



**Upper Tribunal
(Immigration and Asylum Chamber)**

Appeal Number: AA/05966/2013

THE IMMIGRATION ACTS

**Heard at Field House
On 10 July 2014
Ex Tempore**

**Determination Sent
On 30 July 2014**

Before

**THE HONOURABLE MR JUSTICE HADDON-CAVE
UPPER TRIBUNAL JUDGE HANSON**

Between

**EJPL
(ANONYMITY DIRECTION IN FORCE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms A Smith, Counsel

For the Respondent: Mr S Walker, Home Office Presenting Officer

DETERMINATION AND REASONS

1. This is an appeal by an Angolan national, against a decision of First-tier Tribunal Judge Page promulgated on 12 February 2014 dismissing his appeal against the direction for his removal from the United Kingdom to Angola which accompanied the Secretary of State's decision refusing to grant asylum or any other form of international protection. The thrust of

the First-tier Tribunal's decision in the Determination and Reasons dated 12 February 2014 was that the appellant's story that he was at risk of being killed by a high-ranking army officer called Brigadier or General Cassoma was not credible. He alleged in his evidence that he had worked for this Brigadier or General for a long period at his home in Angola.

2. The appeal is presented by Ms Smith on behalf of the appellant who submits that the judge has made three errors in his findings of fact which go to the appellant's credibility and which amounts to an error of law. Taken individually or cumulatively, Ms Smith says that, had the judge not come to these incorrect findings of fact or inferences, he would or should have come to a positive finding on the appellant's credibility.

3. Ms Smith first takes issue with paragraph 27 of the Determination and Reasons in which the judge said this:

"During his asylum interview the appellant was unable to answer the question when asked to give the address where General Cassoma lived. This is where the appellant claimed to have stayed and worked for three years, commuting some of the time by bus. In his witness statement of 13 May 2013 the appellant said that he had lived at the address during the week and had gone home at weekends. If this had been true the appellant would have known where General Cassoma lived."

4. Ms Smith says that this finding was unfair and failed to take into account the appellant's expert evidence that places in Luanda are identified "informally and by reference to local landmarks in Luanda rather than by formal street names". The problem, however, with the Appellant's (so-called) expert evidence and that submission is that it flies in the face of the appellant's own evidence in his interview in which he made it quite clear that streets were identified. He was asked as follows:

46: "What was the address of this house at which you stayed with the General?"

A: He had a house at Martis but where the room was where I stayed was at Cassenda.

47: What street?

A: The street is called 17 Cassenda, I think, is street number 20, I'm not sure. There was another house that was a flat, number 90 or 102 on Prozecto Nova Vida.....

48: What was the full address of the house at which you had a room?

A: I only know how to get there, I'm not sure about the number of the house or the street."

5. In our judgment, the Appellant's own evidence blows a large hole through his expert evidence that streets were only identified informally. In any event, it was entirely open to the judge to conclude, having read the

evidence and having heard the witness give evidence, that after having stayed he alleged and worked at the general's house for three years, that at the very least he should have known the address where the General lived. We can find nothing wrong with the judge's finding in this regard.

6. Ms Smith's second point was criticism of paragraph 19 of the judge's Determination and Reasons where the judge found that the appellant had given two irreconcilable accounts. In his witness statement the Appellant was, as the judge said, plainly describing what amounted to full-time work at the General's house. However, in his oral evidence he gave a rather different picture of bits and pieces of work including washing cars, doing odd jobs and feeding the dog. As Mr Avery says for the Secretary of State in his Rule 24 response the clear issue in paragraph 19 is whether or not the appellant's claim in his witness statement to be working full-time at the general's house was reconcilable was reconcilable with his other evidence. Ms Smith suggested that the appellant was not describing what amounted to full-time work in his witness statement dated 13 May 2013 and that the judge was unfair in this regard.
7. In paragraph 5 of that witness statement the appellant said this (emphasis added):

"Initially I went to the General's house located in Cassenda. It was about 30 minutes away from my house by taxi (Candungueiro) and one hour by foot. In the beginning I was asked to wash his and his wife's cars. Later, when I tried to explain my situation to Cassoma, he gave me a room outside the main house and allowed me to stay and work for him. I used to stay at the General's house during the weekdays and go home during the weekends. Occasionally I would spend weekends at the General's house and it depended on my workload. I have been working for the General for the past three years. My work involved washing cars, watering plants, sweeping the floor and feeding his dog."

It seems to us quite clear that what the appellant was describing there was full-time work at the General's house during the week and, occasionally, more work at the weekends. In our judgment there can be no criticism of the judge's similar finding in paragraph 19 nor of the judge's finding that when the appellant came to give his oral evidence he gave a rather different picture. In particular, he was asked how often he would stay over at the General's house and he replied, "it depended on the amount of cars that needed washing". The judge was justified in coming to the conclusion that his oral account was irreconcilable with his written statement.

8. The third point taken by Ms Smith is in relation to paragraph 30 of the Determination and Reasons. She submits that the judge was unfair to conclude on the evidence that there was a difference between what he said in his witness statement about there being an arrest warrant when the police allegedly raided his family home compared with what he said in his evidence when he claimed that they did not have an arrest warrant. It

is fair to say in relation to this point that the evidence is not entirely pellucid. In his interview the appellant said this:

29: Were they sent to arrest you?

A: Yes, they said they had a warrant against me but they hadn't any document with them.

30: On what charge did they want you?

A: To my aunt they only said they had a warrant against me and wanted to take me. They had no identification on them either."

9. In his witness statement dated 13 May 2013 he said this:

"On 27 March 2013, I was visiting my family at home. That day, five hooded men dressed in black clothes carrying weapons came to my house in search of me. My aunt who was at the entrance of the house in the front yard confronted these men and asked them what they were looking for. They said they were from the police and they had a warrant for my arrest. When my aunt demanded to see the document they forced their way in and my little sister started to scream. When I heard the commotion I jumped out of the back window, ran down the street away from the house and hid under a car. I stayed under the car for approximately 30 minutes. By this time the neighbours had gathered outside the house to see what was going on."

10. We see some substance in this somewhat makeweight point by Ms Smith, that the appellant's various accounts on the question of the existence of an arrest warrant may not be inconsistent. However, when set against the large number of adverse findings by the judge on a host of other points against the appellant, the materiality of this minor point or infelicity in the Tribunal's determination in his findings falls away. The problem with this appeal like so many other appeals involving criticisms of minor findings of fact by First-tier Judges is that it fails to grapple with the overall cumulative findings of the judge as to credibility in the light of the evidence.

11. By way of example, one of the discrepancies that the judge found and clearly had in mind when coming to his overall determination was that for instance at paragraph 28 in which he said this:

"28. I did not find the circumstances in which the appellant claimed to have obtained the employment of General Cassoma credible. He claimed to have been washing cars on the road when he met General Cassoma. General Cassoma asked him how much he was earning and he promised him more money if he would come and work at the General's house cleaning cars. I do not find it credible that a high-ranking army officer who used the services of someone washing cars on the road would be concerned to enquire how much he was being paid and then immediately offer him a job and accommodation at his home which was one hour away by taxi from where the appellant was working.

- a. I am not satisfied that the appellant was working for the General and staying at the house. It was in these claimed circumstances that the appellant claims to have met Andrea [the General's daughter with whom he alleged he had an affair]. If he was not working there he did not meet Andrea and have the relationship and there the asylum claim falls away. The appellant retracted his evidence in his witness statement dated 13 May 2013 when he said that he was only working at the General's house a few hours here and there when required and it was only when there was more work to do at the house that he would stay over. He said in answer to Ms Thomas that it would be quite wrong to say that he was working there five days a week. His witness statement adopted at the start of the hearing said precisely that."

12. Mr Walker has rightly highlighted the following key paragraph in the Determination and Reasons in which the judge concluded as follows:

"32. I remind the parties that this document is a determination of the appellant's appeal with reasons and not a Record of Proceedings. After considering all of the evidence before me, which includes the evidence not specifically referred to in this determination, I find myself reaching the same conclusions that the respondent reached in the refusal letter about the core of the appellant's asylum claim. It is an obvious invention, so does not meet the low standard of proof. The only possible reason for the discrepancies is that the appellant had forgotten what he had said on earlier occasions and later changed his evidence. I find it to be no more than a fanciful possibility that the appellant's mental health difficulties explain the discrepancies."

13. This judge looked at all the evidence, considered it and heard the appellant give evidence orally and being cross-examined. We do not find there to be any proper basis for challenging his conclusions on credibility but we deprecate attempts by appellant to pick away at individual minor findings of fact in order to give the appearance of a proper credible appeal. For all those reasons this appeal is dismissed.

Decision

1. **There is no material error of law in the First-tier Tribunal Judge's decision. The determination shall stand.**

Anonymity.

2. The First-tier Tribunal made an order pursuant to rule 45(4)(i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005. We continue that order pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008).

Signed

Date

Mr Justice Haddon-Cave