

Federal Court



Cour fédérale

Date: 20130607

Docket: IMM-8752-12

Citation: 2013 FC 617

Ottawa, Ontario, June 7, 2013

PRESENT: The Honourable Madam Justice Mactavish

BETWEEN:

**MIROSLAV SKORIC,
MARIJANA MEDIC SKORIC and
PETAR SKORIC**

Applicants

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

[1] Miroslav Skoric, his wife Marijana Medic Skoric and their son Petar Skoric are citizens of Croatia who allege persecution at the hands of ordinary citizens, skinheads, nationalists and the authorities because of Mr. Skoric's Roma ethnicity.

[2] As will be explained below, I am satisfied that the Board's finding that Mr. Skoric failed to establish that he was in fact Roma was reasonable, as was the Board's finding that Mr. Skoric's

delay in leaving and his repeated reavailment in Croatia belied a subjective fear of persecution on his part. As a consequence, this application for judicial review will be dismissed.

Mr. Skoric's Identity

[3] A refugee claimant's identity is a question of fact which is "entirely within the jurisdiction of the Board" and, if reasonable, is determinative of the claim: *Balde v. Canada (Minister of Citizenship and Immigration)*, 2006 FC 438, [2006] F.C.J. No. 550 at para. 26.

[4] Mr. Skoric acknowledged to the Board that he did not speak the Roma language, nor did he dress differently than the majority of Croatians. The Board also observed that, unlike many Croatian Roma, Mr. Skoric had Croatian citizenship, that he had been employed, and that he had lived in an area not heavily populated by Roma. All of these factors reasonably led the Board to question Mr. Skoric's identity as a Roma.

[5] The Board acknowledged that Mr. Skoric was able to provide a description of two Roma holidays, but determined that little weight should be given to this evidence as this information would have been readily available to anyone from the internet. The fact that the Board asked Mr. Skoric to provide information in this regard does not make this finding unreasonable.

[6] While an inability to provide any information with respect to Roma customs might have indicated that a claimant was not a Roma, the converse was not necessarily true. That is, it was reasonably open to the Board to find that the fact that a claimant could provide some evidence in this regard did not necessarily establish that he was indeed Roma. It is, moreover, the responsibility

of the Board to decide the weight to be ascribed to the evidence, and not the role of this Court to reweigh that evidence. Mr. Skoric has thus not persuaded me that there is a basis for intervening in this regard.

[7] While recognizing that identity documents are not available for Roma in Croatia, the Board was also concerned that Mr. Skoric had no documentation of any sort that would identify him as Roma. In particular, the Board noted that there was no evidence that Mr. Skoric had ever contacted a Roma support organization, either in Croatia or in Canada for assistance in establishing his identity as Roma.

[8] Mr. Skoric takes issue with the fact that this was not specifically put to him at his refugee hearing. However, the onus is on an applicant to provide satisfactory evidence of his identity – an onus that Mr. Skoric failed to satisfy. Mr. Skoric has, moreover, not identified any explanation that he could have provided to the Board in this regard that would have been of assistance to him.

[9] Mr. Skoric's identity as a Roma was central to the family's refugee claim. Having failed to satisfy the Board that he was indeed of Roma descent, it was reasonably open to the Board to reject the claim.

Subjective Fear

[10] I am also satisfied that the Board's finding on the issue of subjective fear was reasonable, providing a second, independent ground for rejecting the family's refugee claims.

[11] The Board noted that Mr. Skoric had traveled to Serbia, Slovenia and Greece between 2005 and 2009, but that he had always returned to Croatia. The Board acknowledged Mr. Skoric's explanation that he was unaware that he could seek asylum in those other countries, as well as his claim that, in any event, the situation for Roma in those countries was no better than it was in Croatia.

[12] Nevertheless, the Board found that had Mr. Skoric's life really been in danger, and had he really been unable to get help from the police, he would not have repeatedly returned to Croatia. The Board was also satisfied that the family's delay in leaving Croatia further undermined their claim to a subjective fear of persecution. This led the Board to conclude that it did not believe the applicants' story.

[13] In my view, the Board properly considered Mr. Skoric's explanations for the family's delay in leaving Croatia. It is true that the Board did not mention all of the reasons given by Mr. Skoric for delaying his departure. Nevertheless, the Board is not required to mention all of the evidence, as long as a reviewing Court can understand the reasons for the decision: *Newfoundland and Labrador Nurses' Union v. Newfoundland and Labrador (Treasury Board)*, 2011 SCC 62, [2011] 3 S.C.R. 708 at para. 14.

[14] The Board in this case noted Mr. Skoric's claim that he did not know how to leave Croatia, or that he could seek protection in Serbia, Slovenia or Greece. It also noted his claim that, in any event, the situation for Roma was the same in those countries. It nevertheless concluded that if Mr.

Skoric had truly experienced the problems alleged, it was reasonable to expect that a man with his level of education would have taken concrete steps to leave Croatia prior to 2011.

[15] The Board's reasons enable this Court, sitting in review, to understand the basis for the decision. In light of the evidence that was before the Board, its conclusion that the applicants had failed to demonstrate that they had a subjective fear of persecution is reasonable as it falls within the range of acceptable outcomes.

Conclusion

[16] For these reasons, the application for judicial review is dismissed. I agree with the parties that the case does not raise a question for certification.

JUDGMENT

THIS COURT ORDERS AND ADJUDGES that:

1. This application for judicial review is dismissed.

“Anne L. Mactavish”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-8752-12

STYLE OF CAUSE: MIROSLAV SKORIC ET AL v.
THE MINISTER OF CITIZENSHIP AND
IMMIGRATION

PLACE OF HEARING: Toronto, Ontario

DATE OF HEARING: May 22, 2013

**REASONS FOR JUDGMENT
AND JUDGMENT:** MACTAVISH J.

DATED: June 7, 2013

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