

Federal Court



Cour fédérale

Date: 20140722

Docket: IMM-12705-12

Citation: 2014 FC 731

Ottawa, Ontario, July 22, 2014

PRESENT: The Honourable Mr. Justice Phelan

BETWEEN:

**AGNES MARGIT VERES-SZOGI
AGNES VERES-SZOGI
GERGO GALAMBOS
EMOKE VERES-SZOGI**

Applicants

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Introduction

[1] This is the judicial review of a decision by the Refugee Protection Division [RPD] determining that neither the Principal Applicant (the mother) nor the children (collectively referred to as the Applicants) were Convention refugees or persons in need of protection.

II. Background

[2] The Applicants are citizens of Hungary. The Principal Applicant outlined several incidents of spousal abuse including drunkenness, assault, failure to provide financial and emotional support and threats of murder.

[3] The RPD found that the determinative issue was state protection. The RPD reviewed the status of Hungary's legal and democratic organization, and the establishment and operation of police services. The Applicants had not rebutted the presumption in favour of state protection.

[4] The RPD's crucial finding was that the Principal Applicant made "very little, if any, effort to seek state protection in Hungary prior to seeking international protection in Canada".

[5] As noted by the RPD, the Principal Applicant never reported the assaults by her husband to the police. The most that could be said is that when the husband was arrested on a weapons charge in September 2001 and when police checked her workplace in September 2003, she mentioned "abuse" to the police on those occasions.

[6] The RPD concluded that the Principal Applicant did not take advantage of the avenues of protection available to her and that there was recourse available if the police failed to act. The RPD acknowledged that measures directed at domestic violence were not perfect but found that the efforts to improve the situation were effective.

[7] Therefore, the RPD concluded that effective state protection was available if the Principal Applicant had attempted to seek such protection.

III. Analysis

[8] The standard of review with respect to the adequacy of state protection is reasonableness (*Carrillo v Canada (Minister of Citizenship and Immigration)*, 2008 FCA 94, [2008] 4 FCR 636).

[9] It was reasonable to conclude that merely mentioning “abuse” in the context of a police action on weapons charges is insufficient to constitute engaging state protection from that spousal abuse.

[10] This finding is especially cogent given that the Principal Applicant reported her husband for weapons violations but never reported him for spousal or family abuse.

[11] It is not sufficient for the Principal Applicant to state that she believed that state protection was inadequate without any objective basis for that belief.

[12] Justice Russell in *Mejia v Canada (Minister of Citizenship and Immigration)*, 2009 FC 354, well summarized the principles applicable here:

70 Essentially, she says that Mexico provides no protection for women like her who find themselves the victims of sexual abuse. The problem with this assertion is that it is highly subjective and the Applicant has supplied little in the way of objective support for

her personal experiences or for her assertion that state protection and an IFA are not available to her.

...

73 The Board provided a detailed analysis of state protection in Mexico that identified its shortcomings, but reasonably concluded that police and legal protection would be available to the Applicant if she chose to access it. The Board did not just look at the theoretical framework and expressions of good intention; it examined actual practice on the ground.

74 Against this background, the Board also examined what the Applicant herself had done to avail herself of protection. All she did was take DIF psychological counseling which, according to her PIF, was of significant assistance to her. But she did nothing else.

75 Her explanation that she did not go to the police about her uncle because she felt he had connections was considered and reasonably rejected by the Board.

76 There were many options available to her but she chose to use none of them. Her various explanations were considered by the Board and were found to be unsatisfactory. According to her own testimony, she knew of the existence of relevant agencies but she simply chose not to seek the help of the police or any other means of assistance apart from the psychological counseling which, when she tried it, obviously worked for her. As Justice Snider pointed out in *Judge v. Canada (Minister of Citizenship and Immigration)* 2004 FC 1089, at paragraphs 8 and 10, it is not sufficient for an applicant to simply believe that state protection is not available.

77 The Applicant has not given the Mexican police and the Mexican state an opportunity to help her.

[13] The Applicants, in essence, ask this Court to substitute its assessment of the facts for that of the RPD. That is not the function of this Court, nor if it were, would this Court find any differently than the RPD.

IV. Conclusion

[14] Therefore, for these reasons, this judicial review will be dismissed.

[15] There is no question for certification.

JUDGMENT

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

"Michael L. Phelan"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

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STYLE OF CAUSE: AGNES MARGIT VERES-SZOZI, AGNES VERES-SZOZI, GERGO GALAMBOS, EMOKE VERES-SZOZI
v THE MINISTER OF CITIZENSHIP AND
IMMIGRATION

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