

Federal Court



Cour fédérale

**Date: 20190311**

**Docket: IMM-1957-18**

**Citation: 2019 FC 292**

**Ottawa, Ontario, March 11, 2019**

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

**BETWEEN:**

**IMRE EMIL AJTAI**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

I. Overview

[1] Mr Imre Emil Ajtai sought refugee protection in Canada based on his fear of persecution in Romania. He claims that he was the victim of a false prosecution for assault. Even though he was acquitted and the acquittal was upheld on appeal, he maintains that the persons behind the prosecution will likely come after him again.

[2] A panel of the Immigration and Refugee Board dismissed Mr Ajtai's claim. The Board found that there was no objective basis for Mr Ajtai's fear of persecution in Romania because he had not been contacted by the initiators of the prosecution since 2012. In addition, Mr Ajtai himself disputed the existence of any discrimination against him as a person of Romani ethnicity. He maintained that the allegations of discrimination contained in his written narrative had been crafted by his former lawyer, whom he dismissed prior to his hearing before the Board.

[3] Since Mr Ajtai is also a citizen of Hungary, the Board also inquired into the possibility that he might be persecuted if he chose to live there rather than in Romania. It found that Mr Ajtai's Romani ethnicity, in itself, did not support a refugee claim.

[4] Mr Ajtai maintains that the Board's decision was unreasonable because it did not take into account the fact that he was unrepresented. He also contends that the Board failed to appreciate the true basis of his refugee claim. Finally, Mr Ajtai submits that the Board failed to consider the evidence of similarly situated persons in Hungary. He asks me to quash the Board's decision and order another panel of the Board to reconsider his claim.

[5] I can find no reviewable error in the Board's decision. Mr Ajtai chose to represent himself at the hearing and, on my reading of the transcript, had no difficulty presenting his claim to the Board. The Board understood and addressed the basis of Mr Ajtai's fear of persecution in Romania and the possibility that he would be at risk in Hungary. I must, therefore, dismiss this application for judicial review.

[6] There are three issues:

1. Did the Board treat Mr Ajtai fairly as a self-represented person?
2. Did the Board misconstrue Mr Ajtai's fears in respect of both Romania and Hungary?
3. Did the Board fail to consider the circumstances of similarly situated persons in Hungary?

II. Issue One – Did the Board treat Mr Ajtai fairly as a self-represented person?

[7] Mr Ajtai submits that the Board failed to recognize the difficulty he faced in proceeding with a hearing just eight days after his lawyer withdrew. He was unfamiliar with the process and had little understanding of the issues the Board would be addressing. In the circumstances, he says, the Board should have considered adjourning the matter, asked him if he wished to obtain another lawyer, or otherwise ensured that he received a fair hearing.

[8] I disagree. Mr Ajtai received a fair hearing.

[9] Mr Ajtai dismissed his lawyer before the hearing and so informed the Board. The Board confirmed that Mr Ajtai had removed his lawyer from the record, ensured that Mr Ajtai had all of the relevant documents, gave him an opportunity to review them, explained how the hearing would proceed, identified the issues, and pointed out that Mr Ajtai was bound to tell the truth. An interpreter was available to assist him with his testimony. At no time did Mr Ajtai express any discomfort with the way the hearing unfolded.

[10] Mr Ajtai submits that the Board interrupted his testimony at various points and scolded him for not confining himself to relevant issues. I do not read the transcript that way. It appears that the Board simply directed Mr Ajtai occasionally to matters that were directly relevant to his refugee claim. I see no unfairness in how the Board treated Mr Ajtai in the presentation of his testimony.

[11] Mr Ajtai also contends that he did not have an opportunity to present all of the documentary evidence supporting his claim.

[12] The Board had before it documentary evidence showing that Mr Ajtai had been prosecuted and acquitted of assault, and that the acquittal had been upheld on appeal. Mr Ajtai explained that he continued to fear those who had initiated the prosecution but it is not clear that there was any additional documentary evidence that would have supported his claim. I note that there were some untranslated Hungarian documents before the Board, but Mr Ajtai said they were not his and made clear that he did not intend to rely on them. He has not identified any documentation that would have assisted him.

[13] Overall, therefore, I cannot find any unfairness in the manner in which Mr Ajtai was treated by the Board.

III. Issue Two – Did the Board misconstrue Mr Ajtai’s fears in respect of both Romania and Hungary?

[14] Mr Ajtai submits that the Board did not fully grasp the basis of his claim – that he had been wrongly prosecuted for assault and, while acquitted, the persons behind the prosecution continued to wish him harm. The fact that the court case had been decided in his favour was of little comfort to him; he felt he was still in danger. Further, he also feared mistreatment in Hungary based on his past experience there.

[15] I can see nothing in the Board's decision that reflects a misunderstanding of Mr Ajtai's claim. The Board framed the source of Mr Ajtai's fear in a way that was consistent with his own version of events. The Board dismissed the claim against Romania on the basis that Mr Ajtai had succeeded in his defence against the criminal charges against him, and the agents of persecution had not attempted to contact him since 2012. Moreover, his treatment by the courts in Romania showed that state protection was available to him there.

[16] In respect of Hungary, the Board did not refer to the fact that Mr Ajtai had been assaulted there nearly 30 years ago when he visited in his teens. However, Mr Ajtai did not refer to that incident in his written narrative either. When asked about the omission, Mr Ajtai explained that his claim was against Romania, not Hungary.

[17] Mr Ajtai may have been unaware that he also needed to present evidence about the risk of persecution in Hungary because of his Hungarian citizenship. In any event, he testified that, based on what he had read, Roma people faced persecution in Hungary, and he believed that he would also face discrimination as a Romanian citizen. The Board provided him an opportunity to

present additional evidence at the hearing, but he had nothing further to add. Again, I can see nothing unreasonable in the Board's treatment of his claim.

IV. Issue Three – Did the Board fail to consider the circumstances of similarly situated persons in Hungary?

[18] Mr Ajtai argues that the Board erred by requiring him to show that he would personally face persecution in Hungary. He maintains that it should have been sufficient to show that similarly situated persons experience mistreatment and, therefore, that he could expect the same if he were to live there.

[19] Evidence of personal risk is not strictly required to make out a refugee claim. A person can show a well-founded fear of persecution by reference to the experience of similarly situated persons in the same country. However, in this case, the evidence about the treatment of the Roma population in Hungary is mixed – some are persecuted, some are discriminated against, and some are treated equitably. Accordingly, the evidence regarding Roma persons in Hungary, in itself, does not support Mr Ajtai's claim that he would probably face a risk of persecution there.

[20] I see no error in the Board's assessment of this aspect of his claim.

V. Conclusion and Disposition

[21] Mr Ajtai, while unrepresented, received a fair hearing. The Board reasonably addressed the substance of his claim and considered the situation of similarly situated persons in Hungary. I

must, therefore, dismiss this application for judicial review. Neither party proposed a question of general importance for me to certify, and none is stated.

**JUDGMENT IN IMM-1957-18**

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

No question of general importance is stated.

"James W. O'Reilly"

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Judge



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

**DOCKET:** IMM-1957-18

**STYLE OF CAUSE:** IMRE EMIL AJTAI v THE MINISTER OF  
CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** TORONTO, ONTARIO

**DATE OF HEARING:** FEBRUARY 7, 2019

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

**DATED:** MARCH 11, 2019

**APPEARANCES:**

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