

Federal Court



Cour fédérale

**Date: 20111125**

**Docket: IMM-2343-11**

**Citation: 2011 FC 1366**

**Toronto, Ontario, November 25, 2011**

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

**BETWEEN:**

**TIBORNÉ HEGEDÜS  
(A.K.A TIBORNE HEGEDUS)  
ANETT HEGEDÜS  
(A.K.A. ANETT HEGEDUS)  
TIBOR HEGEDUS**

**Applicants**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**REASONS FOR ORDER AND ORDER**

[1] The present Application concerns a negative decision of the Refugee Protection Division (RPD) in which the Applicants were found not to be Convention refugees or persons in need of protection. The Applicants, Tiborné Hegedüs, her husband, Tibor Hegedüs and their daughter,

Anett Hegediüs claim a well-founded fear of persecution in Hungary because of their Roma ethnicity.

[2] Before the RPD the Applicants described discrimination at school, in housing, medical care and employment, recounted incidents of violence, arson and vandalism to their home, and told of police harassment and inaction. The RPD found that while these events constitute discrimination, they do not rise to the level of persecution. The RPD's determination is as follows:

I find that the claimants may have been subject to discrimination because of their Roma ethnicity but this discrimination both singularly and cumulatively does not rise to the level of persecution. I also considered the physical attacks on the claimants in the following section and I find that they are not sustained or systematic violation of basic human rights demonstrating a failure of state protection.

[Emphasis added]

(Decision, paras. 30 -31)

This statement is made with no critical analysis. This Court has repeatedly stated that a failure to provide any real explanation as to why the cumulative actions do not amount to persecution is a reviewable error (*Tetik v Canada (Minister of Citizenship and Immigration)*, 2009 FC 1240; *Bledy v Canada (Minister of Citizenship and Immigration)*, 2011 FC 210; *Rahman v Canada (Minister of Citizenship and Immigration)*, 2009 FC 768).

[3] In addition, contrary to the statement made in the quote above, the RPD never did consider the physical attacks on the Applicants.

[4] As a result, I find that the decision under review is made in reviewable error.



**ORDER**

**THIS COURT ORDERS that** the decision under review is set aside and the matter is referred back for redetermination before a differently constituted panel.

There is no question to certify.

\_\_\_\_\_  
"Douglas R. Campbell"  
Judge

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

**DOCKET:** IMM-2343-11

**STYLE OF CAUSE:** TIBORNÉ HEGEDÜS (A.K.A TIBORNE HEGEDUS)  
ANETT HEGEDÜS (A.K.A. ANETT HEGEDUS)  
TIBOR HEGEDUS v THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION

**PLACE OF HEARING:** TORONTO, ONTARIO

**DATE OF HEARING:** NOVEMBER 24, 2011

**REASONS FOR ORDER  
AND ORDER BY:** CAMPBELL J.

**DATED:** NOVEMBER 25, 2011

**APPEARANCES:**

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