

Federal Court



Cour fédérale

Date: 20170926

Docket: IMM-962-17

Citation: 2017 FC 860

Toronto, Ontario, September 26, 2017

PRESENT: The Honourable Mr. Justice Campbell

BETWEEN:

**RICHARD ATTILA PIKATS
BETTINA DINDO**

Applicants

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] On August 29, 2011, the RPD rejected the Applicants' claim as Roma citizens of Hungary, and, as a result, the Applicants left Canada in the latter part of 2012. However, on the basis of new evidence, they returned to Canada in 2016 and were allowed to make a PRRA application. The present Application challenges the PRRA decision dated January 31, 2017 in which the Applicants' claim for protection was again refused.

[2] A principle feature of the PRAA application was the threat of violence as Roma should they be required to return to Hungary. The PRRA Officer explained the application as follows:

In short, it is submitted that the applicants, if required to return to Hungary, will face threats and attacks by extremist and paramilitary groups and the state will not adequately protect them. It is also stated that the applicants will face discrimination amounting to persecution in housing and health care on the basis of their ethnicity. In addition, counsel makes the assertion that the female applicant is particularly vulnerable to the extremists who want to do her harm. Counsel notes that her sisters in law [sic] were threatened with rape and her mother was raped.

In addition, counsel maintains that the applicants face a danger to their lives in Hungary, a place where they were threatened and attacked, a place where they were forcibly evicted from their home, and denied housing. Counsel concludes that the applicants will also face persecution in Hungary or be killed upon their return. (Decision, page 3)

[3] The Applicants' experience in Hungary between the time of their return and the filing of the PRRA application is stated and commented upon by the PRRA Officer as follows:

Also included in submissions were black and white photocopies of what appears to be photographs of the applicants and members of their family with bruises to their face and other parts of their body. I have also been provided with translated copies of medical reports for the applicants and members of their family. I accept that the applicants and members of their family sustained injuries in Hungary and that they were able to attend the hospital (various hospitals) where they were seen by a physician, received treatment, tests etc. I note there is nothing to indicate that the applicants and members of their family were denied medical services in Hungary when required. Furthermore, insufficient objective evidence was provided to indicate that the applicants were required to pay the hospital prior to receiving treatment. What I have before me is evidence that establishes that the applicants suffered injuries, attended a hospital, were examined by a physician and subsequently released. I find this evidence indicative that the applicants, on a balance of probabilities, will be able to obtain medical care in Hungary should the need arise notwithstanding their Roma ethnicity. [Emphasis added] (Decision, p. 6)

[4] The remarkable feature of the finding just quoted is that the PRRA Officer paid no attention to the detailed evidence of the serious violence the Applicants suffered, but instead focussed on the fact that they received medical attention. In doing so, the PRRA Officer failed to address a wealth of cogent evidence that goes to establish that there exists more than a mere possibility that, should they be required to return to Hungary, they will suffer persecutory violence as Romani people. (See Tribunal Record, Vol. 1, pp. 153-193).

[5] Given the reviewable error of fact-finding identified, I find the decision under review is unreasonable.

JUDGMENT

THIS COURT'S JUDGMENT is that the decision under review is set aside and the matter is referred back for redetermination by a different decision-maker.

There is no question to certify.

"Douglas R. Campbell"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-962-17

STYLE OF CAUSE: RICHARD ATTILA PIKATS, BETTINA DINDO v THE
MINISTER OF CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: SEPTEMBER 25, 2017

JUDGMENT AND REASONS: CAMPBELL J.

DATED: SEPTEMBER 26, 2017

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