

Federal Court



Cour fédérale

Date: 20150525

Docket: IMM-5020-14

Citation: 2015 FC 676

Ottawa, Ontario, May 25, 2015

PRESENT: The Honourable Mr. Justice Zinn

BETWEEN:

**KATERINA JANKOVICOVA,
(A.K.A. KATERINA KADLČIKOVA),
KATERINA ANNA KADLČIKOVA,
RICHARD KADLČIK, TOMAS JANKOVIC,
DENIS KADLČIK, AND RICHARD KADLČIK**

Applicants

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] This application will be dismissed as the decision of the Refugee Protection Division denying the applicants' claims for protection was reasonable.

[2] The principal applicant, Katerina Jankovicova, is ethnically mixed – her mother is Romani and her father was not. Her husband is not Romani and thus her children, the other applicants, are also of mixed ethnicity.

[3] The Board found that Ms. Jankovicova established only two possible incidents affecting her that rose above the level of harassment and discrimination. The first occurred when she was a child and was thrown off a bridge by another child whose father was a skinhead. The Board rightly found that the failure of the state to charge the boy (who was about 8 years old at the time) was not a failure of state protection as children cannot be held criminally responsible for their actions. As the Board noted, the police spoke to the child and his father and gave them warnings and “it is difficult to see what more the police could do at that time.”

[4] The other alleged incident that would have constituted persecution was an alleged forced sterilization. The Board did not believe this evidence. Ms. Jankovicova testified that she had a hospital report that proved that she had been sterilized, but that the hospital later took it from her husband. She made no effort to obtain a copy later and did not ask her uncle to assist her, despite the fact that he is a powerful Roma activist who assists Roma in obtaining such documents. Moreover, she provided no evidence from a Canadian doctor to support her claim that she had been sterilized. It was not unreasonable for the Board to expect there to be documentary evidence to support her claim and in its absence to find that she was lacking in credibility.

[5] The Board also found that her husband had suffered no more than harassment in being called names and being insulted. Based on my review of the record, that finding was reasonable and consistent with the evidence.

[6] The only evidence of any incident to the children was to Richard Jr. who allegedly suffered a breakdown and was placed in psychiatric care as a result of treatment he received at school. There was no corroborative evidence offered to support this assertion. He was not seeing a psychiatrist in Canada “because he is better now and as he is doing well in school.” While the Board accepted that it was possible that he had suffered and had received psychiatric treatment in the Czech Republic, it expected the applicants to offer corroborative evidence to support the claim – there was none. Again, I find this expectation that corroborative evidence would be provided was reasonable and without it the Board reasonably questioned the veracity of the story.

[7] The Board further found that the applicants lacked the subjective fear required to support their claim. Ms. Jankovicova’s parents and her brother were accepted in Canada as refugees but they did not sponsor her. She visited them in Canada for several months and then returned to the Czech Republic. She also sent her children to visit their grandparents in Canada on two occasions and they too returned to the Czech Republic. It was reasonable for the Board to find that they would not have re-availed themselves to the Czech Republic if they had a subjective fear of persecution.

[8] In short, the decision was fair and reasonable and cannot be disturbed by this court.

Neither party proposed a question for certification as there is none.

JUDGMENT

THIS COURT'S JUDGMENT is that the application is dismissed and no question is certified.

"Russel W. Zinn"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-5020-14

STYLE OF CAUSE: KATERINA JANKOVICOVA ET AL v THE
MINISTER OF CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: MAY 22, 2015

JUDGMENT AND REASONS: ZINN J.

DATED: MAY 25, 2015

APPEARANCES:

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