

IMMIGRATION APPEAL TRIBUNAL

Heard at : Field House
on : 15th August 2002
Dictated : 15th August 2002

Determination Promulgated
25-9-2002
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Before:

Mr D K Allen - Chairman
Mr N Kumar JP

between

Clement Ohagbuan OLUYA

Appellant

and

The Secretary of State for the Home Department

Respondent

DETERMINATION AND REASONS

1. The Appellant is a citizen of Nigeria who has been granted to leave to appeal to the Tribunal against the determination of an Adjudicator, Mr M E J Rush, who dismissed his appeal against the Respondent's decision refusing to grant him asylum.
2. The hearing before us took place on 15th August 2002. Mr S Revindran of the Refugee Legal Centre appeared on behalf of the Appellant, and Miss A Holmes of the Home Office Presenting Officers' Unit appeared on behalf of the Respondent.
3. Mr Revindran argued that the Adjudicator's determination was flawed by his failure to take into account the evidence in the US State Department Report about the Odua People's Congress operating in Lagos. This was a crucial issue since arguably his findings concerning the Appellant's credibility would have been different had he taken that evidence into account. If he were credible then the issue of internal flight arose and that depended upon the credibility of the claim to have been pursued to Lagos by the OPC. He raised a question of internal flight and indeed state protection if they

were intending to target him as the last male member of his family and complete their task against his family accordingly.

4. In her submissions Miss Holmes resisted remittal of the appeal. She argued that even if the Adjudicator had taken into account the objective evidence as he should then it did not appear from the unequivocal nature of his conclusions that he would have reached any different view. He was entitled to find inherently implausible the Appellant's claims as to what had happened in Lagos. He had heard and seen the Appellant and was entitled to conclude as he did. Lagos was an enormous city and Nigeria was a vast country and even if he were found to be credible it was unlikely in the extreme that he would come to the attention of his enemies.
5. Mr Revindran had no further points to make by way of reply.
6. We reserved our determination.
7. The Appellant's case was that he feared persecution from the Odua People's Congress (OPC). He said that because his father did not support the OPC's actions they had killed him and also the Appellant's two elder brothers. He himself was away cocoa trading at the time and on return found out what had happened. He believed that he was to be the OPC's next target and, with the view of wiping out his family. He decided to travel to Lagos and went to stay with a cousin there. For the first two days he was content but on the third day he went for a walk to get food and on his way back from the town he was told that men had been out looking for him and showing his photograph and children recognised him since he was new to the area and they told the men that he had gone away. He went with his cousin to the police station to lodge a complaint and the police said they would investigate, but the Appellant said that he was too scared to follow them to his cousins home so he went elsewhere with another friend and then subsequently went to stay with his sister and he was later advised to leave the country and did so. The Adjudicator, in a robust determination, concluded that he believed the Appellant's claim to be a complete invention. He noted the Appellant had given no indication of where he was going when he left the village and he did not find it credible that children should have warned him that people were out looking for him in the area where he was staying in Lagos, producing a picture and asking the children to identify him. He considered that even if there were the slightest chance that the Appellant's story was true he had availed himself of state protection.
8. As the Grounds of Appeal contend, there is objective evidence indicating that the OPC do operate in Lagos. Thus, in the US State Department report on Nigeria for 2001 there is reference to the OPC as a vigilante group in Lagos state, other reports of them beheading four suspected robbers in Lagos state and also reportedly crucifying a man in a district of Lagos. It is said that in September 2001 the OPC announced that it would stop its vigilante activities. A leader of the OPC was arrested and charged with murder and robbery in August and he was released on bail in October. It seems that the OPC was outlawed in 2000. The Human Rights Watch Report for 2002 on Nigeria refers at page 28 of the Appellant's bundle to the OPC as operating in the southwest and have been responsible for scores of death of alleged armed robbers. The group is referred to as being an explicitly political group claiming to advocate for the Yoruba cause and as having been officially banned in 1999. It is

said that it had many violent clashes with the police, attacking police stations and killing and injuring policemen. We bear in mind that Lagos is in the southwest of Nigeria. The bundle also contains extracts of objective evidence concerning Nigeria, which was set out in full before the Adjudicator. There was mention among other things of police ineffectiveness in controlling the high crime rate and the inadequate size of the force, low morale, poor working conditions and insufficient training. There is reference in the State Department Report to police and security forces failing to respond to ethnic clashes involving beatings or severe injury to thousands of people.

9. Clearly the Adjudicator should have taken account of the fact that the OPC operate in the Lagos area in coming to his findings on credibility. However, having given the matter careful thought, we have concluded that we are in agreement with Miss Holmes that we do not consider that it would or indeed should have made any difference to his conclusions. Lagos is an extremely large city, and we find it inherently implausible that as the Appellant claimed, within a couple of days of him leaving his village several hours away from Lagos the OPC were looking for him in the area where he was staying, showing his photograph. It is simply inherently lacking in credibility that this should be the case. Credibility is not materially enhanced by the fact that the OPC are active in the Lagos area.
10. Even if the story were true, we consider there is force in the Adjudicator's reasoning that the Appellant did avail himself of state protection. Although clearly the police have problems in maintaining law and order, there is clear evidence of police action against the OPC. For example there is reference at page 28 of the Appellant's bundle in the Human Rights Watch Report for 2002 to heavy handed police response to the OPC with many real or suspected OPC members being arrested and several killed. We consider therefore that if the Appellant's claim were true then he would properly have placed reliance on state protection. Even if we are wrong in this regard, we bear in mind the fact that Nigeria is a vast country, and the evidence indicates that the OPC are only active in the southwest of the country. We can see no reason why a young man in his early thirties would not have been able to relocate elsewhere in Nigeria. Arguments are set out in the Appellant's skeleton argument before the Adjudicator concerning the problems attached to internal flight in Nigeria. The fact that tribal warfare exists in Nigeria and that internally displaced people experience problems does not indicate that it would be unduly harsh for this Appellant to locate elsewhere in Nigeria. Therefore even if we are wrong in our support of the Adjudicator's credibility finding, we consider that the Appellant would be able to locate successfully elsewhere in Nigeria without that being unduly harsh.
11. This appeal is accordingly dismissed.

**D K ALLEN
CHAIRMAN**

