

Federal Court



Cour fédérale

Date: 20171019

Docket: IMM-716-17

Citation: 2017 FC 935

Toronto, Ontario, October 19, 2017

PRESENT: The Honourable Mr. Justice Campbell

BETWEEN:

**SAMUEL JOZSEF OLAH
SAMUEL JOZSEFNE OLAH**

Applicants

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] The present Application relates to a Pre-Removal Risk Assessment (PRRA) application in which the Applicants, who are Hungarian nationals of Romani ethnicity, claim protection pursuant to s.96 of the *Immigration and Refugee Protection Act*, SC 2001, c 27, on the basis that if they are required to return to Hungary they will face more than a mere possibility of

persecution because of their ethnicity. In a decision dated December 6, 2016, the PRRA Officer (Officer) rejected the Applicants' claim.

[2] In support of their application, the Applicants presented evidence as identified by the Officer:

The principal applicant has presented a 2.5 page written narrative in response to question 50 and 51 of his Application for a PRRA. He states that he has faced intimidation, harassment and threats from skinheads and Guardists who openly promote anti-Roma hatred and are supported by Jobbik political party that wants to clear Hungary of Roma.

He gives details of an incident on the night of 30 December 2015 wherein his home was vandalized by unknown individuals who were openly yelling death threats towards him as he remained inside. He states that this incident was not reported to police as he did not see a point in doing so since they do not help Roma. He adds that he had problems finding stable work which prevented him from ever earning a decent livelihood. He further adds that when seeking healthcare he was treated rudely and with indifference. [Decision, p. 4]

[3] The Officer's treatment of the Applicant's evidence is as follows:

While I do not wholly discount the statements made in this narrative, I note they exhibit a broad-based level of detail and have not been substantiated by any documentary evidence. Consequently, I give these statements little weight. I find the principal applicant has produced insufficient objective evidence to establish, on balance, any personal incidents of harassment or threats made towards him nor of discrimination when seeking healthcare or employment on account of his Roma ethnicity. [Decision, p. 4]

By virtue of the use of the statement "[w]hile I do not wholly discount the statements made in this narrative", I find that the Officer's analysis of the evidence constitutes an unclear and

unsupported negative credibility finding. In my opinion, because the erroneous finding is crucial to the Applicant's claim, I find that it renders the decision 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-716-17

STYLE OF CAUSE: SAMUEL JOZSEF OLAH SAMUEL JOZSEFNE
OLAH v THE MINISTER OF CITIZENSHIP
AND IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: OCTOBER 16, 2017

JUDGMENT AND REASONS: CAMPBELL J.

DATED: OCTOBER 19, 2017

APPEARANCES:

John W. Grice FOR THE APPLICANTS

Bradley Gotkin FOR THE RESPONDENT

SOLICITORS OF RECORD:

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The Attorney General of Canada FOR THE RESPONDENT