

Federal Court



Cour fédérale

**Date: 20140428**

**Docket: IMM-1342-13**

**Citation: 2014 FC 387**

**Ottawa, Ontario, April 28, 2014**

**PRESENT: The Honourable Mr. Justice Zinn**

**BETWEEN:**

**RAZAN CRISTIAN TIMOFTII**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**REASONS FOR JUDGMENT AND JUDGMENT**

[1] The Refugee Protection Division of the Immigration and Refugee Board of Canada [RPD] denied Mr. Timoftii's claim for protection under the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA] but granted his young daughter's claim for protection.

[2] Both Mr. Timoftii and his daughter are citizens of Romania. He is a single parent. The daughter was 14 years old at the time of the RPD hearing. On July 20, 2011, she was kidnapped

and taken to an apartment. She overheard one of her kidnappers on his cell phone say “I have the girl that you wanted” or “I brought you the merchandise.” She was so frightened that she peed herself. Her kidnappers permitted her to go to the bathroom, and she escaped through an open window. Her father reported the incident to the police, but the police told the daughter not to walk alone anymore, and told Mr. Timoftii to take better care of his daughter. The police did not investigate further because his daughter was unable to tell them where the abduction took place or where she was taken.

[3] This was the only basis for both Mr. Timoftii’s and his daughter’s claims for refugee protection.

[4] The RPD found that the daughter was a Convention refugee and a person in need of protection. It reviewed documentary evidence regarding the prevalence of sex trafficking in Romania and found that sex trafficking was widespread, that Romania did not comply with the minimum standards for the elimination of trafficking, and that police corruption was rampant. It found that there was a serious possibility that she would suffer persecution for a Convention ground if returned to Romania, and that state protection would not reasonably be forthcoming.

[5] With respect to Mr. Timoftii’s claim, the RPD found that “there is nothing in the evidence of any other risk or acts of persecution” independent of those acts underlying his daughter’s claim for protection. The RPD found that there was no reason why Mr. Timoftii would not be able to return to Romania, and that the welfare and best interest of his daughter were assured with her paternal aunt and her family in Canada with whom she had been staying.

[6] The only real issue raised in this application is whether the RPD erred by not considering Mr. Timoftii's risk of persecution or danger to his life or risk of torture.

[7] Mr. Timoftii did not allege any independent ground of risk in his Personal Information Form, and did not testify at the hearing as to a risk that he personally faces. His daughter testified as to the events surrounding her kidnapping; however, Mr. Timoftii's counsel declined to call Mr. Timoftii to testify when prompted:

MEMBER: Did you intend to call the father?

COUNSEL FOR CLAIMANT: No, I think we're okay. It might create some problems.

Therefore, in none of the materials before the RPD was there any allegation of independent risk for Mr. Timoftii.

[8] At the hearing, counsel's only submissions with respect to Mr. Timoftii are as follows:

With respect to her father, even though he was not targeted you may wish to consider whether he falls under membership in a particular social group, being the father of [his daughter], and what the consequences would be for him having to lose his daughter. This is something no father would want and he should be afforded to stay with her, being her father and the caregiver for her because he does fall within the definition of member of a particular social group...[emphasis added]

[9] This is not an independent risk to Mr. Timoftii. He provided no evidence as to the type of risk he would face for being the father of a daughter who had been kidnapped. The submission in his factum that he may be put "in harms way with her kidnappers" and his

submission to the Court that “perhaps the kidnappers will take revenge” are mere speculation, not supported by any evidence.

[10] I concur with the observation of Justice Dawson, as she then was, in *Lakatos v Canada (Minister of Citizenship and Immigration)*, 2001 FCT 408, 2001 CarswellNat 862 (WL) at para 13 that “[i]n the absence of evidence that the applicants were persecuted simply because they are members of a certain family, I cannot conclude that the [decision-maker] erred in failing to consider the applicants as members of a social group.”

[11] This application must be dismissed as the decision rendered was not only reasonable, it was the only reasonable decision that could have been reached given the evidence. As was observed at the conclusion of the hearing, the present facts cry out for an application from Mr. Timoftii for permanent residence from within Canada on humanitarian and compassionate grounds.

[12] Neither party proposed a question for certification.

**JUDGMENT**

**THIS COURT'S JUDGMENT is that** this application is dismissed and no question is certified.

"Russel W. Zinn"

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Judge

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

**DOCKET:** IMM-1342-13

**STYLE OF CAUSE:** RAZAN CRISTIAN TIMOFTII v THE MINISTER OF  
CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** TORONTO, ONTARIO

**DATE OF HEARING:** APRIL 14, 2014

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

**DATED:** APRIL 28, 2014

**APPEARANCES:**

John Rokakis FOR THE APPLICANT

Mahan Keramati FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

John Rokakis, Esq. FOR THE APPLICANT

Barrister and Solicitor

Windsor, Ontario

William F. Pentney FOR THE RESPONDENT

Deputy Attorney General of Canada

Toronto, Ontario