



**Upper Tribunal
(Immigration and Asylum Chamber)
Number: PA/10253/2016**

Appeal

THE IMMIGRATION ACTS

**Heard at North Shields
On 21st September 2017**

**Decision & Reasons
Promulgated
On 18th October 2017**

Before

DEPUTY JUDGE OF THE UPPER TRIBUNAL FARRELLY

Between

**MR.F.A.
(ANONYMITY DIRECTION MADE)**

Appellant

And

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Miss L.Mair, Counsel, instructed by Miles Hutchinson and Lithgow.

For the Respondent: Mr Diwnycz, Home Office Presenting Officer.

DECISION AND REASONS

1. The appellant is a national of Albania. He came to United Kingdom and claimed protection with his wife and son as dependants. He said he had borrowed money when he was living in Greece, where he has a right to reside. He did not repay the money and is fearful of the lenders. He claimed they attacked him both in Greece and Albania when he returned there.
2. The respondent refused his claim, not finding him credible. His appeal was heard by Judge of the First-tier Tribunal Myers who in a decision promulgated on 10 March 2017 dismissed his appeal on credibility grounds. His wife had also made an earlier claim from protection based upon the same factual background which

was dismissed on appeal by First-tier Immigration Judge Duff: again, on credibility grounds. The judge said that even if there were any truth in the claim he could remain in Greece which has a functioning police force or alternatively return to Albania.

3. Permission to appeal was granted on the basis it was arguable the judge failed to consider the cumulative effect of various acts of violence and whether it suggested there was a connection.
4. The respondent opposed the appeal in a rule 24 response. It was contended the judge carefully considered all of the evidence and the consideration of credibility was this sustainable. The judge also consider the position in the alternative and found no real risk.
5. At hearing Ms. Mair, who appeared in the First-tier Tribunal, relied upon the detailed application on which permission to appeal was granted. The first argument related to judge's treatment of the decision in his wife's appeal and the fact that the appellant had provided new evidence in his appeal. It was also argued that the conclusion was against the totality of the evidence. Finally, it was argued that the decision did not adequately explain the conclusion that there was sufficiency of protection in Greece or Albania.
6. I have been provided with a copy of the decision of First-tier Tribunal Judge Duff in relation to the claim made by the appellant's wife. She was not represented at the hearing which took place on 20 April 2016. The family arrived in the United Kingdom on 11 May 2015, purporting to be visitors. They were refused admission but subsequently admitted on a temporary basis. His wife made a claim in her own right saying her husband, this appellant, had disappeared.
7. Her account was that they had been living in Greece and, unbeknownst to her, her husband borrowed money. She refers to the debtors coming to their house looking for repayment. She said they were threatened. She recounts a claim of her nephew being murdered in Albania and suggests her husband was the intended target. She then claimed on 5 April 2014 there was a fire at the premises they were staying in.
8. The judge concluded that the appellant had not given a truthful account and most likely she and her husband came to the United Kingdom for economic reasons. There was an inconsistency in the account as to whether money had been borrowed in Albania as well as Greece. The judge did not find it credible that if the debtors were hardened criminals they would not gain entry to the premises she was in because of a metal gate. A connection with the killing of her cousin and the fire, if they occurred, was speculative. The judge also commented on her husband's failure

to explain matters on arrival. In the alternative, the judge concluded there was sufficiency of protection.

9. First-tier Tribunal Judge Myers was aware of the earlier decision and Ms Mair hearing sought to argue the judge could depart from the earlier findings on the basis of this appellant's interview record; his statements; the expert report and a report from Albania about the killing of his cousin. It was also pointed out that he was the principal.
10. The judge commented on the argument that she was not the principal and that she was not represented at the hearing. The judge said her account was broadly consistent with the appellant's and she gave evidence about matters of which she claimed direct knowledge. Although not represented the judge was satisfied at the previous hearing all her evidence would have been properly extracted. The judge dealt with the police report about the claimed killing of the cousin as well as the expert report to the effect that it was genuine. The judge accepted that the cousin was killed and like First-tier Immigration Judge Duff found it was speculation that there was some connection. It was pointed out the appellant did not suggest this to the Albanian authorities. Similar considerations apply in respect of the fire.
11. I find no fault with the way the judge dealt with the earlier decision. The judge carefully considers the additional evidence in relation to the killing of the cousin. Rational reasons were given as to why this did not advance the claim. There were distinctions, in that this appellant on the account was the principal. Nevertheless his wife was in a position, if the claim were true, to give an account of the surrounding incidents.
12. I am satisfied that the judge carefully considered all the evidence presented in the appellant's case. The credibility of the appellant and his wife was central to the claim. The claim being made was correctly set out in detail. The judge gave reasons for rejecting the claim at paragraph 34 to 38. Those are sustainable. The ground essentially amounts to an attempt to re-argue the claim.
13. The primary finding of the judge was not to believe the substantive claim. As I see no material error in this conclusion the need for protection does not arise. The judge referred to this in the alternative and it is correct to say that the judge does not go into great detail.
14. The appellant's representative makes the valid point that an assessment of the protection available should be made on the basis the threat claimed. The reasons for refusal letter provide greater detail from paragraph 36 onwards. The remarks

are prefaced with the statement that no State can achieve complete protection and that the practical standard applies. The judge did acknowledge shortcomings in State protection as reflected in the objective evidence. The judge does refer to the expert evidence and refers to improvements in security. The judge makes the legitimate point that on the claim the debt was incurred in 2012 and remains outstanding. The judge referred to the appellant's account of his movements and concluded if there were creditors, they did not appear to have the means or inclination to pursue him.

15. In summary, I do not find the points argued on behalf of the appellant demonstrate a material error of law. Consequently, the decision of First-tier Tribunal Judge Myers dismissing the appeal shall stand.

Decision

I find no material error of law established. The decision of First-tier Tribunal Judge Myers dismissing the appeal shall stand.

Deputy Judge of the Upper Tribunal Farrelly
13th October 2017