

Federal Court



Cour fédérale

**Date: 20120711**

**Docket: IMM-8429-11**

**Citation: 2012 FC 875**

**Ottawa, Ontario, July 11, 2012**

**PRESENT: The Honourable Mr. Justice Near**

**BETWEEN:**

**ROMAN CEBAN**

**Applicant**

**and**

**MINISTER OF CITIZENSHIP  
AND IMMIGRATION**

**Respondent**

**REASONS FOR JUDGMENT AND JUDGMENT**

[1] The Applicant, Roman Ceban, seeks judicial review of a decision of the Refugee Protection Division of the Immigration and Refugee Board (the Board), dated October 21, 2011. The Board found that he was neither a Convention refugee nor a person in need of protection and rejected his claim.

I. Facts

[2] A citizen of Moldova, the Applicant began participating actively in the Tae Kwon Do Federation in 1994. His trainer was replaced by a man named Oleg Vasile Scifos in 2004. Competing in international competitions in Moldova and the Ukraine, the Applicant noticed that some of the superior fighters from his team were losing matches to inferior opponents. When he questioned what was going on, his trainer responded “we will see when your time comes.”

[3] In February 2008, the Applicant’s trainer told him to throw the upcoming match as a lot of money was at stake. The Applicant refused and won the match. His trainer was angry with him and made clear that many people, including police officers, had lost money betting on the match. He also told the Applicant that he needed to pay \$12,000 US to settle his debts.

[4] The Applicant confided in a fellow team-mate that he would not agree to match-fixing. He was subsequently attacked by three other team-mates. The Applicant claimed that he did not believe he could go to police because of the trainer’s suggestion that they were also involved in betting and what he observed during training sessions and competitive matches.

[5] With the aim of leaving Moldova, the Applicant unsuccessfully applied for a visa to the US in 2008. Facing continued pressure from the trainer, he responded to an advertisement to work in Canada as an individual with experience in the fast food industry. He was granted a Canadian work visa on November 24, 2008.

[6] After leaving Moldova, the trainer and his criminal friends began to extort money from the Applicant's parents. In November 2009, his father was beaten when he refused their demands. As a consequence, the Applicant brought a claim for refugee protection in Canada on November 23, 2009.

## II. Decision Under Review

[7] The Board considered the Applicant to be a "generally credible witness as to the personal historical basis for his claim." It nonetheless found that the Applicant was not a member of a particular social group because he feared criminality and this does not establish a nexus to a Convention ground under section 96.

[8] The Board considered state protection to be the determinative issue. Moldova was recognized as a fledging democracy with a parliamentary system. At the same time, however, the Board acknowledged concerns associated with police corruption.

[9] The Board addressed the Applicant's contention that the police are corrupt in Moldova and worked with the trainer. Regardless, the Board concluded "[w]hen I asked the claimant if he saw these police officers making bets at the competitions, he could not confirm this was the case. I find, on a balance of probabilities, the claimant's belief that corrupt police officers are working directly with his trainer to be speculative." The Board also found it "reasonable to expect that if the claimant's safety and life was at risk due to these extortion demands, the claimant would have made

greater efforts to bring his concerns before senior sports Federation officials or to have left the sports Federation itself.”

[10] A letter from the Applicant’s father regarding the extortion demands and asserting that police beat him after making a report and were complicit was given little weight. His father had an interest in the case and was not called as a witness for cross-examination.

[11] The Board ultimately concluded that the Applicant had “not advanced clear and convincing evidence of the state’s inability to protect him in order to rebut the presumption that Moldova is capable of providing protection.”

### III. Issue

[12] The Applicant raises only one issue:

- (a) Did the Board err in its state protection analysis by finding the Applicant’s belief that corrupt police were working with his trainer was speculative?

### IV. Standard of Review

[13] The standard of review governing assessments of state protection is reasonableness (*Mendez v Canada (Minister of Citizenship and Immigration)*, 2008 FC 584, [2008] FCJ no 771 at paras 12-13). This means that the Court will only intervene where the decision lacks justification,

transparency and intelligibility or falls outside the range of possible, acceptable outcomes defensible in respect of the facts and law (*Dunsmuir v New Brunswick*, 2008 SCC 9, [2008] 1 SCR 190 at para 47; *Canada (Minister of Citizenship and Immigration) v Khosa*, 2009 SCC 12, [2009] 1 SCR 339 at para 59).

V. Analysis

[14] The Applicant asserts that the Board misconstrued or ignored evidence contrary to its conclusion that the Applicant's belief that corrupt police officers were working directly with the trainer was speculative. He directs the Court's attention to relevant portions of the transcript of his testimony. According to the Applicant, he identified police officers at training and making bets during the competition as well as referring to a friendly relationship between the police and his trainer. He therefore considers the Board's conclusion unreasonable, particularly given that he was recognized as a credible witness.

[15] The Respondent maintains, and I agree, that the Board's reasons explicitly address the testimony related to the Applicant's beliefs of police involvement. The Board considered all of the relevant evidence and found that the Applicant could not confirm he saw police making bets at the competition as this was based on the information of his trainer.

[16] Indeed, the Board provides a relatively clear and detailed synopsis of the Applicant's testimony at paragraph 31 of its reasons:

While living in Moldova, the claimant indicated that he never submitted a complaint to the police as he believed the police are

working in collusion with his trainer and that the police generally in Moldova are corrupt. When I asked him why he believed the police were directly involved with his trainer, he testified that his trainer had told him so. In addition, he testified that he saw uniformed officers in his training matches and that these police officers also attended the competitions in plain clothes. When I asked the claimant if he saw these police officers making bets at the competition, he could not confirm this was the case. I find, on a balance of probabilities, that claimant's belief that corrupt police officers are working directly with his trainer to be speculative.

[17] This synopsis reasonably reflects the Applicant's testimony. He remarked on the corrupt nature of the police and suggested he had seen police at training and during competitions. When pressed as to how he noticed the betting, however, the Applicant stated "[s]o in February of 2008 I saw during the competition how they bet and the trainer told me that, in fact, in this case police is involved." As evident in its reasons, the Board's concern was that the Applicant could not confirm and it was unclear that he witnessed the police officers at issue making bets on the competition.

[18] This Court has stressed in the past that the subjective belief of applicants that they could not avail of themselves of state protection is insufficient. The test for whether state protection "might reasonably be forthcoming" is objective (see for example *Judge v Canada (Minister of Citizenship and Immigration)*, 2004 FC 1089, [2004] FCJ no 1321 at paras 13; *Castaneda v Canada (Minister of Citizenship and Immigration)*, 2010 FC 393, [2010] FCJ no 437 at para 26).

[19] The Board considered the Applicant's testimony but still found the degree of police involvement speculative. In light of the evidence presented, that conclusion was reasonable, even if the Applicant disagrees with the Board's overall assessment. Moreover, it is not a comment on the Applicant's credibility so much as a need to demonstrate an objective basis for his belief that the

police would not protect him because they were directly involved with the trainer's match-fixing activities. The Applicant still had an obligation to approach the police or seek other avenues of protection thereby allowing the state an opportunity to respond (see *Castro v Canada (Minister of Citizenship and Immigration)*, 2006 FC 332, [2006] FCJ no 418 at paras 19-20). As an alternative, the Board also suggested that the Applicant could have done more to bring his concerns to the attention of officials in the sports Federation.

VI. Conclusion

[20] For these reasons, the application for judicial review is dismissed.

**JUDGMENT**

**THIS COURT'S JUDGMENT is that** this application for judicial review is dismissed.

“ D. G. Near ”

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Judge



**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** IMM-8429-11  
**STYLE OF CAUSE:** ROMAN CEBAN v MCI

**PLACE OF HEARING:** VIA VIDEOCONFERENCE FROM OTTAWA AND VANCOUVER

**DATE OF HEARING:** JUNE 19, 2012

**REASONS FOR JUDGMENT AND JUDGMENT BY:** NEAR J.

**DATED:** JULY 11, 2012

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