

The Appeal Stage

11. A Form 1 Notice of Appeal was submitted on behalf of the applicant and her children on the 3rd May, 2007. Attached to the Form 1 were five pages of handwritten grounds of appeal and submissions drafted by the applicant's legal representatives, relating to the s. 13 report, addressing (1) the absence of identity documentation; (2) the authenticity of the two newspaper articles, further copies of which were appended to the Form 1; (3) the newsprint used in the newspaper articles, (4) her husband's ability to trace her through a third newspaper article published about her in October, 2005 which was not before

ORAC or furnished to the Tribunal; (5) the applicant's permission for the publication of the articles - it was submitted that the applicant was not aware that Mr Gbenga was instigating the articles; (6) language difficulties experienced by the applicant at her s. 11 interview leading to confusion; (7) the inconsistent dates of the articles; (8) the applicant never knew that it is easy to place an article in a Nigerian newspaper through bribery; (9) the applicant is adamant her daughter would have to be sacrificed according to the village's rituals.

12. An oral appeal hearing took place at which the applicant was legally represented. No attendance note of the hearing is before the Court and the Court is therefore reliant on the Tribunal Member's decision for a summary of the evidence given and submissions made at the hearing. According to the decision, the applicant indicated that she had difficulty at her s. 11 interview as no interpreter was present. When asked if she had requested an interpreter the applicant said "*I can't remember*" and "*No-one asked me*". She had no explanation for why at the end of her s. 11 interview she had indicated her satisfaction with the interview if as she now said she should have had an interpreter. Counsel acting on her behalf submitted to the Tribunal that the applicant may not have understood that question at the time.

13. Under questioning from the Presenting Officer, the applicant admitted she had made no efforts to obtain identity documentation since leaving her home in December, 2003. It was put to her that the "Sunshine Express" article was not genuine, which she denied. She said it was "not too clear" and "miraculous" that her abductors had not killed her and her daughter when they had the opportunity to do so. When questioned about her reasons for leaving Nigeria she said the police investigated her claim and found it to be true but would not act on the investigation as she had no money to bribe them. She said Mr Gbenga then told her he did not trust the police and was concerned they might report her so he arranged for her to leave.

14. The Tribunal Member put it to the applicant that there were various discrepancies between the dates on the two of the copies of the second newspaper article she had submitted, some of which were scribbled out. She said maybe her children had done the scribbling and discrepancies could be due to printing errors.

15. A negative decision issued from the RAT on the 29th June, 2006. It is that decision that is the subject of challenge in these proceedings.

The Impugned Decision

16. The RAT decision begins by setting out the applicant's claim and the evidence given and submissions made at the oral appeal hearing. It next sets out various legal provisions and principles and it concludes by analysing the applicant's claim. In the "analysis" section, the Tribunal Member gave the applicant the benefit of the doubt with respect to the absence of identity documentation. She noted that as it was not the applicant who was to be sacrificed, the risk of persecution was to the applicant's daughter. She went on to make six negative credibility findings, namely:

(i) That it was difficult to understand why the abductors made no attempt to sacrifice the applicant's daughter when they had the opportunity to do so and that it was unlikely that if serious about the sacrifice, they would have left the applicant tied up in such a way as it was possible to escape.

(ii) That there was no evidence that the abductors or anyone else made any attempt to track down the applicant and her daughter after they left her sister's house and that she remained for two years in Nigeria after that, albeit moving around several times; "the inescapable conclusion" was that they were not looking for her or were unable to find her.

(iii) That the applicant's reasons for leaving Nigeria in March, 2006 were not related to her husband's refusal to take up his role as chief priest in the village and that the applicant's husband did not see the applicant or their children for two years even though he had ample opportunity to do so. The Tribunal Member noted that he saw them once, two years after the abduction, and she said "*This sounds suspiciously like abandonment.*"

(iv) That she had "*serious concerns*" about the authenticity of the newspaper articles submitted and was not satisfied with the explanations provided;

(v) That the applicant's credibility was undermined by the contradictory answers that she gave when asked at the appeal hearing if she had been offered an interpreter at her s. 11 interview. The Tribunal Member did not accept that the applicant was not offered the services of an interpreter;

(vi) That the applicant gave contradictory evidence about the police investigation and gave no satisfactory explanation as to why Mr Gbenga brought her to the police in the first place if he did not trust them.

17. Between the third and fourth credibility findings the Tribunal Member noted that "even if" she accepted that the applicant had a subjective fear of persecution, she did not accept that the subjective fear was supported by objective evidence and that "*Nigeria is an enormous country and the Tribunal is of the view that, in the instant case, relocation within that country was an option for the Applicant.*" After concluding all of the credibility findings she concluded that "*for all the reasons stated above*" she did not accept that the applicant faces persecution in her country of origin.

THE ISSUES IN THE CASE

18. The applicant's primary complaints in respect of the RAT decision are:

(a) Flawed assessment of credibility; and

(b) Flawed assessment of the internal relocation.

(a) Assessment of Credibility

19. Mr. O'Shea B.L., counsel for the applicant, argued that the Tribunal Member made credibility findings that were unreasonable and irrational and based on conjecture and speculation and related to matters that were peripheral to the applicant's claim. Ms. O'Sullivan B.L., counsel for the respondents, argued that the Tribunal Member was fair to the applicant insofar as she gave her the benefit of the doubt as to the absence of identity documentation and went on to assess the claim on the basis that the applicant was from Nigeria. She also contended the Tribunal Member was careful to put the matters on which she had difficulties to the applicant at her oral appeal hearing and she argued that the matters on which the Tribunal Member made negative findings were matters that were

central to the applicant's claim. Both Mr O'Shea and Ms O'Sullivan made specific submissions in respect of each of the six negative credibility findings made by the Tribunal Member.

(i) Why did the abductors not perform the sacrifice when they had the opportunity?

20. Counsel for the applicant argued that this finding was based entirely on conjecture, surmise and gut feeling. He submitted that there was nothing in the applicant's evidence to indicate when the sacrifice might have been intended or when tradition dictated that it should take place. Counsel for the respondents argued that this was an issue that went to the core of the applicant's claim. She urged the Court to assess the reasonableness of this finding in the light of the applicant's evidence that she remained in Nigeria for more than two years after the alleged kidnapping.

21. It seems to the Court that rejecting a conclusion on the basis of alleged "gut feeling or surmise" is a sadly overused form of challenge in recent applications for judicial review. No arguments were presented to establish that the Tribunal Member reached her conclusion in this manner. Instead, the submissions made by the applicant almost appeared to invite the Court to reformulate the evidence or fill in gaps in relation to the alleged imperative to sacrifice one of the applicant's children and when that risk would arise. If, as the applicant now suggests, there was no evidence to suggest when the sacrifice was to take place, the Court asks itself why was it necessary for the husband to escape through a window and disappear for two years and why the applicant and her daughter were abducted, beaten and tied to a tree. Either there was an immediate danger from which the applicant and her husband were fleeing or much more likely, there was an anomaly in the applicant's story which the Tribunal Member identified.

22. At the end of the day, a decision maker such as the Tribunal Member has to assess the credibility of evidence presented on the basis that it might be true and to then assess it for coherency and consistency. If the story is inherently unbelievable and contains several inconsistencies causing the story to be rejected, it is not appropriate to then seek by judicial review to offer another explanation not provided at any time previously. The Court views the impugned finding as an entirely reasonable one on the part of the Tribunal Member. If, as the applicant narrated, the community was carrying out a threat to sacrifice one of the children, it is an inescapable conclusion that there was little point in beating and tying up their mother and leaving without one or both children or enabling them both to escape. No ground has been made out here.

(ii) No evidence that abductors sought to track her down

23. Counsel for the applicant argued that it did not necessarily follow from the fact that the abductors were unable to track the applicant down that they were not seeking her out. He pointed out that her evidence was that she moved from place to place, hiding at various secret locations, and in effect attempting to avail of the option of internal relocation to avoid her pursuers. Counsel for the respondents pointed out that the finding was not that the alleged abductors were not seeking the applicant out but rather that there was no objective evidence that they were doing so, aside from the applicant's evidence. She drew the Court's attention to the applicant's evidence that when her husband visited her in December, 2005, he apparently said nothing about anyone trying to find her. She argued that the finding was reasonable and that there was evidence before the Tribunal Member on which she could have reached it.

24. The Court endorses the arguments presented by the respondents. There was no objective evidence that the applicant or her children were being sought. There is no discernable error and no ground is made out.

(iii) Reasons for leaving Nigeria not related to husband's troubles

25. Counsel for the applicant submitted that it was inappropriate for the Tribunal Member to make a negative credibility finding on the basis of the failure of her husband to contact her. He argued that this was irrelevant as there was no evidence as to her husband's intentions. Counsel for the respondents pointed out that the issue of the two years during which the applicant did not see her husband was a matter that was highlighted in the s. 13 report. She argued that it was reasonable for the Tribunal Member to draw the inferences that she did.

26. I have difficulty understanding the basis for this criticism. The applicant's evidence is that she did not see or hear from her husband since he escaped the members of the community who came to their house until they met up for one night two years later. According to the applicant they exchanged very little information and made no plans for their future. There is no escaping that this was the applicant's evidence. She herself appeared to link her leaving Nigeria with Mr. Gbenga's suspicion about the police and not from the village community who seem to have been forgotten in her narrative of her moves around various States. I also note that this was a finding made by the Commissioner in the s.13 report. In that report it came as a comment following a number of findings which indicated that the story of the sacrifice, abduction and escape were not believed. If there was no reality or plausibility in the same story told at appeal, then it follows logically that the applicant came to Ireland for reasons other than this alleged persecution.

(iv) The newspaper articles

27. Counsel for the applicant argued that the Tribunal Member failed to take into account that the applicant at all times said the newspaper articles were given to her by Mr. Gbenga and he argued that she never asserted their genuineness. He stressed that he was not challenging the finding that there were serious concerns about the authenticity of the articles and he accepted that commonsense would disclose there is something significantly wrong with them.

28. The applicant argues that it was unfair to assess her claim on the basis of the authenticity of documents given to her by the man associated with the Liberty Foundation who she knows as Mr Gbenga. If one assumes that such a person as Mr. Gbenga exists and that he supplied the discredited newspapers articles and that the Tribunal Member should have subtracted them from the applicant's story, what effect would that have on the rest of the applicant's story ? The chapter dealing with how the applicant was traced by her husband would fall away. The assertion that she cannot live anywhere in Nigeria because of the knowledge obtained by the general populace from reading the articles is rendered unsustainable. If the Tribunal Member had, as has been suggested, ignored the impugned newspaper articles it is unlikely that it would have had any effect on the general credibility findings.

29. The reality is that the more closely one looks at the Tribunal Member's findings on lack of credibility, the more convinced one becomes that the findings were rational, sensible and appropriate findings based on evidence. As was established by Clarke J. at the leave stage in *Imafu v The Refugee Appeals Tribunal* [2005] I.E.H.C. 182, the Court's role is to analyse the credibility findings made to determine whether:

“(a) the determination on its face sets forth a rational and substantive basis for a finding of lack of credibility; and

(b) whether on the evidence before the court it appears that there were materials properly before the Tribunal which would have allowed it to come to the conclusions which grounded such rational basis.”

30. It is my view that in the present case, as in *Imafu*, when this decision is exposed to minute analysis it is invariable that some minor infelicity of expression may be found but that same analysis also exposes that notwithstanding any minor criticisms, a sufficient basis for the credibility findings justifying the decision has been achieved. Taking the story as presented and at its height, when the applicant's husband who was a Christian and a secondary school teacher refused to take up the unsought role of chief priest. The price of this refusal was that their daughter or their son would in accordance with tradition have to be sacrificed. If, on the other hand, he accepted the offer, their first child if a daughter would have to be sacrificed but a son would be spared. Shortly after his refusal the applicant and her daughter were taken by force from their home out to the bush, beaten and tied to a tree but then left there by their abductors. She was able to loosen the rope they used to tie her and to escape with her daughter and to retrieve her son from the house where she was abducted. In that light it would be entirely reasonable for the Tribunal Member to wonder why the applicant's daughter was not taken for the sacrifice at that time and it was entirely reasonable to conclude that if the abductors really wanted to kill the applicant's daughter, it was unlikely they would have tied the applicant up in such a way as would allow her to escape.

31. I am satisfied that the process by which the Tribunal Member reached the credibility findings that she did was not flawed but rather was grounded on a reasonable and rational analysis of the evidence that was before her. The credibility findings related to major and minor parts of the applicant's evidence which were incredulous in themselves are not confirmed by COI in relation to how village priests are appointed. The strange Mr. Gbenga - if he existed at all - did nothing to enhance the applicant's story but added to the inconsistencies identified by the Tribunal Member. The findings that the applicant's story lacked credibility were individually recited and were not intended to cumulatively add up to the result. I have not identified any findings which are not fair, rational and evidence based.

(v) Inconsistencies with respect to lack of interpretation at ORAC stage

32. Counsel for the applicant argued that this was a matter that was not related to the core of the applicant's claim and should not have been taken into account when her credibility was being assessed, particularly as she had no legal representation at the ORAC stage. Counsel for the respondents accepted that the interpretation issue is not central to the applicant's claim but argued that it was open to the Tribunal Member to make the finding that she did, based on the evidence that was before her.

33. Whether the applicant genuinely misunderstood her right to have an interpreter or whether she relied belatedly on the lack of interpretation is a matter incapable of resolution in judicial review. All that the Court can do is establish if there was evidence on which the Tribunal Member could arrive at this negative particular finding of credibility. No law was presented to support the assertion that credibility findings should not be made in relation to non-core

issues. It is entirely normal that all discrepancies in evidence are considered in arriving at an assessment of credibility and it is a matter entirely for the Tribunal Member to attach weight to this particular discrepancy. It is a fact that the applicant said she had a third level qualification in accounting. She wrote in her ORAC questionnaire, which was completed in English, that her first language was English and she confirmed that she had filled it in herself. The educated hand and the comprehensive and fluent answers provided by the applicant in that document and in the notes of the s. 11 interview suggest no difficulty understanding questions or giving answers. Her subsequent rejection of the contents of these documents and her answers to questions relating to an interpreter are matters which were uniquely within the purview of the Tribunal Member who saw and heard the witness giving this evidence. No ground is made out in this challenge.

(vi) The Police Investigation

34. The applicant argues that the Tribunal Member failed to take account of the fact that the applicant placed herself in the hands of Mr Gbenga who reported her case to the police. He argued that the absence of an explanation for Mr Gbenga's actions should not have been taken to undermine the applicant's credibility. Counsel for the respondents argued that the Tribunal Member was not commenting on the reasonableness of the applicant's claim that it was Mr Gbenga who reported her case to the police but rather on the inconsistent manner in which she gave her evidence with respect to the police investigation: she said Mr Gbenga brought her to the police but also said he did not trust them and was concerned they may report her to the community.

35. I find no criticism here. The discrepancy and illogicality of the two strands of evidence exist and on that basis it was reasonable for the Tribunal Member to make the finding that she did.

Cumulative Effect

38. Counsel for the applicant submitted that the Tribunal Member reached her conclusion on the basis of cumulative findings and that if one of those findings is found to be faulty, the conclusion reached must fall.

36. It is my view that the findings that the applicant's story lacked credibility were individually recited and were not intended to cumulatively add up to the result. I have not identified any of those individual findings which are not fair, rational and evidence based. No error of fact has been identified in the applicant's detailed analysis of the judgment and therefore no ground has been made out.

Assessment of Internal Relocation

37. Counsel for the applicant submitted that when assessing the availability of internal relocation the Tribunal Member failed to take into account the substantial difficulties that the applicant and her children would experience if returned to Nigeria, including the inability of the applicant to support herself economically as a single woman with two children. Reference was made to the UNHCR *Guidelines on International Protection: "Internal Flight or Relocation Alternative" within the Context of Article 1A (2) of the 1951 Convention* of July, 2003. Paragraph 7 of the Guidelines indicates that when assessing the reasonableness of the option of internal relocation (the second part of a two-step test), a decision-maker should ask "*Can the claimant, in the context of the country concerned, lead a relatively normal life without facing undue hardship?*"

38. The Guidelines set out various factors which should be taken into consideration when assessing whether a claimant could lead a relatively normal

life without facing undue hardship. Paragraph 24 states that it is necessary to assess "the applicant's personal circumstances, the existence of past persecution, safety and security, respect for human rights, and possibility for economic survival." With respect to the assessment of the possibility for economic survival of the applicant, para. 29 states that the "socio-economic conditions in the proposed area" will be relevant. The Guidelines sets out various principles in that regard, noting that it would be unreasonable to expect a person to relocate to face economic destitution or an existence below at least an adequate level of subsistence but that, at the other end of the spectrum, "a simple lowering of living standard or worsening of economic status" may not be sufficient to reject the area to which relocation is proposed as unreasonable. It concludes that conditions in the area "must be such that a relatively normal life can be led in the context of the country concerned" and that if an individual would be without family links and unable to benefit from an informal social safety net, relocation may not be reasonable.

39. Counsel for the applicant urged the Court to consider that the applicant's evidence is that she is a single mother with two young children who previously lived in a derelict building and survived by begging on the streets. He argued that the Tribunal Member failed to assess the applicant's personal circumstances when assessing the internal relocation option.

40. Counsel for the respondents pointed out that according to the UNHCR Guidelines, the assessment of the reasonableness of internal relocation arises only after the Tribunal Member has assessed the relevance of that option when it has been established that the applicant had been persecuted. In this situation it was very clear that applicant was not believed to be at risk of persecution and that in the circumstances the reasonableness of expecting her to relocate internally did not arise. Reference was made to the decision of Peart J. in *Okeke v. The Minister for Justice, Equality and Law Reform* [2006] I.E.H.C. 46 and the decision of McGovern J. in *Darjania v. The Minister for Justice, Equality and Law Reform* [2006] I.E.H.C. 218. Counsel for the respondents submitted the Court should review the Tribunal Member's assessment of the relocation option in the light of the applicant's reply to a question put to her by her own legal representative at the appeal hearing that she did not consider relocating to a large city in Nigeria as she had no money and knew no one apart from her aunt.

41. I come to the final challenge to the decision, the relocation option. The UNHCR *Guidelines on International Protection* of July, 2003 or any of the earlier editions are undoubtedly of valuable assistance when internal relocation is considered as an alternative to asylum when persecution has been established. The applicant in this case was found not to be credible for a number of individually recited reasons. The inevitable result of such an assessment is that the applicant was not in need of asylum. The Tribunal Member then engaged in a somewhat superfluous but very frequently resorted to form of reasoning to the effect that "even if I am incorrect in my credibility findings" then the applicant could relocate. This form of holistic determination of refugee status has been expressly approved by Hathaway in *The Law of Refugee Status* and followed by Peart J. in *Okeke v. The Minister for Justice, Equality and Law Reform* [2006] I.E.H.C. 46, Clarke J. in *Imoh v. Refugee Appeals Tribunal* [2005] I.E.H.C. 220 and by McGovern J. in *Darjania v. The Refugee Appeals Tribunal* [2006] I.E.H.C. 218.

42. The issue has not been finally addressed but I believe that while it seems to be the practice to view the relocation option as part of a complete overview of an applicant's options, the fact remains that relocation as envisaged in the UNHCR

Guidelines is inextricably linked to situations where a risk of serious harm to the applicant has been established. There is therefore no utility in the Court seeking to analyse the type of relocation exercise appropriate to a single mother with two children and her economic choices if the relocation option was not, as envisaged by the UNHCR guidelines, an alternative to obtaining the protection of another State in the form of asylum. If generally an applicant's recital of why he/she is seeking asylum in this country is not accepted either because the assertion of persecution is not well founded or because it is not found credible, that person is a failed asylum seeker and relocation as an option is irrelevant. If, as in this applicant's case, her story has been rejected as implausible and not credible then it logically follows that she may not in fact be a single mother but I make no finding on this matter.

Conclusion

43. This being an application to which section 5(2) of the Illegal Immigrants (Trafficking) Act 2000 applies, the applicant must show substantial grounds for the contention that the decision ought to be quashed. As is now well established, this means that grounds must be shown that are reasonable, arguable and weighty, as opposed to trivial or tenuous. In the light of the foregoing, I am not satisfied that substantial grounds have been shown and accordingly, I refuse leave.