



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

Appeal Number: AA/08663/2013

**THE IMMIGRATION ACTS**

**Heard at Field House**

**On 4 August 2014**

**Determination**

**Promulgated**

**On 6 August 2014**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE MCWILLIAM**

**Between**

**VINCENT DE PAUL KUIDJA HOUMI**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr A Reza, Alfred James Solicitors

For the Respondent: Mr E Tufan, Home Office Presenting Officer

**DETERMINATION AND REASONS**

1. The appellant is a citizen of Cameroon and his date of birth is 13 June 1968. He made an application for asylum which was refused by the Secretary of State in a decision of 10 September 2013. The appellant's evidence is that he is a member of the Bamileke tribe and that he worked

for Cameroon Telecommunications. During his employment he discovered phone tapping by the government and he was subsequently taken to a police station on 30 September 2011 and released the same day.

2. On 7 October 2011 he was taken to a police station again and asked whether he had told anybody about the phone tapping that he had discovered. He was held in detention for a period of five days before being released from prison as a result of intervention by his lawyer.
3. He continued working until he was suspended in October 2011. On 11 July 2012 he revealed what he had discovered about the phone tapping to the national newspapers and on 13 July 2013 he was arrested and detained for fifteen days during which time he was tortured. He was then taken to prison in Douala where he was further tortured. During his time in prison he met an individual called Mr Hipolte who was making a documentary on torture in prisons. He was able to escape from prison assisted by a doctor. He was taken to a hospital and he was subsequently assisted by his brother-in-law to flee Cameroon.
4. The appellant appealed against the decision of the Secretary of State and his appeal was dismissed by Judge of the First-tier Tribunal Pears in a determination of 16 March 2014 following a hearing on the same day.
5. Permission to appeal was granted by Upper Tribunal Judge O'Connor on 14 May 2014 and the grant of permission reads as follows:

"It is arguable that, given the purpose of the screening interview and the appellant's evidence provided in answer to Q105 of his substantive asylum interview, the First-tier Tribunal erred in treating as a matter adverse to the appellant's credibility his failure to refer in his screening interview to having been tortured. It is further arguable that the First-tier Tribunal erred in its consideration of the expert medical evidence. The other grounds have little merit and add nothing to this appeal; nevertheless, I do not refuse permission to argue them."
6. The grounds argue that the judge erred in consideration of the expert medical evidence and the judge applied a too high standard of proof.
7. I heard oral submissions from both representatives. Mr Reza's submissions were in the context of his skeleton argument which broadly speaking was an expansion of the grounds of appeal for permission. Mr Tufan argued that there was no error of law in the determination. The medical evidence was considered in the round and the application must be considered in the context of the significant and numerous adverse credibility findings.
8. There was before the First-tier Tribunal an expert medical report prepared by Dr J Hajioff. From the introduction of the report it appears that Dr

Hajioff is a registered medical practitioner and consultant psychiatrist. He noted that the small scars on the appellant's hands were typical of cigarette burns. In accordance with the appellant's evidence in addition the scars on the appellant's head, right ear, back and feet were consistently with the appellant's description of causes. Dr Hajioff's opinion is that the appellant suffers from chronic post-traumatic stress disorder and has some form of depression and that his evidence of injury is consistent with how he was treated in Cameroon.

9. The judge made a number of findings and paragraphs 49 to 52 and 60 to 64 as follows:

“49. At page 11 is a psychiatric report on the appellant by Dr J Hajioff and the appellant's representative explained that because Helen Bamber could not report in time for the appeal they had to resort to this expert. However although a psychiatrist Dr Hajioff has expressed his view on other medical issues giving, on page 12 (the reference are to the appellant's bundle), his expertise for so doing. The appellant's account to the doctor for what happened to him seems to have details that have not been mentioned before .e.g. guards urinating on him and being pursued naked into the open areas of the police station.

50. The doctor's assessment is on page 17ff and he reports at paragraph 36 that the appellant is on no medication. There is a body map at page 22. He finds small scars on the appellant's hands which the appellant says were inflicted by cigarettes of the guards which the doctor concludes are typical for the injuries alleged by the appellant. The word 'typical' in the Istanbul Convention means they are usually found in this type of trauma but there were other possible causes. It is perhaps significant both that the doctor does not try to date them and the appellant has never mentioned them before.

51. The doctor then says he found scars on his head, right ear, back and feet and I cannot find where the appellant accounts for them individually in the report or where the doctor assesses their date. However he says that are consistent with his description and that means in Istanbul Convention terms that they could have been caused as described but there are many other possible causes. None for the injuries are said to be 'diagnostic' or 'highly consistent' in Istanbul Convention terms.

52. The doctor concludes the appellant is suffering from chronic PTSD and some symptoms of depression.”

“60. In relation to his account of torture, it seems clear me that if a person had been tortured in the way he claims it would have emerged earlier than it did and it also seems to me that his

account has had elements added to it which in my finding undermines its credibility as a claim. Further in the appellant's case he alleges he was tortured extensively and yet there is no extensive damage which has been found to be either 'diagnostic' or 'highly consistent' of what he alleges or said to be from the date he claims it was inflicted. I find the doctor's report has the flaws in it that I have mentioned.

61. I find his credibility is decreased by his failure to claim asylum in Belgium and his failure to claim asylum earlier than he did together with the contradictory explanation of his failure to do so - see paragraph 43.
  62. Further in relation to general credibility of his claim it seems to me that if he was accused of treason he would not have been able to apply for a passport, live in Cameroon for the period between October 2012 and June 2013 and then take the risk of leaving the country on his own passport .
  63. In relation to other matters I accept that plausibility be approached with caution but on his case he was able to escape from two guards through a window after an unknown doctor had whispered a detailed instruction to him and he was able to escape in a waiting car and that I do not accept as plausible
  64. I cannot find that any psychiatric condition or that he has nightmares is corroborative of him being tortured or of his case as they might have an origin connected with his childhood or any other numerous causes.
  65. I agree with the country expert that if I had found he had been previously been detained in 2012, been tortured and left Cameroon during an investigation relating to his involvement with cutting telephone cables for people who were under suspicion he would be at risk on return but I have not so found."
10. In my view the judge did not consider the psychiatric evidence in the round. The fact that the appellant had been diagnosed by a consultant psychiatrist as having chronic post-traumatic stress disorder is corroborative of his claim to have been tortured and it was not open to the judge to find that it was not corroborative.
  11. In my view the judge did not consider this evidence in the round and this amounts to a material error of law. Having said this I accept that the judge was entitled to comment on the fact that the expert had not attempted to date the injuries and I note that the expert did not have before him a copy of the refusal letter and there is no indication that the expert was aware that credibility was an issue in this case.

12. In my view the judge also applied too high a standard of proof. He found at paragraph 56 that the appellant's case is not credible based on the absence of evidence that he said he would or might produce or which he could have produced since the refusal decision. There is no legal requirement for corroboration.
13. As a result I set aside the decision of the First-tier Tribunal and remit the matter to the First-tier Tribunal for a de novo hearing.
14. Mr Tufan submitted that the matter should remain in the Upper Tribunal. However in light of the fact that the material error is such that none of the credibility findings are in my view sustainable there will need to be a de novo hearing which will involve extensive judicial fact finding by the Tribunal and I remit the matter pursuant to the Practice Statement of the Senior President of the Tribunals of 25 September 2012.

Signed

Date

Deputy Upper Tribunal Judge McWilliam