

Federal Court



Cour fédérale

**Date: 20120801**

**Docket: IMM-9200-11**

**Citation: 2012 FC 952**

**Ottawa, Ontario, August 1, 2012**

**PRESENT: The Honourable Mr. Justice O'Reilly**

**BETWEEN:**

**CSABA TOROK  
ERZSEBET RUSZO  
CSABA TOROK (minor)**

**Applicants**

**and**

**THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION**

**Respondent**

**REASONS FOR JUDGMENT AND JUDGMENT**

I. Overview

[1] Mr Csaba Torok and his wife, Erzsebet Ruszo, along with their son, Csaba Jr, sought refugee protection in Canada based on their fear of persecution in Hungary as members of the Roma ethnic minority. They claim that they endured discrimination, violence and verbal abuse in

Hungary. They also contend that school authorities wrongly assessed Csaba Jr as being mentally challenged and recommended he be placed in a special school.

[2] A panel of the Immigration and Refugee Board dismissed the applicants' claim based primarily on the availability of state protection in Hungary for members of the Roma community.

[3] The applicants argue that the Board's decision was unreasonable because it did not take account of the evidence supporting their claim. In particular, they maintain that the Board did not adequately consider the evidence showing that Csaba Jr was denied an education in Hungary. They ask me to quash the Board's decision and order another panel of the Board to reconsider their claim.

[4] I can find no basis for overturning the Board's decision. The applicants did not seek out state protection in Hungary and, therefore, cannot credibly claim that they were denied protection. Further, the evidence does not show that Csaba Jr was denied an education in Hungary; school officials evaluated him as being delayed in certain areas of his studies and recommended that he be evaluated again at a later date. He was not assigned to a special school. I must, therefore, dismiss this application for judicial review.

[5] The sole issue is whether the Board's decision was unreasonable.

## II. The Board's Decision

[6] The Board reviewed the foundation for the applicants' claim:

- Mr Torok described incidents of discrimination at school, in billiard halls, and in the workplace;
- Mr Torok was assaulted with a knife after refusing to give money to an unknown assailant;
- An armed group of skinheads approached the building where the applicants lived;
- Csaba Jr was mistreated at school; his teachers believed he should attend a special school.

[7] The Board seemed to accept most of the applicants' evidence about these events and then analyzed the issue of state protection.

[8] The Board found that the applicants had failed to show that state protection was unavailable to them. In fact, they had never complained to authorities in Hungary. Mr Torok testified that he believed the Hungarian police and the medical profession treat Roma citizens differently from others. Accordingly, he did not go to the police or to doctors when he was assaulted. The Board concluded that the applicants subjectively believed that the police would not protect them, but they did not give the police a chance to do so.

[9] Regarding Csaba Jr's schooling, the Board noted that, on their arrival in Canada, the applicants did not mention their concern about Csaba Jr's treatment at school. Further, prior to their hearing, they did not mention a dispute with a teacher at Csaba Jr's school, about which they later testified. The Board also noted that the 2009 report prepared in Hungary stated that Csaba Jr was below normal mental capacity and proposed further evaluation. A later report, conducted in Canada in 2011, was more favourable. However, the Board pointed that this difference did not necessarily mean that the earlier report was wrong, or that it was based on discriminatory reasoning.

[10] Finally, the Board noted that the applicants had not been denied any basic human rights, such as housing, employment, or medical or social services, although they may have experienced some discrimination in those areas.

[11] The Board then went on to describe the overall situation in Hungary with respect to its treatment of the Roma population. It concluded that state protection was reasonably available to the applicants on their return to Hungary.

### III. Was the Board's decision unreasonable?

[12] The applicants submit that the Board's state protection finding was unreasonable. It was based on irrelevant evidence and overlooked contradictory evidence. They also submit that the Board failed to make a finding about whether there was adequate state protection for Csaba Jr in relation to the denial of education.

[13] The applicants submit that a denial of education is persecution (*Hernandez v Canada (Minister of Citizenship and Immigration)*, 2010 FC 179, at para 40). They point out that school officials believed that Csaba Jr was mentally disabled and belonged in a special school, and cite documentary evidence about the disproportionate number of Roma children in these special schools. At the same time, they argue that the report's seemingly benign suggestion that Csaba Jr required further testing reflected the author's awareness that the family was seeking refugee protection in Canada; in other words, this part of the report was not accurate.

[14] In my view, the Board's decision was not unreasonable. The applicants made no efforts to seek state protection. Although the evidence about the adequacy of protection for Hungarian Roma is mixed, the applicants relied solely on their subjective belief that the police would not help them. In fact, the police did respond when skinheads assaulted Romani tenants of the applicants' apartment building.

[15] Regarding Csaba Jr's education, the Hungarian assessment suggested that he needed further examination in the future. The applicants did not dispute that assessment or follow up with school officials in any way. The subsequent Canadian assessment in 2011 is generally more positive, but it also notes areas where Csaba Jr requires further development. It was suggested that he attend summer school in 2011. The Board's assessment of this evidence was not unreasonable.

[16] I cannot conclude, therefore, that the Board's finding that the applicants had failed to show that state protection was unavailable to them in Hungary was unreasonable.

IV. Conclusion and Disposition

[17] In my view, the Board reasonably concluded that state protection was available to the applicants in Hungary. Therefore, I cannot overturn the Board's decision and must dismiss this application for judicial review. Neither party proposed a question of general importance for me to certify, and none is stated.

**JUDGMENT**

**THIS COURT'S JUDGMENT is that:**

1. The application for judicial review is dismissed;
2. No question of general importance is stated.

“James W. O’Reilly”

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Judge

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

**DOCKET:** IMM-9200-11

**STYLE OF CAUSE:** CSABA TOROK, ET AL  
v  
MCI

**PLACE OF HEARING:** Toronto, Ontario

**DATE OF HEARING:** July 5, 2012

**REASONS FOR JUDGMENT  
AND JUDGMENT:** O'REILLY J.

**DATED:** August 1, 2012

**APPEARANCES:**

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FOR THE APPLICANTS

Alex Kam

FOR THE RESPONDENT

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