



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

Appeal Number: AA/10007/2013

THE IMMIGRATION ACTS

Heard at Birmingham ET

**Decision and Reasons
Promulgated**

On 22 January 2016

On 26 January 2016

Before

DEPUTY UPPER TRIBUNAL JUDGE KAMARA

Between

**AT
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr A Reza, solicitor, Sultan Lloyd Solicitors

For the Respondent: Mr A McVeety, Senior Home Office Presenting Officer

DECISION AND REASONS

1. This is an appeal against a decision of FTTJ Pirotta, promulgated on 26 March 2015. Permission to appeal was granted on 7 September 2015 by Designated First-tier Tribunal Judge Zucker.

Background

2. The appellant was encountered in Dunkerque on 2 April 2012 attempting to gain entry to the United Kingdom clandestinely. He was removed to

France. The appellant returned to the United Kingdom and claimed asylum on 18 April 2012. The basis of the appellant's asylum claim is that he is at risk in Albania on the basis of a blood feud, which started after his father carried out a murder.

3. The Secretary of State refused that application owing to a lack of corroboration as well as a number of inconsistencies in the appellant's account. The appellant declined assistance in tracing his family, stating that he was in regular telephone contact with them. The British Embassy in Tirana confirmed that a person with the appellant's name and date of birth was registered in Albania and identified his parents; the details of which were consistent with those given by the appellant.
4. This appeal was previously heard on 6 December 2013 and allowed by FTTJ Phull. That determination was set aside by Upper Tribunal Judge Hanson and the matter remitted to the First-tier Tribunal, with no findings preserved.
5. First-tier Tribunal Pirotta dismissed the asylum aspect of the appeal on the basis that there was no blood feud in existence. Furthermore, the appellant's removal to Albania was considered proportionate.

Error of law

6. Permission to appeal was sought on the basis that firstly, the FTTJ made certain assumptions and secondly, wrongly drew adverse inferences owing to omissions in the appellant's knowledge of events. Thirdly, it was said that the appellant was disadvantaged by the respondent's failure to attempt to trace his family members. Permission was granted on all grounds, with the first ground considered to have the most merit.
7. The Secretary of State's response of 14 May 2015 stated that the respondent opposed the appeal as it was considered that the FTTJ appropriately directed herself. The grounds were described as an attempt to re-argue the appeal.

The hearing

8. Mr Reza briefly addressed each of the grounds. He also stressed that the respondent now accepted that the appellant's father was a convicted murderer in Albania, which was not the case previously. He argued that the respondent ought to reconsider the application, giving the appellant the benefit of the doubt.
9. With regard to the first and second grounds, Mr Reza argued that the FTTJ speculated regarding issues which were never put to the appellant and which were used to impeach his credibility. Those matters included why the appellant did not discuss the blood feud with his father and why the appellant was able to safely reside in Albania for a year after the age of 15 prior to his departure.
10. Mr Reza further argued that the appellant's age was never in dispute and that he had lost the opportunity of obtaining Discretionary Leave to Remain (DLR) as an unaccompanied minor. Furthermore, the respondent

could have found out more details of the blood feud if she had contacted the appellant's family in Albania.

11. Mr McVeety replied, stating that the appellant had signed a document stating that he did not want the respondent to trace his family because he was already in touch with them. There had been no failure in the duty to trace. He did not accept that the appellant had been disadvantaged by not being granted DLR, given that it would only have been granted for a very short period of time. The delay in his case had benefited the appellant and allowed him to remain in the United Kingdom longer. It was not for the Secretary of State to check the veracity of applicant's accounts in their countries of origin and there was an implicit risk in doing so. Otherwise, Mr McVeety argued that the FTTJ did not err in her credibility findings and relied on the case of Chiver, in that the FTTJ found that the core of the appellant's claim was credible, that it his father had killed someone; but that other aspects, including that there was a blood feud, were not credible.
12. In reply, Mr Reza acknowledged that blood feuds were declining however they had not stopped and the lower standard applied. While the burden of proof was on the appellant to prove his case, UNHCR say there is a joint responsibility. The Secretary of State steps to check whether appellant was a minor and his father's conviction, why should she not go further and find out from his family whether there is a blood feud or not.

Decision on error of law

13. I decided to uphold the decision of the FTTJ as I found she was entitled to conclude that the appellant's account of being at risk in Albania owing to a blood feud was not credible.
14. The first ground of complaint was that it was said that the FTTJ wrongly inferred that the appellant returned to his family in Albania upon being returned from France and that his family twice paid an agent. I note that it is the appellant's own evidence that he returned to Albania; albeit he only claimed this once the respondent produced evidence that he had been removed from Dunkerque. It would not have been unreasonable for the FTTJ to find, in the absence of any evidence to the contrary, that the appellant, as a minor, returned to his family while plans were made to send him abroad for the second time. This finding would have been open to the FTTJ. However, that was not her finding. She in fact concluded that she did not find it credible that the appellant returned to Albania if he considered his life to be in danger. Furthermore, she did not find it credible that his father, a shepherd with five other children, would have been able to twice pay for the appellant to leave Albania with an agent. In fact, the FTTJ accepted no aspect of the appellant's account of his departure from Albania and travel to the United Kingdom owing to serious discrepancies throughout his account.
15. The second ground of appeal was that the FTTJ did not have regard to cultural norms in Albania and that it would not be reasonable to expect the appellant to question his father regarding his criminal sentence. At [25] of

the decision and reasons, the FTTJ referred to differences between the appellant's evidence and the documents he relied upon as to the length of his father's sentence and noted that the appellant's evidence was that he had not asked his father for these details. There was no expert evidence before the FTTJ to support the ground that it was unreasonable for a teenage child in Albania to know about their father as is contended. Furthermore, the appellant reads and writes and brought documents to the United Kingdom, which related to his father's sentence and which he would have been able to read for himself. The FTTJ made no error in referring to the appellant's discrepant and lacking evidence in this regard.

16. The FTTJ's reasons are set out from [23] to [40] of the decision and reasons and make it clear that there were a large number of concerns with the appellant's evidence, which infected each and every aspect of his claim. Even without the matters referred to in the grounds, the FTTJ would have reached an identical decision.
17. Lastly, the FTTJ rightly concluded at [42] that there was no failure by the Secretary of State to trace the appellant's family. The respondent had taken steps to trace the family, which began by asking the appellant to complete family tracing forms. There was evidence before the FTTJ that the appellant declined to authorise tracing because he knew where his family were and was in contact with them himself.
18. The appellant also argues that he has lost the opportunity of a grant of DLR owing to the respondent's delay. The appellant applied for asylum in April 2012 and that application was refused 18 months later, in October 2013 and therefore even if he had received an immediate decision, any grant of DLR would have expired in October 2013, when the appellant was aged 17 and a half. He has no legitimate expectation that any such leave, had it been granted, would have been extended. The FTTJ considered all these issues thoroughly at [43] of the decision and did not fall into error.
19. The appellant's appeal is dismissed.
20. An anonymity direction was made by the First-tier Tribunal Judge and I consider it appropriate that this be continued and therefore make the following anonymity direction:

"Pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI 2008/269) I make an anonymity order. Unless the Upper Tribunal or a Court directs otherwise, no report of these proceedings or any form of publication thereof shall directly or indirectly identify the original appellant. This direction applies to, amongst others, all parties. Any failure to comply with this direction could give rise to contempt of court proceedings. "

Conclusions

The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law.

I uphold the decision of the FTTJ.

Signed

Date: 24 January 2016

Deputy Upper Tribunal Judge Kamara