

Federal Court



Cour fédérale

Date: 20170223

Docket: IMM-1293-16

Citation: 2017 FC 216

Toronto, Ontario, February 23, 2017

PRESENT: The Honourable Madam Justice Simpson

BETWEEN:

GEZA LAKATOS

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Proceeding

[1] This is an application for judicial review of a decision of the Refugee Appeal Division of the Immigration and Refugee Board of Canada [RAD], made on March 2, 2016 in which the RAD dismissed the Applicant's appeal from a decision of the Refugee Protection Division [RPD] dated August 26, 2015 denying his claim for refugee protection.

II. Background

[2] The Applicant is a citizen of Hungary who is a member of the Roma ethnic group. He is married with three minor children. However, his wife and children have remained in Hungary and are not included in his claim.

[3] On May 2013, at a local communal event in Pocspetri, five tattooed skinheads dressed in black arrived and started a quarrel. Although the Applicant and his wife did their best to stay out of the fight, the assailants attacked and subjected them to a violent beating (the Attack). The Applicant suffered injuries to his spine and his wife's chest was injured. They were subsequently hospitalized for eight days. The assailants threatened that they would be back to kill them if they reported the incident to police (the Threat). Fearing reprisal, they decided not to report the matter to the police. Instead they moved to Budapest and later to the town of Edeleny.

[4] The Applicant left Hungary alone and arrived in Canada in June 2015. He claimed Convention refugee status on arrival. Credibility was not an issue in his claim.

[5] The Applicant alleged that as a Roma, he suffered persecution, abuse and harassment in Hungary due to his ethnicity. The Applicant left school after grade 8 because his father was injured and could no longer work. At school he experienced discrimination in the form of racial slurs and segregated classes for Roma children. The Applicant was regularly employed but with daily jobs rather than long term employment. However, he has been able to support his family with his earnings and the social assistance available to his wife. The Applicant and his family have had access to adequate health care and have lived in shared and rented accommodation. The Applicant sold an apartment he owned to purchase his airline ticket for his flight to Canada.

1. *The RAD Decision*

[6] The RAD found that notwithstanding the Attack and the Threat, the Applicant had not produced persuasive evidence showing that he had experienced serious, systemic and repetitive discrimination. Rather, it found that he had experienced “sporadic discrimination of a random variety which does not rise to the level of persecution”. The RAD specifically considered his education, employment, housing and health care and found that the discrimination he faced, even when considered cumulatively, did not rise to the level of persecution.

[7] The RAD then considered state protection and noted that the onus is on the Applicant to approach the state for protection in situations where state protection might reasonably be forthcoming and that a failure to do so will usually be fatal to a refugee claim.

[8] The RAD found that the Applicant did not produce persuasive evidence that it would have been unreasonable for him to have reported the May 2013 attack to the police. In other words, the RAD did not find that the Threat excused the Applicant from making a police report. The RAD found that the presumption of state protection had not been rebutted with clear and convincing evidence.

III. Discussion and Conclusions

[9] The RAD considered all the evidence and found that the Applicant had experienced discrimination during his school years and in his employment. However, in my view, the RAD reasonably concluded that the discrimination faced by the Applicant did not, even cumulatively, amount to persecution.

[10] In view of this conclusion, it is not necessary to consider the RAD's decision about state protection.

[11] For these reasons, the application will be dismissed.

IV. Certification

[12] No questions were posed for certification for appeal.

JUDGMENT

THIS COURT'S JUDGMENT is that the application for judicial review is hereby dismissed.

“Sandra J. Simpson”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-1293-16

STYLE OF CAUSE: GEZA LAKATOS v THE MINISTER OF CITIZENSHIP
AND IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: FEBRUARY 22, 2017

JUDGMENT AND REASONS: SIMPSON J.

DATED: FEBRUARY 23, 2017

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