

CANADA / JUDGMENT

MB0-03291

COURT

Refugee Protection Division

DECIDED

5 October 2012

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Immigration and Refugee Board Refugee Protection Division Commission de l'immigration et du statut de réfugié Section de la protection des réfugiés RPD File No. / No dossier SPR : MB0-03291 Private Proceeding Huis clos Claimant(s) Demandeur(e)s d'asile XXXX XXXX XXXX Date(s) of Hearing Date(s) de l'audience July 18, 2012 Place of Hearing Lieu de l'audience Montréal, Québec Date of decision Date de la décision October 5, 2012 Panel Tribunal Me Doris Zicherman Claimant's Counsel Conseil du demandeur d'asile Me Kathleen Hadekel Tribunal Officer Agent du tribunal Stéphane Morin Designated representative Représentant désigné Praidia Minister's Counsel Conseil du ministre N/A [1]

- [1] The claimant, XXXX XXXX XXXX, is a Hungarian citizen who alleges to be a "Convention refugee" and a "person in need of protection" within the meaning of Section 96 and Section 97(1) of the Immigration and Refugee Protection Act (IRPA). ALLEGATIONS
- [2] The claimant is an eight-year old girl. She arrived in Canada on XXXX XXXX, 2010 with her mother, and based her claim on her mother's claim. However, the mother's claim was determined to be ineligible, because she had made a previous refugee claim in 2001 and had withdrawn it. The claimant's claim therefore proceeded alone. Designated representative
- [3] At the outset of the hearing, Mr. XXXX XXXX from P.R.A.I.D.A. was named representative of the claimant.
- [4] The claimant alleges to be of Roma origin from Hungary. Her initial answer to Question 31 of her Personal Information Form (PIF), based on her mother's story, was amended and received by the IRB on 23 March, 2012.
- [5] In the initial narrative, the only part of the story that was personal to the claimant had to do with daycare problems. The claimant was not allowed to attend daycare. She was chased all the time. Also, when she went to the park, other children did not let her play. She was pushed off of a slide because she was Roma.
- [6] In the amended narrative, additional details about the daycare were made. She alleged to have been pushed off of the slide and broken her nose. Her mother complained to the educator, but the latter did not do anything. The claimant went to the daycare crying every day.

- [7] The claimant was also chased out of stores.
- [8] The claimant's father, who was Hungarian, hit the claimant a lot and her parents were divorced in XXXX 2012.
- [9] A new significant incident was also added in the amendment, concerning an event that took place on XXXX XXXX, 2010. Five skinheads with rubber bats broke into the house and attacked the claimant and her mother. He mother was the recipient of most of the blows because she shielded her daughter. The police came and took them to the hospital. They advised the claimant's mother to go to the police station the next day to make a complaint, but when she did so, the officer said that it was useless to make a report, as they would not be able to find the attackers.
- [10] After moving to another house, the claimant, her mother and her grandparents (who had also previously come to Canada and made then withdrawn their refugee claims), came to Canada on XXXX XXXX XXXX 2010.

DETERMINATION

- [11] I have determined that the claimant is neither a "Convention refugee" nor a "person in need of protection". My reasons follow. Identity
- [12] The claimant satisfied me of her identity as a Hungarian citizen by way of her genuine Hungarian passport.

ANALYSIS

- [13] I have taken into account the Guidelines on Child Refugee Claimants into account in my analysis. I have therefore relied on the evidence given by the two witnesses at the hearing, namely the claimant's mother and her grandmother and on the objective evidence. Mother's testimony
- [14] The testimony of the claimant's mother was not credible.
- [15] Firstly, she was asked to explain why the most significant event in both their stories, that is the attack at their home, was omitted from the original PIF.
- [16] Her explanation was that it was her cousin who filled out the PIF, that her cousin said that she spoke English and that she trusted her cousin. She also stated that her response to Question 31 had not been translated back to her. However, it was pointed out to the mother that both she and the translator (who was not her cousin) signed a declaration that the PIF and the answers had been translated. She was asked why she had signed it if it had not indeed been translated.
- [17] Her explanation was that she didn't remember and that she trusted her cousin. I do not accept this explanation. The attack at the home was the single most significant event that they were both victims of, with resulting physical trauma and that even allegedly caused

them to move out of their home. I do not believe that either the mother or particularly the translator would have signed that the answers had been translated back to them, if they had not. I also do not believe that the claimant's mother, subsequent to translation, would not have noticed the omission of such an important event.

- [18] As case law has established, I am entitled to consider the content of the PIF before and after its amendment and can draw negative inferences about credibility if matters I consider important were added to the PIF in a late amendment¹. I do so here. I do not, therefore, believe that this event happened.
- [19] There were other credibility problems as well. Question 5 of the PIF of both the claimant and mother omitted any mention of refugee claims made by any member of the family; whereas her mother, father and grandparents had all made refugee claims and all had been withdrawn. In question 26 of the mother's PIF, she did not mention that she had made a refugee claim. In her initial claim for Refugee protection², there is also no mention of any previous refugee claims by anyone (Question 29). The claimant's mother was asked to explain these omissions. Her explanation was that probably the interpreter did not ask her, she did not recall. She also stated that the translation at immigration had been done by phone and she did not understand everything.
- [20] There is a consistent pattern of omissions, however, at different times, that I do not accept could have been caused inadvertent errors on the part of interpreters and I do not accept them. The omissions were an attempt to mislead and hide the fact of the family having been here before and having withdrawn their claims. The claimant's mother, then, needed to explain why the entire family (the claimant had not been born yet) had made refugee claims and then withdrew them. Her explanation was that her maternal grandfather (the claimant's great grandfather) had passed away, leaving her maternal grandmother alone and she was in a wheelchair and needed help. That was why they all returned home. Although it might be plausible for one or even two family members to return home to take care of an aged relative, it is not plausible for all of them to have decided to return to a country where they feared persecution because one relative required aid. This just does not make sense. I therefore do not believe that any of the family members subjectively feared persecution when they left the country in 2001. As the basis of the claim of the mother was Roma ethnicity and the claimant's story also has the same basis, this casts doubt on the credibility of the claimant being Roma.
- [21] Finally, when the claimant's mother came here in 2001, she based her claim on her husband's claim of fear because of being of Roma origin. However, in her refugee claim made in 2010, upon which the claimant's unamended PIF was based, her husband was not Roma, but Hungarian and mistreated the claimant because of her Roma origin. This would not make sense if the claimant's father were Roma himself. The explanation of the claimant's mother for this gross discrepancy also did not make sense. She stated that her husband had pretended to be Roma because he did not get along with his parents and that when she married him she did not know that he was not Roma. She did not know he wasn't

Roma when she came to Canada in 2001 and it was only when she went back to Hungary that she found out. Her husband had reconciled with his parents and reverted to being Hungarian. She stated that he knew and followed all of the customs of the Roma, went through a Roma wedding, and there was no way for the claimant's mother to discern that he was not in fact Roma. Apart from the implausibility of a person deciding to pretend to be part of a discriminated minority because of problems with his family, it strains credulity that the claimant's mother or anyone else in the Roma community would have been fooled into thinking that he was Roma. I am left with not knowing what the true origin of the claimant's father is, but I can conclude that I disbelieve the testimony of the claimant's mother, in its entirety. I do not believe that she is Roma and conclude that the entire story is invented.

- [22] The only other witness at the hearing was the claimant's grandmother. She testified to difficulties at daycare, when the claimant's new shoes were taken because they did not think that a Roma child could have such nice shoes. She also testified regarding the incident at the slide. She stated that the claimant injured her mouth. The claimant's mother had testified that she also hurt her temple and had a concussion. The grandmother did not remember this; however, she was only relating what her daughter told her, as she was not present at the park at the time. I do accept that, if her grand daughter had had a concussion, that she would not remember it. I therefore do not believe that this incident happened. A lot of the grandmother's testimony, regarding the claimant, was based on things that her daughter, who I have found not credible, in general, told her. A repeated non-credible story is still not credible. She did state that sometimes when she would pick her up from daycare, she was crying. I find that these difficulties are not sufficient for me to conclude, on a balance of probabilities, that they were due to the Roma origin of the claimant. Even if these incidents happened, there are many children who have bad experiences at day care and who cry, without being Roma.
- [23] Other incidents that she testified to had to do with problems purchasing items in stores and personally being insulted. She testified to personally having her hand being cut in a store. Given that I have accorded no credibility to the mother of the claimant, these few events related by the grandmother are not sufficient to overcome the lack of credibility of the story in general.
- [24] There is no independent evidence of the Roma origin of the claimant. I have had to rely on the testimony of the claimant's relatives in my assessment of her claim. On a balance of probabilities, I conclude that the claimant has not established that she is Roma. I have not believed the one alleged physical attack against her. Her representative from PRAIDA stated that what he knows about the claimant comes from her mother. The objective evidence regarding the discrimination of Roma in Hungary and the possible cumulative effect of such discrimination resulting in persecution therefore does not apply to her. There is no other credible evidence to found a claim under Section 97(1) IRPA.

CONCLUSION

[25] I determine that the claimant, XXXX XXXX XXXX, is neither a "Convention refugee" nor a "person in need of protection". Doris Zicherman Me Doris Zicherman October 5, 2012 Date / cj REFUGEE PROTECTION DIVISION / MINOR / ETHNICITY / ETHNIC DISCRIMINATION / EVIDENCE / INCONSISTENCY / PRIOR APPLICATION / MOTHER / DISCRIMINATION / FEMALE / NEGATIVE / HUNGARY 1 Esteban Zeferino, Maria Luisa v. M.C.I., (F.C., No. IMM-4058-10), Boivin, April 13, 2011; 2011 FC 456. 2 A-2 : Immigration documents, Form 5611.

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